



City of Blaine

City Council

October 20, 2025 | 7:00 PM
Blaine City Hall
10801 Town Square Drive NE
Blaine, MN 55449

AGENDA

1. Call to Order by the Mayor

2. Pledge of Allegiance

3. Roll Call

4. Awards - Presentations - Organizational Business

5. Communications

6. Open Forum

Open Forum is an opportunity for the public to share comments, concerns, or input on other items. While open forum is not intended to provide for response or discussion opportunities, if follow-up is needed, city staff will work to contact the speaker(s) outside of the meeting to arrange for that follow-up. Each speaker will be limited to 3 minutes with a maximum of 15 minutes set aside for open forum.

7. Approval of Consent Agenda:

All items listed under the "Consent Agenda" are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

7.1. 2025-235 Schedule of Bills Paid
Sponsors: Jason Zimmerman, Finance Director

7.2. 2025-236 Approval of Minutes
Sponsors: Cathy Sorensen, City Clerk

7.3. 2025-237 Motion Authorizing the Acquisition of Easements for the Zest Street and
Lakes Parkway Construction, Improvement Project Number T2504
Sponsors: Daniel Schluender, Director of Engineering

8. 7:00 PM - Public Hearing and Items Published for a Certain Time

- 8.1.** 2025-238 Motion to Consider Approval of a Wine and 3.2 Percent Malt Liquor On-Sale Licenses for Chelas X, Inc. located at 1250 126th Ave NE, Suite 600, Blaine, MN
Sponsors: Cathy Sorensen, City Clerk

9. Development Business

- 9.1.** ORD 25-2588 Second Reading
Ordinance Approving a Rezoning from Single Family Residential (R-1) to Community Commercial (B-2) at 8634 Central Avenue NE. Scott Uram (Case File No. 25-0042/SAS)
Sponsors: Sheila Sellman, Interim Community Development Director
- 9.2.** RES 25-166 Resolution Granting a Conditional Use Permit for Self-Storage in the Community Commercial (B-2)/Highway 65 Overlay (HOD) Zoning District and a Zero Lot Line/Shared Access at 8634 Central Avenue NE. Scott Uram (Case File No. 25-0042/SAS)
Sponsors: Sheila Sellman, Interim Community Development Director
- 9.3.** ORD 25-2587 Second Reading
Ordinance Approving an Amendment to Section 34.02 of the Sign Ordinance to Allow for Pylon Signs up to 50 Feet in Height Along Hwy 65. City of Blaine (Case File No. 25-0038/ACK)
Sponsors: Sheila Sellman, Interim Community Development Director

10. Administration

- 10.1.** ORD 25-2586 First Reading
Ordinance Adopting and Enacting a New Code for the City of Blaine, Minnesota; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and this Ordinance Shall Become Effective
Sponsors: Cathy Sorensen, City Clerk

11. Other Business

12. Adjournment

CITY OF BLAINE

SCHEDULE OF BILLS PAID

APPROVED ON 10/20/2025 FOR PAYMENTS THE WEEK OF 09/19/2025

A1 RENT IT/BROADWAY TENT & EVENT	Dance floor for Oktober fest	\$	3,185.25
ACS ASPHALT CONCRETE SOLUTIONS	Full escrow refund, SP17-07 ACS	\$	44,098.70
AIR MECHANICAL INC	AC Repair: Sunnyside Park Building	\$	873.00
ALEX'S LAWN AND TURF LLC	Blanket: Monthly Mowing; Tom Ryan Park	\$	2,157.00
ALLEGRA PRINT & IMAGING	Victim's Right Cards	\$	168.41
ALLEGRA PRINT & IMAGING	Citizen's Academy Booklets	\$	432.56
ALLEGRA PRINT & IMAGING	Bad check diversion booklet	\$	414.50
AMAZON CAPITAL SERVICES	Smore sticks for winter events	\$	114.95
AMAZON CAPITAL SERVICES	Stand up desk legs: PW Office desks	\$	949.96
AMAZON CAPITAL SERVICES	Customer table & document holder for Building dept	\$	29.99
AMAZON CAPITAL SERVICES	UPS Replacement for 3rd Floor Data Room	\$	1,239.99
AMAZON CAPITAL SERVICES	Scanner for Melissa Lawrence	\$	267.00
AMAZON CAPITAL SERVICES	Laptop Travel Bags	\$	25.98
AMAZON CAPITAL SERVICES	Supplies for Flashlight pumpkin	\$	173.65
AMAZON CAPITAL SERVICES	Protectors for Sponsor signs	\$	14.99
AMAZON CAPITAL SERVICES	Office supplies - Markers, Tape, Cardstock, Post its...	\$	148.33
AMAZON CAPITAL SERVICES	Credit	\$	(45.00)
AMAZON CAPITAL SERVICES	Laminating sheets	\$	19.87
AMAZON CAPITAL SERVICES	10' HDMI cable for dispatch monitors	\$	9.49
AMAZON CAPITAL SERVICES	Stopwatches/Belt Clips: Storm Water/PW	\$	52.21
AMAZON CAPITAL SERVICES	Wired earbuds for training	\$	9.99
AME RED-E-MIX INC	Catch basin Rehab's	\$	685.00
ANOKA COUNTY	2025 County Recordings	\$	92.00
ANOKA COUNTY	2025 County Recordings	\$	46.00
ANOKA HENNEPIN SCHOOL DIST 11	Full escrow refund, SP16-0001 University Avenue School	\$	35,400.00
APPLE FORD WHITE BEAR LAKE	Seal : Truck #4495	\$	7.96
APPLE FORD WHITE BEAR LAKE	Brakes repair for Vehicle (SUV) #5336	\$	630.58
APPLE FORD WHITE BEAR LAKE	Radiator Hose: Truck #4495	\$	108.12
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	44.50
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	348.50
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	57.95
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	54.45
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	44.50
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	129.99
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	576.39
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	174.85
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	1,695.12
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	338.46
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	219.35
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	1,217.08
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	189.95
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	101.90
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	101.90
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	1,695.12
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	449.98
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	2,835.78
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	12.00
AUTOMATIC SYSTEMS COMPANY	Troubleshoot WTP#1 - Flow meter	\$	230.00
AUTOWASH SYSTEMS INC	Car Wash Chemicals & Check 08/21/2025	\$	719.68

AXON ENTERPRISES INC	Axon Interview Room 2 Cameras	\$	9,506.48
BARNUM COMPANIES INC	PW mechanics bay door repair	\$	1,915.60
BARNUM COMPANIES INC	PD gate planned maintenance	\$	325.00
BIO-TEC EMERGENCY SERVICES	Cleaning and Sanitizing of Squad 5331	\$	150.00
BLAINE AREA PET HOSPITAL PA	Vet Services for K9 Vinny	\$	195.23
BLAINE CUSTOM APPAREL & AWARDS	Facilities clothing for Peno & Heutmaker	\$	620.00
BLAINE CUSTOM APPAREL & AWARDS	Recognition plaque	\$	102.00
BRAUN INTERTEC CORPORATION	Construction Material Testing-25 SW Area Street Recon, I/P 25-06	\$	2,580.00
CAPITOL HILL ASSOCIATES INC	Federal Lobbyist Services (Aug-Dec 2025)	\$	4,500.00
CARR'S TREE SERVICE INC	Tree Removal: EAB Multiple Locations See Documents	\$	13,379.20
CEMSTONE PRODUCTS CO INC	Hand Edger tool: Storm water	\$	68.25
CENTERPOINT ENERGY	August 2025 Gas Service	\$	294.17
CENTRAL PRO SUPPLY	Fertilizer for Plants and Well Houses	\$	818.40
CHRONICLES IN HEALTH LLC	Nutrition class for MAYC	\$	75.00
CINTAS CORPORATION	PW: 2025 Uniform/Rug-Towel Rentals	\$	418.36
CINTAS CORPORATION	MAYC Mats/Rugs	\$	38.42
CINTAS CORPORATION	CH medical cabinet supplies	\$	302.54
CINTAS CORPORATION	Cold storage PD first aid cabinet supplies	\$	71.24
CINTAS CORPORATION	PW med supply cabinets	\$	196.20
COMCAST	PW Cable TV	\$	20.97
COMCAST	Cable TV	\$	36.19
COMCAST	MAYC - Cable TV	\$	69.50
COMMERCIAL RECREATION SPECIALISTS	Software update for Splash Pad Timer	\$	555.60
CONNEXUS ENERGY	Lights for Sunrise Pond Park	\$	16,961.25
CR MUSIC	payment for summer classes	\$	717.60
CRYSTEEL TRUCK EQUIPMENT	2025 Capital: HD Rubble/Hook/Stake box	\$	2,400.00
DOUGLAS KERR UNDERGROUND LLC	2025 Southwest Area Street Reconstruction, I/P 25-06	\$	341,858.74
DURAND CHRISTOPHER LAWRENCE	Softball Umpire Fees July & Aug 2025	\$	608.00
DWYER RICHARD LEE	Performance at oktober Fest	\$	1,000.00
EARL F ANDERSEN INC	Signs for Lift stations	\$	191.50
ECKBERG LAMMERS PC	2025 Prosecution Fees for the entire year	\$	23,383.35
ECM PUBLISHERS INC	2025 Public Hearing Notices	\$	143.00
ECM PUBLISHERS INC	Publication of Legal Notices	\$	77.00
EDWARDS ALAN	Softball Umpire Fees Sept 2025	\$	640.00
ELEMECH INC	Yearly Support for Bulk Water System Plant 4	\$	2,000.00
EMERGENCY AUTOMOTIVE TECHNOLOGIES INC	Credit	\$	(28.42)
EMERGENCY AUTOMOTIVE TECHNOLOGIES INC	Tahoe 5 Upfit	\$	4,930.00
EMERGENCY AUTOMOTIVE TECHNOLOGIES INC	Repairs to squad 5343	\$	1,050.00
ESS BROTHERS & SONS INC	Adapter Plate/CB Rehab's : Storm Dept	\$	5,064.00
EVANS KRISTA	Tuition reimbursement	\$	1,070.00
FERGUSON WATERWORKS #2518	Curb stop Parts; Water	\$	1,514.47
FERGUSON WATERWORKS #2518	Curb stop Parts; Water	\$	345.40
FISERV	July 2025 FISERV Payment	\$	178.64
FRIENDLY CHEVROLET INC	Brake Parts : PD Stock	\$	376.42
GMH ASPHALT CORPORATION	2025 Street Rehabilitation Project, I/P 25-05 (T2505)	\$	224,391.38
GOPHER STATE ONE CALL INC	2025 Water & Sewer Locate Fees	\$	1,324.35
GOVERNMENT FINANCE OFFICERS ASSOCIATION	2024 Certificate of Achievement Review Fee	\$	670.00
GRAINGER	Crank handle	\$	24.27
HAWKINS INC	Water Treatment Chemicals	\$	13,077.00
HAWKINS INC	Water Treatment Chemicals	\$	9,803.20
HAYLE BENJAMIN	Training Transportation Reimbursement	\$	43.38
HERO PLUMBING HEATING & COOLING	ROW Bond Return for work at 200 91st Ave NE	\$	500.00
HOLIDAY COMPANIES	2025 Blanket; Car Washes - PD	\$	870.00
HOLIDAY COMPANIES	2025 Blanket; Car Washes - Fire/Comm Stds	\$	35.00
HORIZON ROOFING INC	Drain Rehab WTP #1- Labor and Materials	\$	3,450.00
HY-VIZ INC.	Fire Hydrant Markers; Water Dept	\$	1,530.00

INSTRUMENTAL RESEARCH INC	Water Sample Testing; 2025 Blanket	\$ 2,119.00
J J KELLER & ASSOCIATES INC	Regulations posters	\$ 1,421.50
J. R. STELZER CO	Water Tower 2 Reconditioning, I/P 24-21 (U2315)	\$ 197,273.55
JOHNSON LITHO GRAPHICS OF EAU CLAIRE LTD	September/October City Newsletter	\$ 14,661.31
KOENIG & SONS EQUIPMENT INC	2025 Capital; Parks MD Garbage Truck Add On #2451	\$ 92,198.82
KONISTO COMPANIES LLC	Full escrow refund, B22-02069 Medtronic Solar	\$ 7,364.00
KUTAK ROCK LLP	105th Avenue Redevelopment Project	\$ 2,889.50
KUTAK ROCK LLP	General TIF Matters / Legal Services	\$ 152.50
LANDS' END BUSINESS OUTFITTERS	Records Clothing and Uniforms	\$ 195.55
LANDS' END BUSINESS OUTFITTERS	Records Clothing and Uniforms	\$ 183.75
LANGUAGE LINE SERVICES INC	2025 Translation and Interpretation Services for the year	\$ 550.19
LAWSON PRODUCTS INC	Locate Paint: Water/Sewer	\$ 355.68
LAWSON PRODUCTS INC	Mechanic shop supplies; B/O fittings	\$ 96.10
LEAGUE OF MN CITIES INSURANCE TRUST-CLAIMS	Workers comp insurance claim	\$ 2,343.79
LIFE SAFETY SYSTEMS INC	HVAC repair	\$ 1,133.00
LIFE SAFETY SYSTEMS INC	HVAC repair	\$ 355.00
LITTLE BLUE'S TRAVELING ZOO LLC	Petting zoo for Oktober Fest	\$ 1,087.00
LRS PORTABLES OF MINNESOTA	2025 Satellite Rental - Parks	\$ 10,120.12
MANAGED SERVICES INC	CH enmotion, tp, soap	\$ 748.72
MANSFIELD OIL COMPANY	Fuel Delivery - August	\$ 9,624.29
MARSDEN CENTRAL LLC	PW September 2025 janitorial services	\$ 2,550.67
MARTIN SHANE	Performance at Oktober Fest	\$ 3,500.00
MC TOOL & SAFETY SALES	PPE Safety gear: New employee Ryan McCullough	\$ 174.69
MENARDS - BLAINE	Boardwalk Repair Supplies: Boards, Screws, Blades Lex Sanctuary	\$ 312.23
MENARDS - BLAINE	Sandbags: Storm water Dept	\$ 31.92
MENARDS - BLAINE	Treated Lumber/Plow Pallets: Street Dept	\$ 751.60
MENARDS - BLAINE	Ext cord, Carpet blades/shear/knife	\$ 95.41
MENARDS - BLAINE	Vent Mesh/cable ties: Water Dept	\$ 55.28
MENARDS - BLAINE	Mailboxes; Streets/ Forestry	\$ 99.95
MENARDS - BLAINE	Air sprayer, coupler, and replacement lock	\$ 8.98
MENARDS - BLAINE	Caulk, swivel hook, shop towels	\$ 132.60
METRO SALES INCORPORATED	Copier Support and Maintenance	\$ 1,859.00
METROPOLITAN COUNCIL	August 2025 SAC	\$ 41,822.55
MICKMAN BROTHERS INC	2025 Contract: All WTP landscape maintenance	\$ 1,641.67
MIDWAY FORD COMPANY	Brake Switch: Vehicle 5316	\$ 32.76
MIDWAY FORD COMPANY	Hood Latch: Vehicle 5273	\$ 88.42
MIDWAY FORD COMPANY	Radiator/ Mirror Lights : Truck #4495	\$ 624.70
MIDWEST SECURITY PRODUCTS INC	Annual Security Managing License	\$ 375.00
MINNEAPOLIS OXYGEN COMPANY	Oxygen Cylinders for Patrol Operations	\$ 198.94
MINNESOTA DEPARTMENT OF HEALTH	STATE WATER TESTING FEE - JULY, AUG, SEPT 2025	\$ 55,462.00
MINNESOTA OFFICE OF JUSTICE PROGRAMS	Victim assistance academy registration	\$ 200.00
MN DEPT OF LABOR AND INDUSTRY	PW - Boiler Licenses	\$ 100.00
MN DEPT OF LABOR AND INDUSTRY	MAYC - Boilers license	\$ 25.00
MN DEPT OF LABOR AND INDUSTRY	CH - boilers license	\$ 125.00
MN DEPT OF LABOR AND INDUSTRY	CH - elevator license	\$ 290.00
MTI DISTRIBUTING INC	Gas Temp Sensor: Mower Unit 2431	\$ 506.98
MTI DISTRIBUTING INC	Oil and Cup for Mowers	\$ 195.47
MTI DISTRIBUTING INC	Oil and Cup for Mowers	\$ 78.38
NORTHERN SANITARY SUPPLY CO INC	Towes, tissue, liners	\$ 880.60
NORTHERN SANITARY SUPPLY CO INC	MAYC tissue, liners, towels, cleaner	\$ 656.86
NORTHERN SANITARY SUPPLY CO INC	Liners	\$ 123.12
NORTHLAND CAPITAL EQUIPMENT FINANCE	Fitness Equipment Lease	\$ 904.64
NORTHWEST ASPHALT INC	Escrow Refund - 12551 Lever ST NE	\$ 2,000.00
NORTHWESTERN POWER EQUIPMENT CO INC	Altitude Valve: Tower 2	\$ 1,166.95
OFFICE OF MNIT SERVICES	Telephone and Internet Service	\$ 178.14
OPPORTUNITY SERVICES INC	Cleaning Services - August	\$ 1,562.32

O'REILLY AUTOMOTIVE INC	Transmission Filters : Trucks 4604,4605,4606	\$	204.87
O'REILLY AUTOMOTIVE INC	Battery; PD vehicle 5346	\$	238.99
O'REILLY AUTOMOTIVE INC	Power Outlet: Skid Steer #2305	\$	24.97
PLAISTED COMPANIES INC	Class 5/Sand; WM Breaks	\$	4,174.07
PLAISTED COMPANIES INC	Pulverized Black Dirt; WM Breaks	\$	2,436.90
PRECISE MRM LLC	2025 PW GPS Management	\$	1,660.00
PRESCRIPTION LANDSCAPE INC	August 2025 Bed Maint/Weekly Grounds - Various Medians	\$	111.44
PRESCRIPTION LANDSCAPE INC	August 2025 Bed Maint/Weekly Grounds - Various Medians	\$	564.01
PRESCRIPTION LANDSCAPE INC	August 2025 Bed Maint/Weekly Grounds - Various Medians	\$	407.00
PRESCRIPTION LANDSCAPE INC	August 2025 Bed Maint/Weekly Grounds - Various Medians	\$	992.70
PRESCRIPTION LANDSCAPE INC	August 2025 Bed Maint/Weekly Grounds - Various Medians	\$	526.00
PRINT CENTRAL	Food truck sticker for fire insp	\$	129.05
PRO-TEC DESIGN INC	Jail access control upgrade	\$	10,095.00
REDPATH AND COMPANY LLC	2024 Financial Audit	\$	29,075.00
REGAN VANESSA	Park & Rec Refund	\$	750.00
RETKA THOMAS	Performance at Oktober Fest	\$	900.00
RIDGEWAY & ASSOCIATES	PD Mental Wellness Program 2025	\$	2,030.00
RIVARD COMPANIES INC	Tree removal; 10649 Terrace Rd	\$	500.00
ROADKILL ANIMAL CONTROL	2025 Disposal of Dead Deer	\$	258.00
ROBINSON LANDSCAPING INC	Sod Restoration: 11425 Kenyon Ct	\$	157.50
RUSSELL SHARI	Cookies from Costco for City Manager Event	\$	93.95
SAM'S CLUB/SYNCHRONY BANK	Food for safety camp	\$	316.62
SAM'S CLUB/SYNCHRONY BANK	Food and supplies for Safety camp	\$	106.66
SAM'S CLUB/SYNCHRONY BANK	Bring a youth to lunch- food and bingo prizes	\$	200.31
SAM'S CLUB/SYNCHRONY BANK	Bring a youth to lunch- food and bingo prizes	\$	13.98
SAM'S CLUB/SYNCHRONY BANK	Sam's Club fiscal charges	\$	165.42
SCHMITT KAREN	Home Improvement Grant Reimbursement	\$	3,533.00
SUBURBAN TIRE WHOLESALE INC	7 Tires: PD Stock	\$	1,332.24
SUN LIFE FINANCIAL	Long Term Disability Insurance-monthly	\$	5,465.10
TEAMSTERS LOCAL #320 WELFARE	Police Dental - Group #1609 Monthly	\$	8,094.00
THORVIG ERIK	Mileage Reimbursement (Sept 2025)	\$	136.68
TRANS UNION LLC	Background Credit Check Fee	\$	37.22
TRI-STATE BOBCAT INC	Glass/Seal Door: Bobcat #1244	\$	390.22
TWIN CITIES TRANSPORT & RECOVERY INC	Tow for squad 5273	\$	125.00
ULINE	Document wall holder for building dept	\$	314.90
US BANK	Fiscal Agent Fees - Bond 2016A	\$	575.00
USA INFLATABLES	Inflatables for Oktober fest	\$	2,856.93
VIKING ELECTRIC SUPPLY LLC	Light bulbs	\$	158.34
WALTERS RECYCLING & REFUSE INC	Garbage and Recycling Contract	\$	496,693.85
WARNING LITES OF MN	Hydrant Dig on Davenport	\$	1,105.75
WATER CONSERVATION SERVICES INC	Water Main Leak Detection8/13: The Lakes	\$	382.60
XCEL ENERGY	4206 Woodland Pkwy NE - Signal	\$	68.32
XCEL ENERGY	4131 Pheasant Ridge DR NE - Monument	\$	12.46
XCEL ENERGY	4125 109th Ave NE - Signal	\$	67.24
XCEL ENERGY	10563 Packard St NE - Siren	\$	10.82
ZAHL-PETROLEUM MAINTENANCE COMPANY	Fuel Pump 3 troubleshoot: PW Fuel Island	\$	252.25
ZIEGLER INC	2025 Capital; HD Grapple Attachment for Excavator	\$	40,000.00
ZIEGLER INC	Speed Knob: Roller #1229	\$	7.45
		\$	1,880,422.82

CITY OF BLAINE

**SUBSET OF PAYMENTS BETWEEN \$20,000 AND \$50,000 FROM THE SCHEDULE OF BILLS PAID
APPROVED ON 10/20/2025 FOR PAYMENTS THE WEEK OF 09/19/2025**

ECKBERG LAMMERS PC	2025 Prosecution Fees for the entire year	\$	23,383.35
REDPATH AND COMPANY LLC	2024 Financial Audit	\$	29,075.00
ANOKA HENNEPIN SCHOOL DIST 11	Full escrow refund, SP16-0001 University Avenue School	\$	35,400.00
ZIEGLER INC	2025 Capital; HD Grapple Attachment for Excavator	\$	40,000.00
METROPOLITAN COUNCIL	August 2025 SAC	\$	41,822.55
ACS ASPHALT CONCRETE SOLUTIONS	Full escrow refund, SP17-07 ACS	\$	44,098.70

CITY OF BLAINE

SCHEDULE OF BILLS PAID

APPROVED ON 10/20/2025 FOR PAYMENTS THE WEEK OF 09/26/2025

ABM EQUIPMENT	2025 Capital: Sewer Medium duty LS Serv Vehicle #4653	\$	153,003.00
ADAMSKI JUSTIN	Reimburse for fuel need for squad picked up from EATI	\$	10.50
ADVANCED GRAPHIX INC	Custom COB Graphics - Bldg Inspections Field Inspector Vehicles	\$	895.00
ALBERT LEA SEED HOUSE INC	Pond Maintenance	\$	3,673.74
AMAZON CAPITAL SERVICES	Gas Torch for Water Sampling	\$	145.74
AMAZON CAPITAL SERVICES	MAYC door decal	\$	26.85
AMAZON CAPITAL SERVICES	Bucket Truck Cover; Forestry	\$	49.72
AMAZON CAPITAL SERVICES	Labels	\$	12.95
AMAZON CAPITAL SERVICES	Parts for the frig that is used for special events	\$	81.97
AMAZON CAPITAL SERVICES	Wireless mouse, keyboard wrist rest, earbuds	\$	84.29
AMAZON CAPITAL SERVICES	Customer table & document holder for Building dept	\$	265.12
AMAZON CAPITAL SERVICES	Bottles water for City Manager meet and greet	\$	41.88
AMAZON CAPITAL SERVICES	UPS Mounting Kit	\$	264.55
AMAZON CAPITAL SERVICES	Food truck stickers for fire insp	\$	16.99
AMAZON CAPITAL SERVICES	First aid kits	\$	348.83
AMAZON CAPITAL SERVICES	Craft for WorldFest	\$	29.98
AMAZON CAPITAL SERVICES	Snacks for City Manager Event (Trail mix, chocolate)	\$	89.51
AMAZON CAPITAL SERVICES	Computer Privacy Screens	\$	110.97
AMAZON CAPITAL SERVICES	Trash/recycle stickers for facility	\$	25.40
AMAZON CAPITAL SERVICES	PW Mechanic shop tools	\$	570.24
AMAZON CAPITAL SERVICES	Popcorn for events	\$	45.94
AMAZON CAPITAL SERVICES	Black pens, water for City Council	\$	81.34
ANOKA COUNTY TREASURY DEPT	Connect Anoka County Fiber	\$	812.50
ARETE ADVISORS LLC	SentinelOne Cybersecurity Software and Monitoring	\$	4,301.10
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	44.95
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	628.05
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	376.20
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	139.99
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	56.97
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	157.94
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	99.99
ASPEN MILLS INC	Patrol Clothing and Uniforms	\$	32.90
BARNUM COMPANIES INC	PW gate planned maintenance	\$	690.60
BATTERIES PLUS BULBS	Batteries for Wells/Plants: Water	\$	1,157.90
BAUER BUILT INC	Tires: Sweeper 4615	\$	271.15
BERGERSON-CASWELL INC	HYDRANT METER DEPOSIT REFUND HM25-0026	\$	4,920.80
BLAINE BROTHERS INC	Rear Suspension Add On: Truck 4653	\$	6,099.93
BLUUM OF MINNESOTA LLC	Repair to the MAYC Audio/Visual Equipment	\$	2,192.20
BRAD'S CATCH BASIN REPAIR LLC	Lever Street Crosswalk - Sunrise Elementary	\$	21,655.00
BRAD'S CATCH BASIN REPAIR LLC	Concrete Curb Replacement: Water Dept	\$	2,051.00
CARLSON MCCAIN INC	Soil Vapor Testing 9011 University Ave	\$	90.60
CARR'S TREE SERVICE INC	Tree Removal: EAB Multiple Locations See Documents	\$	9,622.40
CARR'S TREE SERVICE INC	Boulevard Tree Removal: EAB Multiple Locations	\$	14,683.20
CARR'S TREE SERVICE INC	Blvd Tree Removal; 261 91st Ave	\$	3,500.00
CENTERPOINT ENERGY	750 Clover Leak Pkwy NE - Gas	\$	100.42
CENTRAL PRO SUPPLY	Irrigation supplies; Stock	\$	1,301.40
CENTURYLINK	Telephone Service	\$	75.75

CINTAS CORPORATION	CH mats/rugs	\$	38.42
CINTAS CORPORATION	CH mats/rugs	\$	199.18
CINTAS CORPORATION	PW: 2025 Uniform/Rug-Towel Rentals	\$	189.07
CINTAS CORPORATION	MAYC Mats/Rugs	\$	38.42
CINTAS CORPORATION	PW: 2025 Uniform/Rug-Towel Rentals	\$	418.36
CINTAS CORPORATION	MAYC Mats/Rugs	\$	38.42
CLARK COPPER HEAD GASKETS INC	Relocation Assistance Payment, 10510 Nassau	\$	30,000.00
CLARKE TIMOTHY	CDL Reimbursement	\$	19.00
COMCAST	Public Works Internet Service	\$	201.47
COMCAST	Fiber Internet Service	\$	1,360.00
CONNEXUS ENERGY-UTILITY PAYMENTS	August 2025 Electric	\$	73,035.04
COON CREEK WATERSHED DISTRICT	Wetland Delineation review	\$	200.00
CRYSTEEL TRUCK EQUIPMENT	2025 Capital; Light Duty Utility Vehicle Add On: #4661	\$	4,079.32
CRYSTEEL TRUCK EQUIPMENT	Relays: PW Stock	\$	115.18
CUB FOODS INC - THE VILLAGE	Ice cubes retirement party	\$	9.98
D R HORTON INC	Escrow Refund - 4773 132nd CT NE	\$	4,900.00
D R HORTON INC	Escrow Refund - 4772 132nd CT	\$	4,900.00
D R HORTON INC	Escrow Refund - 4786 132nd CT NE	\$	7,400.00
D R HORTON INC	Escrow Refund - 4806 132nd CT NE	\$	4,900.00
D R HORTON INC	Escrow Refund - 4420 131st AVE NE	\$	4,800.00
D R HORTON INC	Escrow Refund - 4510 131st AVE NE	\$	4,800.00
D R HORTON INC	Escrow Refund - 4530 131st AVE NE	\$	4,800.00
D R HORTON INC	Escrow Refund - 4580 131st AVE NE	\$	5,000.00
D R HORTON INC	Escrow Refund - 4410 131st AVE NE	\$	4,800.00
D R HORTON INC	Escrow Refund - 4793 132nd CT NE	\$	4,900.00
D R HORTON INC	Escrow Refund - 4783 132nd CT NE	\$	4,900.00
D R HORTON INC	Escrow Refund - 4796 132nd CT NE	\$	4,900.00
D R HORTON INC	Escrow Refund - 13085 Erskin ST NE	\$	4,800.00
D R HORTON INC	Escrow Refund - 12595 Edison ST NE	\$	5,000.00
D R HORTON INC	Escrow Refund - 12711 Fraizer ST NE	\$	4,900.00
D R HORTON INC	Escrow Refund - 13036 Ghia ST NE	\$	7,300.00
E G RUD & SONS INC	Surveying: Deacons Park Property line	\$	1,224.50
ECM PUBLISHERS INC	Publication of Legal Notices	\$	280.50
ECM PUBLISHERS INC	Publication of Legal Notices	\$	247.50
ECM PUBLISHERS INC	Publish Public Hearing Notice-Vacation V25-03 (8/22/25)	\$	77.00
ELECTRIC PUMP INC	Valve vault access hatch: Sewer Dept	\$	6,575.00
ELECTRIC PUMP INC	Valve Vault Lid: Lift 6	\$	7,415.00
ELECTRIC PUMP INC	Lift Station #13 Parts	\$	47,805.00
ETERNITY HOMES LLC	Escrow Refund - 13066 Opal ST NE	\$	7,400.00
ETERNITY HOMES LLC	Escrow Refund - 4861 130th LN NE	\$	4,900.00
FACTORY MOTOR PARTS COMPANY	Batteries; PW Stock	\$	425.84
FERGUSON WATERWORKS #2518	Water Hydrant Parts: Valves/gaskets/rings/pacer	\$	7,746.06
FERGUSON WATERWORKS #2518	Water Gate Valve Repair Parts; Valves/gaskets	\$	7,764.03
FLASHVOTE	FlashVote Community Engagement Tool	\$	10,000.00
FLEXIBLE PIPE TOOLS & EQUIPMENT	Cobra Sewer Replacement Hose for Jetter's and Vactor	\$	8,655.00
FRIENDLY CHEVROLET INC	Muffler: Unit 5241 PD	\$	27.69
FRIENDLY CHEVROLET INC	Muffler: Unit 5241 PD	\$	916.55
FRIENDLY CHEVROLET INC	Muffler: Unit 5328 PD	\$	26.21
FRIENDLY CHEVROLET INC	Muffler: Unit 5328 PD	\$	414.80
FRIENDLY CHEVROLET INC	Seal Unit 5328: PD	\$	14.77
FRIENDLY CHEVROLET INC	TPM Sensors : Unit 5241 PD	\$	59.84
FRIENDLY CHEVROLET INC	Exhaust stud/nut: Unit 5328 PD	\$	40.83
GRAINGER	key cabinet, light	\$	255.39
GROUP HEALTH NON-PATIENT A/R	Wellness Program Non-Member Charges	\$	272.16

GROUP HEALTH NON-PATIENT A/R	EAP benefits	\$	256.52
GUARDIAN FLEET SAFETY LLC	Repairs to squad 5343	\$	1,211.55
GUARDIAN FLEET SAFETY LLC	Upfit for squad 5349	\$	10,202.38
GUARDIAN FLEET SAFETY LLC	Upfit for squad 5349	\$	965.48
HAWKINS INC	Water Treatment Chemicals	\$	8,700.65
HAWKINS INC	Water Treatment Chemicals	\$	9,887.93
HIPERLINE	Sanitary Manhole Structure Coating	\$	13,025.20
HIPERLINE	Sanitary Manhole Structure Coating	\$	14,897.80
HODGSON JOAN	Softball Umpire Fees Sept 2025	\$	128.00
IMAGE PRINTING & GRAPHICS INC	Nameplates for Chambers	\$	28.10
IMPACT PROVEN SOLUTIONS	2025 UTILITY BILLING INVOICE PRINTING	\$	5,040.14
INSIGHT PUBLIC SECTOR INC	Laptops and Docks for IT	\$	2,815.34
INSIGHT PUBLIC SECTOR INC	Laptops and Docks for IT	\$	686.13
JE DUNN CONSTRUCTION COMPANY	Full escrow refund, PC23-0038 SEOC	\$	140,165.00
KASON INC	Full escrow refund, SP14-02 Emberwood	\$	29,245.00
KATH FUEL OIL SERVICE COMPANY	Bulk Hyd Fluid/grease: PW Stock	\$	1,720.64
KNOBLAUCH KYLENE	Softball Umpire Fees Sept 2025	\$	582.00
KNOBLAUCH KYLENE	Softball Umpire Fees Sept 2025	\$	256.00
KRIEGER JEROME	Uber Fee reimbursement - 2025 NRPA Conference	\$	70.10
LAWSON PRODUCTS INC	Mechanic shop supplies; cleaner/clamps/screws	\$	501.19
LAWSON PRODUCTS INC	Mechanic shop supplies; B/O fittings	\$	107.88
LIFE SAFETY SYSTEMS INC	Annual fire protection monitoring for LAC	\$	325.00
LOCKRIDGE GRINDAL NAUEN PLLP	2025 State Advocacy Services (Year 2 of 3 Year Contract)	\$	3,167.32
MARTIN MARIETTA MATERIALS	BM for Street Patching	\$	975.76
MARTIN MARIETTA MATERIALS	BM for Street Patching	\$	1,260.14
MARTIN MARIETTA MATERIALS	Patching Material for Streets	\$	341.86
MARTIN MARIETTA MATERIALS	Patching Material for Streets	\$	2,814.60
MARTIN MARIETTA MATERIALS	Patching Material for Streets	\$	1,519.97
MC TOOL & SAFETY SALES	B/O Chaps; New Employee Kyle Crowe; Storm water	\$	109.54
MC TOOL & SAFETY SALES	B/O face shield: New Water Employee; Winston Nimely	\$	36.00
MC TOOL & SAFETY SALES	B/O PPE Safety gear: New employee Ryan McCullough	\$	129.66
MC TOOL & SAFETY SALES	Ice Cleats for Staff: PW Water	\$	201.95
MC TOOL & SAFETY SALES	Calibration Gas for monitors: Sewer Dept	\$	169.75
MENARDS - BLAINE	Pliers, steel tube	\$	24.57
MENARDS - BLAINE	Bulbs, bug trap, key, felt	\$	105.25
MINNESOTA DEPARTMENT OF TRANSPORTATION	Material & Concrete Plant Testing & Inspection, I/P 24-07	\$	1,403.08
MINNESOTA EQUIPMENT - ISANTI	Axel Seal Repair/labor: Tractor 2396	\$	3,059.35
MINUTE MAKER SECRETARIAL	Minute Maker Secretarial	\$	558.00
MINUTE MAKER SECRETARIAL	2025 Planning Commission Minutes	\$	172.00
MTI DISTRIBUTING INC	Repair: Mower 2431	\$	3,759.81
NORTH ANOKA PLUMBING INC	Job canceled, work not started. Refund 80% of permit B25-03281.	\$	60.00
NORTH STAR TOWING & SERVICE CENTER	Collision Tow for squad 5284	\$	335.00
OPTIMIZED ELECTRICAL SOLUTIONS	Drop Cords for Trickle Charges	\$	8,760.00
OPTIMIZED ELECTRICAL SOLUTIONS	Drop cords for equipment Maintenance	\$	4,593.00
OPTIMIZED ELECTRICAL SOLUTIONS	CS - Install receptacles for TVs	\$	1,051.00
OPTIMIZED ELECTRICAL SOLUTIONS	Replaced high bay light fixture	\$	467.00
O'REILLY AUTOMOTIVE INC	Credit	\$	(145.00)
O'REILLY AUTOMOTIVE INC	Heat Tape: Unit 5262; PD	\$	21.99
O'REILLY AUTOMOTIVE INC	Air filters: PW Stock	\$	214.24
O'REILLY AUTOMOTIVE INC	Filters: PW Stock	\$	33.55
O'REILLY AUTOMOTIVE INC	Brakes: Unit 5241 PD	\$	184.99
PAFFY'S PEST CONTROL INC	CH monthly pest control	\$	85.35
PAFFY'S PEST CONTROL INC	MAYC monthly pest control	\$	59.75
PHASOR ELECTRIC COMPANY	Traffic Signal Repair; Hwy 47 & University	\$	135.00

PIONEER PHOTOGRAPHY & SERVICES	Educational class	\$	350.00
REBYL SPORTS INC	Community Outreach Pickleball Event Shirts	\$	546.00
RYGG MYCHAL	Parking ramp for St. Paul ordinance meeting	\$	10.00
SAFE TREE TRANSPORTATION LLC	Full escrow refund, PC18-0062 Safe Tree Transportation	\$	5,000.00
SAFETYFIRST PLAYGROUND MAINTENANCE	Fibar; various Parks/Stock	\$	6,366.50
SCHMIDT ROBERT	Heat Tape Installation Mobile Homes	\$	1,500.00
SCHMIDT ROBERT	Heat Tape Installation Mobile Homes	\$	1,500.00
SCHMIDT ROBERT	Heat Tape Installation Mobile Homes	\$	1,500.00
SCHMIDT ROBERT	Heat Tape Installation Mobile Homes	\$	1,500.00
SCHMIDT ROBERT	Heat Tape Installation Mobile Homes	\$	1,500.00
SHORT ELLIOTT HENDRICKSON INC	Design & Construction Svcs-2025 Street Rehab, I/P 25-05	\$	30,732.88
SHORT ELLIOTT HENDRICKSON INC	Engineering Svcs, National Street Water Svc Study, I/P 25-22	\$	1,653.34
SHORT ELLIOTT HENDRICKSON INC	Utility Permit Coordination/Inspections, I/P 25-43	\$	875.00
SHORT ELLIOTT HENDRICKSON INC	Operational Consulting/Support: Water Department	\$	2,167.39
SIR LINES-A-LOT	2025 Pavement Markings, I/P 25-03 (T2503)	\$	104,145.30
SLAWSON BRAD	Refund of Food Truck Inspection	\$	100.00
SUBURBAN TIRE WHOLESALE INC	4 Tires Vehicle #5241	\$	544.00
SUMMIT INSTALLATIONS	Job cancelled, work not started. Refund 80% of permit B25-01532.	\$	80.00
TREVIPIAY	Pump for sprayer : Vehicle 1267 Kubota	\$	341.98
TREVIPIAY	Metal abrasive wheel sanders: Storm Water	\$	125.94
TREVIPIAY	Credit	\$	(51.24)
TREVIPIAY	Pole Saw/Cutoff Saw/Batteries	\$	1,504.71
TWIN CITIES TRANSPORT & RECOVERY INC	Tow for Squad 5319	\$	125.00
ULINE	Handle extension and tools for cleaning	\$	176.23
ULINE	Storm Water Supplies: Slings/Cleats/hose reel	\$	4,025.32
UNITED RENTALS INC	Sewer Communication Studies	\$	1,850.00
USA BLUEBOOK (#657220)	Lab Testing Supplies; Water Plants	\$	1,295.32
USA BLUEBOOK (#657220)	Lab Testing Supplies; Water Plants	\$	349.35
VERIZON WIRELESS	08/11/25-09/10/25 Telephone Service	\$	12,379.40
VERTEX UNMANNED SOLUTIONS LLC	Battery replacement for UAS (6) and controller (2)- yearly	\$	2,778.00
VESSCO INC	Chemical Feed Parts: WTP's Water	\$	285.59
WALTERS RECYCLING & REFUSE INC	Organics Collection 2025	\$	150.00
WSB & ASSOCIATES INC	Zest St Final Design & Construction Services, I/P 25-04 (T2504)	\$	2,381.75
XCEL ENERGY	9191 Lincoln St NE - Bandshell	\$	257.93
ZIEGLER INC	2025 Capital; HD Quick Attach Converter Plate	\$	14,996.00
ZIEGLER INC	2025 Capital: HD Tractor Backhoe #4659	\$	3,258.25
ZIEGLER INC	2025 Capital: HD Tractor Backhoe #4659	\$	170,624.40
		\$	1,193,829.83

CITY OF BLAINE

**SUBSET OF PAYMENTS BETWEEN \$20,000 AND \$50,000 FROM THE SCHEDULE OF BILLS PAID
APPROVED ON 10/20/2025 FOR PAYMENTS THE WEEK OF 09/26/2025**

BRAD'S CATCH BASIN REPAIR LLC	Lever Street Crosswalk - Sunrise Elementary	\$	21,655.00
KASON INC	Full escrow refund, SP14-02 Emberwood	\$	29,245.00
CLARK COPPER HEAD GASKETS INC	Relocation Assistance Payment, 10510 Nassau	\$	30,000.00
SHORT ELLIOTT HENDRICKSON INC	Design & Construction Svcs-2025 Street Rehab, I/P 25-05	\$	30,732.88
ELECTRIC PUMP INC	Lift Station #13 Parts	\$	47,805.00

CITY OF BLAINE**SCHEDULE OF BILLS PAID****APPROVED ON 10/20/2025 FOR PAYMENTS THE WEEK OF 09/30/2025**

ANOKA COUNTY LICENSE BUREAU	Tab Renewal - PD #5216	\$	31.75
AT&T MOBILITY	Internet Bait Trailer	\$	66.96
BLAINE BROTHERS INC	Pinion Seal: PW stock	\$	16.06
CHET'S SHOES LLC	Work Boots for Employees: Streets/Mechanic/Sewer	\$	903.19
CHET'S SHOES LLC	Credit	\$	(124.00)
ERICKSON ASPHALT SERVICES INC	Driveway Paving: Water Break 9187 Zumbrota	\$	6,979.00
FLORHAUG REBECCA	Reimbursement for Expenses During IACA Conference	\$	1,411.73
GAASLAND KRISTIAN	Hotel reimbursement; K Gaasland	\$	724.02
HIGGINS STEFAN	Mileage Reimbursement (9/16/25-9/19/25)	\$	197.40
I & S GROUP INC	Wetland Site 7, Annual Maintenance & Work Plan, I/P 25-41, P2411	\$	8,393.62
I & S GROUP INC	Wetland Site 7, Annual Maintenance & Work Plan, I/P 25-41, P2411	\$	3,841.90
IMDIEKE CHRISTOPHER	Hotel/mileage reimbursement; AWWA Conference C. Imdieke	\$	839.31
MENARDS - BLAINE	Reflective tape, bolts, washers, and nuts	\$	5.96
MENARDS - BLAINE	Filters, batteries, grommet	\$	132.69
MENARDS - BLAINE	Reflective tape, bolts, washers, and nuts	\$	4.84
MILLZ HOUSE	Sport Court and basketball Hoop at Aquatore Park	\$	26,632.00
O'MALLEY CONSTRUCTION INC	Curb & Gutter work: Street Dept	\$	567.72
RECYCLE TECHNOLOGIES INC	Meter battery recycling; Water	\$	741.00
RIVER CITY CLOGGERS LLC	Performance at Oktober Fest	\$	500.00
TREVIPIAY	Spray Nozzle: Kubota 1267	\$	29.99
US BANK	Fiscal Agent Fees - Bond 2018B	\$	750.00
VILLEGAS WESLEY	Tuition Reimbursement	\$	605.68
XCEL ENERGY	August 2025 Electric	\$	37,376.05
		\$	90,626.87

CITY OF BLAINE

**SUBSET OF PAYMENTS BETWEEN \$20,000 AND \$50,000 FROM THE SCHEDULE OF BILLS PAID
APPROVED ON 10/20/2025 FOR PAYMENTS THE WEEK OF 09/30/2025**

MILLZ HOUSE	Sport Court and basketball Hoop at Aquatore Park	\$	26,632.00
XCEL ENERGY	August 2025 Electric	\$	37,376.05



City of Blaine

City Council Workshop

September 29, 2025 | 5:30 PM
Blaine City Hall
10801 Town Square Drive NE
Blaine, MN 55449

MINUTES

NOTICE OF WORKSHOP MEETING

In accordance with the provisions of Section 3.01 of the Blaine City Charter, a Council Workshop meeting is scheduled for the following purpose:

1. Call to Order

Mayor Sanders called the special workshop to order at 5:30PM.

2. Roll Call

PRESENT: Mayor Tim Sanders (left at 7:00PM), Councilmembers Chris Ford, Leslie Larson, Tom Newland, and Jess Robertson.

ABSENT: Councilmembers Terra Fleming and Chris Massoglia.

ALSO PRESENT: City Manager Erik Thorvig; Finance Director Jason Zimmerman; Director of Engineering Dan Schluender; Public Works Director Nick Fleischhacker; Deputy Public Works Director Jason Grode; Accounting Supervisor Haley Chapman; Finance Analyst Nikki Beckers; Sewer/Storm Supervisor Matt Withrow; Water Department Supervisor Kristian Gaasland.

3. New Business

- 3.1.** 2025-214 Refuse Fund 2026 Budget
Sponsors: Jason Zimmerman, Finance Director

The council reviewed the proposed 2026 refuse fund budget in detail.

- 3.2.** 2025-215 Utility Enterprise Funds 2026 Operating Budgets and 2026-2030 Capital Improvement Plans
Sponsors: Jason Zimmerman, Finance Director

The council reviewed the proposed 2026 utility enterprise funds, operating budgets, and 2026-2030 capital improvement plans in detail.

4. Other Business

None.

5. Adjournment

The workshop adjourned at 7:30PM



City of Blaine

City Council Workshop

October 6, 2025 | 5:30 PM
Blaine City Hall
10801 Town Square Drive NE
Blaine, MN 55449

MINUTES

NOTICE OF WORKSHOP MEETING

In accordance with the provisions of Section 3.01 of the Blaine City Charter, a Council Workshop meeting is scheduled for the following purpose:

1. Call to Order

The meeting was called to order by Mayor Pro Tem Robertson at 5:30PM.

2. Roll Call

PRESENT: Mayor Tim Sanders, Councilmembers Chris Ford, Tom Newland, and Jess Robertson.

ABSENT: Councilmembers Terra Fleming, Leslie Larson, and Chris Massoglia.

Quorum Present.

ALSO PRESENT: City Manager Erik Thorvig; Deputy Police Joe Gerhard; Finance Director Jason Zimmerman; Director of Administrative Services Scott Johnson; Director of Engineering Dan Schluender; City Attorney Eric Larson; Communications Manager Ben Hayle; Community Development Specialist Elizabeth Showalter; Accounting Manager Haley Champman; Finance Analyst Nikki Beckers; and City Clerk Catherine Sorensen.

3. New Business

- 3.1.** 2025-216 Comprehensive Plan Cycle Introduction
Sponsors: Elizabeth Showalter, Community Development Specialist

Community Development Specialist Showalter stated Merritt Clapp-Smith was the Senior Planner at the Metropolitan Council and served as the staff liaison for Blaine. She said she and Met Councilmember Peter Lindstrom will present the current comprehensive planning cycle and the minimum requirements the city's Comprehensive Plan will need to meet. Every ten years, the city is required, under the Metropolitan Land Planning Act, to

update our comprehensive plan. The last update was preliminarily approved by the city council at the end of 2018 and was approved in its final version in December 2020. Since then, a variety of amendments to the land use map component of the plan have been approved on a project specific basis.

Merritt Clap-Smith, Met Council Local Planning Assistance Team Sector Representative, explained the Metropolitan Council approved the Regional Development Guide, Imagine 2050, in January 2025, which outlines overarching policies related to regional land use, water, parks, transportation, and housing. The Metropolitan Council recently released system statements and minimum requirements which outline in greater detail what the city must include in the plan update. The long-range forecast for Blaine was reviewed with the Council. The current guiding for Blaine within the 2040 comprehensive plan was discussed noting now many changes would be needed in order to meet the proposed changes from the Met Council. She provided further comment on the proposed changes that were needed surrounding the transit center. She then spoke to the challenge of developing work force or affordable housing. The regional waste water system was discussed, along with the need to address climate and hazard mitigation. She indicated there would be a meaningful push to reduce greenhouse gas emissions. It was noted initial submittal of the comprehensive plan to the Met Council is due by December 31, 2028. She explained future workshop discussions will occur regarding the process of drafting the plan for Blaine including city council role and public engagement.

City Manager Thorvig discussed how Blaine was categorized as a suburban edge community, which will allow for development consistent with the city's current densities.

Councilmember Newland asked what the impacts were for meeting or exceeding Met Council's goals. He inquired what the repercussions would be of not meeting the proposed standards. Ms. Clap-Smith reported meeting the minimum requirements was an expectation for all communities that are receiving regional services. She indicated meeting these requirements sets a community up for receiving assistance from the Met Council. Peter Lindstrom, Met Council representative, commented on how the city has been a recipient of numerous Met Council grants.

Councilmember Newland discussed how development in Lino Lakes and Ham Lake was impacting Blaine and questioned how the city could work with surrounding communities to ensure their comprehensive plans were collaborative. Ms. Clap-Smith stated at the end of the planning process the comp plan would be sent to adjacent communities for review and comment.

Councilmember Robertson asked when the city would begin working on the 2050 comp plan. Ms. Showalter reported staff would begin working on the 2050 comp plan in 2026. She indicated the planning process would take two years to complete.

Councilmember Robertson spoke to how Blaine was unique and she appreciated the fact the community was categorized as the suburban edge versus a suburban community. She explained all future development would be difficult due to the amount of wetlands and endangered species that had to be protected in Blaine.

Councilmember Ford stated the Met Council is calling for an additional 978 units to be

constructed in Blaine with 392 of those units at 30% AMI. He anticipated the majority of these would have to come through multi-family units or could the city decide how the 30% AMI units were broken up in the community. Ms. Clap-Smith explained the affordability numbers were anticipating the needs of the community. She indicated the proposed price points were goals for developers.

Mayor Sanders thanked Ms. Clap-Smith and Mr. Lindstrom for their presentation.

3.2. 2025-217 Cloverleaf Courts and Blaine Courts Financial Request
Sponsors: Elizabeth Showalter, Community Development Specialist

Ms. Showalter stated Blaine Courts (1990) and Cloverleaf Courts (2000) were developed by the EDA to provide affordable independent senior apartments for senior residents of Blaine and surrounding communities. In total, 157 units were built with these two buildings. The EDA owned, maintained and provided direction to a management company that oversaw the daily operations of both apartments. On November 5, 2014, the EDA held a public hearing to consider the sale of its two senior housing facilities, Blaine Courts and Cloverleaf Courts. The EDA received two offers — one from Avinity Senior Living, and one from Lang-Nelson (LaNel Financial). On January 8, 2015, the EDA approved the purchase agreement for the sale of the properties to LaNel Financial. The total paid for the two properties was \$10,650,000 with \$9,650,000 paid at closing and \$1 million in the form of separate promissory notes (issued by Hiawatha Lake Ventures II, LLC) for each facility (\$290,000 for Blaine Courts and \$710,000 for Cloverleaf Courts). The notes were structured as interest free for the first 5 years, interest only (at 4.25%) for the next 5 years, with a balloon payment in full at the end of the 10-year term.

Mr. Showalter reported in 2019, LaNel requested the notes be renegotiated to push the payment terms back 5 years to mirror the permanent funding in place. The EDA was generally in favor of this proposal. As the renegotiation was progressing, the COVID-19 pandemic hit, and discussions paused. At one point, there was consideration of providing LaNel funding assistance through the city's CARES allocation. As an alternative to direct assistance, the city/EDA, at staff's recommendation, considered renegotiating the notes to be a better alternative. Amended and restated promissory notes were prepared, however, there was never formal approval by the parties. On June 5, 2023, the EDA formally approved these restated notes. The restated note requires interest-only payments beginning in July 2025 and a balloon payment for the principal balance and any unpaid interest on June 1, 2030. In June 2025, representatives from LaNel contacted city staff to discuss opportunities for the city/EDA to provide financial assistance to complete various facility upgrades. Members of the finance and community development departments met with and communicated with LaNel in July, August, and September to better understand the financial request and impact on residents of each property.

Ms. Showalter explained the LaNel group will present council with their request and seek feedback on their proposal. If the council decides to pursue financial assistance, city staff will outline the potential options during a future workshop. The city has multiple resources that could be used to facilitate the requested improvements, including pooled housing TIF funds, affordable housing aid, and the existing notes on the properties. It's important to

note that LaNel has been current on all interest payments for the note, which started in July 2025.

Caitlin Goff, Lang Nelson, introduced herself to the council and noted her company has had the privilege of managing these senior properties in Blaine since 2015. She discussed how she has a full-time manager and maintenance staff individual onsite daily for seniors, along with a meaningful activities program. She requested funding from the city to assist with maintenance at both of her properties. She discussed how keeping rents low in order to remain affordable has created a deficit in the property management's maintenance fund. She requested the council consider providing assistance to Lang Nelson in order to assist her organization with keeping these affordable units available to seniors, while still providing the necessary capital improvements.

Councilmember Robertson asked if the units were age restricted. Ms. Goff reported this was the case noting the tenants had to be 55+.

Councilmember Robertson commented on how much she cares about the senior population in Blaine and understood this was an active and vital part of the community. She appreciated how the seniors in Blaine had a wide variety of activities to participate in. She asked how much funding the city would be receiving in local affordable housing aid (LAHA) funds. Ms. Showalter estimated the city would receive \$700,000 to \$800,000 per year. Mr. Thorvig reported the city also has \$1.1 million in TIF funding that could be used to assist with this type of project.

Councilmember Robertson supported providing funding for this request, but wanted the council to have a future discussion on how to address future funding requests for affordable housing projects.

Councilmember Newland asked if there were other funding options available to the Lang Nelson Group other than the city. Ms. Goff reported she had investigated other funding options before coming to the city. She noted she was not able to have secondary financing on this property because this was a federal property. She indicated the grants she has reviewed would not provide enough funding to meet the needs of these two senior housing buildings. She commented further on the penalties and fees she would have to pay if she were to refinance the current loan, noting this would lead to increased rental rates.

Councilmember Newland inquired what the vacancy rate was at each of the buildings. Ms. Goff explained both buildings were 100% occupied at this time.

Councilmember Newland was of the opinion both of these properties were very well maintained and have wonderful curb appeal. He explained he supported using LAHA or TIF dollars in order to assist with the capital maintenance of these properties.

Councilmember Robertson questioned how much the total improvements would cost. Ms. Goff stated she has an in-house rehab team that assists with renovation/improvement projects. She noted she has estimates, but not quotes for the overall work that needs to be done and reported Lang Nelson would be investing in the property right along with the city.

Councilmember Robertson stated she could support the city exploring assistance for this

request whether this be done through pooled TIF or LAHA funding.

Councilmember Ford questioned if this was a 2026 request and asked how long the improvements would take to complete. Ms. Goff stated the project would begin in 2026 and would take more than one year to complete.

Council provided general support for the request but requested further exploration of alternative funding options as well.

3.3. 2025-218 Charitable Gambling Introduction - 2026 Awards

Sponsors: Jason Zimmerman, Finance Director

Finance Director Zimmerman stated the city's charitable gambling fund was established in 1993 to account for the proceeds of a ten percent (10%) contribution that charitable gambling organizations operating within Blaine are required to submit to the city (Code Section 22-384). Organizations participating in charitable gambling as of 2025 are:

- Andover Football Association (new)
- Blaine Festival Committee
- Blaine Youth Basketball
- Blaine Youth Football
- Blaine Youth Hockey
- Centennial HS Football Boosters
- Community Charities of Minnesota (new)
- Ham Lake Chamber of Commerce
- Spring Lake Park Lions Club
- Spring Lake Park #16 Youth Hockey
- VFW - Sgt. John Rice

Mr. Zimmerman reported for 2026, the city received applications from 21 organizations requesting funding. Organizations who submitted applications after the final submission date are included in the attached materials, although staff recommends funding not be allocated to ensure an orderly and equitable process.

Mayor Sanders and Councilmember Robertson supported the process moving forward as proposed by staff.

Deputy Police Chief Gerhard commented on the request from the police federation. He explained these dollars would be used to assist those in need by providing dollars for food, gas or lodging for those in need.

Council supported the process as proposed by staff.

3.4. 2025-219 Communications Fund 2026 Budget

Sponsors: Jason Zimmerman, Finance Director

Mr. Zimmerman stated the city's communications fund accounts for activity supported by revenue received from cable franchise fees and Public, Educational and Governmental (PEG) fees paid by cable television customers, with Comcast operating as the cable service provider for the entirety of Blaine. Franchise and PEG fees collected from cable television subscribers are passed through to the North Metro Telecommunications Commission (NMTC), which is the regulatory body that oversees the cable franchise for:

- Blaine
- Centerville
- Circle Pines
- Lexington
- Lino Lakes
- Ham Lake
- Spring Lake Park

Mr. Zimmerman explained the commission uses these fees to provide its member cities with educational opportunities for youth, adults, and seniors; tape and film transfer services; coverage of high school sports, local news, and local elections; municipal programming, including city meetings, and other informative and interesting programming regarding their communities. A portion of the collected fees are distributed to Blaine and the other member cities and are used to repair or replace council control room equipment as needed. The fees distributed by NMTC will remain the same amount as in 2025. If NMTC revenues outperform expectations, additional funding will be distributed to member cities. The city was a partner in the issuance of the 2016A GO Capital Equipment Note that was issued by the city of Circle Pines, and Blaine's share of the principal and interest is funded by franchise fees from North Metro TV. The final payment on this bond was made in 2024.

Councilmember Robertson asked that the expense of the newsletter not be put back into the general fund.

Mayor Sanders suggested staff explore sending the newsletter via email going forward. Communications Manager Hayle reported he has seen other cities moving in this direction, but in his conversations with other communications managers this was only being done for cost-savings reasons. It was his understanding a printed newsletter was still the best way to communicate with residents.

Council supported the communications fund budget as proposed.

4. Other Business

Mr. Thorvig noted that because the charter amendment requires a unanimous vote of the full council, this item will be postponed to a future meeting.

5. Adjournment

The workshop adjourned at 6:53PM.



City of Blaine

City Council

October 6, 2025 | 7:00 PM
Blaine City Hall
10801 Town Square Drive NE
Blaine, MN 55449

MINUTES

1. Call to Order by the Mayor

The meeting was called to order at 7:00PM by Mayor Sanders followed by the Pledge of Allegiance and the Roll Call.

2. Pledge of Allegiance

3. Roll Call

PRESENT: Mayor Tim Sanders, Councilmembers Chris Ford, Leslie Larson, Tom Newland, and Jess Robertson.

ABSENT: Councilmembers Terra Fleming and Chris Massoglia.

Quorum Present.

ALSO PRESENT: City Manager Erik Thorvig; Deputy Police Joe Gerhard; Finance Director Jason Zimmerman; Director of Administrative Services Scott Johnson; Director of Engineering Dan Schluender; City Attorney Eric Larson; Communications Manager Ben Hayle; Community Development Specialist Elizabeth Showalter; Accounting Manager Haley Champman; Finance Analyst Nikki Beckers; and City Clerk Catherine Sorensen.

Mayor Sanders reported previous agenda Items 9.1 and 9.2 had been removed from the agenda per the applicant's request. He explained Item 10.1 would be removed from the agenda because this item requires a 7-0 vote from the city council. Item 10.1 will be brought back to the council at a future meeting.

4. Awards - Presentations - Organizational Business

- 4.1.** 2025-220 Proclamation Declaring October as National Domestic Violence Awareness Month
Sponsors: City Council

Mayor Sanders read a proclamation in full for the record declaring October to be National Domestic Violence Awareness Month in the city of Blaine.

Connie Moore, Co-Executive Director at Alexandra House, accepted the proclamation and shared statistics regarding domestic violence in the state, county, and city of Blaine. She thanked the city for their continued leadership, dedication and support for the Alexandra House's mission. She encouraged the community to display a domestic violence sign in their yard or illuminate their home in purple in order to show solidarity and a commitment to ending domestic violence.

4.2. 2025-221 Oath of Office - City Manager Erik Thorvig
 Sponsors: Eric Larson, City Attorney

City Attorney Larson administered the oath of office to newly appointed City Manager Erik Thorvig. A round of applause was offered by all in attendance.

Mayor Sanders stated he was thrilled to have Erik Thorvig serving as the new city manager and was excited when it comes to the future of the city.

5. Communications

Councilmember Newland thanked Charlene Vold and others for their work to organize the recent blood drive at city hall.

6. Open Forum

Open Forum is an opportunity for the public to share comments, concerns, or input on other items. While open forum is not intended to provide for response or discussion opportunities, if follow-up is needed, city staff will work to contact the speaker(s) outside of the meeting to arrange for that follow-up. Each speaker will be limited to 3 minutes with a maximum of 15 minutes set aside for open forum.

Mayor Sanders opened the Open Forum at 7:14PM.

Angela Ash, 11347 Polk Street, addressed the council regarding Item 10.2 the Blaine storm outlet project and shared concerns with water drainage causing the curb to be very rusty and have a strong odor. She requested a drain be installed on her property to allow the water being pumped from the neighbor's sump pump to properly drain.

There being no further input, Mayor Sanders closed the Open Forum at 7:17PM.

7. Approval of Consent Agenda:

All items listed under the "Consent Agenda" are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

Moved by Councilmember Newland, seconded by Councilmember Robertson, that the following items on the Consent Agenda be approved.

Councilmember Newland stated he would abstain from voting on Item 7.1 due to a potential conflict of interest.

Motion adopted 4-0-1 (Councilmember Newland abstained).

- 7.1.** 2025-222 Schedule of Bills Paid
Sponsors: Jason Zimmerman, Finance Director
- 7.2.** 2025-223 Approval of Minutes
Sponsors:
- 7.3.** RES 25-168 Resolution to Approve the 2026 DWI / Traffic Safety Officer Grant and Associated Budget Amendments
Sponsors: Brian Podany, Safety Services Manager/Police Chief
- 7.4.** RES 25-171 Resolution Accepting SCORE Grant Funds and Authorizing the Mayor and City Manager to Execute the 2026 Agreement for The Residential Recycling Program
Sponsors: Jason Zimmerman, Finance Director
- 7.5.** RES 25-170 Resolution to Authorize Parking Restrictions on University Avenue NE at Blaine High School
Sponsors: Daniel Schluender, Director of Engineering
- 7.6.** RES 25-165 Resolution to Award a Contract to North Oaks Paving in the Amount of \$52,656.00 for Maintenance and Repairs to Trails in Territorial Park, Project U2527.
Sponsors: Brent Larson, Project Engineer, Matt Withrow, Public Works Sewer/Storm Supervisor
- 7.7.** 2025-225 Motion to Approve the City Manager's Employment Agreement
Sponsors: City Council

8. 7:00 PM - Public Hearing and Items Published for a Certain Time

None.

9. Development Business

- 9.1.** RES 25-161 Resolution Granting a Conditional Use Permit to Construct a Bank in an Office Research Park (B-4) Zoning District at 11866 Aberdeen Street NE. Trustone Financial Group (Case File No. 25-0037/SLK)
Sponsors: Sheila Sellman, Interim Community Development Director

Community Development Specialist Showalter stated the applicant is requesting a conditional use permit to construct a Trustone Credit Union in a Office Research Park (B-4) Zoning District. Staff reported the planning commission considered this matter and recommended approval with conditions.

Moved by Councilmember Robertson, seconded by Councilmember Newland, to adopt Resolution Granting a Conditional Use Permit to Construct a Bank in an Office Research Park (B-4) Zoning District at 11866 Aberdeen Street NE.

Motion adopted unanimously.

- 9.2.** ORD 25-2588 First Reading
Ordinance Approving a Rezoning from Single Family Residential (R-1) to Community Commercial (B-2) at 8634 Central Avenue NE. Scott Uram (Case File No. 25-0042/SAS)
Sponsors: Sheila Sellman, Interim Community Development Director

Ms. Showalter requested the council hold first reading for a rezoning from Single Family Residential (R-1) to Community Commercial (B-2).

Declared by Mayor Sanders that Ordinance No. 25-2588, "Ordinance Approving a Rezoning from Single Family Residential (R-1) to Community Commercial (B-2) at 8634 Central Avenue NE," be introduced and placed on file for second reading at the October 20, 2025 Council meeting.

- 9.3.** ORD 25-2587 First Reading
Ordinance Approving an Amendment to Section 34.02 of the Sign Ordinance to Allow for Pylon Signs up to 50 Feet in Height Along Hwy 65. City of Blaine (Case File No. 25-0038/ACK)
Sponsors: Sheila Sellman, Interim Community Development Director

Ms. Showalter requested the council hold the first reading approving an amendment to allow pylon signs along Highway 65.

Declared by Mayor Sanders that Ordinance No. 25-2587, "Ordinance Approving an Amendment to Section 34.02 of the Sign Ordinance to Allow for Pylon Signs up to 50 Feet in Height Along Highway 65," be introduced and placed on file for second reading at the October 20, 2025 Council meeting.

10. Administration

10.1. ORD 25-2590 Second Reading

An Ordinance Amending Sec. 2.07. Salaries of the Blaine City Charter

Sponsors: Cathy Sorensen, City Clerk

Due to charter amendments requiring a unanimous vote of the full council, this item was removed from the agenda and will be rescheduled for a future meeting.

10.2. RES 25-172 Resolution Accepting bids and awarding the contract to Fields Contracting, LLC in the Amount of \$84,560.00 for the 2025 Blaine Storm Outlet Project, I/P 25-14

Sponsors: Daniel Schluender, Director of Engineering

Director of Engineering Schluender requested the council accept a bid and approve a contract with Fields Contracting LLC for the 2025 Storm Outlet Project, Project No. 25-14 (#U2514). This project was approved in the 2025 Budget. The project consists of the removal and installation of various storm sewer outlet aprons and pipe, some directional drilling, grading around the new pipe and aprons to provide cover over the pipe and match existing ground, and turf restoration throughout the City as shown in the plans. Bids have been checked and tabulated, and it has been determined that Fields Contracting LLC of Harris, Minnesota is the lowest bidder. The Engineering Department has not worked with Fields Contracting in the past but they have provided example projects for projects completed in other cities in the area. Staff has contacted a number of these references provided by the contractor and recommends that the low bid be accepted, and a contract entered into with Fields Contracting LLC. City Council is also asked to approve a 10% contingency to bring the total project budget to \$93,016. The funding source for this project is the Storm Water Capital Fund and there are sufficient funds budgeted to cover these costs.

Mayor Sanders asked that staff speak to how the concern raised by the resident during open forum would be addressed. Mr. Schluender explained staff has been working with the resident and the homeowner to rectify the concerns that were raised. He reported drain tile will be installed to allow the sump pump to drain into a storm sewer system, which would divert the water away from the street.

Councilmember Newland asked what the timeline was for this project. Mr. Schluender indicated this project would be constructed yet this fall.

Moved by Councilmember Newland, seconded by Councilmember Robertson, to adopt a Resolution Accepting bids and awarding the contract to Fields Contracting, LLC in the

Amount of \$84,560.00 with a 10% contingency for the 2025 Blaine Storm Outlet Project, I/P 25-14.

Motion adopted unanimously.

11. Other Business

None.

12. Adjournment

Moved by Councilmember Robertson, seconded by Councilmember Newland, to adjourn the meeting at 7:27PM.

Motion adopted unanimously.



City of Blaine Staff Report

File Number: 2025-237

Agenda Date	Status
October 20, 2025	
In Control	File Type
City Council	Motion

Approval of Consent Agenda: - Daniel Schluender, Director of Engineering

Agenda Item # 7.3

Motion Authorizing the Acquisition of Easements for the Zest Street and Lakes Parkway Construction, Improvement Project Number T2504

Executive Summary

The City Council previously ordered the improvement project and preparation of plans and specifications for the Zest Street and Lakes Parkway Construction project. Bids have been received and the project was awarded to Park Construction on September 3, 2025. The proposed improvements require permanent and temporary easements to be acquired from 2 adjacent properties to complete the project as designed. Staff have negotiated with both property owners and come to acceptable terms.

Background

The project will consist of constructing the following streets:

- Lakes Parkway from 50' west of Zest Street to Lexington Avenue
- Zest Street from Lakes Parkway to 875' north of Lakes Parkway

The proposed improvements require permanent and temporary easements to be acquired from 2 different adjacent properties to complete the project as designed. Permanent easement is needed to extend water and sanitary sewer services to the properties for future development. Permanent easements are also necessary to cover storm sewer being extended to each property to maintain existing drainage. Temporary easements are needed in various locations to allow for grading beyond the existing right-of-way/easements to provide safe and acceptable slopes from the new street elevation to the existing ground.

The project and need for additional easements has been discussed with the property owners. Staff has been in negotiations to acquire the easements with the two property owners and the following offers were negotiated:

- 12220 Lexington Avenue NE (PID No. 11-31-23-14-0001): \$22,217.00 was negotiated with the property for permanent drainage and utility easements and temporary construction easements.
- 12256 Lexington Avenue NE (PID No. 11-31-23-14-0003): \$25,000.00 was negotiated with the property for permanent drainage and utility easements and temporary construction easements.

City Council is being asked to authorize the Mayor and City Manager to acquire the above easements for the Zest Street and Lakes Parkway Construction Project.

Strategic Plan Relationship

The project aligns with the City's strategic initiatives for growth management and providing well-maintained infrastructure by providing high-quality street surfaces.

Board/Commission Review

Not applicable.

Financial Impact

This project was previously identified in the 2024-2028 Capital Improvement Program (CIP) as "Zest Street from Lakes Parkway to 125th Avenue Improvements", which was adopted by the City Council via resolution 23-207 on December 18, 2023. The project will be funded by a combination of assessments and bond proceeds placed in the Public Utility Funds and Municipal State Aid System Funds. The 2024-2028 CIP includes \$225,000 for consulting in 2024 and the 2025 project budget approved within the 2025-2029 CIP is \$2,837,500 for consulting, construction and contingencies, bringing the total project budget to \$3,062,500. To date, \$1,851,771.72 has been encumbered.

Funding Source	2024	2025	TOTAL
MSA Construction	\$225,000	\$1,800,000	\$2,025,000
Special Assessments	-	\$937,000	\$937,000
Water Utility Funds	-	\$60,000	\$60,000
Sewer Utility Funds	-	\$40,000	\$40,000
TOTAL	\$225,000	\$2,837,500	\$3,062,500

The costs associated with the acquisition of a permanent easement are anticipated to be contained within the existing budget. Staff is not recommending any additional amendments at this time.

Public Outreach/Input

The project is being conducted pursuant to MN Statutes, Chapter 429 and is compliant with all public notification requirements thereof.

Staff Recommendation

By motion, authorize the Mayor and City Manager to acquire the needed permanent easement at 12220 Lexington Avenue NE from Mr. Dean Allie in the amount of \$22,217.00 for the Zest Street and Lakes Parkway Construction, Improvement Project No. 25-04.

By motion, authorize the Mayor and City Manager to acquire the needed permanent easement at 12220 Lexington Avenue NE from Mr. Charles Georgi in the amount of \$25,000.00 for the Zest Street and Lakes Parkway Construction, Improvement Project No. 25-04.

Attachment List

None



City of Blaine Staff Report

File Number: 2025-238

Agenda Date	Status
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October 20, 2025

In Control	File Type
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City Council

Motion

7:00 PM - Public Hearing and Items Published for a Certain Time - Cathy Sorensen, City Clerk

Agenda Item # 8.1

Motion to Consider Approval of a Wine and 3.2 Percent Malt Liquor On-Sale Licenses for Chelas X, Inc. located at 1250 126th Ave NE, Suite 600, Blaine, MN

Executive Summary

Council has been asked to approve wine and 3.2 percent on-sale licenses for Chelas X located at 1250 126th Avenue NE, Suite 600, Blaine to allow the ability to serve strong beer and wine.

Background

A public hearing is required prior to the approval of wine and 3.2 percent malt liquor on-sale licenses in the city.

Michael Nguyen, applicant, submitted a wine and 3.2 percent on-sale liquor license applications. The applicant included the required license fees, forms and documents. The background investigation was conducted by the Blaine Police Department with no concerns found.

The wine and 3.2 percent malt liquor licenses, if approved, would be active through June 30, 2026, and run concurrent with annual liquor license renewals. All required information will be submitted to the state's alcohol and gambling enforcement division upon approval of the licenses by the council.

Strategic Plan Relationship

This license approval relates to both financial sustainability and growth management priorities in the strategic plan by attracting new businesses and retaining current businesses in the city.

Board/Commission Review

N/A

Financial Impact

Liquor license fees, adopted annually by city council, provides sufficient funding for review and issuance of the licenses as well as compliance checks and any other necessary license monitoring/enforcement.

Public Outreach/Input

Notice of public hearing was published in *Blaine/Spring Lake Park/Columbia Heights/Fridley Life* and on the city's website as required by code. No feedback was received by the clerk's office.

Staff Recommendation

Hold a public hearing to receive input regarding the wine and 3.2 percent malt liquor on-sale licenses, then by motion approve issuance of wine and 3.2 percent malt liquor on-sale licenses for Chelas X located at 1250 126th Avenue NE, Suite 600, Blaine.

Attachment List

None



City of Blaine

Staff Report

File Number: ORD 25-2588

Agenda Date	Status
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October 20, 2025

In Control	File Type
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City Council

Ordinance

Development Business - Sheila Sellman, Interim Community Development Director

Agenda Item # 9.1

Second Reading

Ordinance Approving a Rezoning from Single Family Residential (R-1) to Community Commercial (B-2) at 8634 Central Avenue NE. Scott Uram (Case File No. 25-0042/SAS)

Executive Summary

First reading for a rezoning from Single Family Residential (R-1) to Community Commercial (B-2).

Background

Planning Commission (Public Hearing)	09/09/25
City Council (1st Reading)	10/06/25
City Council (2nd Reading)	10/20/25
Action Deadline (60 Days)	10/12/25
Action Deadline (City Extended - 60 Days)	12/11/25

Staff report prepared by Sheila Sellman, Interim Community Development Director, and Teresa Barnes, Project Engineer.

Rezoning

Section 27.03 Criteria for granting zoning/comprehensive plan amendments:

The City Council may adopt amendments to the zoning ordinance, zoning map, and comprehensive plan relative to land uses within a particular district or to the location of the district lines. Zoning amendments shall only be used as a means to reflect changes in the goals and policies of the City as reflected in the comprehensive plan or changes in conditions in the City. Although there are no explicit findings that must be made in conjunction with rezoning, appropriate considerations include:

- Whether the proposed district is consistent with the Comprehensive Plan.
- How the proposed district differs from the existing district.

- How the proposed district meets the goals and policies of the City.

Evaluation of Request

The applicant is requesting to rezone portions of the subject site from Single Family Residential (R-1) to Community Commercial (B-2) to be consistent with the existing comp plan designation and the majority of the zoning for the parcels. The request also includes a Conditional Use Permit (CUP) for self-storage. Self-storage is not permitted in the B-2 district, but is allowed via a CUP in the Highway 65 Overlay district south of Highway 10.

Planning Analysis

Current Zoning

The majority of the subject site is zoned B-2. Due to the location, the Highway 65 Overlay District (HOD) also applies. A small area in the back of the lot is still zoned R-1.

Proposed Zoning

The proposed zoning is B-2, which would result in the entire parcel having the same zoning. The purpose of this district is to allow commercial uses serving surrounding neighborhoods with low to moderate traffic uses. This district may be located adjacent to residential, commercial, and industrial districts and shall be primarily located on collector or arterial roads. The purpose of the overlay district is to promote the development of an attractive view of the community from Highway 65 through architectural and signage controls, landscaping, screening, building orientation and establish minimum standards that contribute to a community image of quality, visual aesthetics, permanence, and stability along the Highway 65 corridor.

Land Use Designation

The land use designation is Community Commercial (CC). The CC designation is for retailing and services that serve larger areas, from neighborhood to regional scale. Typical uses include apparel, food, financial services and furniture. The rezoning aligns with the Land Use designation.

Existing Conditions

The site is currently two parcels that were platted earlier this year. The northern parcel has an existing office building and the southern parcel is not developed. The rear of the site has many mature trees and is adjacent to single-family residential.

Site Plan

The office building on the northern property will remain, and the southern lot will be developed with a 3-story self-storage facility with office space in the front. In the Highway 65 Overlay district, self storage is allowed via a CUP. The HOD provides higher architecture standards and landscape requirements than the B-2 district, so the proposal will be reviewed with the higher standards. Section 32.55 provides specific self-storage facility standards that must be met as part of the CUP.

32.55 Property South of Highway 10.

(a) Conditional uses (in addition to what is permitted with the underlying zoning district): Self-Storage Facility as part of a mixed use.

(1) Self-Storage Facility Standards:

- (aa) Must be part of a mixed-use project with a minimum of 1,500 square feet of other commercial use not related to the operations of the storage facility.
- (bb) Storage units must be climate controlled.
- (cc) The self-storage facility must be located in the rear of the property and not adjacent to Highway 65.
- (dd) No self-storage facility may be located within 1,500 feet of another storage facility.
- (ee) Setback from residential is 100 feet.

Architecture

For development of properties within the Highway 65 Overlay District, the following standards shall be applied:

(a) At least 50 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:

- Brick.
- Natural or cultured stone.
- Glass.
- Masonry stucco or EIFS.
- Cementitious siding.
- Architectural metal.
- Integrally colored rock faced block.
- Other comparable or superior material as approved by the Zoning Administrator.

(1) The remaining 50 percent of all exterior wall finishes shall be comprised of any combination of decorative or rock face concrete block and textured concrete panels or other comparable or superior materials as approved by the Zoning Administrator. All building materials subject to approval of the Zoning Administrator.

(2) Buildings may be constructed of primarily one of the materials listed in subsection (1), if the design exceeds the intent of the ordinance.

(3) Buildings shall be oriented towards Highway 65 or at a minimum, give the appearance of having a front facing Highway 65 if adjacent to Highway 65.

(4) Building articulation elements shall be provided at a maximum of average spacing of 40 feet.

(5) No more than 75 percent of the building sides visible from Highway 65 may be constructed of decorative concrete block, pre-cast concrete or stucco.

(6) The exterior of the building shall have varied and interesting detailing. Large unadorned walls shall be prohibited (50 feet or more). All large walls viewable from Highway 65 must be relieved by architectural detailing, such as change in materials, change in color, offsets, or other significant visual relief provided in a manner or at intervals in keeping with the size, mass and scale of the wall and its views from the public right-of-way.

(7) Exterior building material colors shall be complimentary of other buildings within the district.

Corrugated metal is not an approved material. The west elevation must be revised to meet minimum requirements of 50% of all wall finishes shall be at least three materials: brick, natural cultured stone, stucco, EIFS, architectural metal, colored rock face block glass. This side has two approved materials of

glass and architectural metal.

The south elevation also does not meet minimum requirements; an additional material is required. The exterior of the building shall have varied and interesting detailing. Large unadorned walls shall be prohibited (50 feet or more). All large walls viewable from Highway 65 must be relieved by architectural detailing, such as change in materials, change in color, offsets, or other significant visual relief provided in a manner or at intervals in keeping with the size, mass and scale of the wall and its view from the public right-of-way. This could be met by matching articulations as shown on the north elevation. The corrugated metal for the entire building must be changed to an approved material as outlined above. The garage doors should match the building/compliment the building in color. As shown on the illustration, the doors are white and the building is gray.

Building Setbacks

The B-2 district and Highway 65 Overlay District setbacks apply.

- Front yard: 30 feet
- Side yard: 20 feet
- Rear yard: 100 feet

Parking Setbacks

The B-2 district and Highway 65 Overlay District setbacks apply.

- Front yard: 25 feet
- Side yard: 10 feet
- Rear yard: adjacent to residential is 25 feet

The zero lot line applies to the northern property line.

Landscaping

The proposed landscaping meets the minimum requirements, including oversizing for the Highway 65 Overlay District requirements.

Tree Preservation

Trees are being removed from both Lot 1 and Lot 2. The replacement trees on lot 1 will not be counted for any landscape requirements on Lot 2. Tree removal from Lot 1 is about 0.42 acres, which requires 3 trees to be replaced on Lot 1. Lot 2 removal is about 1.16 acres, requiring 9 replacement trees. These replacement trees can include landscape requirements for Lot 2.

The tree preservation requirements are met for both lots.

Engineering Analysis

Grading/Storm Drainage

The developer is proposing to grade the entire site as shown on the Coon Creek Watershed District (CCWD) and city approved grading, drainage, erosion protection and sediment control plans as prepared by the developer's engineer. The plans shall include existing drainage patterns (contours) with flow arrows, soil boring locations, perimeter site protection, tree preservation, tree clearing limits,

custom grading, proposed grading contours, proposed drainage patterns with flow arrows, storm water management, SWPPP information, temporary erosion protection Best Management Practices (BMPs), and temporary sediment control BMPs information for the site. The SWPPP may be included in the construction plan sheet(s) or prepared as a separate document and included in the development construction contract specifications.

Utilities

Standard water and sanitary sewer access charges (WAC & SAC) become due with the building permit at the rate established at the time the building permit is issued.

The developer shall explore a water source for the landscape irrigation system installed throughout the site, including the possible use of created ponds for stormwater reuse.

Wetlands/Watershed

The developer will need to submit the project to the CCWD for review, approval, and permits that are required prior to the city plan approval and start of site work.

Access/Street Design

The development is proposing construction on the southern lot and is providing a shared driveway access with the lot to the north that currently connects to the Central Avenue west side service road. The development will also add another directional access (out only) for the southern lot onto the Central Avenue west service road. No other access will be allowed.

Easements/Right-of-way/Permits

The developer will need to obtain all required permits to construct the proposed project. A copy of all permits will need to be submitted to the city prior to any site work.

Standard drainage and utility easements shall be dedicated along all lot lines and over areas of infiltration trenches, drainage sales, and storm water management ponds as depicted on the preliminary plat and correspond to the approved grading plan.

Attachment List:

Zoning and Location Map
Removals and Erosion Control Plan
Site Plan
Grading Plan
Utilities Plan
Landscaping Plan
Floor Plans
Elevations
Neighborhood Meeting Summary
Unapproved Planning Commission Minutes 9/9/25

Strategic Plan Relationship

Not applicable.

Board/Commission Review

The Planning Commission voted unanimously to approve the rezoning.

No one spoke at the public hearing. The meeting minutes are attached for reference.

Financial Impact

Not applicable.

Public Outreach/Input

Notices of a public hearing were:

1. Mailed to property owners within 350 feet of the property boundaries.
2. Published in Blaine/Spring Lake Park/Columbia Heights/Fridley Life.
3. Posted on the City website.
4. Posted (sign) on the property with contact information for the Planning Department.

In accordance with the Neighborhood Meeting Policy, a neighborhood meeting was held on August 25, 2025. A summary of the meeting is attached. Comments included concerns with security and lighting.

Staff Recommendation

By motion, approve the ordinance.

Attachment List

1. Attachments
2. Unapproved PC Minutes 9/9/25



City of Blaine

Signature Copy

Ordinance: ORD 25-2588

Second Reading

Ordinance Approving a Rezoning from Single Family Residential (R-1) to Community Commercial (B-2) at 8634 Central Avenue NE. Scott Uram (Case File No. 25-0042/SAS)

THE CITY OF BLAINE DOES ORDAIN: (Added portions are underscored and deleted portions are shown with overstrike.)

Section 1. The Official Zoning Map of the Zoning Code of the Municipal Code of the City of Blaine is hereby amended to change the zoning classification of the following described property:

Lot 1 Lot 2, Block 1, Uram

Section 2. The above described property is hereby rezoned from:

~~Single Family Residential (R-1)~~

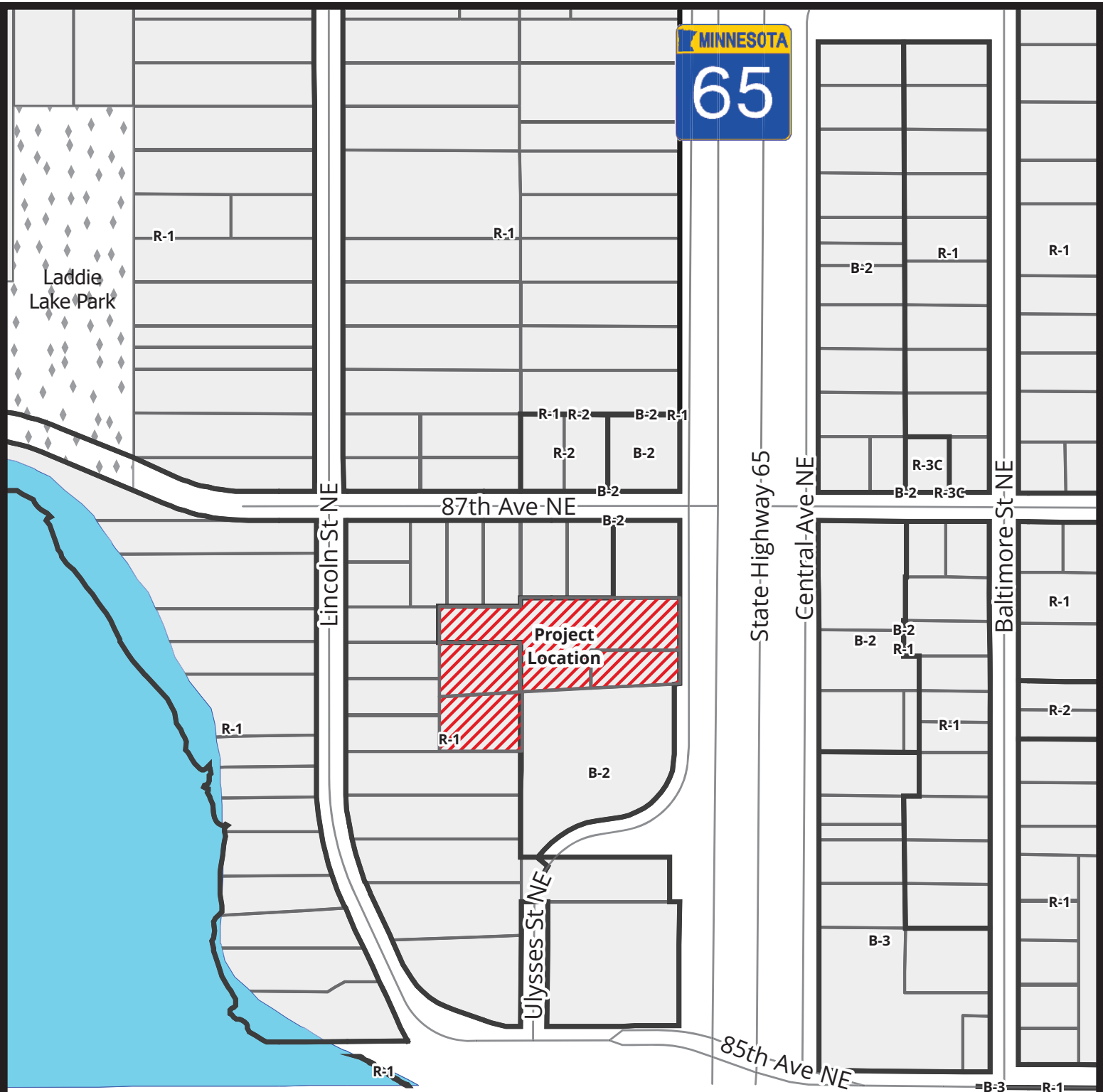
to

Community Commercial (B-2)

Section 3. The City Manager is hereby directed to make the appropriate changes in the Official Zoning Map of the City of Blaine to reflect and show the changes in zoning classification as set forth above.

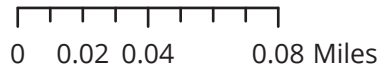
INTRODUCED and read in full this 6th day of October, 2025.

PASSED by the City Council of the City of Blaine this 20th day of October, 2025.



	Zoning
	Blaine Parcels
	City Parks
	Project Location

Case File No. 25-0042
Uram Storage



Scale: 1:3,736

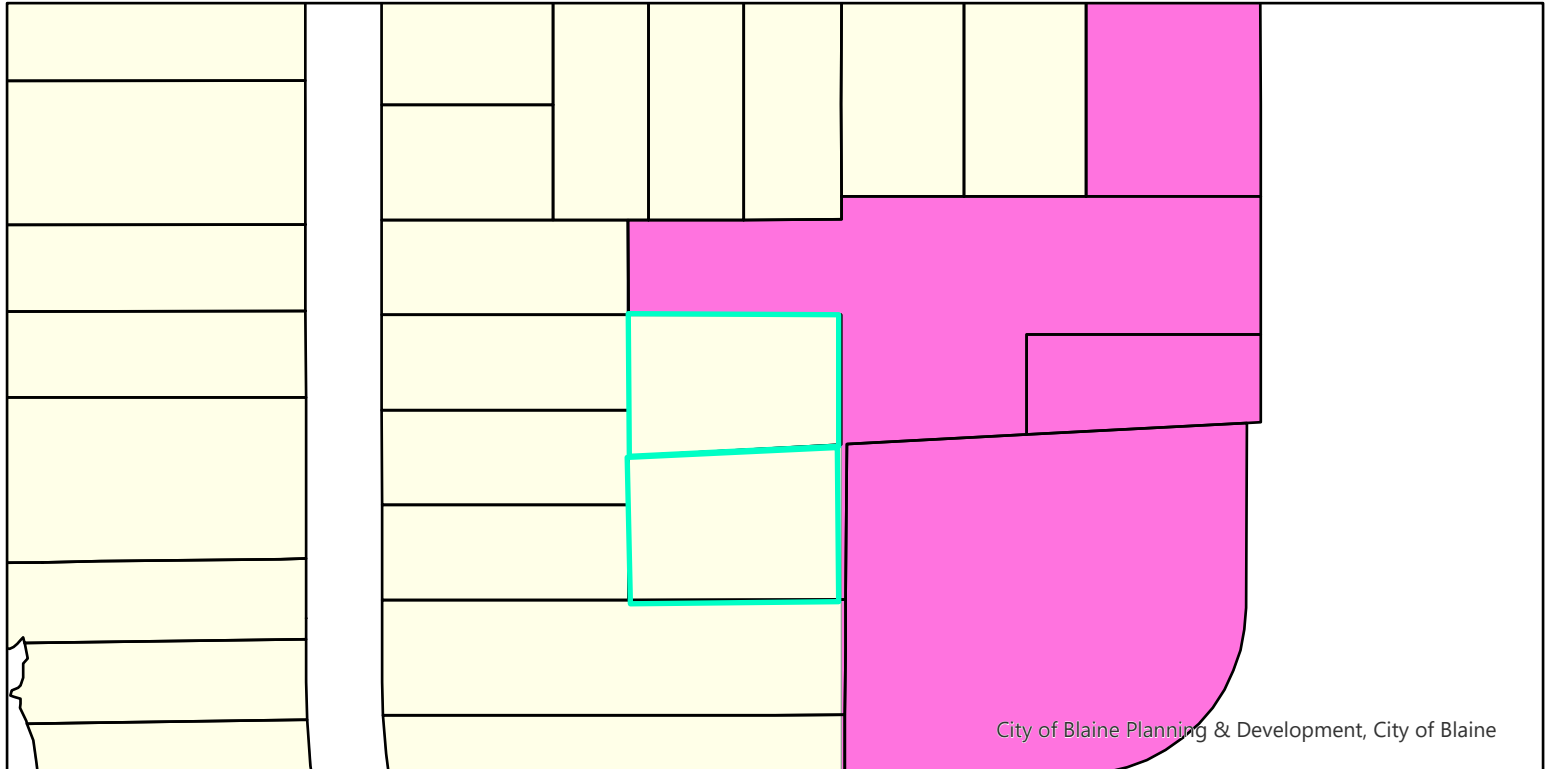


BlaineMN.gov

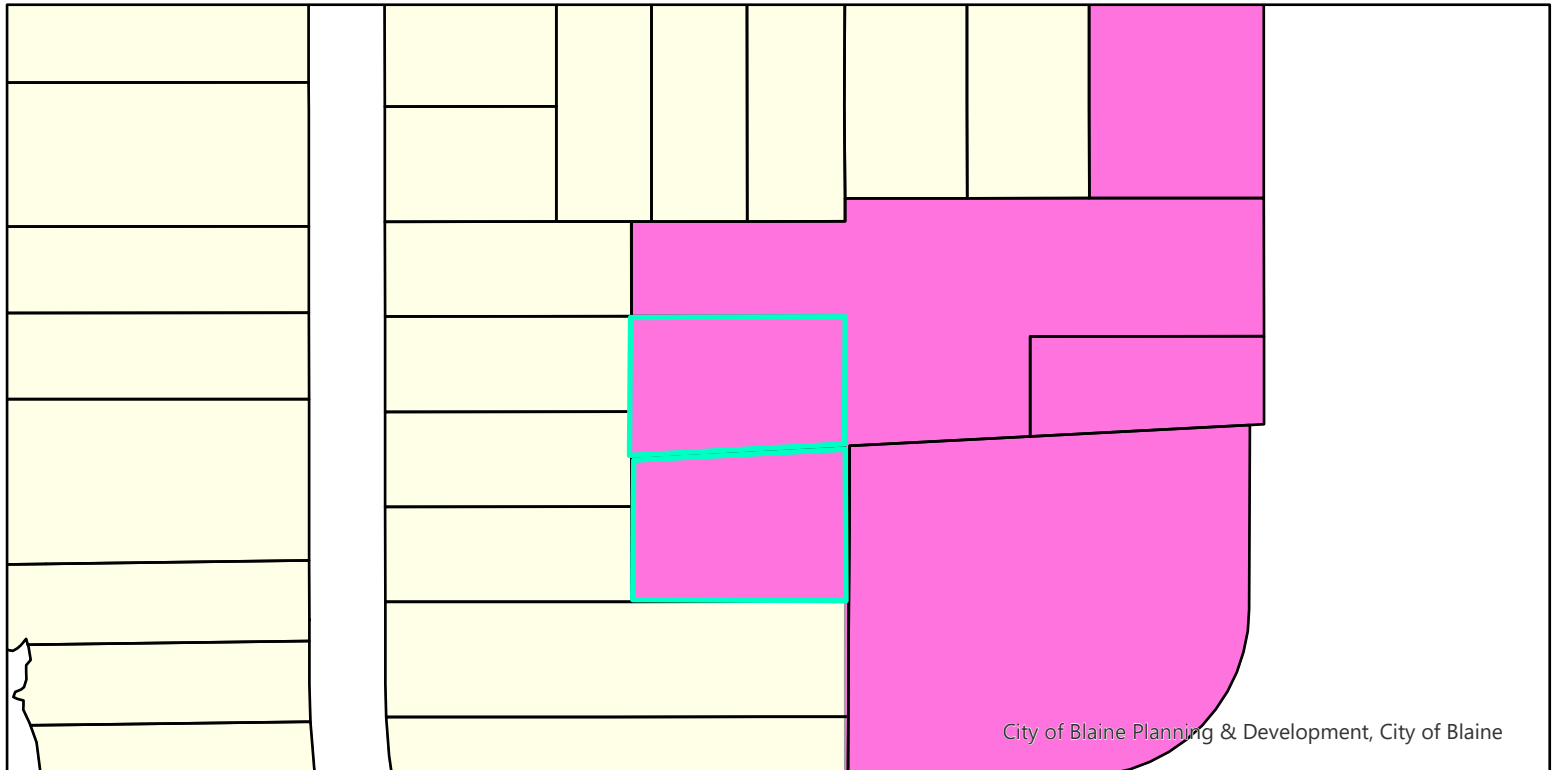
Blaine Planning Department / 10801 Town Square Dr NE / Blaine, MN 55449 / (763) 785-6180

Existing and Proposed Zoning

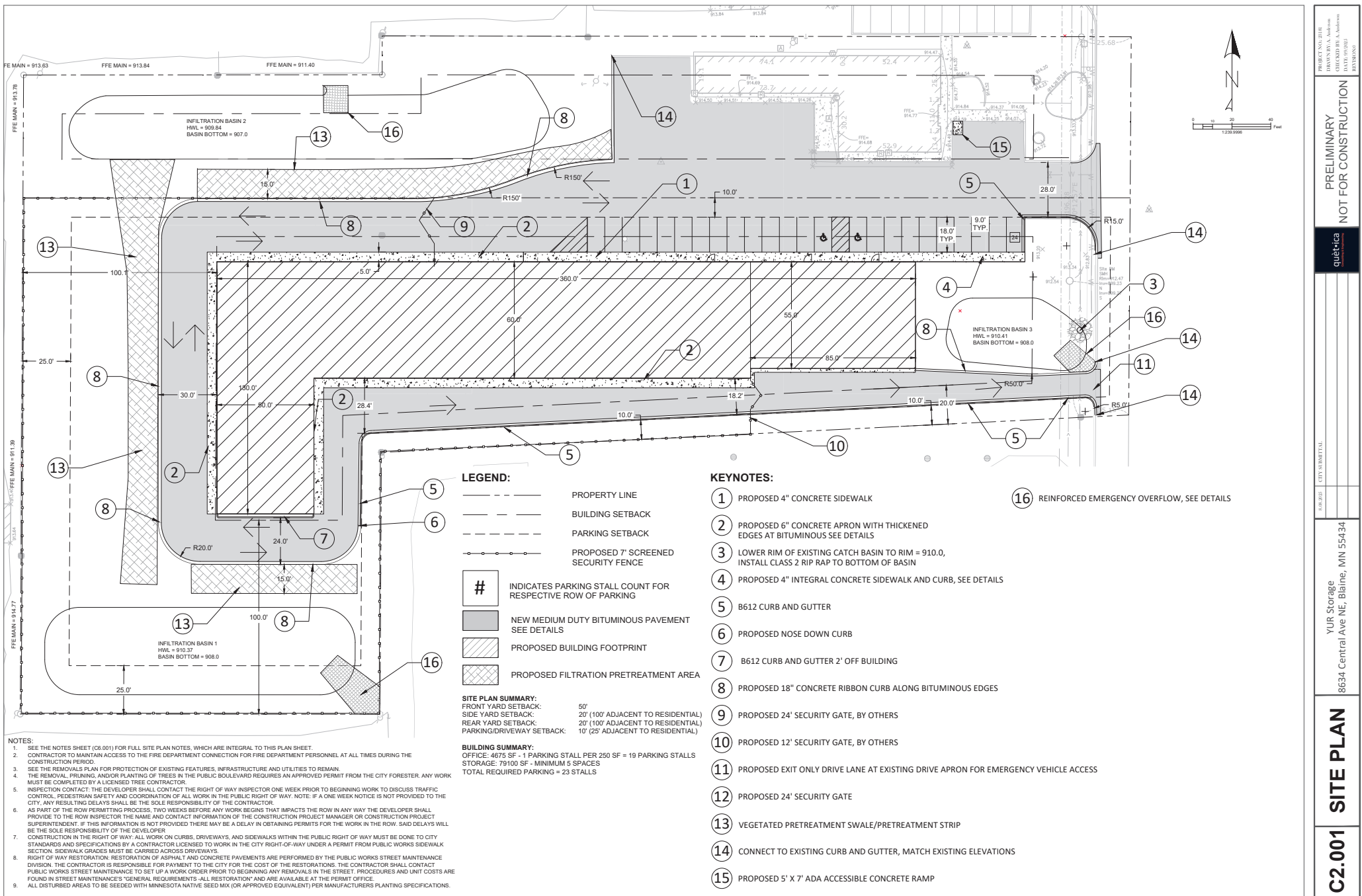
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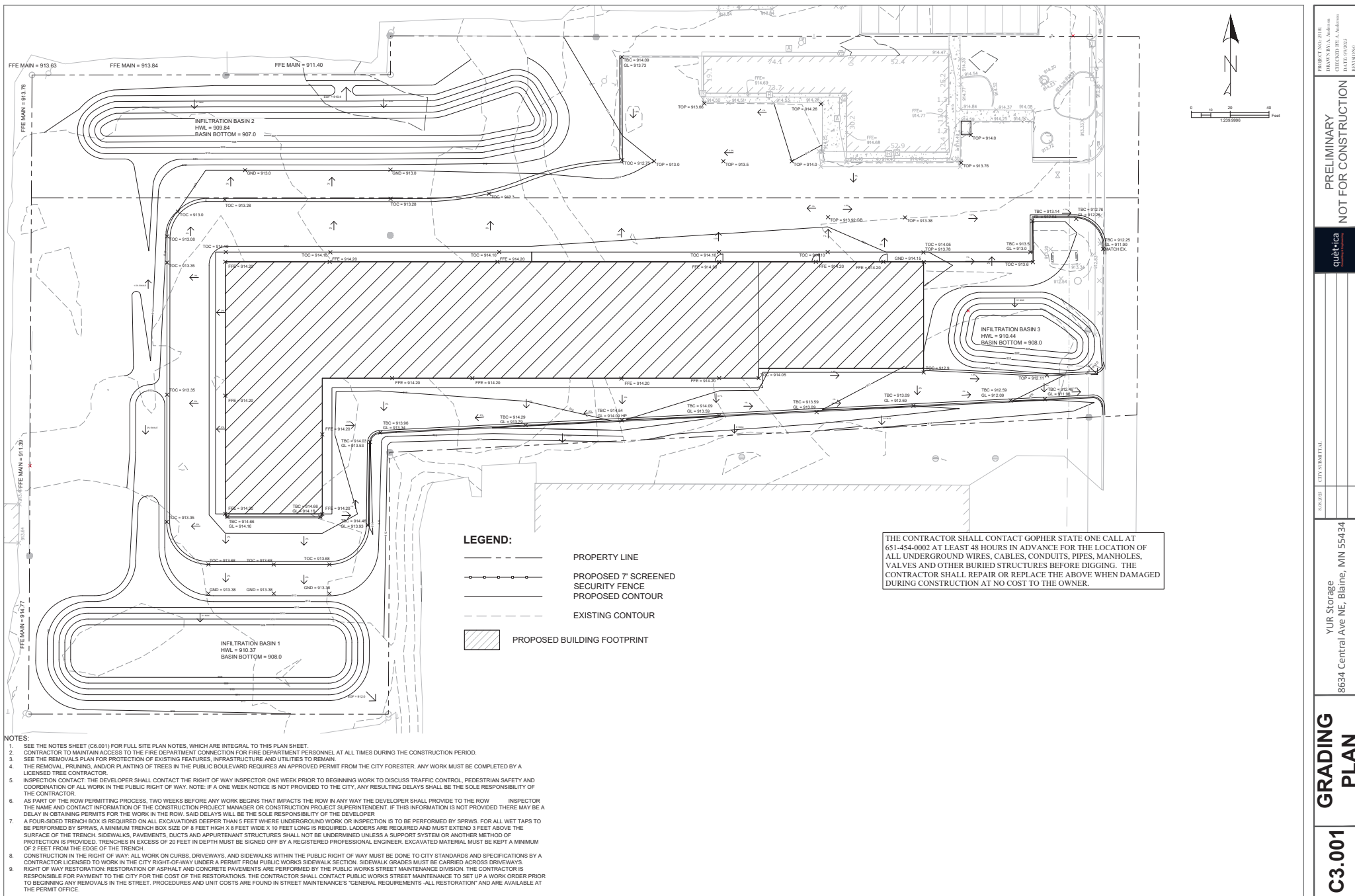


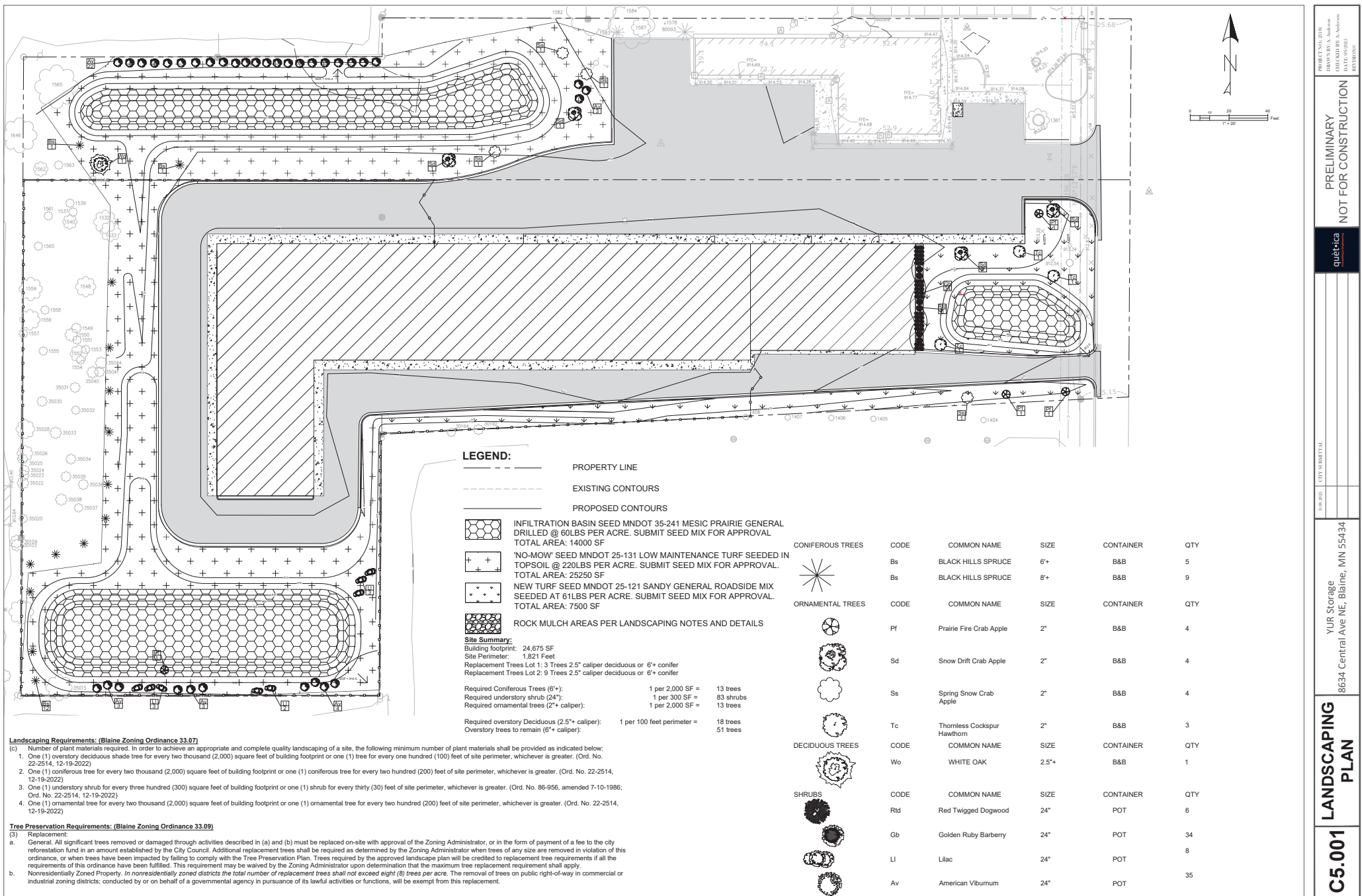
Proposed Zoning

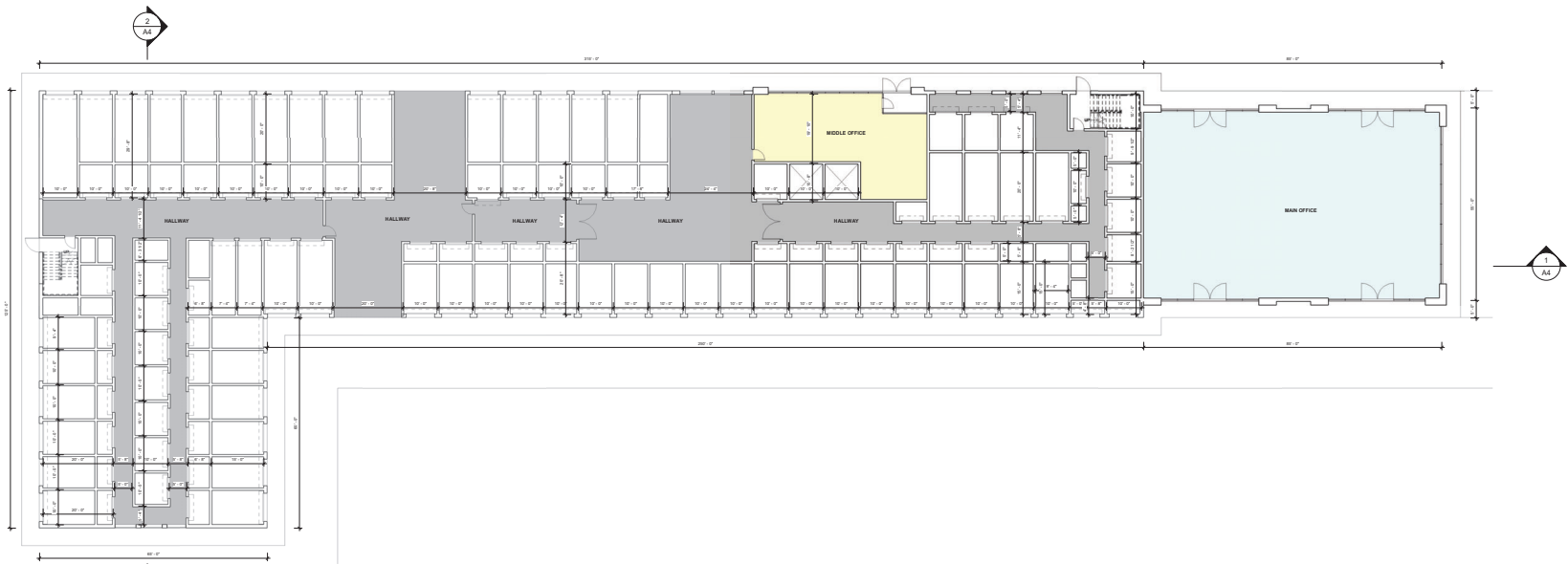


- B-2 - Community Commercial
- R-1 - Single Family

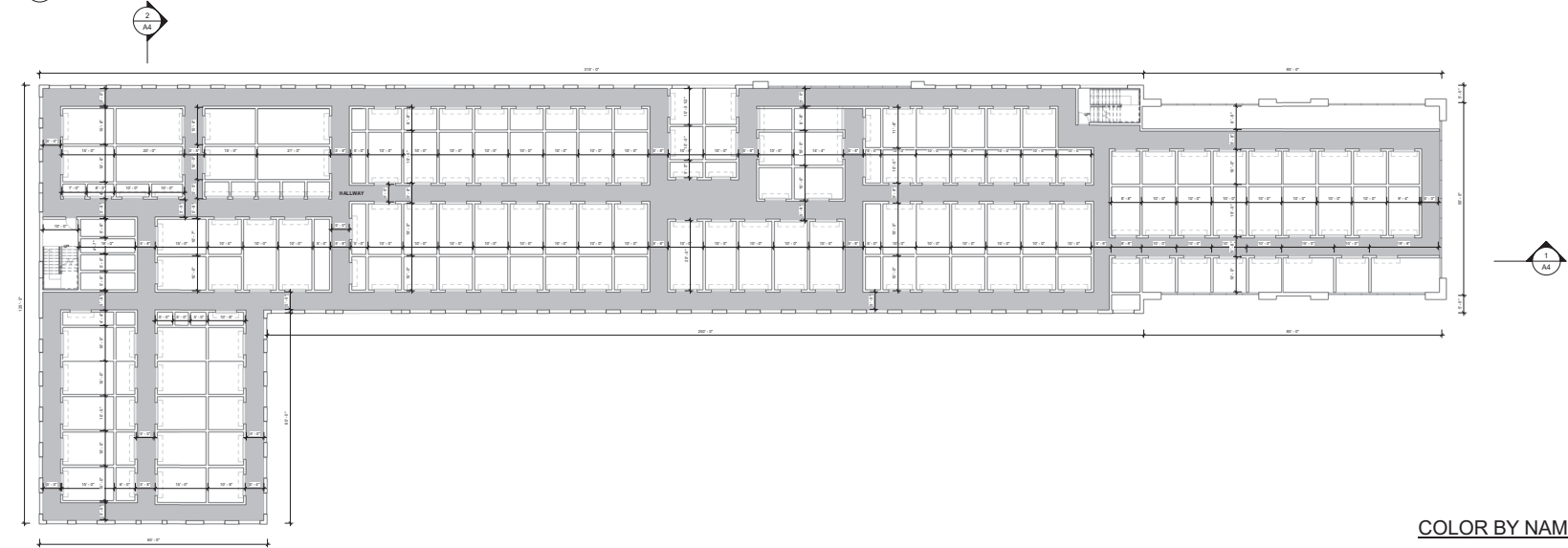








1 FIRST FLOOR PLAN
1/16" = 1'-0"



2 SECOND FLOOR PLAN
1/16" = 1'-0"

COLOR BY NAME

- HALLWAY
- MAIN OFFICE
- MIDDLE OFFICE

DATE:
REVISIONS:

**PRICE
Knutson**
1000 BOONE AVE N, SUITE 200
MINNEAPOLIS, MN 55412
PHONE 612.332.8000 FAX 612.332.7994
WWW.KNUTSON-ARCHITECTS.COM

PLANS - 11.07.2021
I HEREBY CERTIFY THAT THIS
PLAN, SPECIFICATION OR THE
CONTRACT DOCUMENTS WERE
OR UNDER MY DIRECT SUPERVISION
AND CONTROL, I AM A
REGISTERED ARCHITECT IN THE
STATE OF MINNESOTA.
[Signature]
REGISTRATION NO. 11789

BLAINE STORAGE
Blaine, Anoka County,
Minnesota 55414

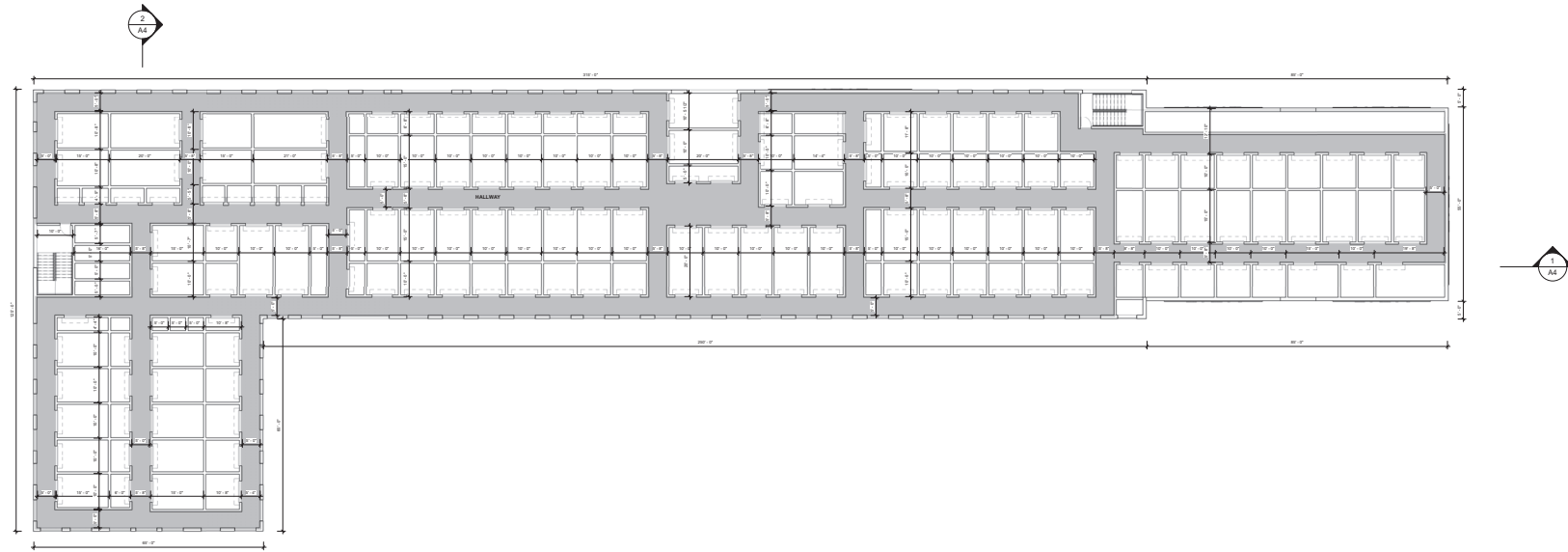
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SHEET NO:

A1

FLOOR PLANS

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1 THIRD FLOOR LEVEL
1/16" = 1'-0"



2 ROOF PLAN
1/16" = 1'-0"

COLOR BY NAME

- HALLWAY
- MAIN OFFICE
- MIDDLE OFFICE

DATE:
REVISIONS:

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1000 BOONE AVE. N. SUITE 200
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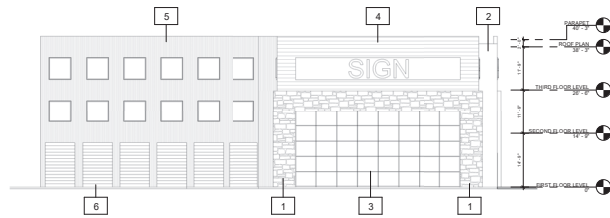
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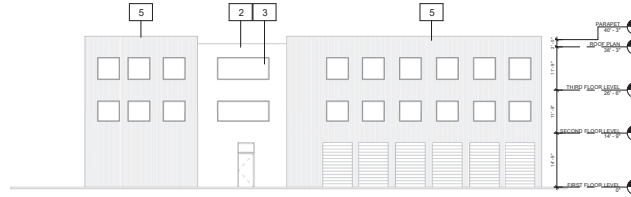
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FINISH MATERIAL SCHEDULE	
MTL TAG	MATERIAL
1	ONE FOOT PROJECTING STONE PANEL ACCENT
2	FLAT METAL ACCENT PANEL
3	1" INSULATED GLASS AND SPANDREL CURTAIN WALL 6" ANODIZED THERMAL BREAK ALUMINUM FRAME
4	FLAT METAL PANEL WITH HORIZONTAL ACCENT
5	FLAT METAL CORRUGATED METAL PANEL
6	ROLL UP METAL OVER HEAD GARAGE DOORS

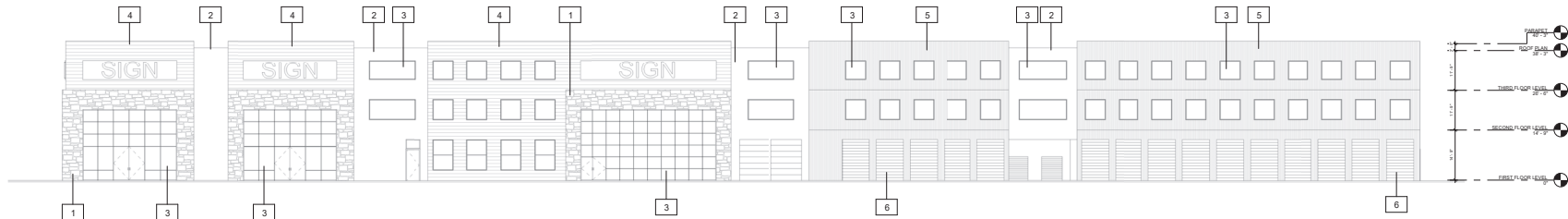
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4 EAST ELEVATION
A3 1/16" = 1'-0"



3 WEST ELEVATION
A3 1/16" = 1'-0"



2 NORTH ELEVATION
A3 1/16" = 1'-0"



1 SOUTH ELEVATION
A3 1/16" = 1'-0"

BRICE KNUTSON
1000 BOONE AVE N. SUITE 200
MINNEAPOLIS, MN 55412
PHONE 612.332.8000 FAX 612.332.7994
WWW.BRICEKNUTSON-ARCHITECTS.COM

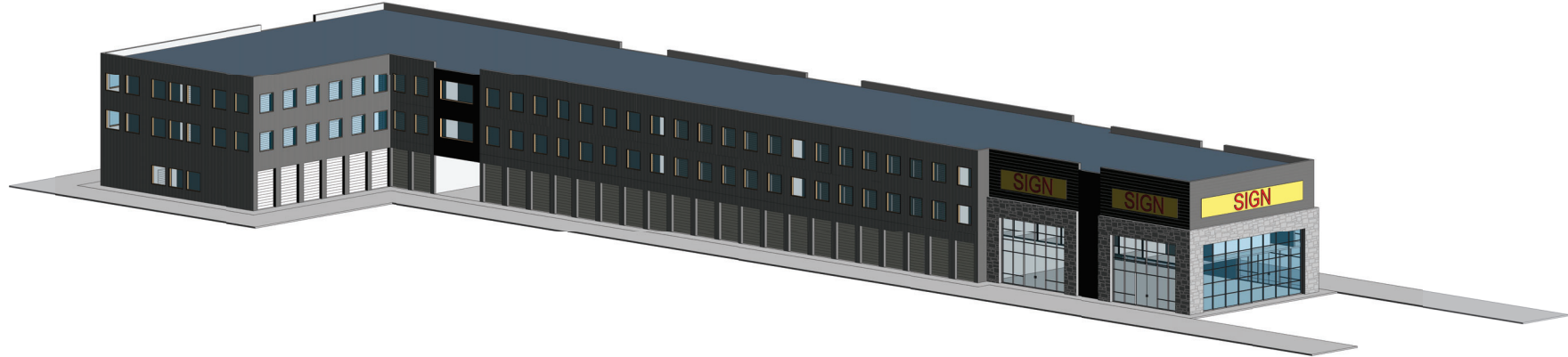
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OR UNDER MY DIRECT SUPERVISION
AND CONTROL, I AM A
REGISTERED ARCHITECT IN THE
STATE OF MINNESOTA.
BRICE KNUTSON
REGISTRATION NO. 11739

BLAINE STORAGE
Blaine, Anoka County,
Minnesota 55414

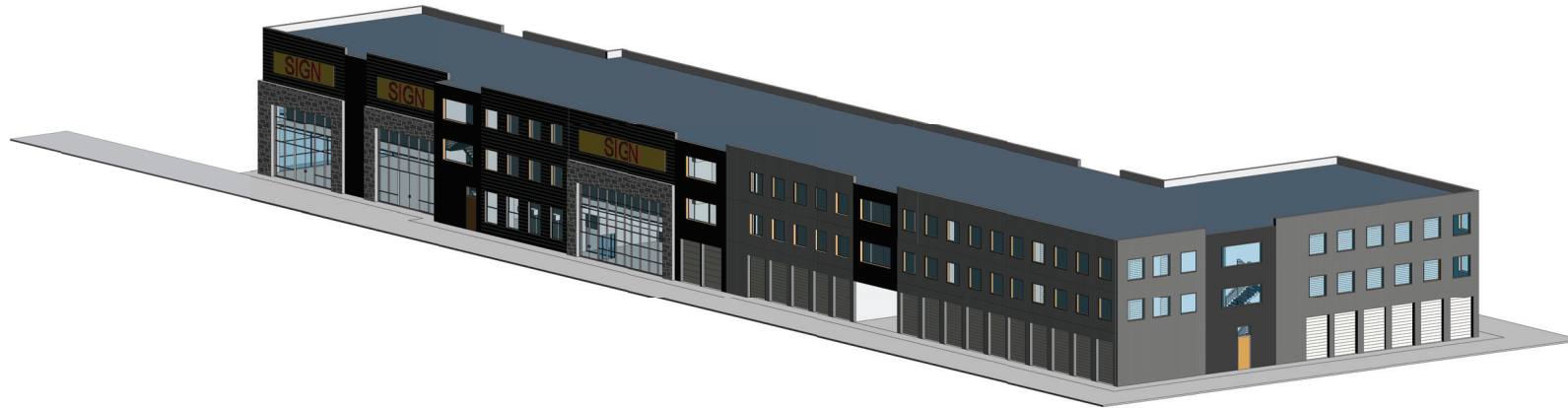
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ELEVATION

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1
PT 3D VIEW 2



2
PT 3D VIEW 4

DATE:
REVISIONS:

**PRICE
KNUTSON**
1000 BOONE AVE N, SUITE 200
MINNEAPOLIS, MN 55412
PHONE 612.332.8000 FAX 612.332.7994
WWW.KNUTSON-ARCHITECTS.COM

DATE: 11.07.2021
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OF THE STATE OF MINNESOTA.
[Signature]
REGISTRATION NO. 11789

BLAINE STORAGE
Blaine, Anoka County,
Minnesota 55414

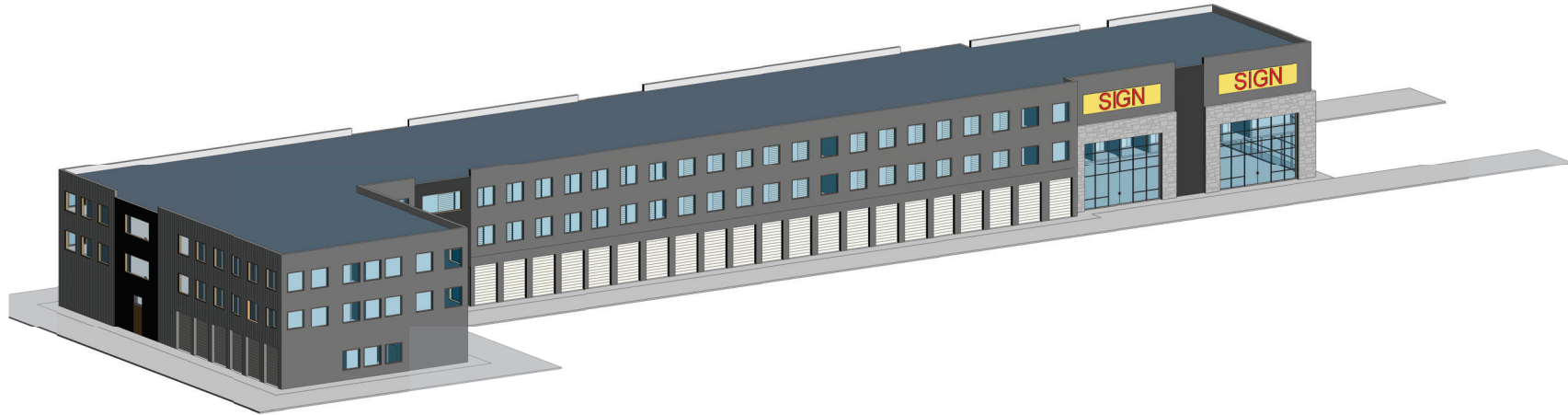
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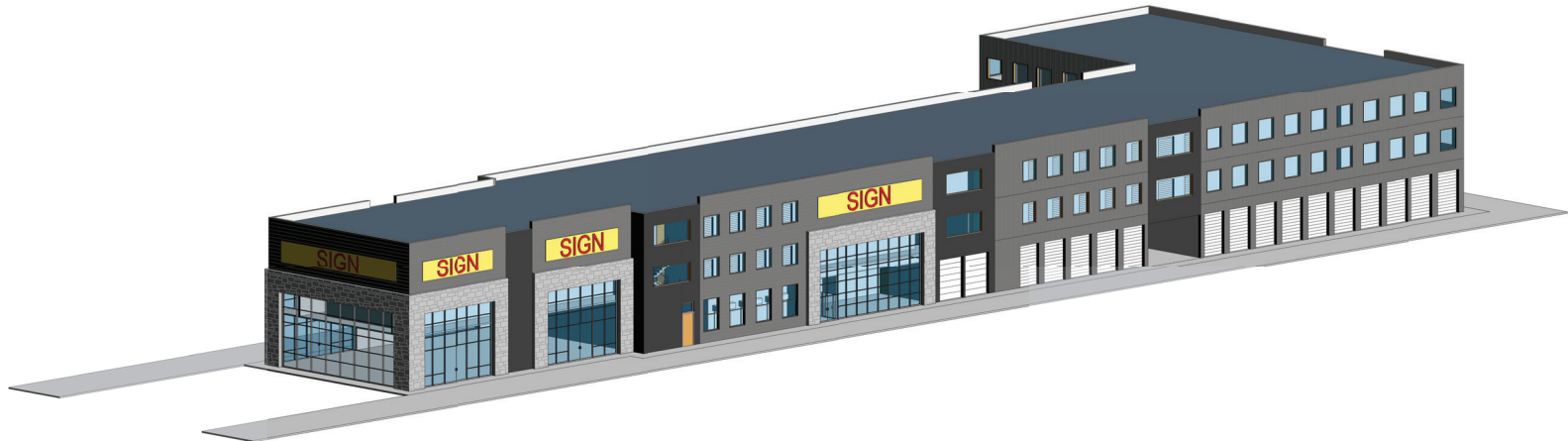
P1

3D VIEWS

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2
P2 3D VIEW 1



1
P2 3D VIEW 3

DATE:

REVISIONS:

**PRICE
KNUTSON**
1000 BOONE AVE N, SUITE 200
MINNEAPOLIS, MN 55412
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[Signature]
REGISTRATION NO. 11789

BLAINE STORAGE

Blaine, Anoka County,
Minnesota 55414

JOB NO:

SHEET NO:

P2

3D VIEWS

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Uram-Marus CUP Neighborhood Meeting Summary

(Held at conference room at 8634 Central Ave NE, Blaine, MN from 5:00PM – 6:30PM (08-25-2025))

In Attendance from Marus –

- Scott Uram
- Chelsea Schlenker (daughter of Scott)
- Peter E. Benincasa (Partner)
- Rahul Kansara (Partner)
- Mike Melton (Project Developer – Envision Cast)

The meeting was well attended (partial list attached [as not all signed in]) – around 12-13 people other than Marus group.

1. Leon Eidelman (owner of Caliber collision building [property bordering on south side of property])
 - a. He called me from New York on Friday after receiving Neighborhood meeting letter. He was very supportive and glad to hear that the “hiding area” behind his property was finally getting developed. He also liked the project and renderings....
2. William Luoma - The general manager from U-haul on 99th and 65 showed up also. He got info from someone who lives in area.
 - a. He said he was interested in what was going on in the area – and was very supportive of the project
 - b. He said his location runs over 90% full consistently
 - c. He really liked project and said that the building renderings was the nicest looking storage facility he has seen
 - d. He reassured neighbors that this concept was probably the best fit and needed in the City of Blaine
3. Dan Orning (Neighboring property) 8615 Lincoln Street –
 - a. concerned about security lighting for back of building being down lighting
 - b. he asked about possibility of no windows on back side. We reassured him we are open to discuss that.
4. neighbors did not like the fact that land is not being left the way it is, “forever”..
5. neighbors asked whether the facility would be open 24 hours a day with access...we told them “No, probably 6AM – 10PM”
6. we also informed them that lighting would low downward facing lighting as Caliber collision currently has for security purposes.
7. Our final reassurance of the neighbors, the current conditions of:
 - a. Loitering
 - b. cut through
 - c. squatting
 - d. dumping
 - e. trespassing
 - f. hiding
 - g. illegal transacting

would be resolved with this development. All the neighbors agreed that these current conditions exist and have continued to exist.



City of Blaine

Planning Commission

September 9, 2025 | 7:00 PM
Blaine City Hall
10801 Town Square Drive NE
Blaine, MN 55449

MINUTES

1. Call to Order

The Blaine planning commission met in the City Hall Chambers on Tuesday, September 9, 2025. Chair Goracke called the meeting to order at 7:00PM.

2. Roll Call

Members Present: Commission Members Gorzycki, Howard, Olson, Swanson, and Chair Goracke.

Members Absent: Commission Members Geiselhart and Halpern.

Staff Present: Alex Koberoski, Zoning Technician
Sheila Sellman, Assistant Community Development Director
Teresa Barnes, Project Engineer

4. Public Hearing

4.2. 2025-455 Case File No. 25-0042 // Scott Uram // 8634 Central Avenue NE
The applicant is requesting the following:

1. Rezoning from Single Family Residential (R-1) to Community Commercial (B-2).
2. Conditional use permit for self-storage in the Community Commercial (B-2)/Highway 65 Overlay zoning district and a zero lot line/shared access.

Sponsors: Sheila Sellman, Assistant Community Development Director

The report to the planning commission was presented by Sheila Sellman, Assistant Community Development Director. The public hearing for Case File 25-0042 was opened at 7:30PM. As no one wished to appear, the public hearing was closed at 7:30PM.

Scott Uram, applicant, introduced himself and discussed his revised plans in further detail with the commission.

Chair Goracke asked if the applicant supported working with staff revising the final plan before this matter is reviewed by the city council.

Mr. Uram indicated he would continue to work with staff, but explained he did not want to spend extra money on a wall that no one would see.

Motion by Commissioner Olson to recommend approval of Planning Case 25-0042A a rezoning from Single Family Residential (R-1) to Community Commercial (B-2), with the following rationale:

Case 25-0042A:

1. The subject site has a land use designation of Community Commercial. Single Family Residential (R-1) zoning is in conflict with this designation. Rezoning to B-2 is an acceptable zoning for Community Commercial.

Motion by Commissioner Olson to recommend approval of Planning Case 25-0042B a conditional use permit for self-storage in the Community Commercial (B-2)/Highway 65 Overlay zoning district with a zero lot line and shared access, with the following conditions:

Case 25-0042B:

1. The corrugated metal for the entire building must be changed to an approved material: brick, natural cultured stone, stucco, EIFS, architectural metal, colored rock-faced block, glass. Each wall must have 50% of the wall containing three of the approved materials.
2. The garage doors shall match the color of the building.
3. All large walls viewable from Highway 65 must be relieved by architectural detailing, such as change in materials, change in color, offsets, or other significant visual relief provided in a manner or at intervals in keeping with the size, mass and scale of the wall and its view from the public right-of-way. The south elevation shall be modified to meet this requirement.
4. The building must be adjusted to meet the rear yard setback of 100 feet.
5. The side yard setback for the driveway must be adjusted to meet the 10 foot setback.
6. Developer to submit a copy of all required permits, including a Coon Creek Watershed District permit, prior to site work.
7. The revised plans shall be completed prior to this item being reviewed by the City Council.

Motion seconded by Commissioner Howard. The motion passed 5-0.

Chair Goracke noted this would be on the agenda of the October 6, 2025 city council meeting.



City of Blaine

Staff Report

File Number: RES 25-166

Agenda Date	Status
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October 20, 2025

In Control	File Type
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City Council

Resolution

Development Business - Sheila Sellman, Interim Community Development Director

Agenda Item # 9.2

Resolution Granting a Conditional Use Permit for Self-Storage in the Community Commercial (B-2)/Highway 65 Overlay (HOD) Zoning District and a Zero Lot Line/Shared Access at 8634 Central Avenue NE. Scott Uram (Case File No. 25-0042/SAS)

Executive Summary

The request is for approval of a Conditional Use Permit (CUP) for self-storage with office/retail. Self-storage is a conditional use in the Highway 65 Overlay District (HOD) south of Highway 10.

Background

Planning Commission Public Hearing	09/09/25
City Council (Conditional Use Permit)	10/20/25
Action Deadline (60 Days)	10/12/25
Action Deadline (City Extended - 60 Days)	12/11/25

Staff report prepared by Sheila Sellman, Interim Community Development Director, and Teresa Barnes, Project Engineer.

Evaluation of Request

The applicant is requesting to rezone portions of the subject site from Single Family Residential (R-1) to Community Commercial (B-2) to be consistent with the existing comp plan designation and the majority of the zoning for the existing parcels. The request also includes a Conditional Use Permit (CUP) for self-storage. Self-storage is not permitted in the B-2 district, but is allowed via a CUP in the Highway 65 Overlay District (HOD) south of Highway 10.

Planning Analysis

Current Zoning

The majority of the subject site is zoned B-2. Due to the location, the HOD also applies. A small area in

the back of the lot is still zoned R-1.

Proposed Zoning

The proposed zoning is B-2, which would result in the entire parcel having the same zoning. The purpose of this district is to allow commercial uses serving surrounding neighborhoods with low to moderate traffic uses. This district may be located adjacent to residential, commercial, and industrial districts and shall be primarily located on collector or arterial roads. The purpose of the overlay district is to promote the development of an attractive view of the community from Highway 65 through architectural and signage controls, landscaping, screening, building orientation and establish minimum standards that contribute to a community image of quality, visual aesthetics, permanence, and stability along the Highway 65 corridor.

Land Use Designation

The land use designation is Community Commercial (CC). The CC designation is for retailing and services that serve larger areas, from neighborhood to regional scale. Typical uses include apparel, food, financial services and furniture. The rezoning aligns with the land use designation.

Existing Conditions

The site is currently two parcels that were platted earlier this year. The northern parcel has an existing office building and the southern parcel is not developed. The rear of the site has many mature trees and is adjacent to single-family residential.

Site Plan

The office building on the northern property will remain, and the southern lot will be developed with a 3-story self-storage facility with office space in the front. In the HOD, self storage is allowed via a CUP. The HOD provides higher architecture standards and landscape requirements than the B-2 district, so the proposal will be reviewed with the higher standards. Section 32.55 provides specific self-storage facility standards that must be met as part of the CUP.

32.55 Property South of Highway 10.

(a) Conditional uses (in addition to what is permitted with the underlying zoning district): Self-Storage Facility as part of a mixed use.

(1) Self-Storage Facility Standards:

- (aa) Must be part of a mixed-use project with a minimum of 1,500 square feet of other commercial use not related to the operations of the storage facility.
- (bb) Storage units must be climate controlled.
- (cc) The self-storage facility must be located in the rear of the property and not adjacent to Highway 65.
- (dd) No self-storage facility may be located within 1,500 feet of another storage facility.
- (ee) Setback from residential is 100 feet.

The proposed self-storage meets the above standards, with the exception of the setback to residential. The site plan shows a 50-foot rear yard setback adjacent to residential and a 100-foot setback is required. The site plan must be revised to meet this setback and the CUP will be conditioned accordingly.

Architecture

For development of properties within the HOD, the following standards shall be applied:

(a) At least 50 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:

- Brick.
- Natural or cultured stone.
- Glass.
- Masonry stucco or EIFS.
- Cementitious siding.
- Architectural metal.
- Integrally colored rock faced block.
- Other comparable or superior material as approved by the Zoning Administrator.

(1) The remaining 50 percent of all exterior wall finishes shall be comprised of any combination of decorative or rock face concrete block and textured concrete panels or other comparable or superior materials as approved by the Zoning Administrator. All building materials subject to approval of the Zoning Administrator.

(2) Buildings may be constructed of primarily one of the materials listed in subsection (1), if the design exceeds the intent of the ordinance.

(3) Buildings shall be oriented towards Highway 65 or at a minimum, give the appearance of having a front facing Highway 65 if adjacent to Highway 65.

(4) Building articulation elements shall be provided at a maximum of average spacing of 40 feet.

(5) No more than 75 percent of the building sides visible from Highway 65 may be constructed of decorative concrete block, pre-cast concrete or stucco.

(6) The exterior of the building shall have varied and interesting detailing. Large unadorned walls shall be prohibited (50 feet or more). All large walls viewable from Highway 65 must be relieved by architectural detailing, such as change in materials, change in color, offsets, or other significant visual relief provided in a manner or at intervals in keeping with the size, mass and scale of the wall and its views from the public right-of-way.

(7) Exterior building material colors shall be complimentary of other buildings within the district.

Corrugated metal is not an approved material. The west elevation must be revised to meet minimum requirement of 50% of all wall finishes shall be at least three materials: brick, natural cultured stone, stucco, EIFS, architectural metal, colored rock-face block glass. This side has two approved materials of glass and architectural metal.

The south elevation also does not meet minimum requirements; an additional material is required. The exterior of the building shall have varied and interesting detailing. Large unadorned walls shall be prohibited (50 feet or more). All large walls viewable from Highway 65 must be relieved by architectural detailing, such as change in materials, change in color, offsets, or other significant visual relief provided in a manner or at intervals in keeping with the size, mass and scale of the wall and its view from the public right-of-way. This could be met by matching articulations as shown on the north elevation. The corrugated metal for the entire building must be changed to an approved material as outlined above. The garage doors should match/complement the building in color. As shown on the illustration, the doors are white and the building is gray.

Building Setbacks

The B-2 district and Highway 65 Overlay District setbacks apply.

- Front yard: 30 feet
- Side yard: 20 feet
- Rear yard: 100 feet

Parking Setbacks

The B-2 district and Highway 65 Overlay District setbacks apply.

- Front yard: 25 feet
- Side yard: 10 feet
- Rear yard: adjacent to residential is 25 feet

The zero lot line applies to the northern property line

Landscaping

The proposed landscaping meets the minimum requirements, including oversizing for the HOD requirements.

Tree Preservation

Trees are being removed from both Lot 1 and Lot 2. The replacement trees on lot 1 will not be counted for any landscape requirements on Lot 2. Tree removal from Lot 1 is about 0.42 acres, which requires 3 trees to be replaced on Lot 1. Lot 2 removal is about 1.16 acres, requiring 9 replacement trees. These replacement trees can include landscape requirements for Lot 2.

The tree preservation requirements are met for both lots.

Engineering Analysis

Grading/Storm Drainage

The developer is proposing to grade the entire site as shown on the Coon Creek Watershed District (CCWD) and city approved grading, drainage, erosion protection and sediment control plans as prepared by the developer's engineer. The plans shall include existing drainage patterns (contours) with flow arrows, soil boring locations, perimeter site protection, tree preservation, tree clearing limits, custom grading, proposed grading contours, proposed drainage patterns with flow arrows, storm water management, SWPPP information, temporary erosion protection Best Management Practices (BMPs), and temporary sediment control BMPs information for the site. The SWPPP may be included in the construction plan sheet(s) or prepared as a separate document and included in the development construction contract specifications.

Utilities

Standard water and sanitary sewer access charges (WAC & SAC) become due with the building permit at the rate established at the time the building permit is issued.

The developer shall explore a water source for the landscape irrigation system installed throughout the site, including the possible use of created ponds for stormwater reuse.

Wetlands/Watershed

The developer will need to submit the project to the CCWD for review, approval, and permits that are required prior to the city plan approval and start of site work.

Access/Street Design

The development is proposing construction on the southern lot and is providing a shared driveway access with the lot to the north that currently connects to the Central Avenue west side service road. The development will also add another directional access (out only) for the southern lot onto the Central Avenue west service road. No other access will be allowed.

Easements/Right-of-way/Permits

The developer will need to obtain all required permits to construct the proposed project. A copy of all permits will need to be submitted to the city prior to any site work.

Standard drainage and utility easements shall be dedicated along all lot lines and over areas of infiltration trenches, drainage sales, and storm water management ponds as depicted on the preliminary plat and correspond to the approved grading plan.

Conditional Use Permit

A city exercises “quasi-judicial” authority when considering a CUP application. This means the city’s role is limited to applying the standards in the ordinance to the facts presented by the application. The city acts like a judge in evaluating the facts against the standards.

Section 27.04 Criteria for granting conditional use permits:

The Blaine City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use on the comprehensive plan and upon the health, safety, and general welfare of occupants of surrounding lands. Among other things, the Council shall consider the following findings where applicable.

1. The use shall not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
 - o Self storage does not create an excessive burden on parks, schools, streets or other public facilities.
2. The use will be located, designed, maintained, and operated to be compatible with adjoining properties and the existing or intended character of the zoning district.
 - o The building needs to be shifted in order for the required 100 foot setback from residential can be met. Self-storage and office are compatible with the other commercial operations in this area. The HOD district is to promote an attractive view of the community from Highway 65 through architectural and signage control, landscaping, screening and building orientation. As proposed, the self-storage units are located behind the office space. Once the elevations are revised to meet the minimum requirements of the HOD, the character of the zoning district will be met. Self-storage is typically a low-traffic use that minimizes the impact on the area.
3. The use shall have an appearance that will not have an adverse effect upon adjacent properties.
 - o Once the elevations are revised to meet the minimum requirements of the HOD, the appearance will not have an adverse effect on adjacent properties. A privacy fence and plantings are proposed for the rear yard to help screen from the residential uses.

4. The use, in the opinion of the City Council, shall be reasonably related to the overall needs of the City and to the existing land use.
5. The use shall be consistent with the purposes of the zoning code and purposes of the zoning district in which the applicant intends to locate the proposed use.
 - o The building needs to be shifted in order for the required 100 foot setback from residential can be met. Self-storage and office are compatible with the other commercial operations in this area. The HOD district is to promote an attractive view of the community from Highway 65 through architectural and signage control, landscaping, screening and building orientation. As proposed, the self-storage units are located behind the office space. Once the elevations are revised to meet the minimum requirements of the HOD, the purposes of the zoning district will be met.
6. The use shall not be in conflict with the comprehensive plan of the City.
 - o The use is not in conflict with the comprehensive plan. The land use designation is CC. The CC designation is for retailing and services that serve larger areas, from neighborhood to regional scale. Typical uses include apparel, food, financial services and furniture.
7. The use will not cause traffic hazards or congestion.
 - o The proposed use will not cause a traffic hazard or congestion on the surrounding public roadway network.
8. The use shall have adequate utilities, access roads, drainage, and necessary facilities.
 - o The site has access to the required utility services, adequate roadway infrastructure and necessary drainage facilities to service the proposed uses.

Attachment List:

Zoning and Location Map
Existing and Proposed Zoning Map
Removals and Erosion Control Plan
Site Plan
Grading Plan
Utilities Plan
Landscaping Plan
Floor Plans
Elevations
Neighborhood Meeting Summary
Unapproved Planning Commission Minutes 9/9/25

Strategic Plan Relationship

Not applicable.

Board/Commission Review

The Planning Commission voted unanimously to approve the rezoning.

No one spoke at the public hearing. The meeting minutes are attached for reference.

Financial Impact

Not applicable.

Public Outreach/Input

Notices of a public hearing were:

1. Mailed to property owners within 350 feet of the property boundaries.
2. Published in Blaine/Spring Lake Park/Columbia Heights/Fridley Life.
3. Posted on the City website.
4. Posted (sign) on the property with contact information for the Planning Department.

In accordance with the Neighborhood Meeting Policy, a neighborhood meeting was held on August 25, 2025. A summary of the meeting is attached. Comments included concerns with security and lighting.

Staff Recommendation

By motion, adopt the resolution.

Attachment List

1. Attachments
2. Unapproved PC Minutes 9/9/25



City of Blaine

Signature Copy

Resolution: RES 25-166

Resolution Granting a Conditional Use Permit for Self-Storage in the Community Commercial (B-2)/Highway 65 Overlay (HOD) Zoning District and a Zero Lot Line/Shared Access at 8634 Central Avenue NE. Scott Uram (Case File No. 25-0042/SAS)

WHEREAS, an application has been filed by Scott Uram as Conditional Use Permit Case File No. PC25-0042 for a conditional use permit for self-storage; and

WHEREAS, said case involves the property described as follows:

Lot 2, Block 1, Uram

WHEREAS, the Blaine Planning Commission held a public hearing on September 9, 2025, and recommended approval regarding said conditional use permit; and

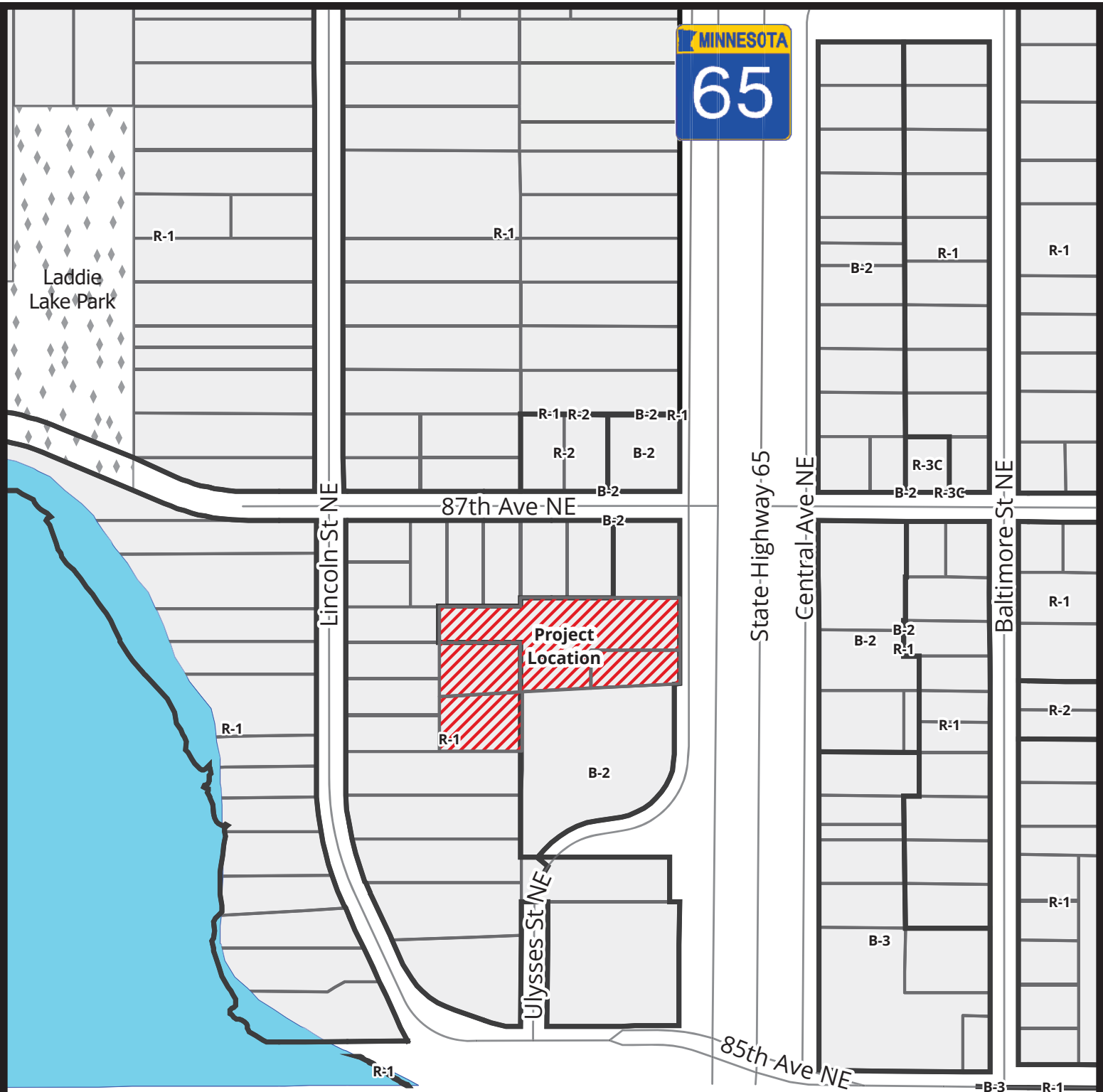
WHEREAS, the Blaine City Council has reviewed said case on October 20, 2025; and

WHEREAS, the criteria identified in Section 27.04 for granting a conditional use permit has been met.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Blaine that a conditional use permit is hereby approved per Sections 27.04, 30.10, and 32.50 of the Zoning Ordinance to allow a self-storage in the Community Commercial (B-2)/Highway 65 Overlay (HOD) zoning district with a zero lot line and shared access, with the following conditions:

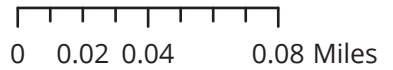
1. The corrugated metal for the entire building must be changed to an approved material: brick, natural cultured stone, stucco, EIFS, architectural metal, colored rock-faced block, glass. Each wall must have 50% of the wall containing three of the approved materials.
2. The garage doors shall match/complement the color of the building.
3. All large walls viewable from Highway 65 must be relieved by architectural detailing, such as change in materials, change in color, offsets, or other significant visual relief provided in a manner or at intervals in keeping with the size, mass and scale of the wall and its view from the public right-of-way.
4. The building must retain a rear yard setback of 100 feet.
5. Developer to submit a copy of all required permits, including a Coon Creek Watershed District permit, prior to site work.

PASSED by the City Council of the City of Blaine this 20th day of October, 2025.



	Zoning
	Blaine Parcels
	City Parks
	Project Location

Case File No. 25-0042
Uram Storage



Scale: 1:3,736

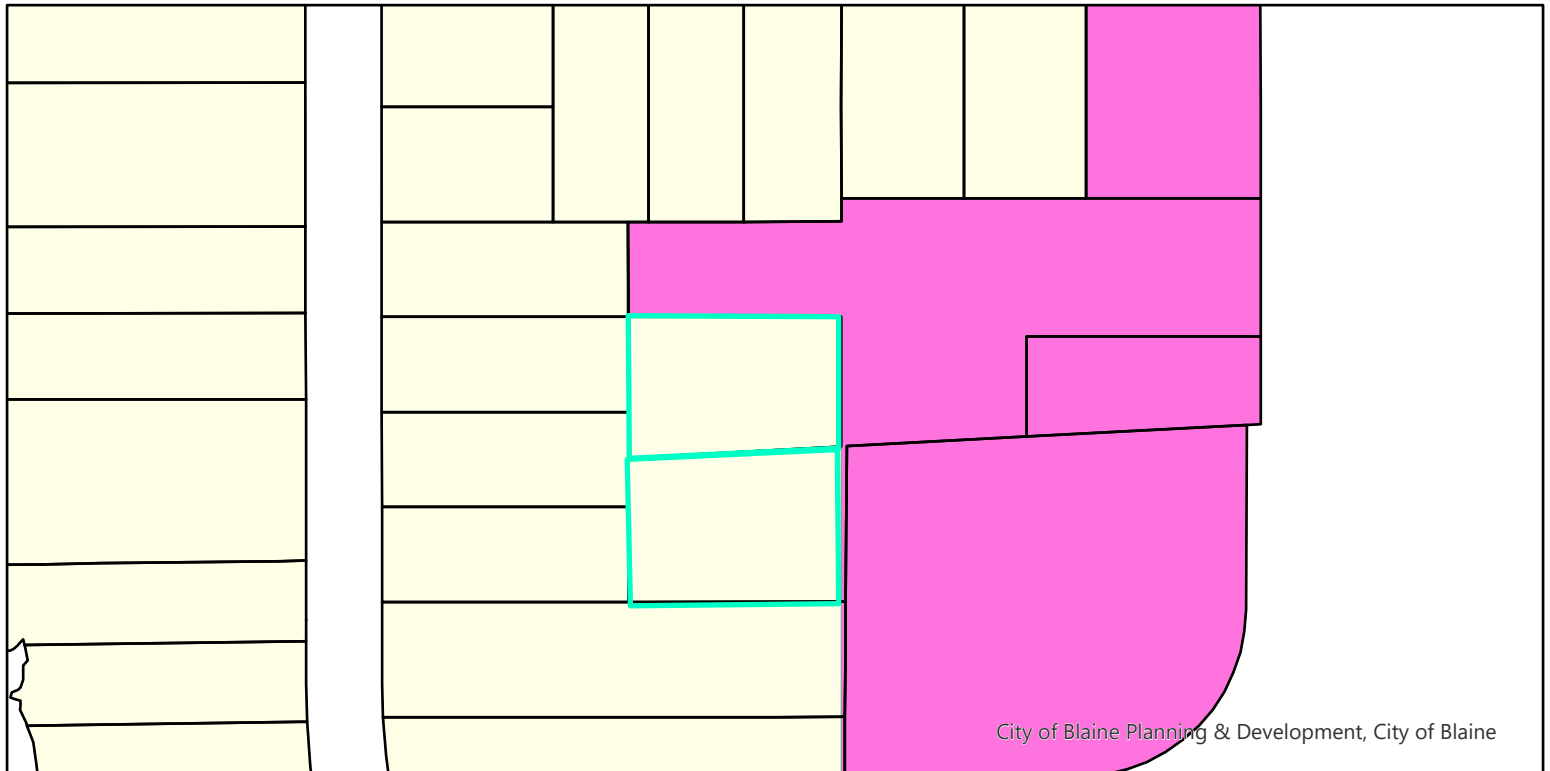


BlaineMN.gov

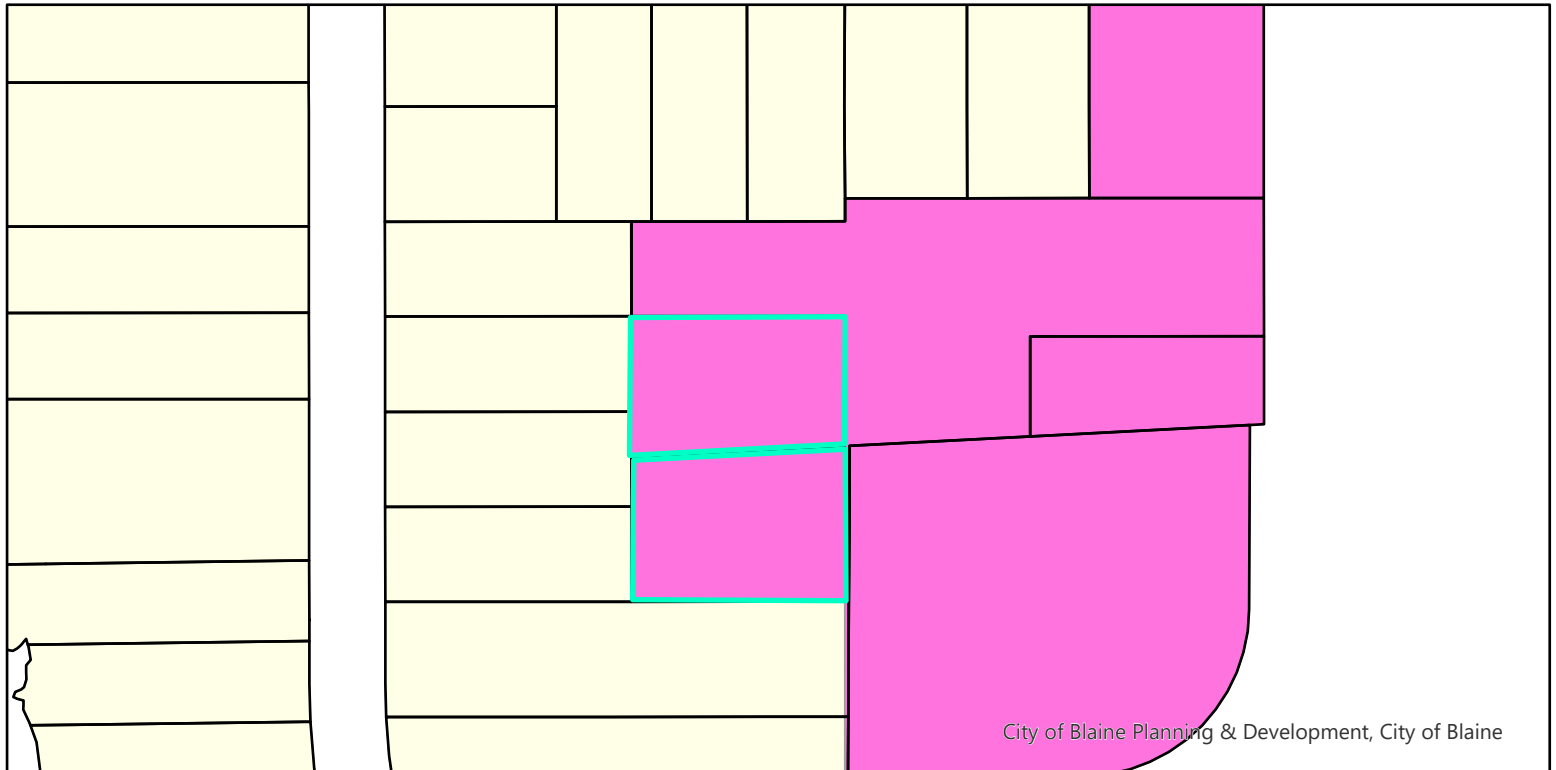
Blaine Planning Department / 10801 Town Square Dr NE / Blaine, MN 55449 / (763) 785-6180

Existing and Proposed Zoning

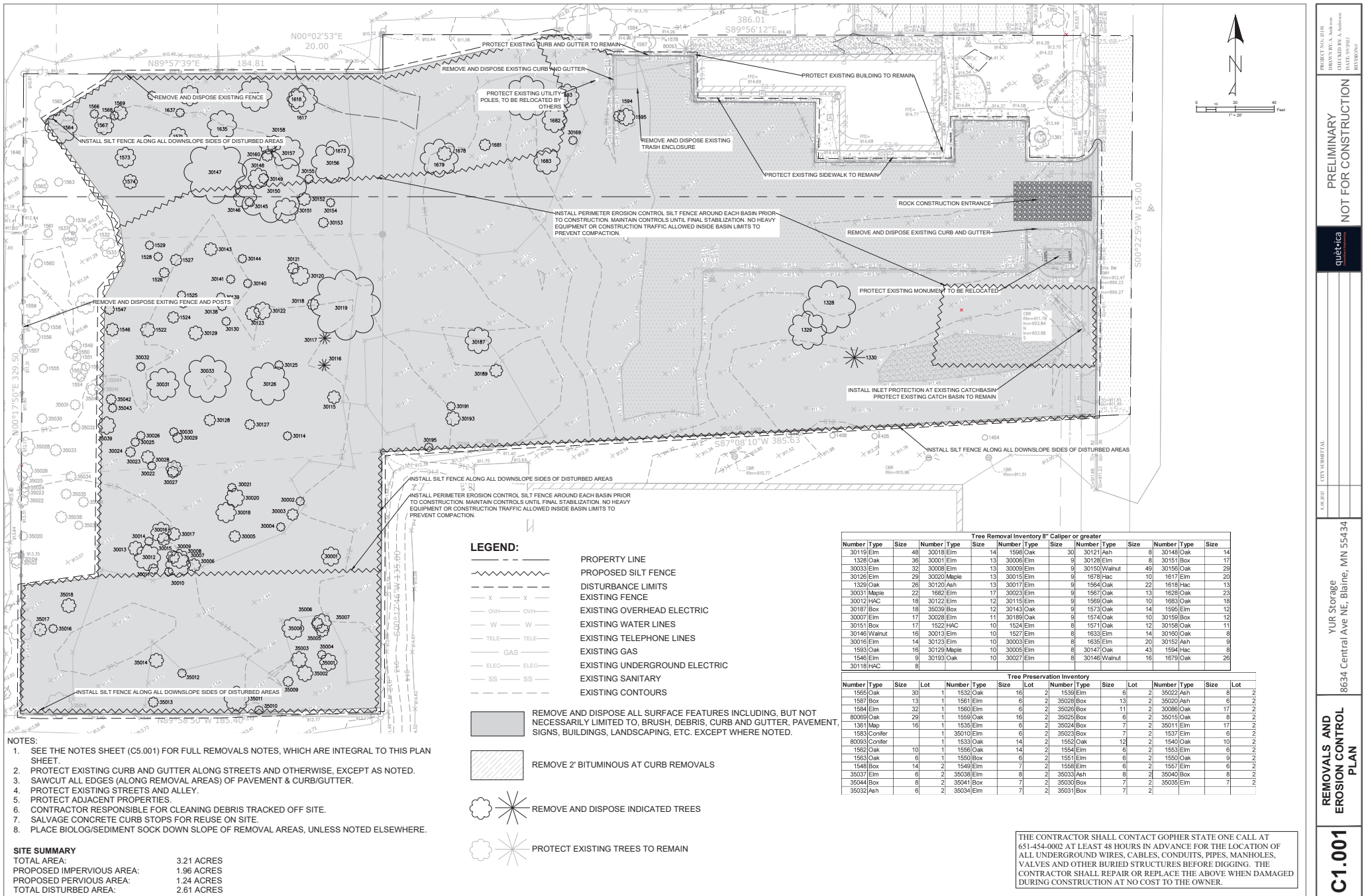
Existing Zoning

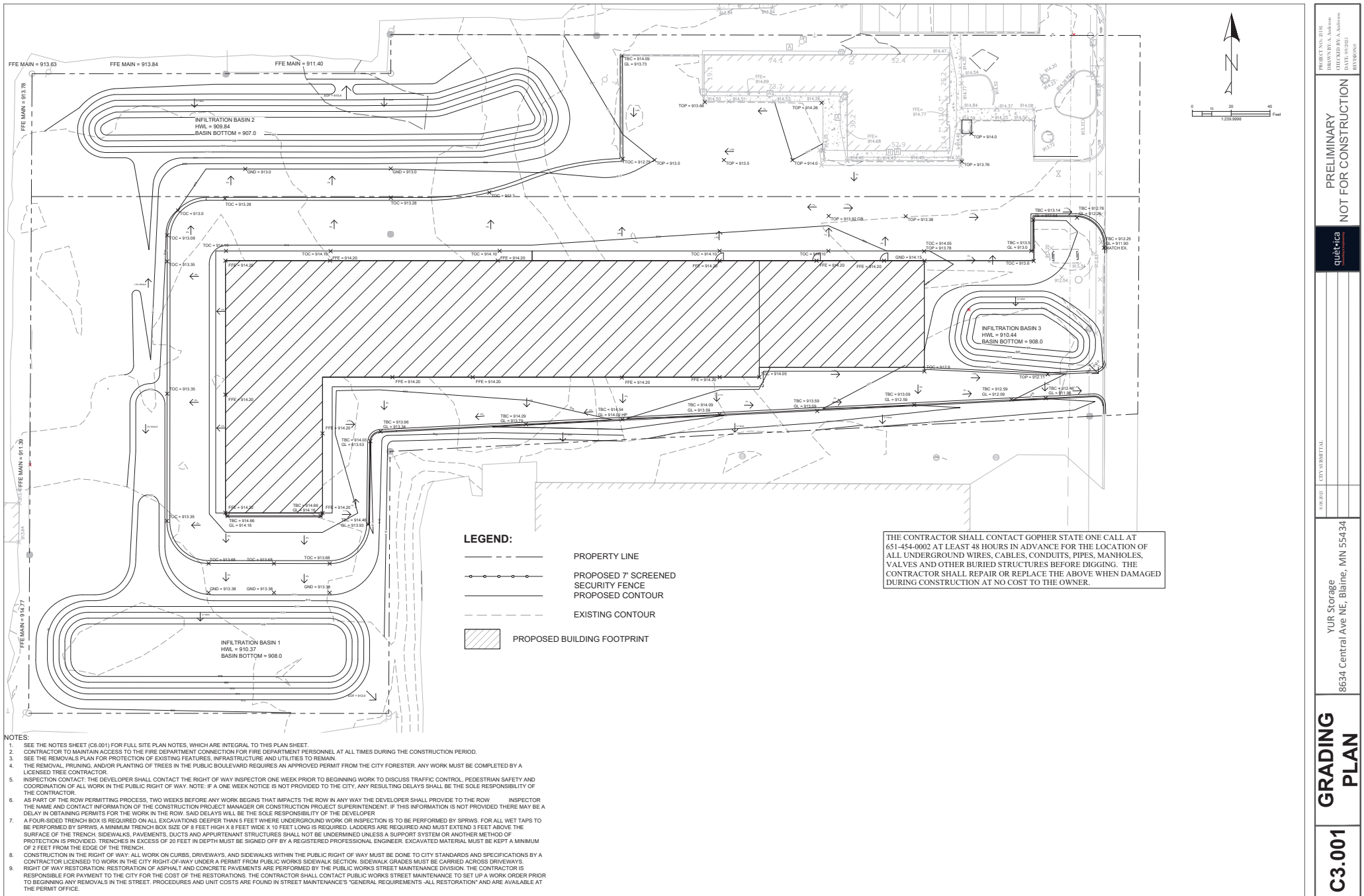


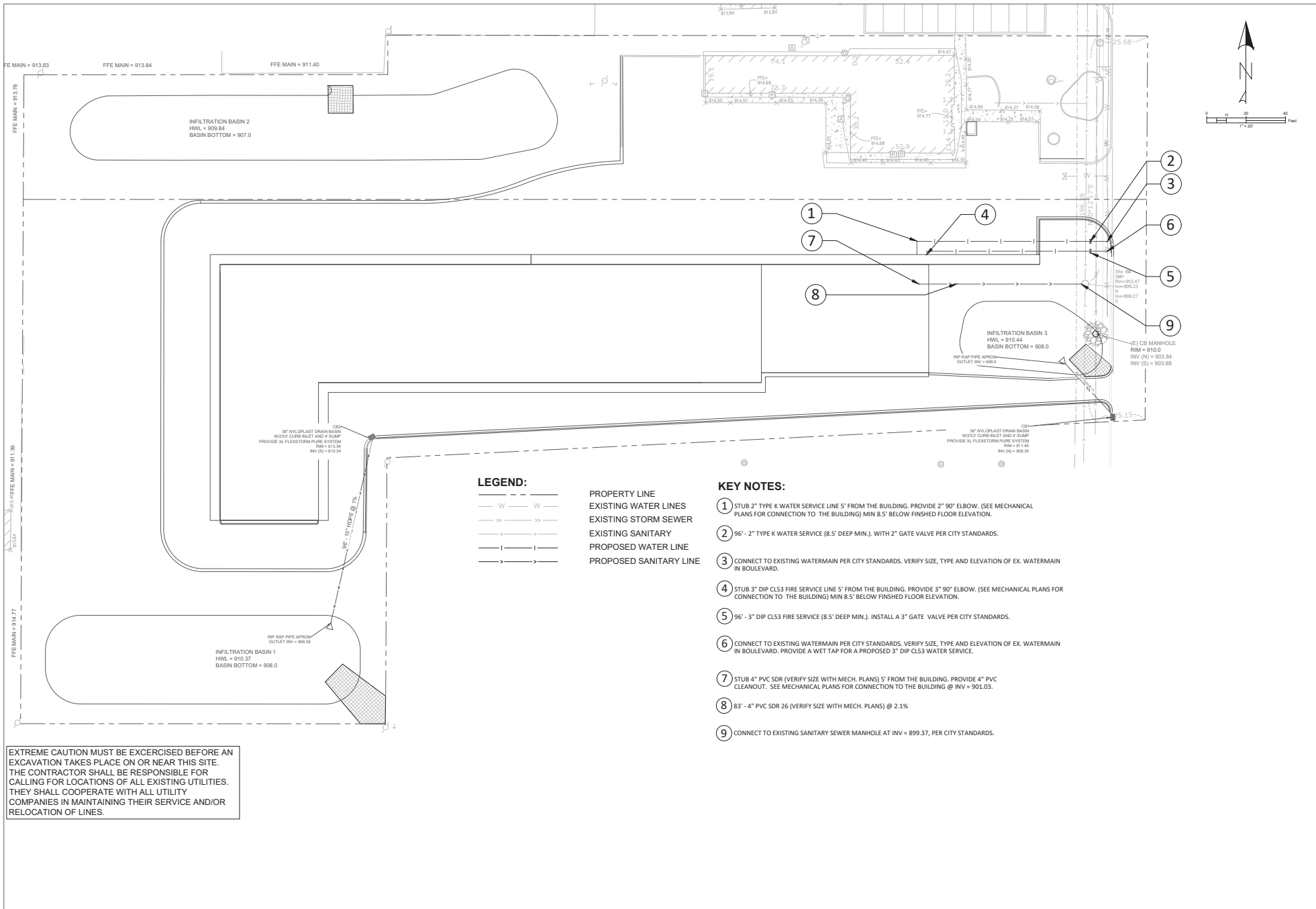
Proposed Zoning

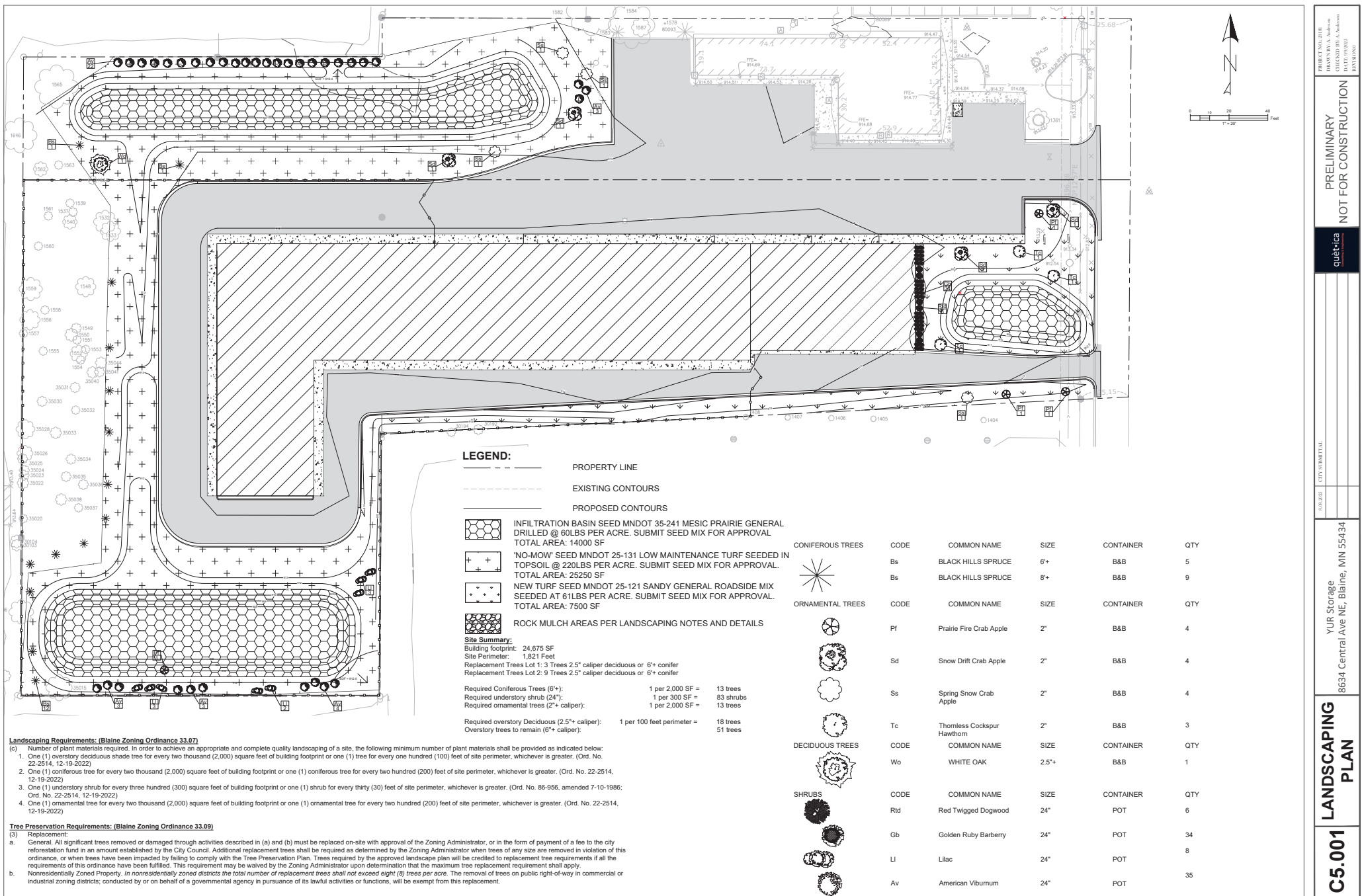


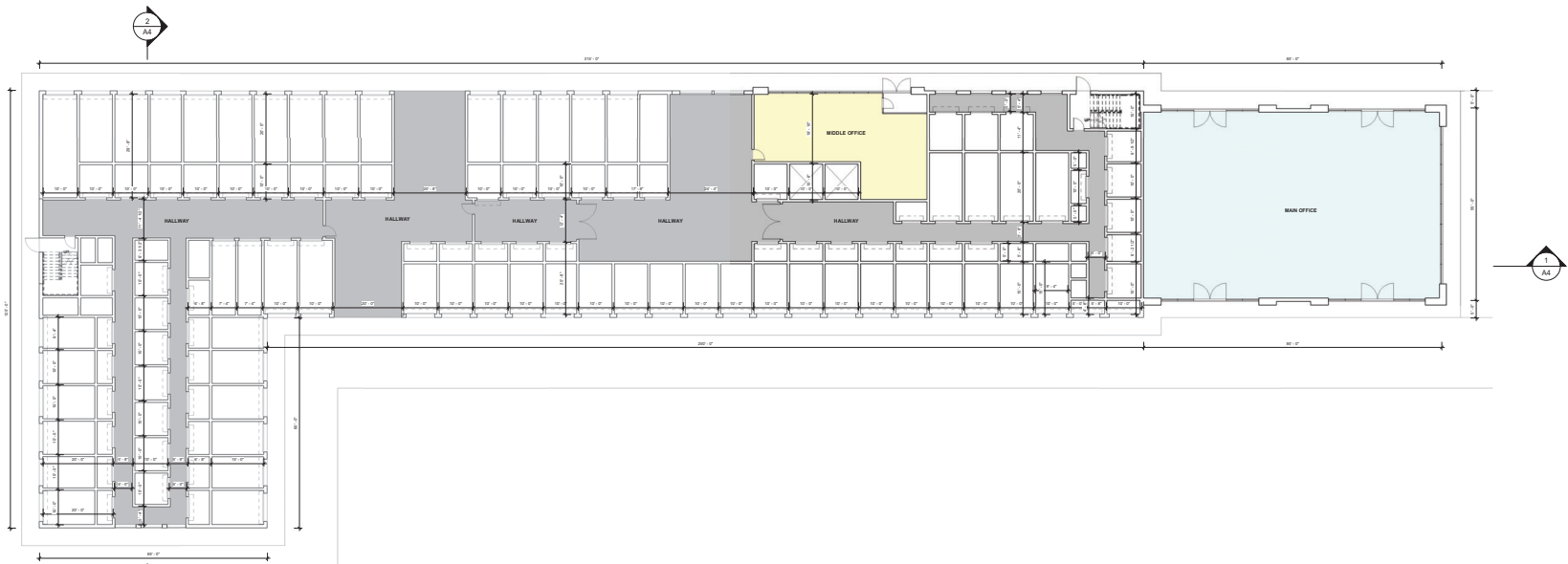
- B-2 - Community Commercial
- R-1 - Single Family



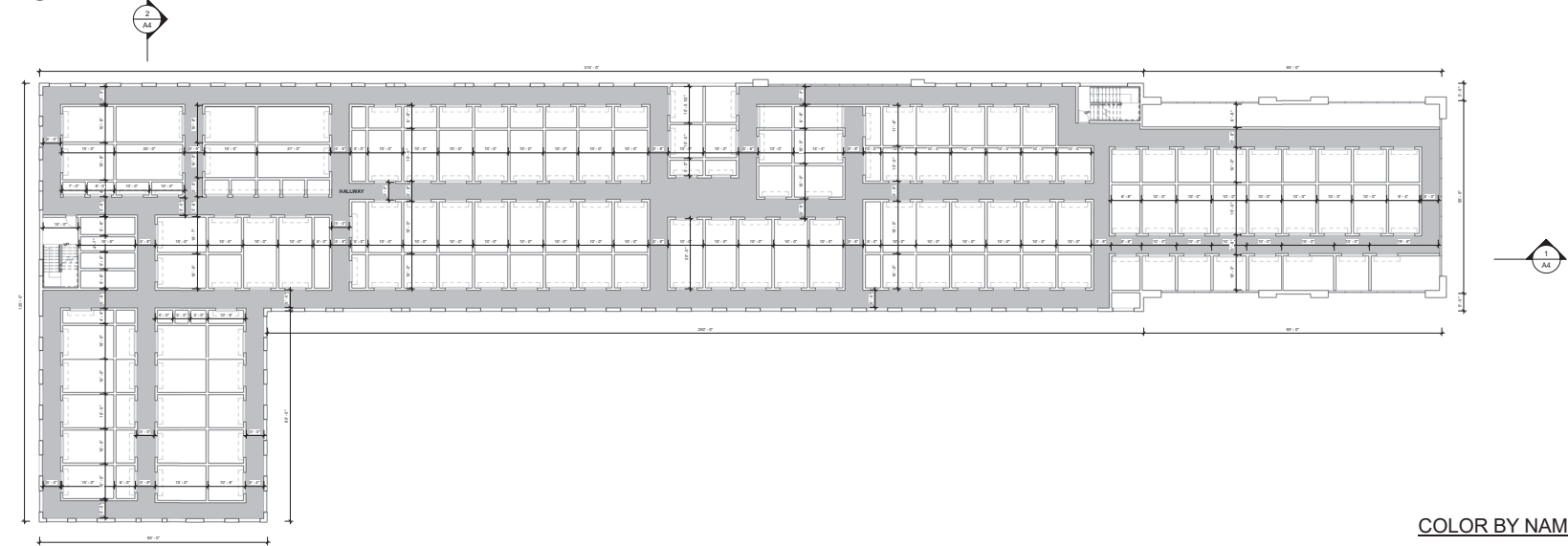








1 FIRST FLOOR PLAN
1/16" = 1'-0"



2 SECOND FLOOR PLAN
1/16" = 1'-0"

COLOR BY NAME

- HALLWAY
- MAIN OFFICE
- MIDDLE OFFICE

DATE:
REVISIONS:

**PRICE
Knutson**
1000 BOONE AVE N, SUITE 200
MINNEAPOLIS, MN 55412
PHONE 612.332.8000 FAX 612.332.7994
WWW.KNUTSON-ARCHITECTS.COM

DATE: 11.07.2021
I HEREBY CERTIFY THAT THIS
PLAN, SPECIFICATION OR THE
CONTRACT DOCUMENTS WERE
OR UNDER MY DIRECT SUPERVISION
AND CONTROL, I AM A
REGISTERED ARCHITECT
OF THE STATE OF MINNESOTA.
Blaine Knutson
REGISTRATION NO. 11789

BLAINE STORAGE
Blaine, Anoka County,
Minnesota 55414

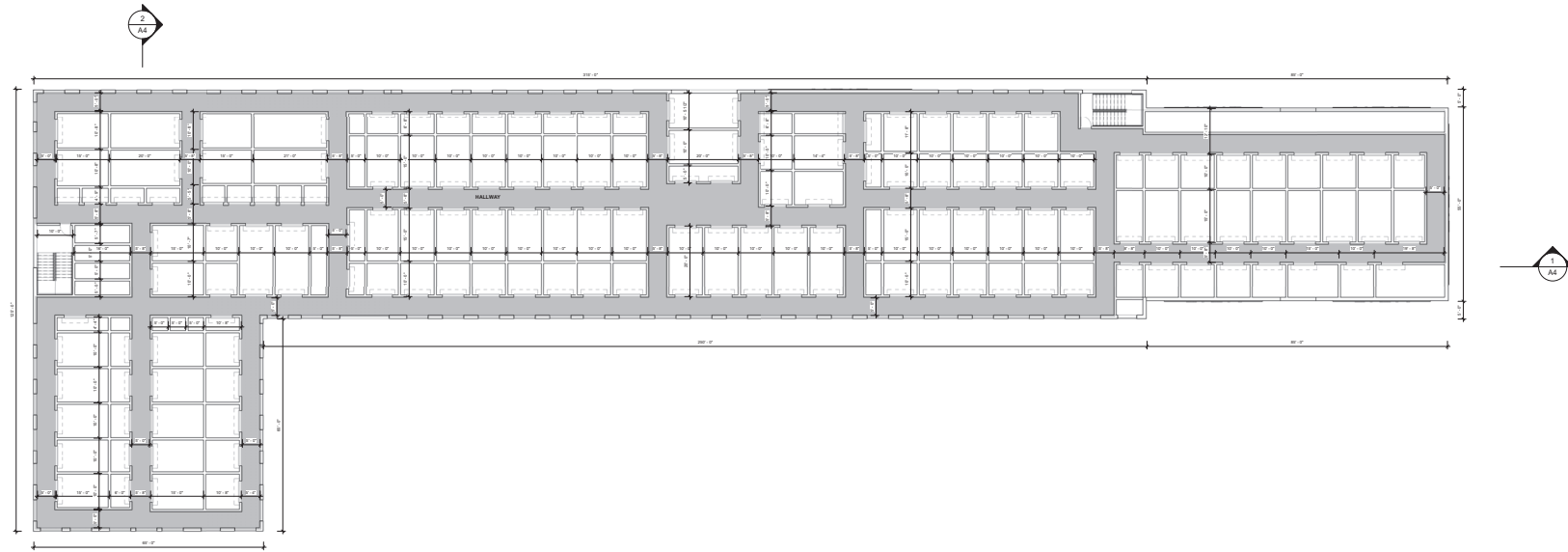
JOB NO:

SHEET NO:

A1

FLOOR PLANS

9/11/2023 9:25:45 PM



1 THIRD FLOOR LEVEL
1/16" = 1'-0"



2 ROOF PLAN
1/16" = 1'-0"

COLOR BY NAME

- HALLWAY
- MAIN OFFICE
- MIDDLE OFFICE

DATE:
REVISIONS:

PRICE
KNUTSON
1000 BOONE AVE. N. SUITE 200
MINNEAPOLIS, MN 55414
PHONE 612.337.8000 FAX 612.337.7994
WWW.KNUTSON-ARCHITECTS.COM

PLANS - 11.07.2021
I HEREBY CERTIFY THAT THIS
PLAN IS A TRUE AND CORRECT
REPRESENTATION OF THE
REGISTERED ARCHITECT
STATE OF MINNESOTA
REGISTERED ARCHITECT NO. 11799

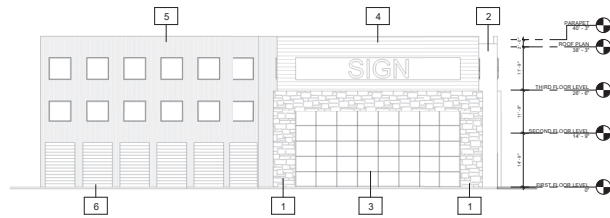
BLAINE STORAGE
Blaine, Anoka County,
Minnesota 55414

JOB NO:

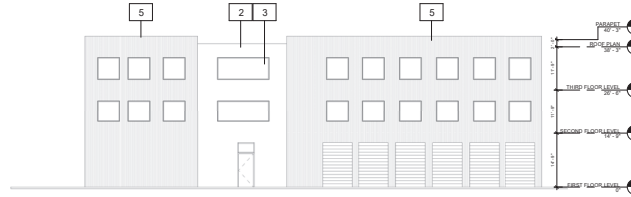
SHEET NO:
A2
FLOOR PLANS

FINISH MATERIAL SCHEDULE	
MTL TAG	MATERIAL
1	ONE FOOT PROJECTING STONE PANEL ACCENT
2	FLAT METAL ACCENT PANEL
3	1" INSULATED GLASS AND SPANDREL CURTAIN WALL 6" ANODIZED THERMAL BREAK ALUMINUM FRAME
4	FLAT METAL PANEL WITH HORIZONTAL ACCENT
5	FLAT METAL CORRUGATED METAL PANEL
6	ROLL UP METAL OVER HEAD GARAGE DOORS

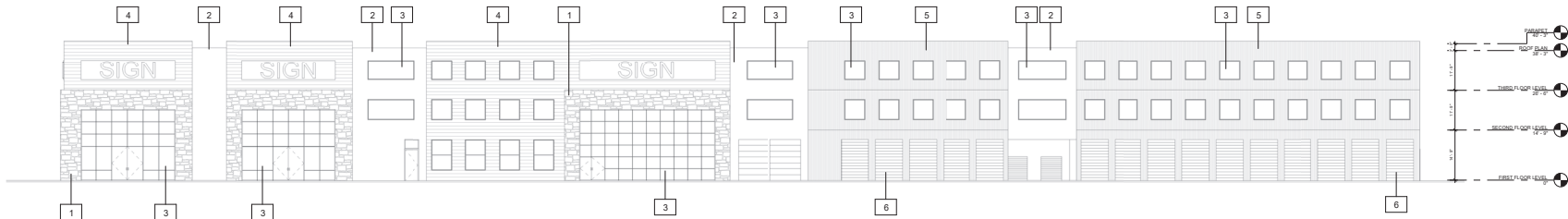
DATE: _____
REVISIONS: _____



4 EAST ELEVATION
A3 1/16" = 1'-0"



3 WEST ELEVATION
A3 1/16" = 1'-0"



2 NORTH ELEVATION
A3 1/16" = 1'-0"



1 SOUTH ELEVATION
A3 1/16" = 1'-0"

PRICE KNUTSON
1000 BOONE AVE N. SUITE 200
MINNEAPOLIS, MN 55412
PHONE 612.332.8000 FAX 612.332.7594
WWW.PRICEKNUTSON-ARCHITECTS.COM

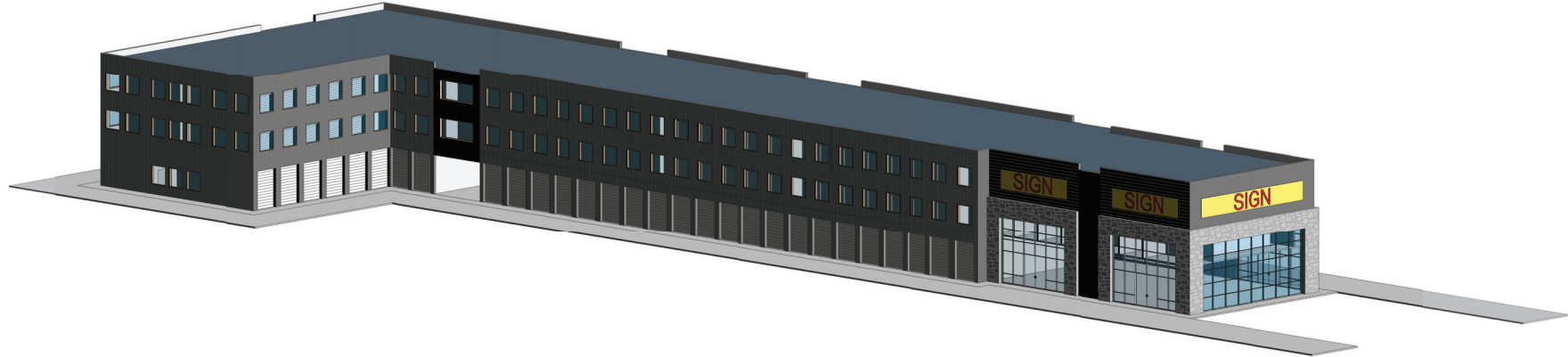
DATE: 11.07.2023
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR THE CONTRACT DOCUMENTS WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A REGISTERED ARCHITECT IN THE STATE OF MINNESOTA.
REGISTRATION NO. 11739

BLAINE STORAGE
Blaine, Anoka County,
Minnesota 55414

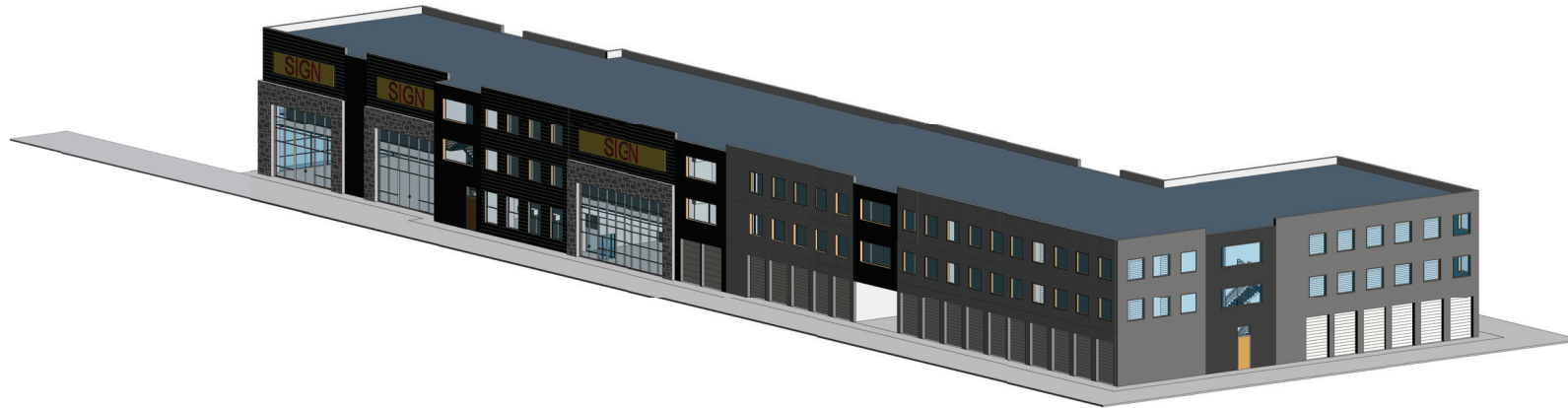
JOB NO: _____

SHEET NO:
A3
ELEVATION

8/17/2023 6:22:48 PM



1
PT 3D VIEW 2



2
PT 3D VIEW 4

DATE:
REVISIONS:

**PRICE
KNUTSON**
ARCHITECTS
1000 BOONE AVE N, SUITE 200
MINNEAPOLIS, MN 55412
PHONE 612.332.8000 FAX 612.332.7994
WWW.KNUTSON-ARCHITECTS.COM

DATE: 11.07.2021
I HEREBY CERTIFY THAT THIS
PLAN, SPECIFICATION, OR THE
CONTRACT DOCUMENTS WERE
OR UNDER MY DIRECT SUPERVISION
AND CONTROL, I AM A
REGISTERED ARCHITECT
OF THE STATE OF MINNESOTA.
[Signature]
REGISTRATION NO. 11789

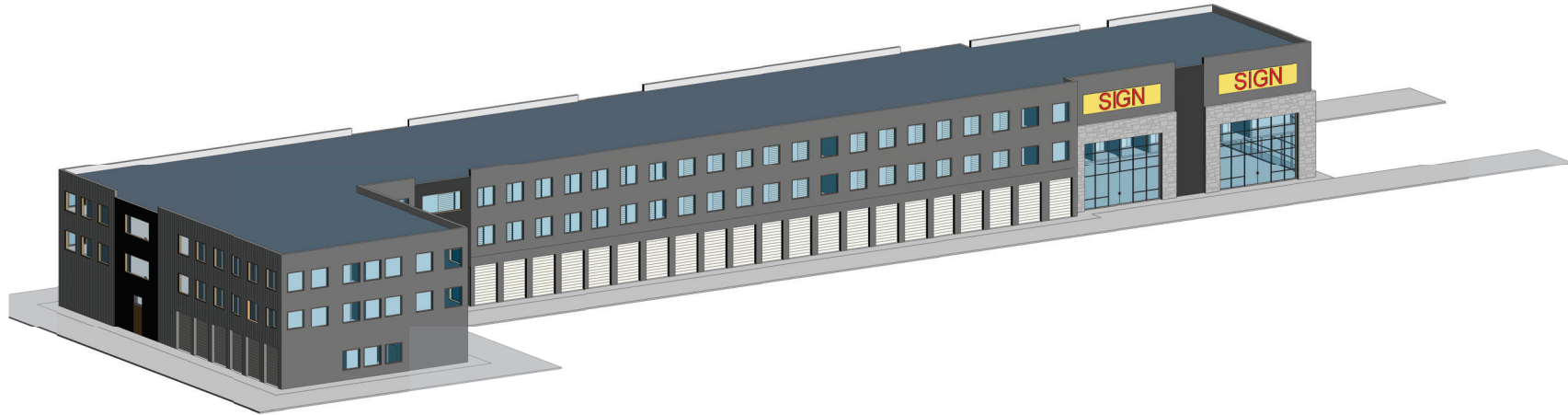
BLAINE STORAGE

Blaine, Anoka County,
Minnesota 55414

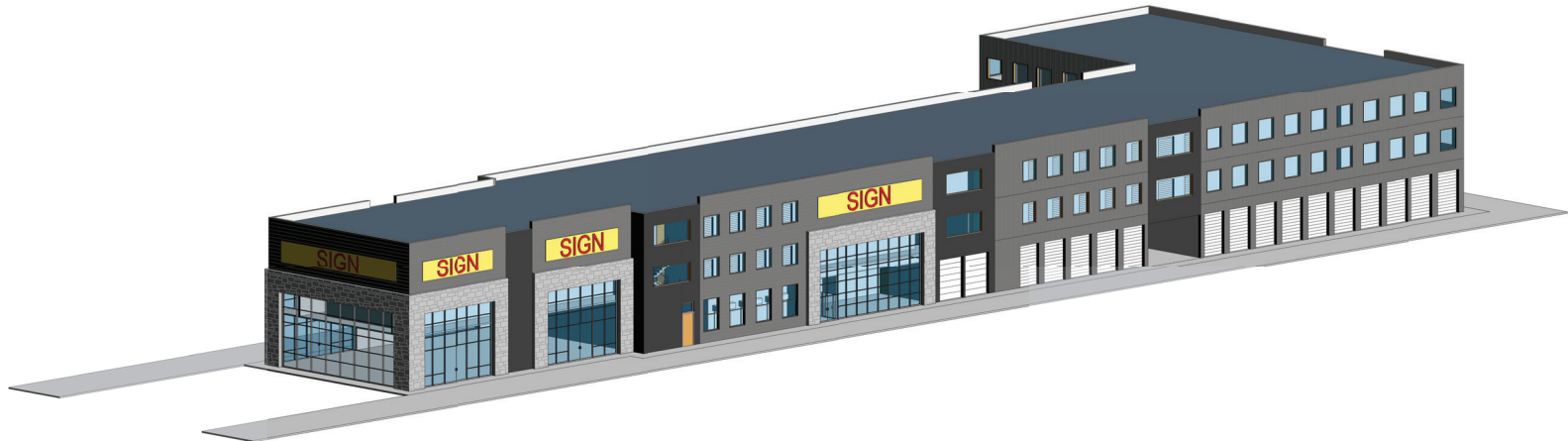
JOB NO:

SHEET NO:
P1
3D VIEWS

8/11/2022 9:23:53 PM



2
P2 3D VIEW 1



1
P2 3D VIEW 3

DATE:

REVISIONS:

**PRICE
KNUTSON**
1000 BOONE AVE N, SUITE 200
MINNEAPOLIS, MN 55412
PHONE 612.332.8000 FAX 612.332.7994
WWW.KNUTSON-ARCHITECTS.COM

DATE: 11.07.2021
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CONTRACT DOCUMENTS WERE
OR UNDER MY DIRECT SUPERVISION
AND CONTROL, I AM A
REGISTERED ARCHITECT
OF THE STATE OF MINNESOTA.
[Signature]
REGISTRATION NO. 11789

BLAINE STORAGE

Blaine, Anoka County,
Minnesota 55414

JOB NO:

SHEET NO:

P2

3D VIEWS

8/11/2022 9:23:58 PM

Uram-Marus CUP Neighborhood Meeting Summary

(Held at conference room at 8634 Central Ave NE, Blaine, MN from 5:00PM – 6:30PM (08-25-2025))

In Attendance from Marus –

- Scott Uram
- Chelsea Schlenker (daughter of Scott)
- Peter E. Benincasa (Partner)
- Rahul Kansara (Partner)
- Mike Melton (Project Developer – Envision Cast)

The meeting was well attended (partial list attached [as not all signed in]) – around 12-13 people other than Marus group.

1. Leon Eidelman (owner of Caliber collision building [property bordering on south side of property])
 - a. He called me from New York on Friday after receiving Neighborhood meeting letter. He was very supportive and glad to hear that the “hiding area” behind his property was finally getting developed. He also liked the project and renderings....
2. William Luoma - The general manager from U-haul on 99th and 65 showed up also. He got info from someone who lives in area.
 - a. He said he was interested in what was going on in the area – and was very supportive of the project
 - b. He said his location runs over 90% full consistently
 - c. He really liked project and said that the building renderings was the nicest looking storage facility he has seen
 - d. He reassured neighbors that this concept was probably the best fit and needed in the City of Blaine
3. Dan Orning (Neighboring property) 8615 Lincoln Street –
 - a. concerned about security lighting for back of building being down lighting
 - b. he asked about possibility of no windows on back side. We reassured him we are open to discuss that.
4. neighbors did not like the fact that land is not being left the way it is, “forever”..
5. neighbors asked whether the facility would be open 24 hours a day with access...we told them “No, probably 6AM – 10PM”
6. we also informed them that lighting would low downward facing lighting as Caliber collision currently has for security purposes.
7. Our final reassurance of the neighbors, the current conditions of:
 - a. Loitering
 - b. cut through
 - c. squatting
 - d. dumping
 - e. trespassing
 - f. hiding
 - g. illegal transacting

would be resolved with this development. All the neighbors agreed that these current conditions exist and have continued to exist.



City of Blaine

Planning Commission

September 9, 2025 | 7:00 PM
Blaine City Hall
10801 Town Square Drive NE
Blaine, MN 55449

MINUTES

1. Call to Order

The Blaine planning commission met in the City Hall Chambers on Tuesday, September 9, 2025. Chair Goracke called the meeting to order at 7:00PM.

2. Roll Call

Members Present: Commission Members Gorzycki, Howard, Olson, Swanson, and Chair Goracke.

Members Absent: Commission Members Geiselhart and Halpern.

Staff Present: Alex Koberoski, Zoning Technician
Sheila Sellman, Assistant Community Development Director
Teresa Barnes, Project Engineer

4. Public Hearing

4.2. 2025-455 Case File No. 25-0042 // Scott Uram // 8634 Central Avenue NE
The applicant is requesting the following:

1. Rezoning from Single Family Residential (R-1) to Community Commercial (B-2).
2. Conditional use permit for self-storage in the Community Commercial (B-2)/Highway 65 Overlay zoning district and a zero lot line/shared access.

Sponsors: Sheila Sellman, Assistant Community Development Director

The report to the planning commission was presented by Sheila Sellman, Assistant Community Development Director. The public hearing for Case File 25-0042 was opened at 7:30PM. As no one wished to appear, the public hearing was closed at 7:30PM.

Scott Uram, applicant, introduced himself and discussed his revised plans in further detail with the commission.

Chair Goracke asked if the applicant supported working with staff revising the final plan before this matter is reviewed by the city council.

Mr. Uram indicated he would continue to work with staff, but explained he did not want to spend extra money on a wall that no one would see.

Motion by Commissioner Olson to recommend approval of Planning Case 25-0042A a rezoning from Single Family Residential (R-1) to Community Commercial (B-2), with the following rationale:

Case 25-0042A:

1. The subject site has a land use designation of Community Commercial. Single Family Residential (R-1) zoning is in conflict with this designation. Rezoning to B-2 is an acceptable zoning for Community Commercial.

Motion by Commissioner Olson to recommend approval of Planning Case 25-0042B a conditional use permit for self-storage in the Community Commercial (B-2)/Highway 65 Overlay zoning district with a zero lot line and shared access, with the following conditions:

Case 25-0042B:

1. The corrugated metal for the entire building must be changed to an approved material: brick, natural cultured stone, stucco, EIFS, architectural metal, colored rock-faced block, glass. Each wall must have 50% of the wall containing three of the approved materials.
2. The garage doors shall match the color of the building.
3. All large walls viewable from Highway 65 must be relieved by architectural detailing, such as change in materials, change in color, offsets, or other significant visual relief provided in a manner or at intervals in keeping with the size, mass and scale of the wall and its view from the public right-of-way. The south elevation shall be modified to meet this requirement.
4. The building must be adjusted to meet the rear yard setback of 100 feet.
5. The side yard setback for the driveway must be adjusted to meet the 10 foot setback.
6. Developer to submit a copy of all required permits, including a Coon Creek Watershed District permit, prior to site work.
7. The revised plans shall be completed prior to this item being reviewed by the City Council.

Motion seconded by Commissioner Howard. The motion passed 5-0.

Chair Goracke noted this would be on the agenda of the October 6, 2025 city council meeting.



City of Blaine

Staff Report

File Number: ORD 25-2587

Agenda Date	Status
October 20, 2025	
In Control	File Type
City Council	Ordinance

Development Business - Sheila Sellman, Interim Community Development Director

Agenda Item # 9.3

Second Reading

Ordinance Approving an Amendment to Section 34.02 of the Sign Ordinance to Allow for Pylon Signs up to 50 Feet in Height Along Hwy 65. City of Blaine (Case File No. 25-0038/ACK)

Executive Summary

Second reading approving an amendment to allow pylon signs along Hwy 65 in designated areas.

Background

Planning Commission Public Hearing	09/09/25
City Council (1st Reading)	10/06/25
City Council (2nd Reading)	10/20/25

Staff report prepared by Alex Koberoski, Assistant Planner.

Background

The current Hwy 65/Main Street Interchange District definition was adopted in 2008 due to decreased visibility for businesses located in the vicinity of two newly constructed overpasses along Hwy 65. The definition included the specific areas in which pylon signs no more than 50-feet in height and 180 square feet in area are allowed to be constructed. This distance is currently within 1,200 feet of the Hwy 65 centerline, and 600 feet south of the centerline of 121st Avenue and 600 feet north of 129th Avenue.

The adoption of the Hwy 65/Main Street Interchange District definition allowed business owners to construct larger signage in areas where visibility was hindered due to Hwy 65 construction. The ordinance has met with very little opposition or complaints since its adoption, and has been successful in increasing visibility for businesses.

Proposed Amendments:

Due to the extent of work that is due to commence along Highway 65 within the next couple years, staff is proposing an ordinance amendment to extend the current parameters indicated in the existing Hwy 65/Main Street Interchange District to include businesses within 600-feet of the centerline of Hwy 65, beginning 600 feet south of the centerline of 121st Avenue, ending just north of the intersection of 97th Avenue and Hwy 65.

There are several renderings included in the attachments that provide a simulation of how the addition of pylon signs will look from the proposed overpasses along Hwy 65.

Staff recommends approval of the proposed ordinance amendment based on the following rationale:

1. The proposed 600-foot distance from the centerline of Hwy 65 includes most of the businesses that will be affected by the proposed construction along Hwy 65.
2. The 600-foot distance from the centerline of Hwy 65 is a reasonable distance to allow 50-foot-high pylon signs.
3. The increase to 1,200 feet of the centerline of Hwy 65 will include a significant number of businesses, and may result in a disorderly and cluttered appearance with the addition of larger pylon signs for these businesses.
4. There have already been inquiries from current business owners located adjacent to Hwy 65 regarding larger signage in advance of the proposed construction along Hwy 65.
5. There has been little negative feedback from the public or business owners regarding the inclusion of pylon signs along Hwy 65.

Attachment List:

Map indicating 600-foot centerline distance
Map indicating 1,200-foot centerline distance
Renditions courtesy of WSB

Strategic Plan Relationship

Trunk Highway 65 improvements is a strategic priority identified in the plan.

Board/Commission Review

The Planning Commission voted unanimously to approve the code amendment.

No spoke at the public hearing. The meeting minutes are attached for reference.

Financial Impact

Not applicable.

Public Outreach/Input

Notices of a public hearing were:

1. Published in Blaine/Spring Lake Park/Columbia Heights/Fridley Life.
2. Posted on the City website.

Staff Recommendation

By motion,approve the ordinance.

Attachment List

1. Attachments
2. Unapproved PC Minutes



City of Blaine

Signature Copy

Ordinance: ORD 25-2587

Second Reading

Ordinance Approving an Amendment to Section 34.02 of the Sign Ordinance to Allow for Pylon Signs up to 50 Feet in Height Along Hwy 65. City of Blaine (Case File No. 25-0038/ACK)

THE CITY OF BLAINE DOES ORDAIN: (Added portions are underscored and deleted portions are shown in overstrike.)

34.02 Definitions

Highway 65/Main Street Interchange District: A district for purposes of allowing additional signage in a specified area, described as all commercially zoned property located: ~~within one thousand two hundred (1,200) feet of the Centerline of Highway 65 and between six hundred (600) feet south of the Centerline of 121st Avenue and six hundred (600) feet north of the Centerline of 129th Avenue.~~

(a) Within one thousand two hundred (1,200) feet of the Centerline of Hwy 65 and between six hundred (600) feet south of the Centerline of 121st Avenue and six hundred (600) feet north of the Centerline of 129th Avenue.

(b) Within 600 feet of the Centerline of Hwy 65, beginning 600 feet south of 121st Avenue, to properties north of 97th Avenue.

INTRODUCED and read in full this 6th day of October, 2025.

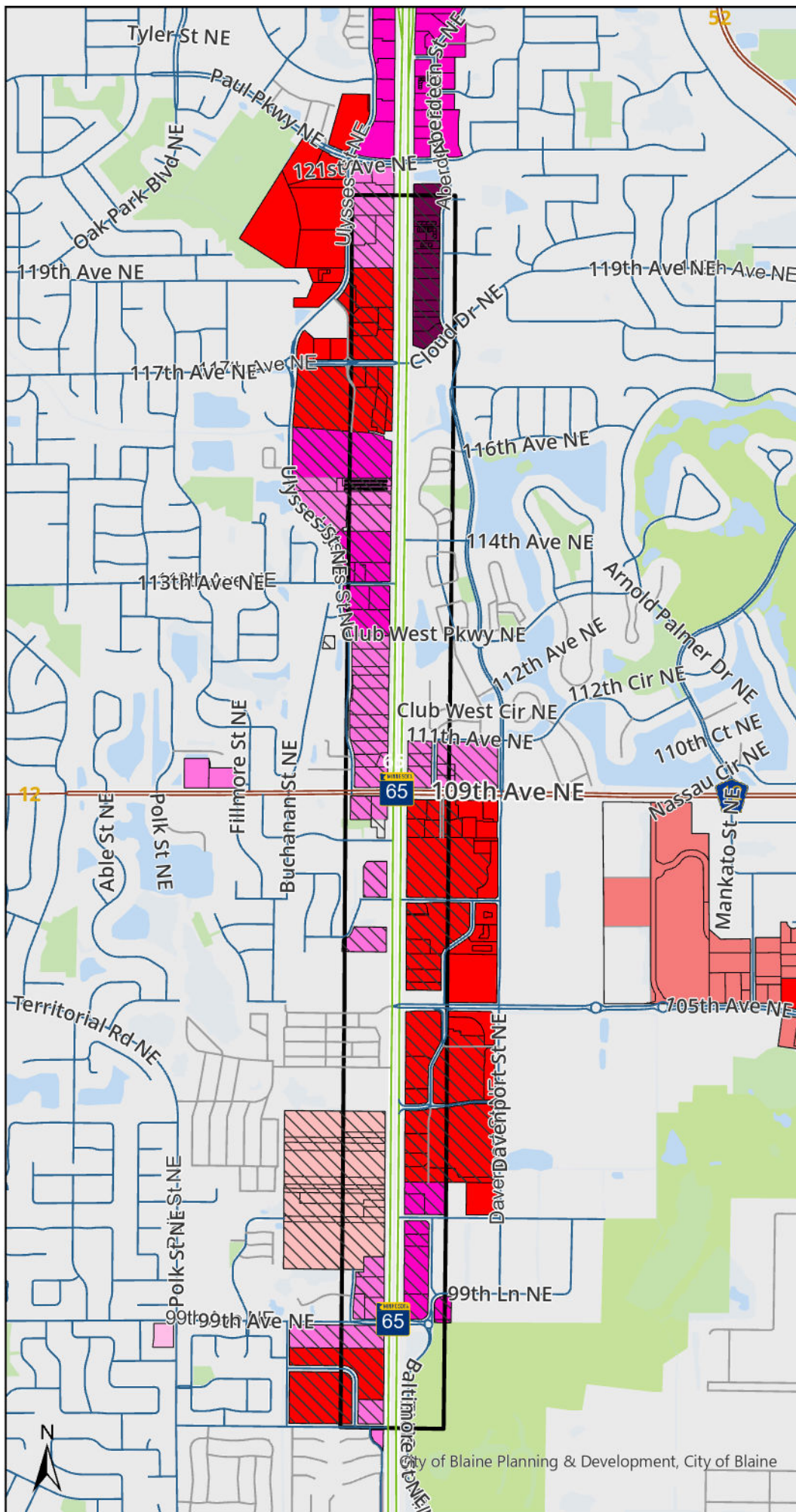
PASSED by the City Council of the City of Blaine this 20th day of October, 2025.

Highway 65 Signage 600-Foot Scenario

Legend

Zoning

- B-1 - Neighborhood Commercial
- B-2 - Community Commercial
- B-3 - Regional Commercial
- B-4 - Office Research Park
- B-5 - Town Commercial
- PBD - Planned Business District
- RD - 105th Ave Redevelopment District
- Parcels within 600 feet
- 600 feet from centerline



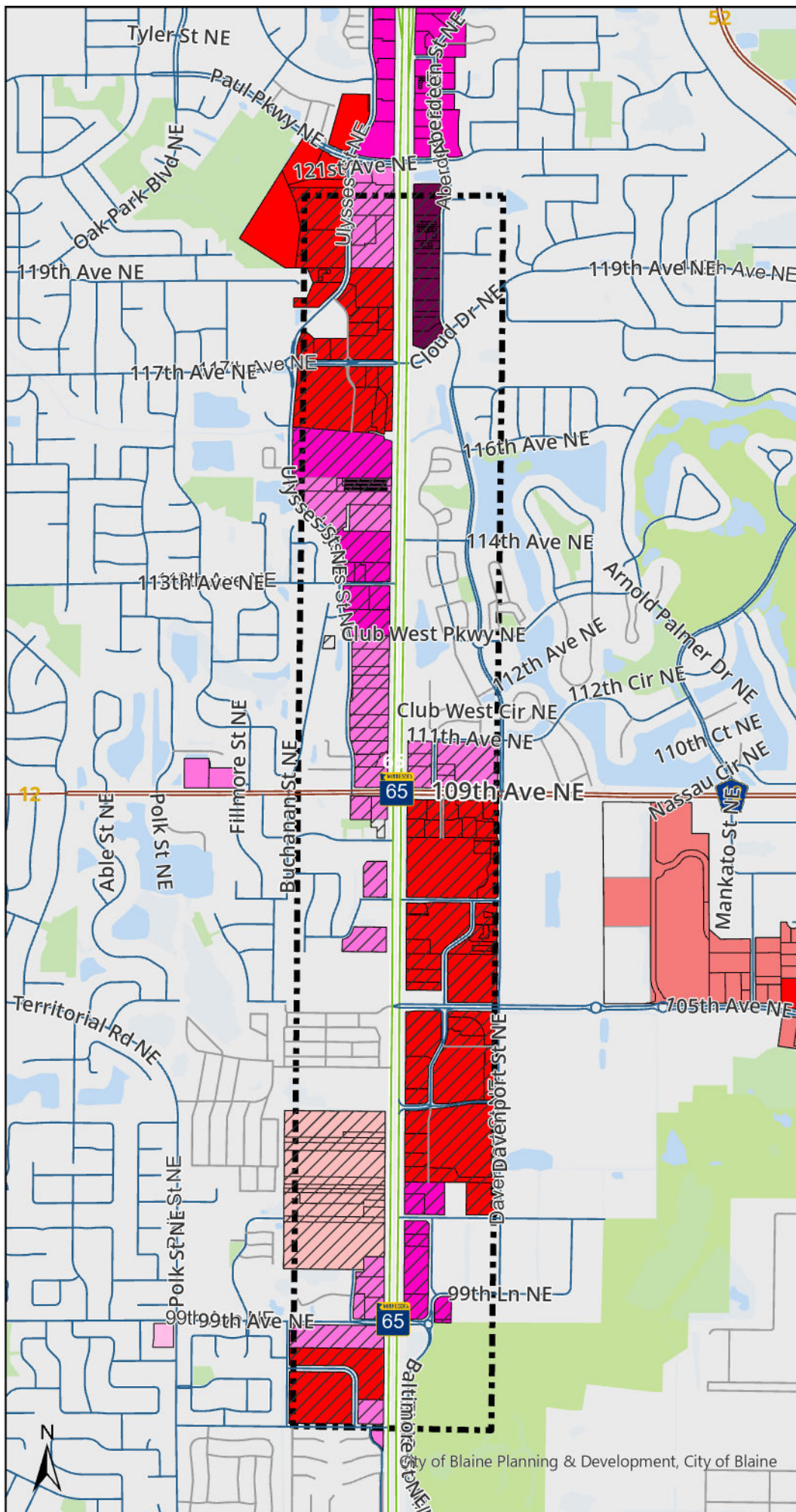
0 0.13 0.25 0.5 Miles

Highway 65 Signage 1200-Foot Scenario

Legend

Zoning

- B-1 - Neighborhood Commercial
- B-2 - Community Commercial
- B-3 - Regional Commercial
- B-4 - Office Research Park
- B-5 - Town Commercial
- PBD - Planned Business District
- RD - 105th Ave Redevelopment District
- Parcels within 1200 feet
- 1200 feet from centerline



0 0.13 0.25 0.5 Miles



117th Ave, traveling southbound
on Hwy 65, birds eye view



117th Ave traveling southbound on Hwy 65, drivers-eye view



Birds-eye view of pylon signs
along 109th Avenue

Allowed if measuring
600-feet from
centerline

Allowed if measuring 1,200
feet from centerline.

Line indicates 600 feet
from centerline of Hwy 65



Birds eye view of sign located on property adjacent to 99th Avenue



Drivers eye view, traveling northbound on Hwy 65. Sign is located on property adjacent to 99th Ave.





City of Blaine

Planning Commission

September 9, 2025 | 7:00 PM
Blaine City Hall
10801 Town Square Drive NE
Blaine, MN 55449

MINUTES

1. Call to Order

The Blaine planning commission met in the City Hall Chambers on Tuesday, September 9, 2025. Chair Goracke called the meeting to order at 7:00PM.

2. Roll Call

Members Present: Commission Members Gorzycki, Howard, Olson, Swanson, and Chair Goracke.

Members Absent: Commission Members Geiselhart and Halpern.

Staff Present: Alex Koberoski, Zoning Technician
Sheila Sellman, Assistant Community Development Director
Teresa Barnes, Project Engineer

4. Public Hearing

- 4.4.** 2025-404 Case File No. 25-0038 // City of Blaine
The City is proposing an amendment to Section 34.02 of the Sign Ordinance to allow for pylon signs up to 50 feet in height along Hwy 65.
Sponsors: Alex Koberoski, Zoning Technician

The report to the planning commission was presented by Alex Koberoski, Zoning Technician. The public hearing for Case File 25-0038 was opened at 7:43PM. As no one wished to appear, the public hearing was closed at 7:43PM.

Chair Goracke thanked staff for being proactive on this matter.

Motion by Commissioner Howard to recommend approval of Planning Case 25-0038, an amendment to Section 34. 02 of the Sign Ordinance to allow for pylon signs up to 50 feet in height along Highway 65. Motion seconded by Commissioner Swanson. The motion passed 5-0.

Chair Goracke noted this would be on the agenda of the October 6, 2025 city council meeting.



City of Blaine

Staff Report

File Number: ORD 25-2586

Agenda Date	Status
October 20, 2025	
In Control	File Type
City Council	Ordinance

Administration -

Agenda Item # 10.1

First Reading

Ordinance Adopting and Enacting a New Code for the City of Blaine, Minnesota; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and this Ordinance Shall Become Effective

Executive Summary

Council is asked to hold a new first reading of the ordinance for the full recodification of the Blaine Code of Ordinances.

Background

Ordinance 22-2517 was adopted December 19, 2022, approving the legal review for the recodification of the Blaine City Code, which was last done in 2003. The full recodification is complete and council is asked to adopt the proposed ordinance repealing the current city code and replacing with the recodified version which has been updated to current state statute in its entirety. Once the ordinance is adopted it will be published as required by charter. The recodified online code has already been posted and a physical copy will be retained by city clerk staff and continually updated as ordinances are adopted. First reading was held at the September 3 meeting but Community Development staff identified some errors during the review process that have now been incorporated so a new first reading is being held at this time.

Strategic Plan Relationship

N/A

Board/Commission Review

N/A

Financial Impact

The recodification was included in the 2022 budget.

Public Outreach/Input

Upon second reading, publication of this ordinance will be placed in the *Blaine/Spring Lake Park/Columbia Heights/Fridley Life* for two successive weeks as required by city charter. Hard copies will be made available for the public at no charge upon request and the full code will be updated online as well.

Staff Recommendation

Hold first reading of the proposed ordinance.

Attachment List

1. Blaine, MN Code of Ordinances thru #OC Revision - Final



City of Blaine

Signature Copy

Ordinance: ORD 25-2586

First Reading

Ordinance Adopting and Enacting a New Code for the City of Blaine, Minnesota; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and this Ordinance Shall Become Effective

THE CITY OF BLAINE DOES ORDAIN: (Added portions are underscored and deleted portions are shown in overstrike.)

Section 1. The Code entitled "Code of Ordinances, City of Blaine, Minnesota," published by CivicPlus, LLC, consisting of chapters 1 through 133, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before July 21, 2025, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine up to the maximum permitted or required by state law. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the city council may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the city council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after July 21, 2025, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

INTRODUCED and read in full this 20th day of October, 2025 .

PASSED by the City Council of the City of Blaine the ____ day of ____, 2025.

CODE OF ORDINANCES

CITY OF

BLAINE, MINNESOTA

Looseleaf Supplement

This O.C. Revision is printed to correct pages appearing in the Original Codification, and should be inserted as directed below.

Remove Old Pages

iii
xv—xviii
CD6:3—CD6:8
CD18:15, CD18:16
CD34:7, CD34:8
CD38:1—CD38:4
CD42:11, CD42:12
CD74:49—CD74:54
CD82:1
CD82:9, CD82:10
CD100:21—CD100:31
CD109:21—CD109:28
CD109:37—CD109:46
CD109:55, CD109:56
CD113:5—CD113:35
CD117:3—CD117:8
CD117:25—CD117:44
CD121:3, CD121:4
CD121:7, CD121:8
CD121:13, CD121:14
CD121:21, CD121:22
CD129:7—CD129:10
CD129:25—CD129:30
CD133:15, CD133:16
CCT:17—CCT:21
CCT:45—CCT:47
SLT:1—SLT:6
CDi:1—CDi:69

Insert New Pages

iii
xv—xviii
CD6:3—CD6:8.1
CD18:15, CD18:16
CD34:7—CD34:8.1
CD38:1—CD38:4.1
CD42:11—CD42:12.1
CD74:49—CD74:54
CD82:1
CD82:9—CD82:10.2
CD100:21—CD100:31
CD109:21—CD109:28
CD109:37—CD109:46.1
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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

INSTRUCTION SHEET—Cont'd.



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P.O. Box 2235 Tallahassee, FL 32316

CODE OF ORDINANCES
CITY OF
BLAINE, MINNESOTA

Published in 2025 by Order of the City Council



info@municode.com | 800.262.2633 | www.municode.com

P.O. Box 2235 Tallahassee, FL 32316

OFFICIALS
of the
CITY OF
BLAINE, MINNESOTA
AT THE TIME OF THIS RECODIFICATION

Tim Sanders, Councilmember At Large
Mayor

Councilmember Chris Ford, Ward 1
Councilmember Tom Newland, Ward 1
Councilmember Leslie Larson, Ward 2
Councilmember Jess Robertson, Ward 2
Councilmember Terra Fleming, Ward 3
Councilmember Chris Massoglia, Ward 3
City Council

Erik Thorvig
City Manager

Eckberg, Lammers
Attorneys at Law

Catherine Sorensen, CMC
City Clerk

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Blaine, Minnesota.

Source materials used in the preparation of the Code were the 2004 Code, as supplemented through February 22, 2023, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 2004 Code, as supplemented, and any subsequent ordinance included herein.

Acknowledgments

This publication was under the direct supervision of Sandra S. Fox, Senior Code Attorney, and Timothy R. Knickerbocker, Editor, of CivicPlus, LLC, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Cathy Sorensen, CMC, City Clerk, for her cooperation and assistance during the progress of the work on this publication. It is hoped that her efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

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- Sec. 1.02. Powers of the city.
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***Editor's note**—Printed in this part is the city Charter, as adopted on November 3, 1964. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions for clarity are indicated by brackets.

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CHAPTER 1. NAME, BOUNDARIES, POWERS AND GENERAL PROVISIONS

Sec. 1.01. Name and boundaries.

The Village of Blaine, in the County of Anoka, State of Minnesota, shall, upon the taking effect of this Charter, continue to be a municipal corporation, under the name and style of the City of Blaine, with the same boundaries as now are or hereafter may be established.

Sec. 1.02. 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 that every power which the people of the City of Blaine might lawfully confer upon themselves, as a municipal corporation, by specific enumeration in this Charter shall be deemed to have been so conferred by the provisions of this section. This Charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the generality of the power herein sought to be conferred.

Sec. 1.03. Charter a public act.

This Charter shall be a public act and need not be pleaded or proved in any case. It shall take effect thirty (30) days from and after its adoption by the voters.

CHAPTER 2. FORM OF GOVERNMENT

Sec. 2.01. Form of government.

The form of government established by this Charter is the "council-manager plan." The council shall exercise the legislative power of the city and determine all matters of policy. The city manager shall be the head of the administrative branch of the city government and shall be responsible to the council for the proper administration of all affairs relating to the city.

Sec. 2.02. Boards and commissions.

There shall be no separate administrative board of health, library board, park board, or any other 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. 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.

Sec. 2.03. Elective offices.

The council shall be composed of a mayor and six (6) councilmembers who shall be qualified voters of the City of Blaine. To effectuate the lengthening of terms of office of the council, the mayor and the other three (3) councilmembers elected at the regular municipal election in 1993 shall be elected to three (3) year terms, expiring in 1996. The mayor and the other three (3) councilmembers elected at the regular municipal election in 1996 shall be elected to four (4) year terms, expiring in 2000. The three (3) councilmembers elected at the regular municipal election in 1994 shall be elected to four (4) year terms, expiring in 1998. After the regular municipal election of 1996, the members of the council shall be elected to four (4) year terms and shall serve until their successors are elected and qualified. There shall be one councilmember elected from each ward at each regular municipal election. The mayor shall be elected at large and shall serve until a successor is elected and qualified.

Councilmembers must reside within the ward from which they are elected. If a councilmember moves from such councilmember's elective ward, or if a councilmember is excluded from a ward as a result of redistricting, such councilmember's term of office shall expire on January first, following the next regular city election. (Ord. of 11-5-1974; Ord. No. 92-1316, 1-7-1993; Ord. No. 12-2239, 3-15-2012)

Sec. 2.03(a). Wards.

The City of Blaine shall be divided into three (3) council election wards.

The city manager shall re-evaluate the ward boundaries following the certification of the decennial census.

Council election wards shall be as equal in population as practicable and each ward shall be composed of compact, contiguous territory.

Ward boundaries shall follow visible, clearly recognizable physical features as required by state law. The city manager shall prepare a redistricting report which shall be submitted to the Charter commission for review and comment.

The redistricting report, any Charter commission comments, and a redistricting ordinance shall be submitted to the city council for consideration. If the city council does not adopt a redistricting ordinance within the period specified by state law, no compensation may be paid to the mayor or councilmembers until the wards of the city are newly redetermined as required by this Charter and state law. (Ord. of 11-5-1974; Ord. No. 756, 6-14-1982; Ord. No. 91-1268, 1-9-1992; Ord. No. 12-2239, 3-15-2012)

Sec. 2.04. Incompatible offices.

No member of the council shall be appointed city manager, nor shall any member hold any paid municipal office or employment under the city; and until one year

after the expiration of the person's term as mayor or councilmember, no former member shall be appointed to any paid appointive office or employment under the city, which office or employment was created or the emoluments of which were increased during such person's term as councilmember.

Sec. 2.05. Vacancies in the council.

A vacancy in the council shall exist in case of:

- (1) The failure of any person elected thereto to qualify on or before the date of the second regular meeting of the new council; or
- (2) The death, resignation, removal from office, removal from the city, continuous absence of any councilmember from the city for more than three (3) months; or
- (3) The failure of any councilmember without good cause to perform any of the duties of membership in the council for a period of two (2) months; or
- (4) The conviction of any such person of a crime for which a sentence of imprisonment for more than one year may be imposed, whether before or after such person's qualification.

If a vacancy on the council is for a period of more than twelve (12) months, the council shall by resolution declare the vacancy to exist and shall by resolution call for a special election as provided in this section.

If a vacancy on the council is for a period of less than twelve (12) months, the council shall by resolution declare that the vacancy exists. Within the next forty-five (45) days, the council shall by resolution appoint an eligible person to the existing vacancy. The appointee shall serve until January 1 following the next regular municipal election, or until his/her successor is elected and qualified. At the next regular municipal election, the office will be filled for the unexpired term.

The council may by resolution waive its right to appoint to fill a vacancy and may call a special election to be held as soon as legally permissible. If a vacancy on the council is not filled by appointment within the forty-five (45) days following the declaration of the vacancy, the council shall call a special election as provided in this section.

(Ord. No. 251, 1-21-1971; Ord. No. 89-1126, 5-4-1989; Ord. No. 98-1708, 5-21-1998)

Sec. 2.06. The mayor.

The mayor shall be the presiding officer of the council, except that the council shall choose from its members a mayor pro tem who shall hold office at the pleasure of the council and shall serve as mayor in the mayor's absence and as mayor in case of the mayor's disability or absence from the city. The mayor shall have a vote as a member of the council. The mayor shall exercise all powers and perform all duties conferred and imposed upon the mayor by this Charter, the ordinances of the city,

and the laws of the state. The mayor shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for the purpose of martial law. The mayor shall report to the council any neglect, dereliction of duty, or waste on the part of any officer or department of the city. In times of public danger or emergency the mayor may with the consent of the council, take command of the police, maintain order and enforce the law.

(Ord. No. 84-816, 3-15-1984)

Sec. 2.07. Salaries.

The monthly salary of each of the councilmembers and the mayor shall be established by ordinance. The mayor and councilmembers, in addition to the above salaries, shall be paid a reasonable sum for each day and their reasonable expenses incurred while traveling outside the city on the city's business.

(Ord. No. 85-884, 8-15-1985)

Sec. 2.08. Investigation of city affairs.

The council and the city manager, or either of them, and any officer or officers formally authorized by them or either of them, shall have power to make investigations into the city's affairs, to subpoena witnesses, administer oaths and compel the production of books and papers. 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. The council may at any time provide for an examination or audit of the accounts of any officer or department of the city government and it may cause to be made any survey or research study of any subject of municipal concern.

Sec. 2.09. Interferences with administration.

The council may by ordinance establish the merit system in all or part of the city administration, but neither the council nor any of its members shall dictate the appointment of any person to office or employment by the city manager, or in any manner interfere with the city manager or prevent the city manager from exercising such city manager's own judgment in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry the council and its members shall deal with and control the administrative service solely through the city manager, and neither the council nor any member thereof shall give orders to any of the subordinates of the city manager, either publicly or privately.

Sec. 2.10. Resignation by councilmembers.

A resignation by a member of the city council must be submitted in writing to a member of the city council or the city manager. When a written resignation is

received by any member of the city council or the city manager, the resignation must be presented to the council at its next regular meeting. The council must accept said resignation during the meeting at which it is presented.

(Ord. No. 354, 6-6-1974)

CHAPTER 3. PROCEDURE OF COUNCIL

Sec. 3.01. Council meetings.

At the first council meeting in January following a regular municipal election, the council shall meet at the usual place and time for the holding of council meetings. The usual meeting place is 10801 Town Square Drive N.E., Blaine, Minnesota. At this meeting the newly elected members of the council shall assume their duties. Thereafter, the council shall meet at such times each month as may be prescribed by ordinance or resolution. The mayor or any four (4) members of the council may call a special meeting of the council for specific stated purposes upon giving proper notice at least three (3) days prior to the meeting. Proper notice requires either calling a special meeting at a regularly scheduled meeting of the council or by posting and personally serving a written notice of the time and place of the special meeting. The posting of the notice shall be in a conspicuous place at 10801 Town Square Drive N.E., Blaine, Minnesota. Personal service requires delivery of the notice of special meeting to each councilmember or member-elect or the delivery of the notice to a person of suitable age and discretion residing at the usual place of residence of each councilmember or member-elect. All meetings shall be held at the usual meeting place unless published otherwise in the official newspaper at least three (3) days prior to the meeting. All meetings shall be public, and any citizen shall have access to the minutes and records thereof, at all reasonable times.

(Ord. No. 252, 4-29-1971; Ord. No. 355, 6-6-1974; Ord. No. 466, 11-20-1975; Ord. No. 92-1311, 12-17-1992; Ord. No. 01-1916, 11-15-2001)

Sec. 3.02. Secretary of council.

The council shall choose and may remove a secretary of the council. The council may designate any official or employee of the city, except the city manager or a member of the council, to act as secretary of the council. The secretary shall keep a journal of the council proceedings, and keep such other records and perform such other duties as may be required by the Charter or by vote of the council. The council shall choose such other officers and employees as may be necessary to serve at its meetings.

Sec. 3.03. Rules of procedure and quorum.

The council shall determine its own rules and order of business. A majority of all members elected shall constitute a quorum to do business, but a smaller number may adjourn from time to time. The council may by ordinance provide a means by which a minority may compel the attendance of absent members.

Sec. 3.04. Ordinances, resolutions, and motions.

Except as in this Charter otherwise provided, all legislation shall be by ordinance. The aye and no vote on ordinances, resolutions and motions shall be recorded unless the vote is unanimous. An affirmative vote of a majority of all members of the council shall be required for the passage of all ordinances and resolutions, except as otherwise provided in this chapter.

Sec. 3.05. Procedure on ordinances.

The enacting clause of all ordinances passed by the council shall be in the words, "The City of Blaine does ordain." Every ordinance shall be presented in writing at the meeting at which it is introduced. If a councilmember or one Blaine resident present at the meeting request[s] that the ordinance be read in its entirety, the ordinance shall be read at the meeting at which it is introduced. No ordinance except an emergency ordinance shall be passed at the meeting at which it is introduced, nor before the next regularly scheduled meeting of the council.

(Ord. No. 689, 6-19-1980)

Sec. 3.06. 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 thereto, and is adopted by a vote of at least five (5) members of the council. No prosecution shall be based upon the provisions of any emergency ordinance until twenty-four (24) hours after the ordinance has been filed with the city clerk and posted in three (3) conspicuous places or until the ordinance has been published, unless the person charged with violation had actual notice of the passage of the ordinance prior to the act or omission complained of.

(Ord. No. 467, 11-20-1975)

Sec. 3.07. Procedure on resolutions.

Every resolution shall be presented in writing and will not be read in full, unless requested by a councilmember or a Blaine resident, before a vote is taken thereon.

(Ord. No. 01-1916, 11-15-2001)

Sec. 3.08. Signing and publication of ordinances and resolutions.

Every ordinance or resolution passed by the council shall be signed by the mayor or by two (2) other members, attested by the city clerk and filed and preserved by the city clerk. Every ordinance shall be published at least once in the official newspaper. If the council determines, pursuant to M.S.A. § 412.191, subd. 4, that publication of the title and a summary of an ordinance would clearly inform the public of the intent and effect of the ordinance, the council may, by a four-fifths vote of its membership, direct that only the title of the ordinance and a summary be published with notice

that a printed copy of the entire ordinance is available for inspection by any person during regular office hours in the office of the city clerk. The publication of the title and summary shall be deemed to fulfill all legal publication requirements as completely as if the entire ordinance had been published.

To the extent and in the manner provided by law, an ordinance may incorporate by reference a statute of Minnesota, a state administrative rule of regulation, a code, or ordinance or part thereof without publishing the material referred to in full.
(Ord. No. 83-784, 4-7-1983)

Sec. 3.09. When ordinances and resolutions take effect.

A resolution or an emergency ordinance shall take effect immediately upon its passage or at such later date as is fixed in it. Every other ordinance shall take effect thirty (30) days after publication or at such later date as is fixed therein. Every ordinance and resolution adopted by the voters of the city shall take effect immediately upon its adoption, or at such later time as is fixed therein.
(Ord. No. 92-1312, 12-17-1992)

Sec. 3.10. Amendment and repeal of ordinances and resolutions.

Every ordinance or resolution repealing a previous ordinance or resolution or section or subdivision thereof 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 or section or subdivision thereof shall be amended by references 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 new matter by underscoring and old matter to be omitted with overstrike. In newspaper publications, the same indications of omitted and new matter shall be used.
(Ord. No. 94-1521, 6-2-1994)

Sec. 3.11. Revision and codification of ordinances.

The city may revise, rearrange and codify its ordinances with such additions and deletions as may be deemed necessary by the council. Such ordinance code shall be published in book, pamphlet, or continuously revised looseleaf 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 at a reasonable charge. Publication in such a code shall be a sufficient publication of any ordinance provision not previously published if a notice that copies of the codification are available at the office of the city clerk is published in the official newspaper for at least two (2) successive weeks.

CHAPTER 4. NOMINATIONS AND ELECTIONS

Sec. 4.01. General election laws to apply.

Except as hereinafter provided, the general laws of the State of Minnesota pertaining to registration of voters and the conduct of primary and general elections

shall apply for all municipal elections of such officers as are specified in this Charter. The council shall, through ordinances duly adopted in compliance with such state laws and this Charter, adopt suitable and necessary regulations for the conduct of such elections.

Sec. 4.02. Regular municipal elections.

A regular municipal election shall be held on the first Tuesday after the first Monday in November of the year in which an election is to be held at such place or places as the city council may designate by resolution. At least fifteen (15) days' notice shall be given by the city clerk of the time and places holding such election, and of the offices to be elected, by posting a notice in a conspicuous place thereof at City Hall, online including but not limited to the city's website, and by publishing a notice thereof at least once in the official newspaper of the city, but failure to give such notice shall not invalidate such election.

(Ord. No. 01-1917, 11-15-2001; Ord. No. 17-2385, 11-16-2017)

Sec. 4.03. Primary elections.

There shall be a primary election on the date established by Minnesota state law for the selection of two (2) nominees for each elective office at the regular municipal election, unless only two (2) nominees file for each elective office. Primary municipal elections shall be held every even-numbered year, if necessary.

(Ord. No. 239, 7-2-1970; Ord. No. 10-2208, 7-15-2010)

Sec. 4.04. Special elections.

The council may, by resolution, order a special election and provide all means for holding it. Published notice of a special election shall be given in the official newspaper at least two (2) weeks prior to such special election. The procedure at such election shall conform as nearly as possible to that prescribed for other municipal elections, except that there shall be no primary election prior to a special election held pursuant to section 2.05 of the Charter of the City of Blaine. Dates on which a special election may be held are: second Tuesday in February, the second Tuesday in April, the second Tuesday in May, the second Tuesday in August, or the first Tuesday after the first Monday in November (general election date), or as otherwise allowed by Minnesota state law.

(Ord. No. 98-1703, 4-2-1998; Ord. No. 17-2385, 11-16-2017)

Sec. 4.05. Judges of election.

The council shall at least twenty-five (25) days before each election, appoint qualified eligible voters for each voting precinct to be judges of election as provided by Minnesota state law. The council shall set compensation for the election judges.

(Ord. No. 01-1917, 11-15-2001; Ord. No. 17-2385, 11-16-2017)

Sec. 4.06. Candidate for office.

All candidates for office provided for by this chapter who desire to be elected to any elected office, shall file an affidavit not more than eighty-four (84) days nor less than seventy (70) days, or per Minnesota state law, prior to the primary election date, with the city clerk, paying the said officer a fee of fifty dollars (\$50.00). Such affidavit or application shall state that the candidate is an eligible voter of the City of Blaine and the name of the office for which such person is a candidate.

At the time of filing an affidavit of candidacy, a candidate may present a petition in place of the filing fee. The petition may be signed by an individual eligible to vote for the candidate. The number of signatures on the petition in place of a filing fee shall be the lesser of five hundred (500) signatures or five (5) percent of the total number of votes cast in the election ward at the preceding general election at which that office was on the ballot. The city clerk shall make available sample forms for petitions in place of filing fees.

A write-in candidate who wants their write-in votes to be counted in the general election must file a written request with the city clerk no later than seven (7) days before the general election. All write-in votes cast for candidates who have not filed a written request to have these votes counted shall be treated collectively as votes for a single candidate.

(Ord. No. 253, 1-21-1971; Ord. No. 750, 3-18-1982; Ord. No. 88-1098, 11-3-1988; Ord. No. 97-1685, 11-20-1997; Ord. No. 10-2208, 7-15-2010; Ord. No. 12-2239, 3-15-2012; Ord. No. 17-2385, 11-16-2017)

Sec. 4.07. Withdrawal of candidate.

Any person whose name has been presented in the manner provided for in the foregoing section as a candidate, may, not later than 5 o'clock p.m. of the second (2nd) day after the last day for filing or at such other time established by Minnesota state law, cause such person's name to be withdrawn from nomination by filing with the city clerk a request to do so in writing. No name so withdrawn shall be printed upon the ballot.

(Ord. No. 10-2208, 7-15-2010)

Sec. 4.08. Canvass of elections and taking of office.

The council must meet and canvass the election returns made in the manner provided for the state primary so far as practicable. The canvass may be conducted on either the second (2nd) or third (3rd) calendar day after any primary election and between the third (3rd) and tenth (10th) day after any general (regular) or special election, or at such other time established by Minnesota state law and shall make full declaration of the results as soon as possible and file a statement thereof with the city clerk, and said statement shall be made a part of the minutes.

(Ord. No. 10-2208, 7-15-2010; Ord. No. 17-2385, 11-16-2017)

CHAPTER 5. INITIATIVE AND REFERENDUM**Sec. 5.01. Powers reserved by the people.**

The people of Blaine reserve to themselves the power, in accordance with the provisions of this Charter, to initiate and adopt any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, to require such an ordinance when passed by the council to be referred to the registered voters for approval or disapproval. These powers shall be called the initiative and the referendum respectively.

(Ord. No. 17-2385, 11-16-2017)

Sec. 5.02. Expenditures by petitioners.

No member of any initiative or referendum committee, no circulator of a signature paper, and no signer of any such paper, or any other person, shall accept or offer any reward, pecuniary or otherwise, for service rendered in connection with the circulation thereof, but this shall not prevent the committee from paying for legal advice and from incurring an expense for stationery, copying, printing, and notaries' fees. Any violation of the provisions of this section is a misdemeanor.

(Ord. No. 91-1270, 1-9-1992)

Sec. 5.03. Initiation of measures.

Any five (5) registered voters of the city may form themselves into a committee of petitioners for the initiation of any ordinance except as provided in section 5.01. Before circulating any petition, the committee of petitioners shall file a verified copy of their proposed ordinance with the city clerk together with their names and addresses as members of such committee. The committee of petitioners shall also attach a verified copy of the proposed ordinance to each of the signature papers herein described, together with their names and addresses as sponsors thereof.

(Ord. No. 01-1918, 11-15-2001)

Sec. 5.04. Form of petition and of signature papers.

The petition for the adoption of any ordinance shall consist of the ordinance, together with all the signature papers and affidavits thereto attached. Such petition shall not be complete unless signed by a number of voters equal to at least ten (10) percent of the total number of votes cast at the last preceding regular municipal election. All the signatures need not be on one signature paper but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

"INITIATIVE PETITION

Proposing an ordinance to _____

(stating the purpose of the ordinance), a copy of which ordinance is hereto attached. _____

This ordinance is sponsored by the following committee of registered voters:

Name	Address
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

The undersigned registered voters, understanding the terms and the nature of the ordinance hereto attached, petition the council for its adoption, or, in lieu thereof, for its submission to the registered voters for their approval.

Name	Address
1. _____	_____
2. _____	_____
3. _____	_____

At the end of the list of signatures shall be appended the affidavit of the circulator mentioned above.

(Ord. No. 17-2385, 11-16-2017)

Sec. 5.05. Filing of petition and action thereon.

All the signature papers shall be filed in the office of the city clerk as one instrument. Within five (5) days after the filing of the petition, the city clerk shall ascertain by examination the number of registered voters whose signatures are appended thereto and whether this number is at least ten (10) percent of the total number of registered voters who cast their votes at the last preceding regular municipal election. If the city clerk finds the petition insufficient or irregular, the city clerk all at once notify in writing one or more of the committee of sponsors of that fact, certifying the reason for such finding. The committee shall then be given thirty (30) days in which to file additional signature papers and to correct the petition in all other particulars. Calculation of the thirty (30) days begins on the date the notification letter is postmarked. If at the end of that period, the petition is found to be still insufficient or irregular, the clerk shall file it in the city clerk's office and shall notify each member in writing of the committee of that fact. The final finding of the insufficiency or irregularity of a petition 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 registered voters at the next regular or any special election at its option.

(Ord. No. 17-2385, 11-16-2017)

Sec. 5.06. Action of council on petition.

When the petition is found to be sufficient, the city clerk shall so certify to the council at its next meeting, stating the number of petitioners and the percentage of the total number of voters which they constitute, and the council shall at once read the ordinance and refer it to an appropriate committee, which may be a committee of the whole. The committee or council shall thereupon provide for public hearings upon the ordinance, after the holding of which the ordinances shall be finally acted upon by the council not later than sixty-five (65) days after the date upon which it was submitted to the council by the city clerk. If the council fails to pass the proposed ordinance, or passes it in a form different from that set forth in the petition and unsatisfactory to the petitioners, the proposed ordinance shall be submitted by the council to the vote of the registered voters, at the next regular municipal election; but if the number of signers of the petition is equal to at least fifteen (15) percent of the total number of voters voting at the last regular municipal election the council shall call for an election upon the measure. If the petition is submitted by July 1st of an even year, the question shall be placed on the next regular municipal election ballot. If the petition is submitted after July 1st of an even year, the council shall order a special election to be held subject to Minnesota Election Law. If the council passes the proposed ordinance with amendments and at least four-fifths ($\frac{4}{5}$) of the committee of petitioners do not express their dissatisfaction with such amended form by a statement filed with the city clerk within ten (10) days of the passage thereof by the council, the ordinance need not be submitted to the registered voters.

(Ord. No. 17-2385, 11-16-2017)

Sec. 5.07. Initiative ballots.

The ballots used when voting upon any such proposed ordinance shall state the substance of the ordinance and shall give the voters the opportunity to vote either "yes" or "no" on the question of adoption. If a majority of the registered voters voting on any such ordinance vote in favor of it, it shall thereupon become an ordinance of the city. Any number of proposed ordinances may be voted upon at the same election but the voter shall be allowed to vote for or against each separately. In case of inconsistency between two initiated ordinances approved at one election, the one approved by the higher percentage of registered voters voting on the question shall prevail to the extent of the inconsistency.

(Ord. No. 17-2385, 11-16-2017)

Sec. 5.08. [Repeal or amendment of ordinance adopted by vote of people.]

Any ordinance adopted by the vote of the people cannot be repealed or amended except by a vote of the people.

Sec. 5.09. Initiation of Charter amendments.

Nothing in this Charter shall be construed as in any way affecting the right of the registered voters under the constitution and statutes of Minnesota to propose amendments to this Charter.

(Ord. No. 17-2385, 11-16-2017)

Sec. 5.10. The referendum.

If prior to the date when an ordinance takes effect a petition signed by registered voters of the city equal in number to fifteen (15) percent of the total vote at the last regular municipal election is filed with the city clerk requesting that any such ordinance be repealed or be submitted to a vote of the registered voters, the ordinance shall thereby be prevented from going into operation. The council shall thereupon reconsider the ordinance at its next regular meeting, and either repeal it or by aye and no vote reaffirm its adherence to the ordinance as passed. If the council votes to reaffirm the ordinance by July 1st of an even year, the question shall be placed on the next regular municipal election ballot. If approved after July 1st of an even year, the council shall immediately order a special election to be held subject to Minnesota Election Law, pending which the ordinance shall remain suspended. If a majority of the registered voters voting thereon favors the ordinance, it shall go into effect immediately or on the date therein specified.

(Ord. No. 01-1918, 11-15-2001; Ord. No. 17-2385, 11-16-2017)

Sec. 5.11. Referendum petitions.

The requirements laid down in sections 5.04 and 5.05 above as to the formation of committees for the initiation of ordinances and as to the form of petitions and signature papers shall apply to the referendum as far as possible, but with such verbal changes as may be necessary. A referendum petition shall read as follows:

"REFERENDUM PETITION

Proposing the repeal of an ordinance to _____
 (stating the purpose of the ordinance), a copy of which ordinance is hereto
 attached, _____
 the proposed repeal is sponsored by the following committee of registered voters:

Name	Address
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

The undersigned petitioners, understanding the nature of the ordinance hereto
 attached and believing it to be detrimental to the welfare of the city, petition the
 council for its submission to a vote of the registered voters for their approval or
 disapproval.

Name	Address
1. _____	_____
2. _____	_____
3. _____	_____ "

(Ord. No. 17-2385, 11-16-2017)

Sec. 5.12. Initiative and referendum.

The ballots used in any referendum election shall conform to the rules laid down
 in section 5.07 of this Charter for initiative ballots.
 (Ord. No. 248, 12-17-1970)

CHAPTER 6. ADMINISTRATION OF CITY AFFAIRS

Sec. 6.01. The city manager.

The city manager shall be the chief administrative officer of the city. The city
 manager shall be chosen by the council solely on the basis of such person's training,
 experience, and administrative qualifications and need not be a resident of the city
 at the time of such appointment. The city manager shall be appointed for an
 indefinite period and may be removed by the council at any time; but after the city
 manager has served as manager for one year, the city manager may demand written
 charges and a public hearing on the charges before the council prior to the date
 when such city manager's final removal takes effect. After such hearing, if one is
 demanded, the council shall have unlimited discretion either to reinstate the

manager or make the removal final. Pending such hearing and removal, the council may suspend the manager from office. The council may designate some properly qualified person to perform the duties of the manager during such manager's absence or disability or while the office of manager is vacant.

Sec. 6.02. Powers and duties of the city manager.

Subd. 1. Subject to the provisions of this Charter and any council regulations consistent therewith, the city manager shall control and direct the administration of the city's affairs. The city manager shall have the powers and duties set forth in the following subdivisions:

Subd. 2. The city manager shall see that this Charter and the laws, ordinances and resolutions of the city are enforced.

Subd. 3. The city manager shall appoint and remove, upon the basis of merit and fitness and subject to applicable civil service provisions, if any, the city clerk, all heads of departments, except for the chief of police, and all subordinate officers and employees in the departments.

Subd. 4. The city manager shall exercise control over all departments and divisions of the city administration created by this Charter or by the council.

Subd. 5. The city manager shall attend all meetings of the council, with the right to take part in the discussion but not to vote.

Subd. 6. The city manager shall recommend to the council for adoption such measures as such manager may deem necessary for the welfare of the people and the efficient administration of the city's affairs.

Subd. 7. The city manager shall keep the council fully advised as to the financial condition and needs of the city, and such manager shall prepare and submit to the council the annual budget.

Subd. 8. The city manager shall prepare and submit to the council for adoption an administrative code incorporating the details of administrative procedure and from time to time such manager shall suggest amendments to such code.

Subd. 9. The city manager shall perform such other duties as may be prescribed by this chapter or by law or required of such manager by ordinance or resolutions adopted by the council.

(Ord. No. 690, 6-19-1980)

Sec. 6.03. Departments of administration.

The council may upon recommendation of the city manager create such departments, divisions and bureaus for the administration of the city's affairs as may seem

necessary and alter their powers and organization. It may, in conjunction with the city manager, prepare a complete administrative code for the city and enact it in the form of an ordinance, which may be amended by ordinance.

(Ord. No. 99-1800, 8-19-1999)

Sec. 6.04. Subordinate officers.

There shall be a city clerk and such other officers subordinate to the city manager as the council may create by ordinance. The city clerk shall be subject to the direction of the city manager, and shall have such duties in connection with the keeping of the public records, the custody and disbursement of the public funds, and the general administration of the city's affairs as the council prescribes. The city clerk may be designated to act as secretary of the council. 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.

(Ord. No. 99-1800, 8-19-1999)

Sec. 6.05. Purchases and contracts.

The city manager shall be the chief purchasing agent of the city. Contracts for the sale or the purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property shall be made in accordance with the Uniform Municipal Contracting Law, M.S.A. § 471.345, as amended. If the amount of the contract is estimated to be fifty thousand dollars (\$50,000.00) or less, the contract may be made by the city manager. All other purchases and all other contracts shall be submitted to the council for approval. All contracts, bonds and instruments of any kind to which the city is a party shall be signed by the mayor and the city manager on behalf of the city and shall be executed in the name of the city.

(Ord. No. 356, 6-6-1974; Ord. No. 676, 2-21-1980; Ord. No. 84-818, 3-15-1984; Ord. No. 99-1800, 8-19-1999; Ord. No. 15-2313, 6-4-2015; Ord. No. 19-2427, 6-17-2019)

Sec. 6.06. Contracts; how let.

Contracts shall be let to the lowest responsible bidder. The council may, however, reject any and all bids. Nothing contained in this section shall prevent the purchasing of real or personal property on the installment payment plan. Subject to the provisions of this Charter, the council may by ordinance adopt further regulations for the making of bids, and the letting of contracts. The council may advertise in other papers, or trade journals in addition to the official newspaper.

(Ord. No. 357, 6-6-1974; Ord. No. 468, 11-20-1975; Ord. No. 676, 2-21-1980; Ord. No. 92-1313, 12-17-1992)

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, and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public moneys, and in the exercise of a sound discretion shall make appropriations for the payment of all liabilities and expenses.

Sec. 7.02. Fiscal year.

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

Sec. 7.03. System of taxation.

Subject to the state constitution and except as forbidden by it or by state legislation, the council shall have full power to provide by ordinance for a system of local taxation. In the taxation of real and personal property as such, the city shall conform as fully as possible to the general state law as to the assessment of such property and the collection of such taxes.

Sec. 7.04. Board of equalization.

The council shall constitute a board of equalization to equalize assessments of property for taxation purposes according to law.

Sec. 7.05. Preparation of the annual budget.

The city manager shall prepare the estimates for the annual budget of the general fund. Estimates may be prepared for other funds as deemed necessary by the city manager or the city council. The city manager shall submit with the estimate such explanatory statements as such manager may deem necessary, and under this Charter the city manager shall interpret this section as requiring comparisons of the city's finances with the activity of the budgeted funds for the two previous fiscal years of the city.

(Ord. No. 254, 1-21-1971; Ord. No. 99-1801, 8-19-1999)

Sec. 7.06. Passage of the budget.

The process for the approval of the annual budget shall be completed in accordance with M.S.A. ch. 275. The annual budget finally agreed upon shall set forth in detail the complete financial plan of the city for the ensuing fiscal year for the funds budgeted and shall be signed by the majority of the council when adopted. It shall indicate the sums to be raised and from what sources and the sums to be spent and for what purposes according to section 7.05. The total sum appropriated shall be less than the total estimated revenue by a safe margin. The council shall

adopt the budget as set forth in M.S.A. ch. 275 by a resolution which shall set forth the total for each budgeted fund and each department with such segregation as to objects and purposes of the expenditures as the council deems necessary for purposes of budget control. The council shall also adopt a resolution levying whatever taxes it considers necessary within statutory limits for the ensuing year for each fund. The tax levy resolution shall be certified to the county auditor in accordance with the law. At the beginning of the fiscal year, the sums fixed in the budget resolution shall be and become appropriated for the several purposes named in the budget resolution and no other.

(Ord. No. 99-1801, 8-19-1999)

Sec. 7.07. Enforcement of the budget.

It shall be the duty of the city manager to enforce strictly the provisions of the budget. The city manager shall not approve any order upon the city treasury for any expenditure unless an appropriation has been made in the budget resolution and unless there is a sufficient unexpended balance left after deducting the total past expenditures and the sum of all outstanding orders and encumbrances.

(Ord. No. 99-1801, 8-19-1999; Ord. No. 01-1919, 11-15-2001)

Sec. 7.08. Alterations in the budget.

After the budget resolution has been adopted, the council shall have no power to increase the expenditure amounts fixed in the budget resolution on a total fund basis by the insertion of new items or otherwise beyond the estimated revenues, unless the actual receipts exceed the estimates and then, not beyond the actual receipts or by specific appropriations of reserves. The city council shall approve any transfer among programs in the Annual Budget.

The council may, by resolution, approved by a vote of five (5) members, reduce the sums appropriated for any purpose by the budget resolution; or may expend sums for any lawful purpose as long as the total appropriations for a fund is not exceeded, unless otherwise amended.

(Ord. No. 469, 11-20-1975; Ord. No. 87-1103, 3-19-1987; Ord. No. 99-1801, 8-19-1999)

Sec. 7.09. Emergency appropriation in budget.

The council may include an emergency appropriation as a part of the budget but not to exceed ten (10) percent of the total budget. A transfer from the emergency appropriation to any other appropriation shall be made only by a vote of at least five (5) members of the council and shall be used only for the purposes designated by the council.

(Ord. No. 470, 11-20-1975)

Sec. 7.10. Disbursements; how made.

No disbursement of city funds shall be made except by such means as allowed in MN statutes. Each disbursement shall specify the purposes for which the disbursement is made and the fund from which it is drawn. No such payment shall be made until there is money to the credit of the fund from which it is to be paid sufficient to pay it together with all outstanding encumbrances upon the fund. No payment shall be made until the claim to which it relates has been supported by a purchase order, payroll, time sheet, or contract approved and signed by the responsible city officer who vouches for its correctness and reasonableness. The city manager, or the city manager's appointed delegate shall note on each contract requiring the payment of money by the city the particular fund out of which it is to be paid. The council may by ordinance make further regulations for the safekeeping and disbursement of the funds of the city.

(Ord. No. 99-1801, 8-19-1999; Ord. No. 13-2263, 6-6-2013)

Sec. 7.11. Funds to be kept.

There shall be maintained in the city a classification of funds which shall provide for a general fund for the payment of such expenses of the city as the council may deem proper, and such other funds as may be required by statute, ordinance, or resolution. The council shall have full power by ordinance or resolution to make inter-fund loans, except from trust and agency funds, as may be deemed necessary and appropriate.

(Ord. No. 99-1801, 8-19-1999)

Sec. 7.12. Accounts and reports.

The city manager shall be the chief accounting officer of the city and of every branch thereof, and the council may prescribe and enforce proper accounting methods, forms, blanks, and other devices consistent with the law, this Charter, and the ordinances adopted in accordance therewith. The city manager shall submit to the council a quarterly statement showing the amount of money in the custody of the city, the status of all funds, and such other information about the finances of the city as the council may require. Once each year on or before the last day of March, the city manager shall submit a preliminary report to the council covering the entire financial operations of the city for the past year. A final summary report shall be published in the official city newspaper in accordance with M.S.A. ch. 471.697.

(Ord. No. 85-862, 2-21-1985; Ord. No. 87-1004, 2-5-1987; Ord. No. 99-1801, 8-19-1999)

Sec. 7.13. City indebtedness.

Except as provided in sections 7.14 and 7.15, no obligation shall be issued to pay current expenses, but the council may issue and sell obligations for any other municipal purpose in accordance with law and within the limitations provided by

law. No such obligation shall be issued and sold without the approval of the majority of the registered voters of the city voting thereon at a general or special election, except obligations issued under sections 7.14 and 7.15, and obligations of kinds as to which state law provides that an election shall not be required to authorize them, and obligations authorized by state law to be issued by the city council without the express requirement of an election. When obligations are issued and sold pursuant to proper authorization, the proceeds are appropriated for expenditure for the purposes for which the obligations are authorized.

(Ord. No. 255, 1-21-1971; Ord. No. 17-2385, 11-16-2017)

Sec. 7.14. Tax anticipation certificates.

At any time after January first following the making of an annual tax levy, the council may issue certificates of indebtedness in anticipation of the collection of taxes levied for any fund and not yet collected. The total amount of certificates issued against any fund for any year with interest thereon until maturity shall not exceed sixty (60) percent of the total current taxes for the fund uncollected, at the time of issuance plus the cash on hand in the fund. Such certificates shall be issued on such terms and conditions as the council may determine and shall bear interest at a rate not to exceed the legal rate, but they shall become due and payable not later than the first day of April 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 in the order of their issuance against the fund.

Sec. 7.15. Emergency debt certificates.

If in any year the receipts from the taxes or other sources should from some unforeseen cause become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency should subject the city to the necessity for making extraordinary expenditures the council may by ordinance issue and sell on such terms and in such manner as the council determines emergency debt certificates not to exceed two (2) years. A tax sufficient to pay principal and interest on such certificates with the margin required by law shall be levied as required by law. The ordinance authorizing an issue of such emergency debt certificates shall state the nature of the emergency and be approved by at least five (5) members of the council. It may be passed as an emergency ordinance.

(Ord. No. 471, 11-20-1975; Ord. No. 99-1801, 8-19-1999)

Sec. 7.16. Bonds outside the debt limit.

The council may issue bonds for legal purposes outside the debt limit as provided by law.

CHAPTER 8. PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS**Sec. 8.01. Power to make improvements and levy assessments.**

The city shall have the power to make any and every type of public improvement not forbidden by the laws of this state and to levy special assessments to pay all or any part of the cost of such improvements as are of a local character. The amounts assessed to benefitted property to pay for such local improvement may equal the cost of the improvement, including all costs and expenses connected therewith, with interest, until paid, but shall in no case exceed the benefits to the property.

Sec. 8.02. Assessments for services.

The council may provide by ordinance that the cost of any service to streets, sidewalks, or other public property, or the costs of any services to other property undertaken by the city may be assessed against the property benefitted and collected in like manner as are special assessments.

Sec. 8.03. Local improvements; regulations.

The council may prepare and adopt a comprehensive ordinance describing the procedure which shall be followed in making local improvements and levying assessments therefor. Such ordinance may be amended only by an affirmative vote of at least five (5) members of the council. Local improvements may also be made and assessments levied therefor as prescribed by state law unless such ordinance if authorized by state law, provides that such proceedings shall be taken only in accordance with provisions of the ordinance. No defect, irregularity or omission of any kind in any proceeding taken in the authorization of any improvements or the making of any contract or the levy of any assessment therefor, or in the giving of any notice or the holding of any hearing in connection therewith, shall affect the validity of any contract for the making of the improvement when it is executed or of any bond issued to finance the improvement when the proceeds thereof are received by the city. No such defect, irregularity, or omission shall affect the validity of any special assessment levied for an improvement, except to the extent, if any, that such defect, irregularity, or omission impairs the constitutional right of each property owner to effective notice of and opportunity for hearing on the question whether the assessment exceeds the benefit resulting from the improvement to the property upon which it is levied.

(Ord. No. 243, 7-9-1970; Ord. No. 472, 11-20-1975)

Sec. 8.04. Public works; how performed.

Public works, including all local improvements, may be constructed, extended, repaired and maintained either 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 laws of the state pertaining to and governing public works.

CHAPTER 9. EMINENT DOMAIN

Sec. 9.01. Power to acquire property.

The city is hereby empowered to acquire by purchase, gift, devise, or condemnation, any property, corporeal or incorporeal, either within or without its corporate boundaries, which may be needed by the city for any public use or purpose. Easements for slopes, fills, sewers, building lines, poles, wires, pipes, and conduits for water, gas, heat, and power may be acquired by gift, devise, purchase or condemnation in the manner provided by law.

Sec. 9.02. Proceedings in acquiring property.

The necessity for taking of any property by the city shall be determined by the council and shall be declared by a resolution which shall describe such property as nearly as may be and state the use to which it is to be devoted. The acquisition of such property may be accomplished by legal proceedings, as in taking land for public use by right of eminent domain according to the laws of this state, except as otherwise provided in this Charter. Any condemnation proceedings in progress when this Charter takes effect shall be continued and completed under the laws under which such proceedings were begun.

Sec. 9.03. Payment of award.

Whenever an award of damages is confirmed in any proceedings for the taking of property for public use by right of eminent domain, or whenever the court renders final judgment in any appeal from any such award and the time for abandoning such proceedings by the city has expired, the city shall, within sixty (60) days of such final determination pay the amount of the award or judgment of the court, as the case may be; and if not so paid, judgment therefor may be had against the city.

Sec. 9.04. City may abandon proceedings.

The city may, by resolution of the council at any stage of the condemnation proceedings, or at any time within thirty (30) days after final determination thereof, abandon such proceedings as to all or any part of the property sought to be acquired and shall pay all reasonable costs and expenses thereof including fees of counsel.

Sec. 9.05. City may take entire plant.

If the city condemns a public utility which is operated at the time of the commencement of the condemnation proceedings as one property or one system, it

shall not be necessary in the condemnation proceedings or any of the proceedings of the council, to describe or treat separately the different kinds of property composing such system; but all of the property, lands, articles, franchises, and rights which comprise such system may, unless otherwise ordered by the court, be treated together as one property and an award for the whole property in one lump sum may be made by the commissioners or other body assessing the damages on condemnation. This does not prevent the city, when the plant and property are separable into distinct parts, from acquiring only such parts or part thereof as may be necessary in the public interest.

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 semipermanent 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. Term.

No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding twenty (20) years shall be effective until approved by a majority of the registered voters voting thereon, at a general or special election.
(Ord. No. 17-2385, 11-16-2017)

Sec. 10.03. Public hearings.

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 twice in the official newspaper not less than twenty (20) days prior to the date of the hearing.

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 property by purchase or eminent domain.

Sec. 10.05. Renewals or extensions.

Every extension, renewal, or modification of any existing franchise or of any franchise granted hereafter 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 gas, water, heat, power, light, telephone, or other public utility for supplying its own needs for utility service or for supplying utility service to private consumers or both. It may construct all facilities reasonably needed for that purpose and may acquire any existing utility properties so needed; but no proceedings to acquire any such public utility shall be consummated unless the city has the money to pay for acquisition or has made provision for paying for the property proposed to be acquired. The operation of all public utilities owned by the city shall be under the supervision of the city manager.

(Ord. No. 99-1802, 8-19-1999)

Sec. 11.02. Rates and finances.

Upon recommendations made by the city manager or upon its own motion, the council may fix rates, fares, and prices for municipal utilities, but such rates, fares and prices shall be just and reasonable, before any such rates, fares, or prices are fixed by the council. In like manner the council may prescribe the time and manner in which payments for all such services shall be made, and may make such other regulations as may be necessary, and prescribe penalties for violation of such regulations.

Sec. 11.03. Purchase in bulk.

The council may, in lieu of providing for the local production of gas, electricity, water and other utilities, purchase the same in bulk and resell them to local consumers at such rates as it may fix.

Sec. 11.04. Lease of plant.

The council may, if the public interests will be served thereby, contract with any responsible person, co-partnership, or corporation for the operation of any utility owned by the city, upon such rentals and conditions as it may deem necessary; but such contract shall be embodied in and let only by an ordinance approved by five (5)

members of the council and subject to popular referendum. Such ordinance shall not be an emergency ordinance. In no case shall such contract be for a longer term than ten (10) years.

(Ord. No. 473, 11-20-1975)

Sec. 11.05. Public utility; how sold.

No public utility owned by the city shall be sold or otherwise disposed of 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 registered voters voting thereon at a general or special election. In the case of a water works or light plant, any sale, lease, or abandonment shall be subject, in addition, to the requirements of state law. (Ord. No. 17-2385, 11-16-2017)

Sec. 11.06. Notice of hearings.

Notice of hearings shall be published at least twice in the official newspaper not less than twenty (20) days prior to the date of hearing. Additional notice of such public hearing may be given in such manner as the council may determine.

CHAPTER 12. MISCELLANEOUS AND TRANSITORY PROVISIONS

Sec. 12.01. Official publications.

The council shall annually designate a legal 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.

Sec. 12.02. Oath of office.

Every officer of the city shall, before entering upon the duties of such office, take and subscribe on oath of office in substantially the following form: "I do solemnly swear (or affirm) to support the Constitution of the United States, the laws of the State of Minnesota, the Charter and the Municipal Code of the City of Blaine and to faithfully discharge the duties as (mayor, councilmember, city manager, etc.) of the City of Blaine to the best of my judgment and ability."

(Ord. No. 99-1803, 8-19-1999)

Sec. 12.03. City officers not to be interested in contracts.

Except as otherwise permitted by law, no officer of the city who is authorized to take part in any manner in any contract with the city shall voluntarily have a personal financial interest in such contract or personally benefit financially therefrom.

Sec. 12.04. Official bonds.

The city manager, the city clerk, the city treasurer, and such other officers or employees of the city as may be provided for by ordinance shall each before entering upon the duties of such respective office or employment, give a corporate surety bond to the city in such form and in such amount as may be fixed by the council as security for the faithful performance of either individual or blanket bonds in the discretion of the council. They shall be approved by the city council and approved as to form by the city attorney and filed with the city clerk. The provisions of the laws of the state relating to the official bond not inconsistent with this Charter shall be complied with. The premiums on such bonds shall be paid by the city.

Sec. 12.05. Sales of real property.

No real property of the city shall be disposed of except by ordinance. The proceeds of any sale of such property 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. If there is no such outstanding indebtedness the proceeds shall be placed in the general fund.

All park and open space land shall be designated by the City Council by ordinance.

The city shall not sell lands designated as parks or open space.

Removal of a park or open space designation from lands owned by the city shall require the approval of fifty-one percent (51%) of those voting on the question at a regular municipal election.

(Ord. No. 99-1827, 1-20-2000)

Sec. 12.06. Vacation of streets, alleys, public grounds, public way, easement, or any part thereof.

The council may by resolution approved as outlined in M.S.A. § 412.851 vacate any street, alley, public ground, public way, easement, or part thereof within the city. Such vacation may be made only after published and written notice and an opportunity for affected property owners and the 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.

(Ord. No. 474, 11-20-1975; Ord. No. 15-2316, 8-20-2015)

Editor's note—Ord. No. 15-2316, adopted August 20, 2015, amended § 12.06 to read as set out herein. Previously § 12.06 was titled "Vacation of streets."

Sec. 12.07. City to succeed to rights and obligations of former village.

The city shall succeed to all the property, rights and privileges, and shall be subject to all the legal obligations of the preceding village.

Sec. 12.08. Statutes not affected by Charter.

All general laws and statutes of the state applicable to all cities operating under home rule charters, or applicable to cities of the same class as the City of Blaine operating under home rule charters, and not inconsistent with the provisions of this Charter, shall apply to the City of Blaine, and shall be construed as supplementary to the provisions of this Charter.

Sec. 12.09. Existing ordinances continued.

All ordinances and regulations of the city in force when this Charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in full force and effect until amended or repealed.

Sec. 12.10. Pending condemnations and assessments.

Any condemnations or assessment proceeding in progress when this Charter takes effect shall be continued and completed under the laws under which such proceedings were begun. All assessments made by the city prior to the time when this Charter takes effect shall be collected and the lien thereof enforced in the same manner as if this Charter had not been adopted.

Sec. 12.11. Ordinances to make Charter effective.

The council shall by ordinance make such regulations as may be necessary to carry out and make effective the provisions of this Charter.

CHARTER COMPARATIVE TABLE

LEGISLATION

This table shows the location of the amendments to the Charter,
adopted November 3, 1964.

Legislation	Date	Section	Charter Section
Ord. No. 239	7-2-1970	—	4.03
Ord. No. 243	7-9-1970	—	8.03
Ord. No. 248	12-17-1970	—	5.12
Ord. No. 251	1-21-1971	—	2.05
Ord. No. 252	4-29-1971	—	3.01
Ord. No. 253	1-21-1971	—	4.06
Ord. No. 254	1-21-1971	—	7.05
Ord. No. 255	1-21-1971	—	7.13
Ord. No. 354	6-6-1974	—	2.10
Ord. No. 355	6-6-1974	—	3.01
Ord. No. 356	6-6-1974	—	6.05
Ord. No. 357	6-6-1974	—	6.06
Ord. of 11-5-1974	11-5-1974	—	2.03
		—	2.03(a)
Ord. No. 466	11-20-1975	—	3.01
Ord. No. 467	11-20-1975	—	3.06
Ord. No. 468	11-20-1975	—	6.06
Ord. No. 469	11-20-1975	—	7.08
Ord. No. 470	11-20-1975	—	7.09
Ord. No. 471	11-20-1975	—	7.15
Ord. No. 472	11-20-1975	—	8.03
Ord. No. 473	11-20-1975	—	11.04
Ord. No. 474	11-20-1975	—	12.06
Ord. No. 676	2-21-1980	—	6.05, 6.06
Ord. No. 689	6-19-1980	—	3.05
Ord. No. 690	6-19-1980	—	6.02
Ord. No. 750	3-18-1982	—	4.06
Ord. No. 756	6-14-1982	—	2.03(a)
Ord. No. 83-784	4-7-1983	—	3.08
Ord. No. 84-816	3-15-1984	—	2.06
Ord. No. 84-818	3-15-1984	—	6.05
Ord. No. 85-862	2-21-1985	—	7.12
Ord. No. 85-884	8-15-1985	—	2.07
Ord. No. 87-1004	2-5-1987	—	7.12
Ord. No. 87-1103	3-19-1987	—	7.08
Ord. No. 88-1098	11-3-1988	—	4.06
Ord. No. 89-1126	5-4-1989	—	2.05
Ord. No. 91-1268	1-9-1992	—	2.03(a)
Ord. No. 91-1270	1-9-1992	—	5.02
Ord. No. 92-1311	12-17-1992	—	3.01
Ord. No. 92-1312	12-17-1992	—	3.09
Ord. No. 92-1313	12-17-1992	—	6.06
Ord. No. 92-1316	1-7-1993	—	2.03
Ord. No. 94-1521	6-2-1994	—	3.10

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Legislation	Date	Section	Charter Section
Ord. No. 97-1685	11-20-1997	—	4.06
Ord. No. 98-1703	4-2-1998	—	4.04
Ord. No. 98-1708	5-21-1998	—	2.05
Ord. No. 99-1800	8-19-1999	—	6.03—6.05
Ord. No. 99-1801	8-19-1999	—	7.05—7.08
		—	7.10—7.12
		—	7.15
Ord. No. 99-1802	8-19-1999	—	11.01
Ord. No. 99-1803	8-19-1999	—	12.02
Ord. No. 99-1827	1-20-2000	—	12.05
Ord. No. 01-1916	11-15-2001	—	3.01
		—	3.07
Ord. No. 01-1917	11-15-2001	—	4.02
		—	4.05
Ord. No. 01-1918	11-15-2001	—	5.03
		—	5.10
Ord. No. 01-1919	11-15-2001	—	7.07
Ord. No. 10-2208	7-15-2010	—	4.03
		—	4.06—4.08
Ord. No. 12-2239	3-15-2012	—	2.03
		—	2.03(a)
		—	4.06
Ord. No. 13-2263	6-6-2013	—	7.10
Ord. No. 15-2313	6-4-2015	—	6.05
Ord. No. 15-2316	8-20-2015	—	12.06
Ord. No. 17-2385	11-16-2017	—	4.02
		—	4.04—4.06
		—	4.08
		—	5.01
		—	5.04—5.07
		—	5.09
		—	5.10, 5.11
		—	7.13
		—	10.02
		—	11.05
Ord. No. 19-2427	6-17-2019	—	6.05

PART II
CODE OF ORDINANCES

Subpart A
General Ordinances

Chapter 1

GENERAL PROVISIONS

- Sec. 1-1. Designation and citation of Code.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Catchlines of sections; history notes; references.
- Sec. 1-4. Effect of repeal of ordinances.
- Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.
- Sec. 1-6. Supplementation of Code.
- Sec. 1-7. General penalty; continuing violations.
- Sec. 1-8. Severability.
- Sec. 1-9. Provisions deemed continuation of existing ordinances.
- Sec. 1-10. Code does not affect prior offenses or rights.
- Sec. 1-11. Certain ordinances not affected by Code.

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in this and the following chapters shall constitute and be designated the "Code of Ordinances, City of Blaine, Minnesota," and may be so cited. Such ordinances may also be cited as the "Blaine City Code."

(Code 1980, § 1-1; Code 2004, § 1-1)

State law reference—Authority to codify, M.S.A. § 415.021.

Sec. 1-2. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

Charter. The terms "Charter" and "city Charter" means the Charter of the City of Blaine, as amended.

City. The term "city" means the City of Blaine, Minnesota.

City council, council. The terms "city council" and "council" means the council of the City of Blaine, Minnesota.

Code. The term "Code" means The Code of Ordinances, City of Blaine, Minnesota, as designated in section 1-1.

Computation of time. The provisions of M.S.A. §§ 645.13—645.151 apply to this Code, as mandated by such statutes.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunctions "and," "or," or "either ... or," the conjunctions shall be interpreted as follows, except that, when appropriate from the context, the terms "and" and "or" are interchangeable:

- (1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.
- (2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) The term "either ... or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County. The term "county" means Anoka County, Minnesota.

Delegation of authority. A provision that authorizes or requires a city officer or city employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

Following. The term "following" means next after.

Gender. Words of gender include all genders.

Includes. The term "includes" does not limit a term to a specified example.

Joint authority. Terms giving a joint authority to three or more persons give such authority to a majority of such persons.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition.

Minn. R. The abbreviation "Minn. R." means Minnesota Rules.

M.S.A. The abbreviation "M.S.A." means the Minnesota Statutes, as amended.

Month. The term "month" means a calendar month.

Must. The term "must" is to be construed as being mandatory.

Number. Terms in the singular include the plural. Terms in the plural include the singular.

Oath. A solemn affirmation is the equivalent to an oath, and a person shall be deemed to have sworn if such person makes such an affirmation.

Officers, departments, etc. References to officers, departments, boards, commissions or employees are to city officers, city departments, city boards, city commissions and city employees.

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property.

Person. The term "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

Personal property. The term "personal property" means any property other than real property.

Preceding. The term "preceding" means next before.

Premises. The term "premises," as applied to real property, includes land and structures.

Property. The term "property" includes real property, personal property and mixed property.

Real property, real estate, land. The terms "real property," "real estate," and "land" include lands, buildings, tenements and hereditaments and all rights and interests therein except chattel interests.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means that portion of a street between the curbline, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians. If there is no public area between the lateral lines of the roadway and the abutting property line, then the area immediately abutting the street line shall be construed as the sidewalk.

Signature, subscription. The terms "signature" and "subscription" include a mark when the signer or subscriber cannot write. In such situations, such person's name shall be written near the mark by a witness who writes said witness' own name near such person's name.

State. The term "state" means the State of Minnesota.

Street. The term "street" means any alley, avenue, boulevard, highway, road, lane, viaduct, bridge and the approach thereto, and any other public thoroughfare in the city. The term "street" also means the entire width thereof between abutting property lines. The term "street" includes a sidewalk or footpath.

Tenant, occupant. The terms "tenant" and "occupant," as applied to a building or land, include:

- (1) Any person holding, either alone or with others, a written or oral lease of such building or land.
- (2) Any person who, either alone or with others, occupies such building or land.

Tenses. The present tense includes the past and future tenses. The future tense includes the present tense.

Writing. The term "writing" includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is authorized or required, it shall be made in writing in the English language.

Year. The term "year" means a calendar year.
(Code 1980, § 1-2; Code 2004, § 1-2)

State law reference—Interpretation of statutes generally, M.S.A. § 415.021.

Sec. 1-3. Catchlines of sections; history notes; references.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) The history or source notes appearing in parenthesis after sections in this Code have no legal effect and only indicate legislative history. Editor's notes, Charter references, cross references and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the code and have no legal effect.

(c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

(Code 1980, §§ 1-4, 1-5; Code 2004, § 1-3)

State law reference—Similar provisions, M.S.A. § 645.49.

Sec. 1-4. Effect of repeal of ordinances.

(a) Unless specifically provided otherwise, the repeal of an ordinance does not revive any repealed ordinance.

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

(Code 2004, § 1-4)

State law reference—Similar provisions, M.S.A. §§ 645.35, 645.36.

Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.

(b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) ____ of the Code of Ordinances, City of Blaine, Minnesota, is hereby amended to read as follows:"

(c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) ____ of the Code of Ordinances, City of Blaine, Minnesota, is hereby created to read as follows:"

(d) All provisions desired to be repealed should be repealed specially by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

(Code 2004, § 1-5)

Sec. 1-6. Supplementation of Code.

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:

- (1) Arrange the material into appropriate organizational units.
- (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
- (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.
- (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
- (5) Change the terms "this ordinance" or similar terms to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections ____ to ____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).
- (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

(Code 1980, § 1-7; Code 2004, § 1-6)

Sec. 1-7. General penalty; continuing violations.

(a) In this section, the term "violation of this Code" means any of the following:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation, petty misdemeanor or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

- (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
- (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation, petty misdemeanor or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
- (4) Counseling, aiding or abetting a violation of this Code, as defined in subsections (a)(1) through (3) of this section.

(b) In this section, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided by law or ordinance and unless declared by ordinance or state law to be a petty misdemeanor, a person convicted of a violation of this Code shall be punished by a fine of not more than \$1,000.00, imprisonment for a term not exceeding 90 days, or any combination thereof. Except as otherwise provided by law or ordinance, a violation of this Code that is a petty misdemeanor shall be punished by a fine not exceeding \$300.00. In any case, a person convicted of a violation of this Code shall pay the costs of prosecution. Except as otherwise provided by law or ordinance:

- (1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
- (2) With respect to violations of this Code that are not continuous with respect to time, each act is a separate offense.

(d) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(e) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

(Code 1980, §§ 1-8, 1-9; Code 2004, § 1-7)

State law reference—Authorized penalty for ordinance violations, M.S.A. §§ 410.33, 412.231, 609.0332, 609.034.

Sec. 1-8. Severability.

The sections, subsections, paragraphs, sentences, clauses and phrases of this Code and all provisions adopted by reference in this Code are severable so that, if any section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other section, subsection, paragraph, sentence, clause

and phrase of this Code or of any provision adopted by reference in this Code, for the council declares that it is its intent that it would have enacted this Code and all provisions adopted by reference in this Code without such invalid or unconstitutional provisions. If any provision of this Code is declared to be inapplicable to specific property by a valid judgment of a court of competent jurisdiction, such judgment shall not restrict the applicability of such provision to other property.
(Code 1980, § 1-6; Code 2004, § 1-8)

Sec. 1-9. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the city relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.
(Code 2004, § 1-9)

Sec. 1-10. Code does not affect prior offenses or rights.

(a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.

(b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.

(Code 2004, § 1-10)

Sec. 1-11. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance listed in this section. Such ordinances continue in full force and effect to the same extent as if published at length in this Code.

- (1) Amending the city Charter.
- (2) Annexing property into the city.
- (3) Deannexing property or excluding property from the city.
- (4) Providing for salaries or other employee benefits not codified in this Code.
- (5) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (6) Authorizing or approving any contract, deed, or agreement.
- (7) Making or approving any appropriation or budget.
- (8) Granting any right or franchise.
- (9) Vacating any easement or park land.

- (10) Adopting or amending the comprehensive plan.
 - (11) Levying or imposing any special assessment.
 - (12) Dedicating, establishing naming, locating, relocating, opening, paving, widening, repairing or vacating any street.
 - (13) Establishing the grade of any street or sidewalk.
 - (14) Dedicating, accepting or vacating any plat or subdivision.
 - (15) Levying, imposing or otherwise relating to taxes not codified in this Code.
 - (16) Establishing traffic regulations for specific locations not codified in this Code.
 - (17) Relating to zoning, including, but not limited to, ordinances rezoning property and the basic zoning ordinance and amendments thereto.
 - (18) That is temporary, although general in effect.
 - (19) That is special, although permanent in effect.
 - (20) The purpose of which has been accomplished.
- (Code 2004, § 1-11)

Chapter 2

ADMINISTRATION*

Article I. In General

Secs. 2-1—2-20. Reserved.

Article II. City Council

- Sec. 2-21. Salaries of mayor and councilmembers.
- Sec. 2-22. Workers' compensation coverage of councilmembers.
- Sec. 2-23. Rules of order and procedure.
- Sec. 2-24. Hearing prior to bond issuance for recreational facilities.
- Sec. 2-25. Recordkeeping.
- Secs. 2-26—2-51. Reserved.

Article III. Officers and Employees

Division 1. Generally

- Sec. 2-52. Authority of community service officers to issue tags and citations.
- Sec. 2-53. Criminal history background investigations.
- Secs. 2-54—2-79. Reserved.

Division 2. Code of Ethics

- Sec. 2-80. Penalty.
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- Sec. 2-82. Scope of persons covered.
- Sec. 2-83. Exemptions.
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- Sec. 2-85. Disclosures.
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- Secs. 2-87—2-115. Reserved.

Article IV. Finance

Division 1. Generally

- Sec. 2-116. Sale of lost or stolen articles.
- Secs. 2-117—2-145. Reserved.

***State law reference**—Classification of cities and home rule Charter, M.S.A. ch. 410.

BLAINE CITY CODE

Division 2. Capital Improvements Fund

- Sec. 2-146. Created.
- Sec. 2-147. Expenditure limitations.
- Sec. 2-148. Expenditure procedure.
- Sec. 2-149. Amendments.
- Secs. 2-150—2-166. Reserved.

Article V. Ordinance Violations

Division 1. Generally

- Secs. 2-167—2-185. Reserved.

Division 2. Administrative Adjudication

- Sec. 2-186. Purpose.
- Sec. 2-187. Definitions and procedures.
- Sec. 2-188. Issuance of ordinance violation summons.
- Sec. 2-189. Citizen complaints.
- Secs. 2-190—2-216. Reserved.

Article VI. Boards and Commissions

- Sec. 2-217. Special board of review.

ARTICLE I. IN GENERAL

Secs. 2-1—2-20. Reserved.

ARTICLE II. CITY COUNCIL

Sec. 2-21. Salaries of mayor and councilmembers.

Pursuant to the city Charter section 2.07, and M.S.A. § 415.11, as amended, the salary of the mayor shall be increased to \$1,526.25 per month, and the salary of the councilmembers shall be increased to \$1,121.80 per month, effective January 1, 2025.

(Code 1963, § 111.01; Code 1980, § 2-3; Code 2004, § 2-31; Ord. No. 342, 12-20-1973; Ord. No. 743, 10-29-1981; Ord. No. 83-811, 12-1-1983; Ord. No. 84-848, 12-20-1984; Ord. No. 85-911, 12-5-1985; Ord. No. 86-993, 11-20-1986; Ord. No. 87-1057, 12-17-1987; Ord. No. 89-1138, 4-20-1989; Ord. No. 90-1183, 1-18-1990; Ord. No. 91-1244, 1-17-1991; Ord. No. 92-1275, 2-6-1992; Ord. No. 92-1315, 1-7-1993; Ord. No. 93-1495, 1-6-1994; Ord. No. 94-1544, 1-5-1995; Ord. No. 95-1585, 12-21-1995; Ord. No. 96-1624, 1-2-1997; Ord. No. 97-1692, 1-8-1998; Ord. No. 98-1765, 1-7-1999; Ord. No. 99-1825, 12-16-1999; Ord. No. 01-1934, 1-3-2002; Ord. No. 04-2028, 10-21-2004; Ord. No. 06-2073, 2-2-2006; Ord. No. 14-2288, 9-18-2014; Ord. No. 24-2541, 2-21-2024)

Sec. 2-22. Workers' compensation coverage of councilmembers.

Pursuant to M.S.A. ch. 176, the members of the council are hereby provided workers' compensation coverage while engaged in the course of their duties as elected officials of the city.

(Code 1963, § 111A.01; Code 1980, § 2-4; Code 2004, § 2-32; Ord. No. 395, 9-19-1974)

Sec. 2-23. Rules of order and procedure.

The following rules of order and procedure shall govern the deliberations and the meetings of the council and of committees thereof:

- (1) Regular meetings of the council shall be held on the first and third Mondays of each month at the hour of 7:00 p.m. Any regular meeting falling upon a legal holiday shall be held within seven days following the legal holiday at the same hour.
- (2) The council may, by a majority vote of those present, adjourn from time to time to a certain special date and hour, and no notice is required to be served in the case of adjourned meetings.
- (3) The council shall determine the order in which business shall be conducted at council meetings. In the absence of a secretary, the mayor, or the president pro tem, in the absence of the mayor, shall appoint a secretary pro tem.

- (4) The proceedings of the meeting shall be conducted in accordance with the parliamentary rules contained in Robert's Rules of Order, Newly Revised, unless otherwise provided by statute or by these rules; except that failure to comply with such Robert's Rules of Order, Newly Revised, shall not invalidate any council action.
 - (5) To better ensure a safe and secure environment for the public, elected officials, and staff during public meetings, while the city council is in session, as well as the time period before convening and after adjournment when the mayor councilmembers are present in the chambers, only the following persons shall be admitted within the bar and upon the dais:
 - a. Mayor and city councilmembers of the city council; and
 - b. City manager or their designee; and
 - c. City clerk and staff from the city clerk's office; and
 - d. Representatives from the police department; and
 - e. City staff presenting agenda items to the council; and
 - f. City attorney and staff from the city attorney's office.
 - (6) The mayor or any councilmember, with the consent of a majority of city council, may invite other persons within the bar and upon the dais for specific, limited purposes, such as the presentation of special honors or recognitions.
- (Code 1963, § 110.01; Code 1980, § 2-1; Code 2004, § 2-33; Ord. No. 475, 10-16-1975; Ord. No. 481, 1-20-1975; Ord. No. 86-997, 12-18-1986; Ord. No. 18-2422, 2-7-2019; Ord. No. 23-2538, 12-18-2023; Ord. No. 23-2521, 1-30-2023)

Sec. 2-24. Hearing prior to bond issuance for recreational facilities.

Prior to authorization by the city to issue bonds pursuant to M.S.A. §§ 471.15 through 471.191, the council shall hold a public hearing preceded by two publications in the legal newspaper of a notice stating the general nature of the proposal. The two publications shall be a week apart and the hearing shall be at least three days after the last publication.

(Code 1963, § 110.02; Code 1980, § 2-2; Code 2004, § 2-34; Ord. No. 564, 8-3-1978)

State law references—Public indebtedness, M.S.A. ch. 475; referendum required for certain bond issues, M.S.A. § 475.58; notice of bond referenda, M.S.A. §§ 475.59, 205.16.

Sec. 2-25. Recordkeeping.

(a) The city clerk is responsible for the safe and orderly keeping of ordinances, resolutions and policies adopted by the city council. The clerk must maintain a current record of adopted ordinances, resolutions and council policies.

(b) The city clerk may make minor, non-substantive corrections to this Code, ordinances, resolutions and council policies, upon the written advice or recommendation of the city attorney and without the necessity of further council action. The city attorney must confirm that the proposed changes do not alter the meaning of the record being corrected. The corrections authorized by this subsection include, but are not limited to:

- (1) Correction of grammatical, punctuation and spelling errors;
- (2) Correction of typographical errors;
- (3) Removal of duplicate pages;
- (4) Correction of incorrect references to federal laws, statutes, this Code, or other similar legal or technical sources;
- (5) Substitution of written words for figures and vice versa;
- (6) Corrections to legal descriptions of real property, as may be required to enable recording of a record; provided that any change must be consistent with parcel sketches or other depictions provided to the council at the time of council approval of the ordinance or resolution that is corrected.

Secs. 2-26—2-51. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Sec. 2-52. Authority of community service officers to issue tags and citations.

In addition to all other authority vested in community service officers employed by the city pursuant to ordinance or statute, community service officers shall have the authority to issue citations or tags for violations of statutes or ordinances in lieu of arrest or continued detention.

(Code 1980, § 2-8; Code 2004, § 2-71; Ord. No. 88-1062, 2-4-1988)

Sec. 2-53. Criminal history background investigations.

(a) *Authority; extent of investigations.* The city police department shall conduct criminal history background investigations on:

- (1) Volunteers working with the city, including, but not limited to:
 - a. Reserves;
 - b. Explorers;
 - c. Citizen academy applicants;

- d. City public safety association members;
 - e. Ride-along applicants and crime watch block captains;
any of whom may have certain access to police data.
- (2) Applicants for city licenses, including, but not limited to, tobacco, peddler and transient merchant/circus licenses.

(b) *Conducting criminal history background checks.* In conducting the criminal history background investigation, the police chief, or designee, is authorized to access data maintained in the state bureau of criminal apprehensions (BCA) computerized criminal history information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the police department under the care and custody of the chief law enforcement official, or designee. A summary of the results of the computerized criminal history data may be released by the police department to the human resources department, the licensing authority, the city council, the city clerk, or other city staff involved in the license or volunteer approval process.

(Code 2004, § 2-251; Ord. No. 10-2214, 12-2-2010)

Secs. 2-54—2-79. Reserved.

DIVISION 2. CODE OF ETHICS

Sec. 2-80. Penalty.

Any person who shall violate any of the provisions of this division shall be guilty of a misdemeanor.

(Code 1963, § 114A.07; Code 1980, § 2-36; Code 2004, § 2-91; Ord. No. 647, 8-2-1979)

State law reference—Penalty for ordinance violations, M.S.A. §§ 410.33, 412.231, 609.0332, 609.034.

Sec. 2-81. Purpose.

The council confirms its determination that ethical standards among its members, as well as the members of the various commissions of the city, are essential to the public affairs of the city. The purpose of this division is to establish ethical standards of conduct for city officials by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officials of private, financial or other interests in matters affecting the city. By eliminating conflicts of interest and providing a guide for conduct in city matters, the council hopes to promote the faith and confidence of the citizens of the city in their government. This division is hereby declared to be in the best interests of the city.

(Code 1963, § 114A.01; Code 1980, § 2-30; Code 2004, § 2-92; Ord. No. 647, 8-2-1979)

Sec. 2-82. Scope of persons covered.

The provisions of this division shall be applicable to all members of the council, Charter commission, all advisory commission and committee members and top level city employees defined as the city manager, department managers, city attorney, and supervisory city employees, specifically directors, police chief, city clerk, and chief building official.

(Code 1963, § 114A.02; Code 1980, § 2-31; Code 2004, § 2-93; Ord. No. 647, 8-2-1979; Ord. No. 14-2277, 1-16-2014)

Sec. 2-83. Exemptions.

This division shall not be construed to require the filing of any information relating to any person's connection with, or interest in, any professional society or any charitable, religious, social, fraternal, educational, recreational, public service, civic or political organization, or any similar organization not conducted as a business enterprise or governmental agency, and which is not engaged in the ownership or conduct of such a business enterprise or governmental agency.

(Code 1963, § 114A.05; Code 1980, § 2-34; Code 2004, § 2-94; Ord. No. 647, 8-2-1979)

Sec. 2-84. Standards of conduct.

(a) No councilmember or member of any board or commission or covered city employee shall use such position to secure special privileges, or exemptions for such person or others.

(b) No councilmember or member of a board or commission or covered city employee in any matter before the council, board or commission which affects such member's or employee's financial interests or those of a business with which such member or employee is associated, unless the effect on such member or employee is no greater than on other members of such member's or employee's business classification, profession or occupation, shall fail to disclose for the common good for the record such interest prior to any discussion or vote.

(c) No councilmember or member of a board or commission or covered city employee shall act as an agent or attorney for another in any matter before the council or any board or commission in which a conflict of interest exists or may exist.

(d) No councilmember or commissioner or covered city employee shall directly or indirectly receive, or agree to receive, any compensation, gift or reward or gratuity in any matter or proceeding connected with, or related to, the duties of such member's or employee's office except as may be provided by law.

(e) No councilmember or member of any board or commission or covered city employee shall enter into any contract with the city, except as specifically authorized in M.S.A. § 471.88. Any councilmember or member of a board or

commission or covered city employee who has a proprietary interest in any agency doing business with the city shall make known that interest in writing to the council and the city clerk.

(Code 1963, § 114A.03; Code 1980, § 2-32; Code 2004, § 2-95; Ord. No. 647, 8-2-1979)

State law reference—Prohibited interests in contracts, M.S.A. § 471.87 et seq.

Sec. 2-85. Disclosures.

No later than 30 days after qualification for or appointment to office, or 30 days after the acquisition or sale of any real property, or 30 days after a change in the statement as originally filed, each councilmember or member of a board or commission or covered city employee, shall file as a public record with the city clerk a list of all real property in the city, owned by such person, such person's spouse, or minor child, or in which such person, such person's spouse, or minor child has a legal or equitable title, disclosing each property owned and the owner of same. Each councilmember and member of a board or commission or covered city employee shall disclose all positions as officer, director, partner, proprietor or employee of any company, business enterprise or corporation, partnership, labor union or association doing business with the city, and indicate with respect to each such relationship whether services are gratuitous or for compensation.

(Code 1963, § 114A.04; Code 1980, § 2-33; Code 2004, § 2-96; Ord. No. 647, 8-2-1979)

Sec. 2-86. Form.

The disclosure information required in this division shall be set forth on the following form which shall be made available by the office of the city clerk and, upon completion thereof by a councilmember or member of a board or commission or covered city employee, shall be filed with the city clerk:

"Real Property Owned in the City of Blaine

List real property owned or being purchased by the councilmember or commissioner or covered city employee, spouse, or minor child, or in which such person has a legal or equitable title. The actual value of any property is not required.

Property	Assets	Location
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Identify all ownership or interests in corporation or other business enterprises or agencies doing business with the city.

Name of Organization	Affiliations
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Corporation, proprietorships, partnerships, labor unions or associations with organizations doing business with the city with which the councilmember or commissioner or covered city employee has an affiliation as officer, director, proprietor, partner or employee (including such position held by spouse).

Name of Organization	Position Held	Compensation Involved? Yes or No?
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(Code 1963, § 114A.06; Code 1980, § 2-35; Code 2004, § 2-97; Ord. No. 647, 8-2-1979)

Secs. 2-87—2-115. Reserved.

ARTICLE IV. FINANCE*

DIVISION 1. GENERALLY

Sec. 2-116. Sale of lost or stolen articles.

The police chief shall hold a public auction or sale of all lost, abandoned or unclaimed articles turned in to the police department and stolen articles recovered by the police department which are not claimed or returned to their rightful owner. The sale shall consist of such property that has remained unclaimed for a period of at least 60 days. The proceeds from such sale shall be deposited with the director of finance of the city and become a part of the city's general revenue fund, provided that the former owner of the property shall be entitled to the payment of the sale price of the property, as determined by the police chief, within six months of the sale. Notice of such public auction or sale shall be given in a legal newspaper at least ten days prior to such sale. If the sale is by public auction, the notice shall describe the property found or recovered and to be sold, and shall specify the time and place of the sale. The method and date of the sale shall be determined by the police chief, and such sale may be by either public auction or sale. The property may be sold or auctioned as individual items or in bulk units.

(Code 1963, § 75.01; Code 1980, § 8-1; Code 2004, § 2-1; Ord. No. 161, 8-15-1968; Ord. No. 88-1109, 12-15-1988)

State law reference—Authority to provide for disposal of unclaimed property and minimum requirements therefor, M.S.A. § 471.195.

Secs. 2-117—2-145. Reserved.

***State law references**—Municipal finance and taxation, M.S.A. ch. 426; depositories, M.S.A. ch. 427.

DIVISION 2. CAPITAL IMPROVEMENTS FUND

Sec. 2-146. Created.

(a) The city council has created a separate fund to be designated as the capital improvement fund (CIF). The purpose of the fund is to create an endowment from which future interest earnings fund projects or programs pursuant to city council priorities. The fund shall be maintained in the official city records and administered by the city manager in accordance with the following provisions of this division:

(b) The principal of the fund shall consist of all funds currently accounted for in the CIF. In addition, the fund principal shall be increased annually by an amount equal to ten percent of the investment earnings generated by the fund in the previous year. The remaining investment earnings shall be made available for funding council-approved projects or programs pursuant to section 2-147.

(c) In addition to funds currently on hand in the CIF, the city council may at any time and at its discretion, direct that funds be deposited into the CIF. Once deposited into the CIF, the funds shall be considered endowed funds for the purpose of generating investment earnings.

(Code 1980, § 8-2; Code 2004, § 2-151; Ord. No. 95-1576, 10-5-1995; Ord. No. 13-2267, 7-11-2013)

Sec. 2-147. Expenditure limitations.

(a) It is intended that the fund act as an endowment and that expenditures from the fund primarily be made from accumulated investment earnings. Expenditures from accumulated investment earnings shall be made upon the adoption of a resolution approved by an affirmative vote of at least five councilmembers.

(b) Expenditures may be made from fund principal by an affirmative vote of at least six members of the city council and may not exceed 50 percent of the fund's balance. At no time shall those funds considered to be principal funds of the CIF be allowed to fall below a balance of \$5,000,000.00. Principal expenditures may either be structured as an inter-fund loan to be repaid, or as an inter-fund grant, the repayment of which is not required. No further expenditures of any kind may be made from the fund until any required inter-fund loan payments or investment earnings have reestablished the fund's balance at an amount equal to that existing before the expenditures plus ten percent of the investment earnings that would have been earned per year if the principal had not been reduced.

(Code 1980, § 8-3; Code 2004, § 2-152; Ord. No. 95-1576, 10-5-1995; Ord. No. 98-1745, 10-1-1998; Ord. No. 00-1858, 11-7-2000; Ord. No. 13-2267, 7-11-2013)

Sec. 2-148. Expenditure procedure.

(a) Expenditures may be made from fund principal only after careful deliberation of the city council and only after compliance with the following procedures:

- (1) The city council must conduct a public hearing to obtain public comment on the matter.

- (2) A notice of the city's intention to use the fund and the date and time of the public hearing to obtain public comment on the matter must be published in the official newspaper of the city or in a manner as prescribed and allowed by state statutes and on the official website of the city at least 14 but not more than 28 days before the hearing, or in a manner as prescribed and allowed by state statutes.
- (3) The city may expend from the CIF only after obtaining the approval of a majority of the voters voting on the question if a petition requesting a vote on the issuance is signed by a number of voters equal to or greater than ten percent of the votes cast in the city in the last general election and is filed with the city clerk within 30 days after the public hearing.

(b) The city council must identify that the project has sufficient community-wide benefit which is consistent with other city goals, programs, or policies and incorporate this into an authorizing resolution adopted by an affirmative vote of at least six councilmembers.

(Code 1980, § 8-4; Code 2004, § 2-153; Ord. No. 95-1576, 10-5-1995; Ord. No. 00-1858, 11-7-2000; Ord. No. 13-2267, 7-11-2013)

Sec. 2-149. Amendments.

No amendments may be made to any section of this division except upon the affirmative vote of at least six members of the council.

(Code 1980, § 8-5; Code 2004, § 2-154; Ord. No. 95-1576, 10-5-1995; Ord. No. 13-2267, 7-11-2013)

Secs. 2-150—2-166. Reserved.

ARTICLE V. ORDINANCE VIOLATIONS

DIVISION 1. GENERALLY

Secs. 2-167—2-185. Reserved.

DIVISION 2. ADMINISTRATIVE ADJUDICATION

Sec. 2-186. Purpose.

Administrative offense procedures established pursuant to this division 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 ordinance provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as is provided for hereafter, the individual

may withdraw from participation in the procedures; in which event, the city, in its discretion, may choose not to continue an administrative offense and may bring civil or criminal charges in the first instance. If a party participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the city will seek to collect the costs of the administrative offense procedures as part of a subsequent criminal sentence if the party is charged and is found guilty of the criminal violation.

(Code 1980, § 2-41; Code 2004, § 2-201; Ord. No. 99-1804, 8-19-1999)

Sec. 2-187. Definitions and procedures.

(a) *Terms defined.* The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative offense means a violation of a provision of the city Code or building or zoning codes and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in subsection (h) of this section.

(b) *Notice of administrative citation.* Any officer of the police department or any other person employed by the city, authorized in writing by the city manager, and having authority to enforce this Code, shall, upon determining that there has been a violation, notify the violator, or in the case of a vehicular violation, attach to the vehicle a notice of the violation. Such notice shall set forth the nature, date and time of violation, the name of the official issuing the notice of administrative citation and the amount of the scheduled penalty.

(c) *Payment.* Once such notice is given, the alleged violator may, within 14 calendar days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for hereafter. The penalty may be paid in person or by mail. Payment by mail must be received by the city no later than 14 calendar days from the date of notice. Payment shall be deemed to be an admission of the violation.

(d) *Hearing.* Any person contesting an administrative offense pursuant to this section may, within 14 calendar days of the time of issuance of the notice, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed at the time of the hearing or within seven calendar days of the hearing, or in accordance with the payment schedule established by the hearing officer.

(e) *Hearing officer.* A city employee or other qualified person designated in writing by the city manager shall be the hearing officer. The hearing officer is hereby empowered to hear any contest brought forward under subsection (d) of this section.

(f) *Failure to pay.* If a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes or this Code. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such charge may be brought by the city for the same violation.

(g) *Disposition of penalties.* All penalties collected pursuant to this section shall be paid to the city and will be deposited in the city's general fund.

(h) *Offenses and penalties.* Offenses which may be charged as administrative offenses, and the penalties for such offenses will be established by the council. Copies of such offenses and penalties shall be maintained in the office of the city clerk.

(i) *Subsequent offenses.* If a party is charged with a subsequent administrative offense within a 12-month period of paying an administrative penalty for the same or substantially similar offense, the subsequent penalty shall be increased by 25 percent above the previous administrative penalty.

(Code 1980, § 2-42; Code 2004, § 2-202; Ord. No. 99-1804, 8-19-1999; Ord. No. 00-1868, 8-17-2000)

Sec. 2-188. Issuance of ordinance violation summons.

(a) The persons named in this section as employees or agents of the city shall have power to issue summons with complaints incorporated therein (citations) in the form adopted by rule by the administrative municipal court, but such issuance by those named shall relate only to offenses involving this Code, including, but not limited to, building construction, operation or maintenance; fire and fire prevention; public health and sanitation; and zoning. No such employee or agent authorized to issue such summons shall be authorized to arrest or otherwise take a violator into custody or to secure a promise to appear in court in lieu of arrest. Those authorized are as follows:

- (1) Chief building official/building officials.
- (2) City engineer/assistant city engineer.
- (3) Code compliance officers.
- (4) Community service officers.
- (5) Director of community development.
- (6) Fire marshal/deputy fire marshal.
- (7) Forester.
- (8) Police officers.

(b) Other employees or agents of the city specifically designated, in writing, by the city manager shall also have such authority.

(Code 1980, § 2-44; Code 2004, § 2-204; Ord. No. 99-1804, 8-19-1999; Ord. No. 00-1868, 8-17-2000)

Sec. 2-189. Citizen complaints.

Any city resident is hereby granted authority under this division to be the citing party for purposes of issuing notices of violation or citations. The resident signing the citation shall be responsible to appear before the hearing officer if a municipal court hearing is requested by the alleged violator.

(Code 1980, § 2-45; Code 2004, § 2-205; Ord. No. 00-1868, 8-17-2000)

Secs. 2-190—2-216. Reserved.

ARTICLE VI. BOARDS AND COMMISSIONS

Sec. 2-217. Special board of review.

Pursuant to section 7.04 of the city Charter and M.S.A. § 274.01, subd. 3, the city hereby transfers its local board powers and duties to the county board for at least the minimum period of three years as outlined by law.

(Code 1980, § 2-9; Code 2004, § 2-241; Ord. No. 93-1333, 1-20-1994; Ord. No. 21-2486, 12-6-2021)

Chapters 3—5

RESERVED

CD3:1

Chapter 6

ALCOHOLIC BEVERAGES*

Article I. In General

- Sec. 6-1. Adoption of state law by reference.
- Sec. 6-2. City may be more restrictive than state law.
- Sec. 6-3. Definitions.
- Sec. 6-4. Consumption in public places.
- Secs. 6-5—6-26. Reserved.

Article II. Licenses

- Sec. 6-27. License required; number of licenses.
- Sec. 6-28. Term and expiration of licenses.
- Sec. 6-29. Kinds of liquor licenses.
- Sec. 6-30. License fees.
- Sec. 6-31. Council discretion to suspend, revoke, grant, deny, renew or not renew license.
- Sec. 6-32. Application for license.
- Sec. 6-33. Description of premises.
- Sec. 6-34. Application for renewal of license.
- Sec. 6-35. Transfer of license.
- Sec. 6-36. Investigation of applicant for license.
- Sec. 6-37. Hearing and issuance of license.
- Sec. 6-38. Restrictions on issuance of license.
- Sec. 6-39. Conditions of license.
- Sec. 6-40. License suspension or revocation, civil penalty, criminal penalty.
- Sec. 6-41. Further conditions for brewer taproom licenses; brew pub licenses.
- Secs. 6-42—6-70. Reserved.

Article III. Operation Regulations

- Sec. 6-71. Hours and days of sale.
- Sec. 6-72. Minors on premises.
- Sec. 6-73. Restrictions on purchase and consumption.
- Sec. 6-74. Nudity on the premises of licensed establishments prohibited.

***State law references**—Alcoholic beverages generally, M.S.A. ch. 340A; local supplemental regulations on sale and possession of alcoholic beverages authorized, M.S.A. § 340A.509.

ARTICLE I. IN GENERAL**Sec. 6-1. Adoption of state law by reference.**

The provisions of M.S.A. ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sale, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this article as if set out in full. It is the intention of the city council that all future amendments to M.S.A. ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this article is adopted.

(Code 2004, § 6-31; Ord. No. 07-2136, 7-19-2007)

Sec. 6-2. City may be more restrictive than state law.

The council is authorized by the provisions of M.S.A. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this article, additional restrictions on the possession, sale and consumption of alcoholic beverages within its limits beyond those contained in M.S.A. ch. 340A, as it may be amended from time to time.

(Code 2004, § 6-32; Ord. No. 07-2136, 7-19-2007)

Sec. 6-3. Definitions.

In addition to the definitions in M.S.A. § 340A.101, as it may be amended from time to time, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Brewer taproom means an area on the premises of a brewery or on the premises adjacent to a brewery owned by the brewer in which the brewer sells or otherwise provides exclusively malt liquor produced by the brewer for consumption within the brewer taproom.

Cocktail room is an on-sale of distilled liquor or wine produced for consumption on the premises owned by the distiller or winery.

Distillery is a place or establishment where strong alcoholic drinks are produced by the process of distilling.

Grocery store means a business with a primary use that consists of the sale of fresh produce and food products. At least 50 percent of customer-accessible sales and display area is used for the sale of general line of food products intended for home preparation and consumption and at least 30 percent of retail space is for perishable goods that include dairy, fresh produce, fresh meats, poultry, fish and

frozen foods. Groceries must represent the majority of sales in a grocery store, although there may be accessory uses such as prepared food and drink, pharmaceuticals and bank services.

Liquor, without modification by the words "intoxicating" or "3.2 percent malt," includes both intoxicating liquor and 3.2 percent malt liquor.

Microdistillery is a place or establishment where strong alcoholic drinks are produced by the process of distilling in small quantities usually done in a single batch.

Restaurant is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, and served at tables to the general public, and having a minimum seating capacity for guests as prescribed by the appropriate license issuing authority. To be a restaurant as defined by this term in this article, an establishment shall have a license from the state as required by M.S.A. § 157.16.

(Code 2004, § 6-33; Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2192, 9-3-2009; Ord. No. 15-2335, 12-17-2015; Ord. No. 22-2503, 5-16-2022; Ord. No. 22-2506, 7-18-2022; Ord. No. 24-2564, § 6-33, 9-16-2024)

Sec. 6-4. Consumption in public places.

No person shall consume intoxicating liquor or 3.2 percent 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 article.

(Code 2004, § 6-35; Ord. No. 07-2136, 7-19-2007)

Secs. 6-5—6-26. Reserved.

ARTICLE II. LICENSES

Sec. 6-27. License required; number of licenses.

(a) No person or entity shall directly or indirectly deal in, sell or keep for sale any liquor without first having received a license to do so pursuant to this article.

(b) The city council shall issue off-sale liquor licenses in such a manner that no license shall be issued to a property which is located within one mile of the location of an existing off-sale license. The number of off-sale licenses issued shall not exceed a ratio of one license for every 7,000 population. The council is not required to issue the full number of off-sale licenses that it has available.

(c) Off-sale liquor licenses issued in conjunction with brewer taprooms or brew pubs, in conjunction with and secondary to a permitted or conditional principal retail use with a minimum floor area of 50,000 square feet, or in conjunction with

and secondary to a grocery store with a minimum floor area of 25,000 square feet, or a restaurant of the same owner that is immediately adjacent, are exempt from the provisions of subsection (b) of this section.

(Code 2004, § 6-36; Ord. No. 07-2136, 7-19-2007; Ord. No. 15-2335, 12-17-2015; Ord. No. 24-2564, § 6-36, 9-16-2024)

Sec. 6-28. Term and expiration of licenses.

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on June 30 of each year unless another date is provided by article. All licenses shall expire on the same date. Temporary licenses expire according to their terms.

(Code 2004, § 6-37; Ord. No. 07-2136, 7-19-2007; Ord. No. 15-2335, 12-17-2015)

Sec. 6-29. Kinds of liquor licenses.

The city council is authorized to issue the following licenses and permits, up to the number specified in section 6-27. All provisions of this chapter that apply to a retail liquor license shall apply to a license issued under this article unless the provision is explicitly inconsistent with this subdivision.

- (1) 3.2 percent malt liquor on-sale licenses, which may be issued only to restaurants, hotels, clubs, bowling centers with the incidental sale of tobacco and soft drinks.
- (2) 3.2 percent malt liquor off-sale license.
- (3) Temporary on-sale intoxicating, wine and 3.2 percent malt liquor licenses, which may be issued only to a club, charitable, religious or nonprofit organization, or a licensed brewer who meets the state statute definition of a brewer in connection with a social event sponsored by the licensee. Any temporary license issued under this section shall be for a period not to exceed four consecutive days, and the city council shall issue no more than 12 days' worth of temporary licenses to any one organization in one calendar year, or that which is allowed by state statute as amended from time to time.
 - a. A temporary on-sale intoxicating, wine or 3.2 percent malt liquor license may authorize on-sales on premises other than the premises the organization owns or permanently occupies.
 - b. The license will be issued for a specific date, time, and place.
 - c. No license issued under this subdivision will be valid unless first approved by the commissioner of public safety and the police chief or designee.
- (4) Off-sale intoxicating liquor licenses, as outlined below:
 - a. Class A off-sale intoxicating liquor license in conjunction with an exclusive liquor store.

- b. Class B off-sale intoxicating liquor license in conjunction with and secondary to:
 - 1. A permitted or conditional principal retail use with a minimum floor area of 50,000 square feet.
 - 2. A grocery store with a minimum floor area of 25,000 square feet.
 - 3. A restaurant of the same owner that is immediately adjacent.
- c. Class C off-sale intoxicating liquor license in conjunction with a brewer taproom or brew pub.

The fee for an off-sale intoxicating liquor license shall not exceed the maximum amount provided by M.S.A. § 340A.408, subd. 3, as it may be amended from time to time.

- (5) On-sale intoxicating liquor licenses, which may be issued only to restaurants as defined in section 6-3 and to clubs and hotels as defined by M.S.A. § 340A.101, as it may be amended from time to time. Club licenses may be issued only with the approval of the commissioner of public safety. The fee for club licenses shall not exceed the maximum amount provided by M.S.A. § 340A.408, subd. 2(b), as it may be amended from time to time.
- (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.A. § 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 or brewer taproom, as defined in section 6-3, or a club or hotel, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The fee for this license shall not exceed the maximum amount provided by M.S.A. § 340A.504, subd 3(c), as it may be amended from time to time.
- (7) On-sale wine licenses, with the approval of the commissioner of public safety to restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S.A. § 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurants in section 6-3; and to licensed bed and breakfast facilities which meet the criteria in M.S.A. § 340A.404, subd. 5(c). The fee for an on-sale wine license 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 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.
- (8) Culinary limited on-sale intoxicating liquor licenses may be issued pursuant to M.S.A. § 340A.4041. The fee for such a license shall be set by city council resolution and shall be in compliance with M.S.A. § 340A.4041, subd. 2, as it may be amended from time to time.

- (9) Brewer taproom license may be issued to the holder of a brewer's license issued by the commissioner of public safety. A brewer taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. The fee for such a license shall be set by city council and shall be in compliance with state statute.
 - (10) Brewer off-sale malt liquor licenses may also be issued, with approval of the commissioner, to a holder of a brewer's license under M.S.A. § 340A.301, subd. 6(c), (i) or (j) and meeting the criteria established by M.S.A. § 340A.29 as may be amended from time to time. The amount of malt liquor sold at off-sale under this license may not exceed 128 ounces per customer per day. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. Packaging of malt liquor for off-sale under this license must comply with the provisions of Minn. R. 7515.1080 to 7515.1120.
 - (11) On-sale brew pub license may be issued only to restaurants operated in the place of a manufacturer and shall permit the sale of malt liquor produced on the licensed premises. The fee for such a license shall be set by city council and shall be in compliance with state statute.
 - (12) Off-sale brew pub license may be issued, with the approval of the commissioner of public safety, to a licensee that holds an on-sale brew pub license to sell growlers or 750 milliliter bottles of the malt liquor produced on the licensed premises, subject to the conditions outlined in section 6-39. The fee for such a license shall be set by city council and shall be in compliance with state statute.
 - (13) Special 2:00 a.m. licenses. State permit required. No licensee may sell intoxicating or 3.2 malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the commissioner of the state department of public safety, liquor control division, pursuant to state statutes.
 - (14) Cocktail room license may be issued, with the approval of the commissioner of public safety, to a distillery for the on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller.
 - (15) Distillery off-sale license may be issued, with the approval of the commissioner of public safety, to a microdistillery for off-sale of spirits in quantities, packaging, and hours as allowed by statute.
- (Code 2004, § 6-38; Ord. No. 07-2136, 7-19-2007; Ord. No. 15-2335, 12-17-2015; Ord. No. 16-2348, 4-7-2016; Ord. No. 17-2373, 6-15-2017; Ord. No. 22-2506, 7-18-2022; Ord. No. 24-2564, § 6-38, 9-16-2024)

Sec. 6-30. License fees.

(a) No license or other fee established by the city for a liquor license shall exceed any limit established by M.S.A. ch. 340A, as it may be amended from time to time.

(b) The council may establish from time to time by ordinance or resolution the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this article. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licenses at least 30 days before the hearing.

(c) All license fees shall be paid in full at the time of the original application or at the time the application for renewal is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(d) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S.A. § 340A.408, subd. 5, as it may be amended from time to time.

(e) Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in M.S.A. § 340A.408 if at the time of initial application or renewal they:

- (1) Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;
- (2) Post a policy requiring identification checks for all persons appearing to be 30 years of age or less;
- (3) Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check;
- (4) Fail to abide by the provisions of this subsection which may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension or revocation of the license pursuant to section 6-40.

(Code 2004, § 6-39; Ord. No. 07-2136, 7-19-2007; Ord. No. 15-2335, 12-17-2015; Ord. No. 16-2344, 3-17-2016)

Sec. 6-31. Council discretion to suspend, revoke, grant, deny, renew or not renew license.

(a) The city council in its sound discretion may either grant or deny the application for any license or grant or deny a request for the transfer, modification or renewal of any license. No applicant has a right to a license under this article.

(b) Nuisance calls.

- (1) The city council may take into consideration any nuisance call relating to the premises when considering the operation of the premises, application, transfer, modification or renewal of any license.
- (2) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Nuisance call means any activity, conduct, or condition occurring on or related to the licensed premises, which results in a call or report to the city police department or other law enforcement agency, including, but not limited to, calls and reports related to the following:

1. Any conduct, activity or condition alleged to constitute disorderly conduct, pursuant to M.S.A. § 609.72.
2. Any conduct, activity or condition alleged to constitute a public nuisance, pursuant to M.S.A. § 609.74.
3. Any conduct, activity or condition alleged to constitute an assault pursuant to M.S.A. § 609.224.
4. Any conduct, activity or condition alleged to constitute a violation of state statutes relating to prostitution, controlled substances, use of firearms, criminal sexual conduct, and gambling.
5. Any conduct, activity or condition alleged to constitute a disorderly house, pursuant to sections 50-141 through 50-145.

6. Any conduct, activity or condition alleged to constitute a violation of this article.
7. A failure to meet the minimum criteria for a restaurant or license holder.

(c) Any violation of any provision of this article or any nuisance call, regardless of whether or not a criminal charge has been brought or a criminal conviction has been obtained, may be used by the council, at its discretion, when considering the granting, denying, suspension, revocation, transfer, modification, or renewal of any license.

(Code 2004, § 6-40; Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2192, 9-3-2009)

Sec. 6-32. Application for license.

(a) *Form.* Every application for a license issued under this article shall be on a form provided by the city. Such application form shall be completed to the satisfaction of the city. If the application form is not completed to the satisfaction of the city, the form and the application shall be returned by the city to the applicant. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the city may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, who will manage the business, how long the applicant has been in that business at that place, and other information as the city 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) *Responsible party.* Such application must identify a responsible party relative to each license. If the responsible party for a licensee will change, an application for the change shall be provided to the city clerk at least 30 days prior to such change and shall be treated the same as an application for a new license. In the event that a 30-day prior notice is not feasible, a written explanation will be submitted to the city clerk within one week of the known change documenting the reason for the deviation; this is subject to approval by the police chief or designee. Failure to file a timely application or explanation for a change in responsible party shall be grounds for revocation, suspension or non-renewal of any license.

(c) *Financial responsibility.* Prior to the issuance of any license under this article, the applicant shall demonstrate proof of financial responsibility as defined in M.S.A. § 340A.409, as it may be amended from time to time, with regard to liability under M.S.A. § 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.A. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this article without having on file with the city at all times effective proof of financial responsibility is a cause for revocation, suspension or non-renewal of the license. The licensee shall name the city as an additional insured on the insurance policy or bond. The city clerk shall submit evidence to the commissioner of liquor liability insurance for each license issued by the city. (Code 2004, § 6-41; Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2180, 4-16-2009)

Sec. 6-33. 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. An application for the proposed enlargement, alteration or extension of any premises previously licensed shall be provided to the city clerk at least 30 days prior to such proposed enlargement, alteration or extension and shall be treated the same as an application for a new license. Failure to file an application for such enlargement, alteration or extension shall be grounds for revocation, suspension or non-renewal of any license. All premises licensed under this article shall be in compliance with all federal, state, municipal, building, zoning, and fire regulations. Failure to comply with any such federal, state, municipal, building, zoning and fire regulations shall be grounds for revocation, suspension or non-renewal of any license. (Code 2004, § 6-42; Ord. No. 07-2136, 7-19-2007)

Sec. 6-34. Application for renewal of license.

At least 90 days before a license issued under this article 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 city council. No licensee has a right to have a license renewed. (Code 2004, § 6-43; Ord. No. 07-2136, 7-19-2007)

Sec. 6-35. Transfer of license.

No license issued under this article may be transferred without the prior approval of the city 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 city council approval is grounds for revocation, suspension or non-renewal of the license. An application to transfer a license shall be provided to the city clerk at least 30 days prior to such proposed transfer and shall be treated the same as an application for a new license. Failure to file an application for such transfer shall be grounds for revocation, suspension or non-renewal of any license. (Code 2004, § 6-44; Ord. No. 07-2136, 7-19-2007)

Sec. 6-36. Investigation of applicant for license.

(a) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer or modification of a license, and, in the discretion of the city, 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 as established by the city council which shall be in addition to any license fee.

(b) *Comprehensive background and financial investigation.* If in the discretion of the city, the results of a preliminary investigation warrant, a comprehensive background and financial investigation may occur. The city may either conduct the investigation itself or contract with the commissioner of public safety for the investigation. If a comprehensive background and financial investigation is conducted, and if any part of the investigation occurs outside of the state, the fee for such comprehensive background and financial investigation shall be in an amount as provided in the city's fee schedule. 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.

(c) *Background investigations for brewer/brew pub applications.* The city, in its sole discretion, may waive a background or financial investigation pursuant to subsection (a) or (b) of this section if the applicant, as a state-licensed wholesaler/manufacturer of intoxicating liquor, provides all background investigation materials from the department of public safety alcohol and gambling enforcement division of the state to the police chief or designee. If the city, in its sole discretion, requires any level of background or financial investigation, the applicant shall pay the investigation fee outlined in subsection (a) or (b) of this section.

(d) *Denial or revocation of license.* Applicants must cooperate with any required investigation otherwise the license may be denied or revoked. Any false statement or material omission made by the applicants during the course of any investigation will be grounds for denying or revoking the license.

(Code 2004, § 6-45; Ord. No. 07-2136, 7-19-2007; Ord. No. 15-2335, 12-17-2015; Ord. No. 16-2352, 6-16-2016)

Sec. 6-37. Hearing and issuance of license.

The city shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations, if required. Opportunity shall be given to any person to be heard for or against the granting of the license. After any required 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.

(Code 2004, § 6-46; Ord. No. 07-2136, 7-19-2007; Ord. No. 16-2352, 6-16-2016)

Sec. 6-38. Restrictions on issuance of license.

(a) Each license shall be issued only to the applicant for the premises described in the application.

(b) Not more than one off-sale intoxicating liquor license shall be directly or indirectly issued within the city to any one person.

(c) No license shall be granted, modified or renewed for operation on any premises on which taxes, assessments, utility charges, licensing fees, service charges or other financial claims of the city are delinquent and unpaid.

(d) No license shall be issued to any person, or for any place or any business, which is ineligible for a license under state law.

(e) No license shall be granted if the applicant, responsible party, owner, manager, or any other person involved with the licensee:

- (1) Has been convicted, within five years prior to the application of such license, of any violation of any law of the United States, this state, or any other state or territory, or of any local ordinance regarding the manufacture, sale, or distribution of intoxicating liquor, or whose liquor license has been revoked for any violation of any law or ordinance.
- (2) Is a manufacturer or wholesaler of intoxicating liquor, and no manufacturer or wholesaler shall either directly or indirectly own or control or have any financial interest in any retail business selling intoxicating liquor.
- (3) Is the spouse of a person ineligible for a license pursuant to this article or state law, or a person who, in the judgment of the council, is not the real party in interest or beneficial owner of the business operated, or to be operated, under the license.

(f) No license, other than a temporary intoxicating or 3.2 percent malt liquor license or brewer taproom, shall be granted to a premises located within 500 feet of any school unless located within a regional mall. The distance is to be measured from the closest side of the school to the closest side of the structure on the premises within which liquor is to be sold.

(g) No brewer taproom or brew pub license shall be granted to a premises located within 250 feet of any school or church. The distance is to be measured from the closest side of the school or church to the closest side of the structure on the premises within which liquor is to be sold.

(h) No license shall be issued for a premises owned, operated or managed by a person or by the spouse of a person, who is the holder of an adult use license pursuant to chapter 22, article II.

(Code 2004, § 6-47; Ord. No. 07-2136, 7-19-2007; Ord. No. 13-2270, 8-1-2013; Ord. No. 15-2335, 12-17-2015; Ord. No. 16-2348, 4-7-2016; Ord. No. 19-2431, 8-5-2019)

Sec. 6-39. Conditions of license.

Any violation of any condition of a license, including, but not limited to, the following conditions, may be used by the council, at its discretion, when considering the granting, denying, suspension, revocation, transfer, modification or renewal, of any license, regardless of whether or not a criminal charge has been brought or a criminal conviction has been obtained:

- (1) Every licensee and the responsible party named in the license application shall be 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 and the responsible party, and the licensee and the responsible party shall be liable for all penalties provided by this article and the law equally with the employee.
- (2) Every licensee and the responsible party shall allow any peace officer, health officer, city employee, or any other person designated by the city to conduct at least two compliance checks per year 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. The city, or its representative, right to inspect the premises shall also include the right to examine books, papers and records of a manufacturer, wholesaler, importer, or retailer for the purpose of determining whether the provisions of this article are being met.
- (3) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- (4) Compliance with financial responsibility requirements of state law and of this article is a continuing condition of any license.
- (5) Within 60 days after employment, every person selling or serving liquor in an establishment shall receive training regarding the selling or serving of liquor to customers. The cost of such training shall be the responsibility of the employee or the licensee. Such training shall be provided and conducted in a manner by an organization approved by the city. A certificate indicating proof of such training for all employees is required and such certificate shall be maintained on the premises of the licensed establishment and a copy shall be provided to the city. Responsible parties and managers are required to complete approved training relating to selling or serving liquor within the city.

(6) Prior to approval of a temporary intoxicating or temporary 3.2 percent malt liquor license, proof of alcohol server training must be submitted. The cost of such training shall be the responsibility of the licensee. Such training shall be provided and conducted in a manner by an organization approved by the city. A certificate indicating proof of such training for all servers is required and such certificate shall be maintained on the premises of the licensed premise and a copy shall be provided to the city.

(7) Any restaurant holding an on sale liquor license must provide food service to its customers everywhere on the premises where alcohol is present or served. For the purpose of this section, the term "food service" means a licensed restaurant shall provide sandwiches, pizza, hamburgers, hot dogs, chicken wings or other principal food items, as approved by the city. Food items such as popcorn, peanuts, chips, pretzels, and other snack foods would not be considered food items.

(Code 2004, § 6-48; Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2180, 4-16-2009; Ord. No. 09-2192, 9-3-2009; Ord. No. 16-2348, 4-7-2016)

Sec. 6-40. License suspension or revocation, civil penalty, criminal penalty.

(a) The council shall either suspend for a period not to exceed 60 days or revoke any liquor license or impose a civil penalty, upon finding that the licensee has failed to comply with any provision of this article or other applicable statute or regulation relating to liquor, as provided in subsection (b) of this section. Neither the charging of a criminal violation nor a criminal conviction is required in order for the council to suspend or revoke a license or impose a civil penalty. The council shall impose a civil penalty of up to \$2,000.00 for each violation of this article and of M.S.A. ch. 340A, as provided by the minimum schedule of presumptive civil penalties set forth below. The civil penalties shall be in addition to any criminal penalties imposed herein, or any suspension or revocation imposed herein. Except in cases of lapse of proof of financial responsibility, no suspension or revocation or imposition of a civil penalty shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S.A. §§ 14.57 to 14.70, as it may be amended from time to time. The council may act as the hearing body under the act, or it may contract with the office of hearing examiners for a hearing officer. Nonpayment of the penalty is grounds for revocation, suspension or non-renewal of the license.

(b) The following are the minimum periods of suspension or revocation and minimum presumptive civil penalties, in addition to any suspension or revocation which must be imposed herein, which shall be imposed by the council for violations

of the provisions of this article or M.S.A. 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 percent malt liquor, the license shall be revoked.
- (2) The license shall be suspended or a fine imposed by the council for at least the following minimum periods and amounts after a finding that the licensee has failed to comply with any provision of this article or other applicable statute or regulation as set forth below:
 - a. For a first violation within any two-year period, a fine of \$500.00 and a two-consecutive-day suspension, or a fine of \$1,000.00, at the option of the licensee.
 - b. For a second violation within any two-year period, a fine of \$1,000.00 and a five-consecutive-day suspension, or a fine of \$2,000.00, at the option of the licensee.
 - c. For a third violation within any two-year period, a mandatory ten-consecutive-day suspension.
 - d. For a fourth violation within any two-year period, the license shall be subject to revocation at the council's discretion.

The city council shall select the days during which the license will be suspended.

(c) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this article 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 city clerk, a hearing before the council shall be granted within ten days. Any suspension under this section shall continue until the council determines that the financial responsibility requirements of state law and this article have again been met.

(d) Penalties for violation of this article may be imposed in addition to suspension or revocation of a license issued under this article.

(e) Any licensee, responsible party or other person violating any provision of this article or M.S.A. ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter, is guilty of a misdemeanor and upon conviction shall be punished criminally as provided by law.

(f) The term "violation," as used in this section, includes any and all violations of any provision of this article, or of M.S.A. 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. Neither the charging of a crime nor a criminal conviction is required for the council to take the action set forth in this section.

(Code 2004, § 6-52; Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2193, 9-3-2009)

Sec. 6-41. Further conditions for brewer taproom licenses; brew pub licenses.

(a) *Brewer taproom license.*

- (1) A brewer may only have one taproom license under this chapter and may not have an ownership interest in a brew pub licensed under this chapter.
- (2) A brewer taproom license cannot be issued to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.
- (3) A licensing fee shall be imposed on a brewer holding a brewer taproom license under this article, subject to limitations applicable to license fees under M.S.A. § 340A.408, subd. 2, ¶ (a).
- (4) The city shall, within ten days of the issuance of a license under this subdivision, inform the commissioner of the licensee's name and address and trade name, and the effective date and expiration date of the license. The municipality shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.
- (5) Brewer taproom licenses may be issued to brewers licensed pursuant to M.S.A. § 340A.301 for the on-sale of malt liquor produced by the brewer on a licensed premises for consumption on the premises of or adjacent to one brewery location owned by the brewer, subject to the following conditions:
 - a. The on-sale of malt liquor may only be made during the days and hours that on-sale of liquor may be made, as prescribed by state law or within section 6-71.
 - b. The only alcoholic beverage that may be sold or consumed on the premises of a licensed brewer taproom will be the malt liquor produced by the brewer upon the brewer taproom premises.
 - c. A brewer may only hold one brewer taproom license as prescribed by state law.
 - d. Brewer taproom licenses shall only be issued in conjunction with an approved conditional use permit by the city council.

(b) *On-sale brew pub licensee.* An on-sale brew pub licensee cannot sell more than 3,500 barrels of the malt liquor produced on the licensed premises per year. A licensee may hold both an on-sale license and an on-sale brew pub license.

(c) *Off-sale brew pub licensee.* An off-sale brew pub licensee that holds an on-sale brew pub license or a brewer taproom that holds an off-sale license to sell growlers or 750 milliliter bottles of the malt liquor produced on the licensed premises is subject to the following conditions. A licensee may hold both an on-sale license and an on-sale brew pub or brewer taproom license:

- (1) The container must be packaged in a 64 ounce container commonly known as a growler or in 750 milliliter bottles.
 - (2) The growler or 750 milliliter bottle must be properly sealed with a twist type closure, cork, stopper or plug.
 - (3) At time of sale, the growler or 750 milliliter bottle must also bear a plastic or paper adhesive band, strip or sleeve that extends over the top of the container forming a seal that must be broken upon opening the growler.
 - (4) The seal and the growler or 750 milliliter bottle must bear the name and address of the brew pub and will be considered intoxicating liquor.
 - (5) Off-sale brew pub hours and days of sale shall be as provided in section 6-71.
 - (6) The maximum number of barrels of a brewer taproom or brew pub's annual production sold at off-sale shall be set by M.S.A. §§ 340A.24 subd. 3 and 340A.28 subd. 1, as amended from time to time.
- (Code 2004, § 6-53; Ord. No. 15-2335, 12-17-2015; Ord. No. 17-2380, 8-17-2017)

Secs. 6-42—6-70. Reserved.

ARTICLE III. OPERATION REGULATIONS

Sec. 6-71. Hours and days of sale.

(a) The hours of operation and days of sale shall be those set by M.S.A. § 340A.504, as it may be amended from time to time. All Sunday growler and 750 milliliter bottle sales must be made between the hours of 8:00 a.m. and 10:00 p.m.

(b) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent 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 percent 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 shall be grounds for revocation, suspension or non-renewal of the license.

(Code 2004, § 6-49; Ord. No. 07-2136, 7-19-2007; Ord. No. 15-2335, 12-17-2015)

Sec. 6-72. 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 percent malt liquor are sold at retail on sale, except that persons under the age of 18 years may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

(b) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on the premises that qualifies as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold or consumed.

(Code 2004, § 6-50; Ord. No. 07-2136, 7-19-2007)

Sec. 6-73. Restrictions on purchase and consumption.

No person shall mix or prepare liquor for consumption in any public place or business unless it has a license to sell on-sale, and no person shall consume liquor in any such place.

(Code 2004, § 6-51; Ord. No. 07-2136, 7-19-2007)

Sec. 6-74. Nudity on the premises of licensed establishments prohibited.

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

(b) It is unlawful for any licensee, responsible party or other person to permit or allow any person on the licensed premises when the person does not have their buttocks, anus, breasts and genitals covered with a nontransparent material. It is unlawful for any person to be on the licensed premises when the person does not have their buttocks, anus, breast and genitals covered with a nontransparent material.

(c) A violation of this section is a misdemeanor punishable as provided by law and is justification for revocation, suspension or non-renewal of any liquor, wine or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of section 6-41(b).

(Code 2004, § 6-34; Ord. No. 07-2136, 7-19-2007)

Chapters 7—9

RESERVED

CD7:1

Chapter 10

AMUSEMENTS AND ENTERTAINMENTS

Article I. In General

Secs. 10-1—10-18. Reserved.

Article II. Circuses and Carnivals

Division 1. Generally

Secs. 10-19—10-39. Reserved.

Division 2. License

- Sec. 10-40. Required.
- Sec. 10-41. Application and issuance; conditions.
- Sec. 10-42. Fees.
- Sec. 10-43. Insurance.
- Sec. 10-44. Indemnification.
- Sec. 10-45. Operation.

ARTICLE I. IN GENERAL

Secs. 10-1—10-18. Reserved.

ARTICLE II. CIRCUSES AND CARNIVALS**DIVISION 1. GENERALLY**

Secs. 10-19—10-39. Reserved.

DIVISION 2. LICENSE

Sec. 10-40. Required.

No person shall operate, maintain, or conduct any circus, caravan, carnival, or provide amusement or entertainment by the use of roller coasters, merry-go-rounds, Ferris wheels, or other similar vehicles or mechanical devices within the city without first procuring a license as provided in this division.

(Code 1963, § 22.01; Code 1980, § 4-70; Code 2004, § 10-111; Ord. No. 651, 9-6-1979)

Sec. 10-41. Application and issuance; conditions.

(a) *Application.* An application for such license shall be made in writing to the city clerk and shall state the full name and address of the applicant, the location where the circus or carnival is to be conducted, the owner of the premises, the days on which the circus or carnival is to be conducted, and such other information as shall be required by the city.

(b) *Review and approval.* The city clerk shall verify the information in the application and conduct such investigation as required by the city. The applicant shall provide evidence of written permission for the operation of the circus or carnival from the owner of the location of the premises. The city manager shall require review and recommendation from the fire chief and police chief and, upon satisfactory recommendation, the city manager may issue such license. The city manager may require a public hearing on the application, and such hearing shall be held at such time and upon such notice as the council may determine.

(c) *Conditions.* The council may impose any conditions or restrictions it deems necessary or advisable to protect the public health, safety, and welfare, including, but not limited to, conditions relating to the hours of operations, the lighting of the premises, and the parking facilities. The council may impose any conditions or restrictions at any time after the issuance of a license under this article. A bond may be required in such form and amount as specified by the council to guarantee

compliance with any conditions that shall be herein imposed. The licensee shall permit operation of the circus or carnival only on the days specified in the application.

(d) *Hearing.* If no public hearing pursuant to subsection (b) of this section, the applicant, upon receiving notice that an application for license under this section has been denied, shall have the right to request a hearing. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a hearing is requested within the stated time frame, a hearing shall be scheduled with a hearing officer on behalf of the city council within 20 days from the date of the request for the hearing. Within three regular business days of the hearing, the hearing office, on behalf of the city council, shall notify the licensee of its decision.

(Code 1963, § 22.02; Code 1980, § 4-71; Code 2004, § 10-112; Ord. No. 651, 9-6-1979)

Sec. 10-42. Fees.

The fee for the license shall be established by action of the council for the first day and an additional amount established by action of the council for each day thereafter that the activities are to be conducted. The fee shall be paid at the time the application is submitted to the city clerk. If the council denies an application for the license, the amount paid shall be refunded, after deducting an amount as provided in the city's fee schedule for the costs of processing the application.

(Code 1963, § 22.03; Code 1980, § 4-72; Code 2004, § 10-113; Ord. No. 651, 9-6-1979; Ord. No. 84-853, 2-7-1985; Ord. No. 98-1695, § 2, 2-5-1998)

Sec. 10-43. Insurance.

(a) The licensee shall obtain and keep in full force and effect proper liability insurance coverage to protect the city and such licensee against any claims or liability for personal injury or property damage sustained by any persons as a result of the operation of such circus or carnival. The liability insurance coverage shall name the city as an additional insured, and such insurance coverage shall have minimum limits of liability with respect to bodily injury of \$100,000.00 for each person and \$300,000.00 for each occurrence and \$50,000.00 with respect to property damage.

(b) Such licensee shall obtain and keep in full force and effect proper insurance coverage against any liability for injury sustained by any persons operating such licensed activities, as required under the provisions of the state Workers' Compensation Act, M.S.A. ch. 176.

(c) Such licensee shall submit to the city clerk satisfactory certificates of insurance for the coverage required in this section.

(Code 1963, § 22.04; Code 1980, § 4-73; Code 2004, § 10-114; Ord. No. 651, 9-6-1979)

Sec. 10-44. Indemnification.

The licensee shall indemnify, defend, and hold harmless the city from any claims and any liability in whatsoever manner arising, which may be brought against the city, as the result of the operation of the circus or carnival.

(Code 1963, § 22.05; Code 1980, § 4-74; Code 2004, § 10-115; Ord. No. 651, 9-6-1979)

Sec. 10-45. Operation.

(a) The operator or owner of the circus or carnival regulated hereunder shall conduct such operations and premises in conformance with all laws and regulations of the city and the state. No intoxicating liquor shall be permitted on the premises of operation.

(b) The operator or owner shall control traffic entering and leaving such premises so that there is no interference with the orderly flow of traffic on the public streets adjacent thereto.

(c) The city manager shall establish such conditions as is deemed appropriate to provide for the cleaning of the premises and all other properties relating to the operation, within a reasonable period after the event, and may require a deposit fee in the amount as provided in the city's fee schedule to guarantee such cleaning; such deposit shall be refunded upon satisfactory cleanup.

(Code 1963, § 22.06; Code 1980, § 4-75; Code 2004, § 10-116; Ord. No. 651, 9-6-1979)

Chapters 11—13

RESERVED

Chapter 14

ANIMALS*

Article I. In General

- Sec. 14-1. Definitions.
- Sec. 14-2. Exemptions.
- Sec. 14-3. Confinement of certain dogs and cats.
- Sec. 14-4. Trapping of animals.
- Secs. 14-5—14-26. Reserved.

Article II. Administration and Enforcement

Division 1. Generally

- Sec. 14-27. Enforcement generally.
- Sec. 14-28. Right of entry by authorized officers.
- Sec. 14-29. Interference with animal control authority or police officer.
- Sec. 14-30. Violation of chapter constitutes misdemeanor.
- Secs. 14-31—14-48. Reserved.

Division 2. Impoundment

- Sec. 14-49. Animals at large; procedure.
- Sec. 14-50. Redemption.
- Sec. 14-51. Impoundment fees.
- Secs. 14-52—14-75. Reserved.

Article III. Rabies Control

- Sec. 14-76. Vaccination required.
- Sec. 14-77. Vaccination tag; payment of cost.
- Sec. 14-78. Untagged dogs and cats.
- Sec. 14-79. Rabies suspects generally; release.
- Sec. 14-80. Handling of dogs and cats bitten by rabid animals.
- Sec. 14-81. Reports.
- Secs. 14-82—14-105. Reserved.

***State law references**—Animal health, M.S.A. ch. 35; dogs and cats, M.S.A. ch. 347; cruelty to animals, M.S.A. § 343.20 et seq.; Pet and Companion Animal Welfare Act, M.S.A. § 346.35 et seq.

BLAINE CITY CODE

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ARTICLE I. IN GENERAL**Sec. 14-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal control authority means any person employed or designated by the city or contracted by the city as enforcement officer of this chapter.

Animal shelter means any premises designated by action of the city for the purposes of impounding and caring for animals found in violation of this chapter.

At large means not under restraint as defined in this section.

Barking dog means any dog that barks, bays, cries, howls, or makes any other noise continuously or incessantly for a period of ten minutes or barks intermittently for 30 minutes or more at any time either day or night.

Cat means any domesticated feline animal, male or female, whole or neutered.

Dangerous dog means any dog that has:

- (1) Without provocation, inflicted substantial bodily harm on a human being on public or private property;
- (2) Killed a domestic animal without provocation while off the owner's property;
or
- (3) Been found to be potentially dangerous, and, after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

Dog means any canine animal, male or female, whole or neutered.

Kennel, commercial, means any structure or premises on which four or more animals, domestic pets, of one type, over four months of age are kept, owned, boarded, groomed, sheltered, protected, bred, or offered for sale or any other merchandising. Every kennel shall be enclosed or fenced in such manner as to prevent the running at large or escape of dogs confined therein.

Kennel, private, means any structure or premises on which four or more animals, domestic pets, of one type, over four months of age are kept for private enjoyment and not for monetary gain. Every kennel shall be enclosed or fenced in such manner as to prevent the running at large or escape of dogs confined therein.

Nondomesticated animal means any wild animal, reptile, or fowl which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, vicious nature, or other characteristics, would constitute a danger to human life or property.

Own means, unless otherwise specified, to keep, harbor, or have control, charge, or custody of an animal for a period of three days or longer. The term "own" shall not apply to animals owned by others which are temporarily maintained on the premises of a veterinarian or licensed kennel operator.

Owner means any person owning, or having charge or control of any animal, or permitting any dog or cat to habitually be or remain on or be lodged or fed within such person's house, yard, or premises for a period of three days or longer. The term "owner" shall not apply to veterinarians or licensed kennel operators temporarily maintaining on their premises animals owned by others.

Potentially dangerous dog, as provided in M.S.A. § 347.50, means any dog that:

- (1) When unprovoked, inflicts bites on a human or domestic animal on public or private property;
- (2) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
- (3) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Proper enclosure means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

Provocation means an act that an adult could reasonably expect may cause a dog to attack or bite.

Restraint means under control and on a leash. An unattended dog or other domestic animal on the property of another, without the consent of such property owner, is at large and not under restraint, even though it is on a leash.

Stray means any unlicensed dog, or any other domestic animal, the owner of which is unknown, and which is at large within the city.

Tether means a rope, chain, leash or other strong cord by which an animal is fastened so that it can roam within a set radius.

Trap means any mechanical device, snare, net, birdlime, or any such contrivance intended to capture animals or birds.

Trapping means the setting or laying or otherwise using of a trap to capture or otherwise restrain free movement of animals or birds.

(Code 1963, §§ 7.01, 7.11(B), 8.02; Code 1980, §§ 5-1, 5-51, 5-59; Code 2004, §§ 14-1, 14-221, 14-261; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 84-843, 9-20-1984; Ord. No. 89-1165, 11-2-1989; Ord. No. 89-1166, 11-2-1989; Ord. No. 95-1587, 1-4-1996; Ord. No. 98-1733, 7-23-1998; Ord. No. 15-2328, 12-3-2015; Ord. No. 19-2424, 3-7-2019)

Sec. 14-2. Exemptions.

(a) Dogs engaged in work for police, fire or rescue service shall be exempt from all provisions of this chapter.

(b) Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this chapter, except where such duties are expressly stated.

(c) The licensing requirements of this chapter, except as otherwise expressly stated, shall not apply to any dog or cat belonging to a nonresident of the city and kept within the city for not longer than 30 days, provided that all such dogs and cats shall, at all times while in the city, be kept within a building, enclosure or vehicle or be under restraint by the owner.

(d) Dogs confined to a veterinarian clinic, animal hospital or licensed commercial kennel need not be licensed.

(Code 1963, §§ 7.04(G), 7.13; Code 1980, § 5-5; Code 2004, § 14-3; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998; Ord. No. 15-2328, 12-3-2015)

Sec. 14-3. Confinement of certain dogs and cats.

(a) The owner shall confine within a building or a secure enclosure every fierce, dangerous, potentially dangerous or vicious dog, and shall not take such dog out of such building, or secure enclosure, unless such dog is securely muzzled.

(b) Every female dog or cat in heat will be kept confined to the owner's property or any veterinary hospital or boarding kennel, in such manner that such female dog or cat cannot come into contact with another animal, except for intentional breeding purposes.

(Code 1963, § 7.09(A), (B); Code 1980, § 5-10; Code 2004, § 14-5; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998; Ord. No. 19-2424, 3-7-2019)

Sec. 14-4. Trapping of animals.

(a) It is the purpose of this section to protect the public health and safety from unrestricted trapping and to preserve a balance of wildlife and birds and prevent the unselective catching, maiming, and destruction of wild animals, birds, and domestic animals that come in contact with traps.

(b) The trapping prohibition shall not apply to wildlife conservation or animal control officers, or other designated representatives of the city, county, state or federal government who may, in the course of their duties, be required to use a trap to catch, snare, kill, or otherwise restrain the free movement of any animal, wildlife or birds for humane or otherwise authorized purposes.

(c) The trapping prohibition shall not apply to persons who may employ a trap on their private property to prevent an unsafe or unhealthy condition, a nuisance, or destruction of their property when such persons have complied with the provisions of the laws, rules and regulations of the state, provided that the traps do not pose a threat to public health or domesticated animals.

(d) Except as provided in this article, trapping anywhere in the city is prohibited. (Code 1980, §§ 5-58, 5-60, 5-61; Code 2004, §§ 14-263—14-265; Ord. No. 95-1587, 1-4-1996; Ord. No. 96-1621, 10-3-1996)

Secs. 14-5—14-26. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 14-27. Enforcement generally.

The provisions of this chapter will be enforced throughout the city by the animal control authority and city police officers, including all manufactured home parks or recreational camping areas, pursuant to M.S.A. § 327.26, subd. 2. (Code 1963, § 7.02; Code 1980, § 5-2; Code 2004, § 14-41; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 86-950, 6-26-1986; Ord. No. 98-1733, 7-23-1998; Ord. No. 15-2328, 12-3-2015)

Sec. 14-28. Right of entry by authorized officers.

For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, any animal control authority or any police officer is empowered to enter upon any premises upon which a dog, cat or other animal is kept and to demand the exhibition of such animal by the owner of such animal and the license and rabies certificate for such animal. Any animal control authority or police officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal when, in such officer's opinion, it requires humane treatment. (Code 1963, § 7.14; Code 1980, § 5-3; Code 2004, § 14-42; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 15-2328, 12-3-2015)

Sec. 14-29. Interference with animal control authority or police officer.

No person shall interfere with, hinder or molest any animal control authority or police officer in the performance of any duty, or seek to release any animal in the custody of the animal control authority or police officer except as provided in this chapter.

(Code 1963, § 7.15; Code 1980, § 5-4; Code 2004, § 14-4; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 15-2328, 12-3-2015)

Sec. 14-30. Violation of chapter constitutes misdemeanor.

Any person in violation of any of the provisions in this chapter shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

(Code 1980, § 5-19; Code 2004, § 14-2; Ord. No. 84-843, 9-20-1984; Ord. No. 98-1733, 7-23-1998)

Secs. 14-31—14-48. Reserved.

DIVISION 2. IMPOUNDMENT

Sec. 14-49. Animals at large; procedure.

(a) Animals found running at large may be seized by any animal control officer or police officer and may be returned to the owner in accordance with police department policies or be impounded in a shelter designated as the animal shelter, and there confined in a humane manner for a period of not less than five days, and may thereafter be disposed of in a humane manner if not claimed by their owners. Animals not claimed before the expiration of the five days by their owners may be disposed of in accordance with state law, except as provided in this division.

(b) The police department designee may transfer title of all animals seized and held at the animal shelter to the impound facility after the legal detention period has expired and the animals have not been claimed by their owners.

(c) When animals are found running at large, and their ownership is known to the animal control officer, such animals will be returned to their owner or impounded in accordance with the police department policies. Complaints for dogs at large will be issued in accordance with police department policies.

(Code 1963, § 7.06; Code 1980, § 5-15; Code 2004, § 14-61; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

State law reference—Seizure of unlicensed dogs required, M.S.A. § 347.14.

Sec. 14-50. Redemption.

(a) The owner shall be entitled to possession of any impounded dog, except as provided in this division, upon compliance with the license and vaccination provisions of this chapter and the payment of impoundment fees set forth in this division.

(b) Any other animal impounded under the provisions of this chapter may be reclaimed by the owner upon the payment of impoundment fees, compliance with the vaccination requirements, if any, set forth in this chapter.

(c) When in the judgment of police department personnel, an animal should be destroyed for humane reasons, such animal may not be redeemed.

(d) Any animal impounded under the provisions of this article and not reclaimed by its owner within five days may be placed in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this chapter and such other regulations as shall be fixed by the city.

(Code 1963, §§ 7.07, 7.09(C); Code 1980, § 5-16; Code 2004, § 14-62; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

State law reference—Disposition of seized animals, M.S.A. § 343.235.

Sec. 14-51. Impoundment fees.

Any animal impounded may be reclaimed as provided in this chapter upon payment to the impound facility by the owner. Such payment shall include all costs and charges associated with the impoundment as specified in the city's contract with the impound facility.

(Code 1963, § 7.08; Code 1980, § 5-17; Code 2004, § 14-63; Ord. No. 230, 5-21-1970; Ord. No. 510, 10-7-1976; Ord. No. 678, 1-3-1980; Ord. No. 98-1733, 7-23-1998)

Secs. 14-52—14-75. Reserved.

ARTICLE III. RABIES CONTROL

Sec. 14-76. Vaccination required.

(a) Every dog over three months of age and every cat over 12 months of age shall be vaccinated against rabies and at such intervals as set forth by the state board of animal health.

(b) Unvaccinated dogs and cats acquired or moved into the city must be vaccinated within 30 days of acquisition or arrival, respectively.

(Code 1963, § 7.12(B)(1), (2), (3); Code 1980, § 5-31; Code 2004, § 14-102; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998; Ord. No. 15-2328, 12-3-2015)

Sec. 14-77. Vaccination tag; payment of cost.

(a) *Vaccination tag.* A metal or durable plastic tag, serially numbered, issued by the rabies control authority, shall be securely attached to the collar or harness of the dog. Whenever the dog is out-of-doors, whether on or off the owner's premises, the collar or harness with the vaccination tag must be worn.

(b) *Vaccination cost.* The cost of rabies vaccination shall be borne by the owner of the dog or cat.

(Code 1963, § 7.12(C), (D); Code 1980, § 5-32; Code 2004, § 14-103; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

Sec. 14-78. Untagged dogs and cats.

(a) Any dog found off the owner's premises and not wearing a valid rabies vaccination tag may be impounded. All impounded dogs shall be given proper care and maintenance. Each impounded dog shall be kept and maintained at the pound for a minimum of five days as required under this chapter, unless reclaimed earlier by the owner.

(b) Impoundment and notice of impoundment shall be in accordance with police department policies. Any unvaccinated dog may be conditionally reclaimed by its owner during the period of impoundment by payment of prescribed fees and complying with rabies vaccination requirements of this chapter within 72 hours of release. Any vaccinated dog impounded because of lack of a rabies vaccination tag may be reclaimed at any time by its owner by furnishing proof of rabies vaccination, paying all impoundment fees prior to release, and by obtaining a rabies vaccination tag.

(c) If the dog is unclaimed at the end of five days, the authority may dispose of the dog in accordance with this chapter.

(Code 1963, § 7.12(G); Code 1980, § 5-33; Code 2004, § 14-104; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

Sec. 14-79. Rabies suspects generally; release.

(a) Any dog or cat that has bitten any person and caused an abrasion of the skin of any person shall be seized and quarantined in accordance with police department policies. The dog or cat shall be quarantined at either the designated impound facility or the owner's veterinarian facility for a period of not less than ten days. If the veterinarian examination confirms no clinical signs of rabies, it may be released from quarantine. The owner of the dog or cat shall have five working days in which to have the dog or cat vaccinated and provide the proper certification to the police department. Failure to provide rabies vaccination certification may result in owner citation as provided in this chapter. The owner of the animal is responsible for all costs associated with the quarantine impoundment. In the case of a stray, it shall be disposed of in accordance with applicable laws.

(b) Any other animal which has bitten any person or caused an abrasion of the skin of such person shall be seized and impounded at an appropriate facility for a period of time not less than ten days. If after an examination, the animal appears healthy, it may be released to the owner, or, in the case of a stray, it shall be disposed of in accordance with applicable laws. If it is deemed necessary, the animal may be euthanized and examined for rabies by the state department of health.

(Code 1963, § 7.12(E)(1), (3); Code 1980, § 5-34; Code 2004, § 14-105; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

State law reference—Allowing animal with infectious disease to run at large, M.S.A. § 343.28.

Sec. 14-80. Handling of dogs and cats bitten by rabid animals.

In the case of dogs or cats that have been bitten by a verified rabid animal, the following rules shall apply:

- (1) *Rabid animal determination.* Any skunk, civet cat, raccoon or fox that bites a dog or cat shall be deemed to be a rabid animal for the purposes of this section.
- (2) *Unvaccinated dog or cat bitten by a rabid animal.*
 - a. In the case of a dog or cat which has not been vaccinated in accordance with this article and which has been bitten by a known rabid animal, such bitten dog or cat should be immediately destroyed.
 - b. If the owner is unwilling to destroy the bitten dog or cat, such animal shall be placed in strict isolation for six months, at the city's impound facility or at a veterinary clinic of the owner's choice. The dog or cat shall be vaccinated one month prior to being released. All impound costs are the responsibility of the owner.
- (3) *Vaccinated bitten dog or cat.* In the case of a bitten dog or cat vaccinated at least 30 days prior to the bite and in accordance with the provisions of this article, the dog or cat shall be handled as follows:
 - a. The dog or cat must be revaccinated immediately. The dog or cat may then be quarantined as stated in the police department policy for a period of 45 days.
 - b. If the dog or cat is not immediately revaccinated, it shall be seized. It will be recommended that the dog or cat be destroyed immediately. If the owner chooses not to destroy the dog or cat, it will be quarantined at the city's impound facility or the owner's veterinarian's facility for a period of six months at the owner's expense.

c. The dog or cat shall be destroyed if the owner does not comply with subsections (3)a or b of this section.
(Code 1963, § 7.12(F); Code 1980, § 5-35; Code 2004, § 14-106; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

Sec. 14-81. Reports.

(a) *Bite cases.* It shall be the duty of every physician or any other person to report to the police department the names and addresses of persons treated for bites inflicted by animals within the city, together with such other information as will be helpful in rabies control, and the police department shall immediately inform the health officer of such report.

(b) *Rabies suspect diagnosis.* It shall be the duty of every licensed veterinarian to report to the police department such veterinarian's diagnosis of any animal within the city observed by such veterinarian as a rabies suspect, and the police department shall immediately inform the health officer of such report.
(Code 1963, § 7.12(H), (I); Code 1980, § 5-36; Code 2004, § 14-107; Code 2004, § 14-107; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

Secs. 14-82—14-105. Reserved.

ARTICLE IV. DOGS*

DIVISION 1. GENERALLY

Sec. 14-106. Dogs to be under restraint.

All dogs will be kept under restraint by their owners at all times.
(Code 1963, § 7.03; Code 1980, § 5-9; Code 2004, § 14-141; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

Sec. 14-107. Guard dog warning signs.

Businesses and residences located within the city limits and maintaining a guard dog for security purposes shall post notice at the entrance to the premises, warning of the presence of the dog.
(Code 1963, § 7.10; Code 1980, § 5-11; Code 2004, § 14-142; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

*State law reference—Dogs, M.S.A. ch. 347.

Sec. 14-108. Dog enclosures.

(a) *Purpose.* It is the purpose of this section to abate existing nuisances and to prevent nuisances created by site, odor, noise and sanitation due to construction and placement of dog enclosures on private property.

(b) *Screening.* Dog enclosures must be screened from view of adjacent property.

(c) *Placement.* A dog enclosure shall not be placed closer than 30 feet to a side lot line, or ten feet to a rear lot line, except no dog enclosure shall be placed in a front yard.

(d) *Sanitation requirements.* No person shall permit feces, urine, or food scraps to remain in an enclosure for a period that is longer than reasonable and consistent with health and sanitation and the prevention of odors.

(e) *Applicability of section provisions.* This section shall be applicable to all dog enclosures constructed after the effective date of the ordinance from which this section is derived. Any preexisting dog enclosure which is a nuisance or source of filth may be required to comply with this section by notice of compliance being given by the city manager. Failure to comply with such a notice within 30 days of issuance shall be a violation of this Code.

(Code 1963, § 7.11(A), (C)—(F); Code 1980, § 5-12; Code 2004, § 14-143; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 90-1196, 3-15-1990; Ord. No. 98-1733, 7-23-1998)

State law reference—Dog houses, M.S.A. § 343.40.

Sec. 14-109. Barking dogs.

It is unlawful for any person to own, keep, or harbor any dog which is considered a barking dog. A dog shall not be deemed a barking dog if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon the private property upon which the dog is situated or when the dog is teased or provoked.

(Code 1980, § 5-18; Code 2004, § 14-144; Ord. No. 84-843, 9-20-1984; Ord. No. 98-1733, 7-23-1998)

Sec. 14-110. Dog defecation.

(a) *Removal, collection and disposal of feces.* Any person being the owner of or having charge or control of any dog not confined to that person's property shall immediately remove any feces deposited on public or private property. Any such person shall have in their possession a means to collect and dispose of all fecal matter in a proper manner. A violation of this subsection is a petty misdemeanor.

(b) *Accumulation of feces.* A person being the owner of or having charge of any animal shall keep their premises free from an unreasonable accumulation of fecal matter.

(Code 1980, § 5-20; Code 2004, § 14-145; Ord. No. 97-1648, 4-3-1997; Ord. No. 98-1733, 7-23-1998; Ord. No. 01-1912, 8-16-2001)

Secs. 14-111—14-133. Reserved.

DIVISION 2. LICENSE*

Sec. 14-134. Required; application; procedure.

(a) No person shall own any dog within the city limits unless such dog is licensed as provided in this division. Written application for such license shall be made to the city clerk or designee and shall state the name and address of the owner and the breed, color, age and sex of the dog. A license fee shall be paid at the time of making application, a numbered receipt given to the applicant, and a numbered metallic tag shall be issued to the owner. As a condition for the issuance of such license, the owner shall submit a current certificate of rabies vaccination for the dog.

(b) Any dog owner upon first becoming a resident of the city will be allowed 30 days in which to obtain the dog license. The owner of any dog which may be impounded for not being properly licensed within such 30-day period will not be charged with having an unlicensed dog in the city.

(c) All dog licenses shall be issued for two years beginning with May 1. Application for licenses may be made prior to June 1 without penalty. All applications made after June 1 or more than 30 days after the dog reaches six months of age, or more than 30 days after the dog owner moved into the city, or more than 30 days after the applicant acquires the dog, whichever is the later date, shall be assessed a late fee in an amount as provided in the city's fee schedule, which amount will be added to and collected with the regular license fee. Any person who acquires a dog after the start of the license period will be allowed 30 days after acquiring such dog to secure a license.

(Code 1963, § 7.04(A), (C); Code 1980, § 5-6; Code 2004, § 14-171; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

Sec. 14-135. Tag.

(a) Upon complying with the provisions of sections 14-134 and 14-136, the owner will be issued a numbered metallic tag, stamped with the years for which the license is issued. The shape or design of such tag will be changed each license period.

***State law reference**—County dog license, M.S.A. § 347.08.

(b) Every owner is required to see that the tag is securely fastened to the dog's chain, collar, or harness, which must be worn by the dog at all times.
(Code 1963, § 7.05; Code 1980, § 5-7; Code 2004, § 14-172; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

Sec. 14-136. Fees; illegal use of receipt or tag.

(a) The dog license fee will be established by action of the council.

(b) If the metallic license tag issued for a dog shall be lost, the owner may obtain a duplicate tag, upon the payment of an amount as provided in the city's fee schedule.

(c) If there is a change in ownership of a dog during the license year, the new owner may have the current license transferred to the new owner's name upon the payment of a transfer fee established by action of the council.

(d) No person shall use for any dog a license receipt or license tag issued for another dog.

(e) No refund shall be made of any dog license fee because of leaving the city or death of the dog before the expiration of the license.
(Code 1963, § 7.04(B), (D), (E), (F); Code 1980, § 5-8; Code 2004, § 14-173; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1695, § 3, 2-5-1998; Ord. No. 98-1733, 7-23-1998)

Secs. 14-137—14-155. Reserved.

DIVISION 3. DANGEROUS AND POTENTIALLY DANGEROUS DOGS*

Sec. 14-156. Adoption of state law by reference.

The provisions of M.S.A. §§ 347.50 through 347.57, as amended from time to time, regarding the definition of terms, conditions, restrictions, and requirements of dangerous dogs, are adopted by reference as though fully set forth in this division.

Sec. 14-157. Dangerous dog determination and appeal.

(a) *Initial determination.* The city designated animal control authority shall be responsible for initially determining (initial determination) whether a dog is a potentially dangerous or dangerous dog. The animal control authority may retain custody of a dog which has been initially determined to be a dangerous dog pending the hearing as hereinafter provided. The initial determination shall be conclusive unless the owner appeals the initial determination as hereinafter provided.

***State law reference**—Confinement of dangerous dogs, M.S.A. § 347.52(a).

(b) *Notice of initial determination.* The notice of initial determination shall be made in writing and delivered by mail or by posting at the residence of the dog's owner. The notice of initial determination shall describe the dog deemed to be potentially dangerous or dangerous, shall identify the officer making the initial determination and shall inform the owner of the owner's right to appeal the initial determination.

(c) *Request for hearing and appeal.* An owner may appeal the initial determination by filing a request for hearing with the city clerk within 14 days of the initial determination. The owner shall submit a deposit to the city clerk in accordance with the existing fee schedule. The city clerk shall assign a hearing officer, who shall not be the person who made the initial determination. At the hearing, the hearing officer shall consider the reports and comments of the animal control authority, the testimony of any witnesses, witness statements and the comments of the owner of the dog. After considering all of the evidence submitted, the hearing officer shall make written findings and shall determine whether the dog is a potentially dangerous or dangerous dog (final determination). The findings shall be made in writing within five days of the date of the hearing by delivering by mail or by posting at the residence of such owner. If the hearing officer finds in favor of the owner, the deposit shall be returned to the dog's owner.

(Code 2004, § 14-43; Ord. No. 15-2328, 12-3-2015; Ord. No. 19-2424, 3-7-2019)

Sec. 14-158. Dangerous and potentially dangerous dog regulation.

(a) *Registration required.* No person may keep a potentially dangerous or dangerous dog in the city unless the dog is registered with the city animal control authority. The city animal control authority may impose certain requirements prior to registration, including, but not limited to:

- (1) Photograph of the dog;
- (2) Proof of current rabies vaccination;
- (3) Proof that a microchip has been implanted;
- (4) Copy of written notice to property owner if the dog is residing at a rental property;
- (5) Photograph of a proper enclosure;
- (6) Proof of obedience training;
- (7) A current city dog license.

(b) *Certificate of registration issuance.* The city animal control authority shall issue a certificate of registration to the owner of a potentially dangerous or dangerous dog once the requirements have been met.

(Code 2004, § 14-44; Ord. No. 15-2328, 12-3-2015; Ord. No. 19-2424, 3-7-2019)

Sec. 14-159. Notification of death or transfer.

(a) No owner of a potentially dangerous or dangerous dog shall transfer ownership or residence of the dangerous dog without notifying the city animal control authority within 30 days.

(b) Upon changing the residence of a potentially dangerous or dangerous dog, the owner must notify the animal control authority of the jurisdiction in which the dog will reside.

(c) The city animal control authority shall be notified in writing upon the death of a potentially dangerous or dangerous dog. An affidavit may be required of the owner if proof of death cannot be obtained by a licensed veterinarian.

(d) The owner of a potentially dangerous or dangerous dog shall notify the new owner of the dog that the dog has been declared to be a potentially dangerous or dangerous dog and that it must be registered in the jurisdiction in which the dog will reside.

(Code 2004, § 14-45; Ord. No. 15-2328, 12-3-2015; Ord. No. 19-2424, 3-7-2019)

Secs. 14-160—14-186. Reserved.

DIVISION 4. KENNELS

Sec. 14-187. License required; fee; term; penalty.

(a) It is unlawful for any person to own or operate any dog kennel unless a license and conditional use permit as per the city zoning ordinance is secured therefor. All kennels are subject to annual review and inspection. The annual license fee shall be established by action of the city council. All licenses expire on April 30 next following issuance of the license, except that licenses may be renewed prior to June 1 without penalty.

(b) Any person in violation of any of the provisions in this division shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

(Code 1963, §§ 7.04(C), 8.01; Code 1980, § 5-13; Code 2004, § 14-191; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 89-1165, 11-2-1989; Ord. No. 98-1695, § 3, 2-5-1998; Ord. No. 98-1733, 7-23-1998)

State law reference—State animal dealer license, M.S.A. § 347.34 et seq.

Sec. 14-188. Sanitation.

Every kennel shall be operated in a clean, healthful, sanitary, safe condition and humane manner, and so as not to create a public nuisance, and failure to do so shall

constitute grounds for a revocation of the license of such kennel. The determination by the council as to the manner of operation of any kennel in relation to any of such matters shall be presumptive proof thereof.

(Code 1963, § 8.03; Code 1980, § 5-14; Code 2004, § 14-192; Ord. No. 98-1733, 7-23-1998)

Secs. 14-189—14-214. Reserved.

ARTICLE V. NONDOMESTICATED ANIMALS

Sec. 14-215. Purpose.

The purpose of this article is to protect the public health from disease transmission, animal bites, animal attacks and other serious injury, and public nuisances arising from the keeping or escape of nondomesticated animals.

(Code 1980, § 5-50; Code 2004, § 14-223; Ord. No. 89-1166, 11-2-1989)

Sec. 14-216. Impounding.

Any nondomesticated animal kept in violation of this article may be impounded by the city and, after being so impounded for five days or more without being reclaimed by the owner, may be sold or destroyed. Any person reclaiming such impounded animal shall pay the costs of impounding and keeping the same and shall provide documentation of the animal's relocation outside of the city.

(Code 1980, § 5-55; Code 2004, § 14-224; Ord. No. 89-1166, 11-2-1989)

Sec. 14-217. Prohibited animals.

No person or entity shall keep, maintain or harbor within the city, any of the following animals:

- (1) Any animal or species prohibited by federal or state law.
- (2) Any nondomesticated animal or species, including, but not limited to, the following:
 - a. Any skunk, whether captured in the wild, domestically raised, descended or not descended, vaccinated against rabies or not vaccinated against rabies.
 - b. Any large cat of the family *Felidae*, such as lions, tigers, jaguars, leopards, cougars, and ocelots, except commonly accepted domesticated house cats.
 - c. Any member of the family *Canidae*, such as wolves, foxes, coyotes, dingoes and jackals, except domesticated dogs.
 - d. Any poisonous snake or pit viper such as a rattlesnake, coral snake, water moccasin, or cobra.

- e. Any raccoon.
- f. Any other animal which is not listed explicitly in this section, but which can reasonably be defined by the terms in this section, including bears and badgers.

(Code 1980, § 5-52; Code 2004, § 14-225; Ord. No. 89-1160, 11-2-1989)

Sec. 14-218. Exceptions.

The following nondomesticated animals shall be exempt from the provisions of this article and may be kept within the city:

- (1) Nondomesticated animals brought into the city for entertainment, exhibition, show, promotional or educational purposes, provided that such animals are kept within an enclosure or other secure method of storage.
- (2) Nondomesticated animals for sale or display in commercial pet stores, provided that, prior to a sale of any such nondomesticated animal to a person who intends to keep such animal in the city, the pet store shall be required to give the buyer a photocopy of this article.
- (3) Nondomesticated animals kept in a public zoo or other public or nonprofit institution engaged in the permanent display of nondomesticated animals.
- (4) Nonpoisonous snakes, birds kept indoors, hamsters, mice, rabbits, gerbils, white rats, guinea pigs, chinchillas or lizards, and similar small animals, provided such animals are maintained continuously in cages within the city.
- (5) Nondomesticated animals kept temporarily for a public zoo by volunteers under a designated volunteer program, provided that, prior to the storage in the city, such volunteer informs the city animal control officer of its presence.
- (6) All nondomesticated animals kept by veterinary clinics or other research institutions which are affiliated with a college or other institute of higher education, provided that adequate measures are taken to prevent such animals from escaping or injuring the general public.

(Code 1980, § 5-54; Code 2004, § 14-226; Ord. No. 89-1166, 11-2-1989)

Sec. 14-219. Selling.

No person or entity shall sell, offer for sale or in any way transfer ownership or possession of any animal prohibited in section 14-217, except as provided for in section 14-218(2).

(Code 1980, § 5-53; Code 2004, § 14-227; Ord. No. 89-1166, 11-2-1989)

Sec. 14-220. Intentional feeding of wild animals.

- (a) *Feeding prohibited.*

- (1) No person shall feed or allow the feeding of wild or feral animals or of small mammals within the city.

- (2) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Feeding means the provision of any grain, fruit, vegetables, nuts, salt licks, or any other food that could attract wild animals. Living food sources such as trees and other live vegetation shall not be considered food for wild animals.

(b) *Feeding wild birds.* Bird feed may be placed in bird feeding devices and structures solely for the purpose of attracting and feeding wild birds. Bird feeding devices and structures should be placed at a sufficient height or designed to prevent access by wild animals.

(c) *Exception.* This provision shall not apply to employees or agents of the city, county, state, and the federal government or veterinarians who are acting in the course of their official duties or have wild animals in their custody or under their management.

(Code 2004, § 14-228; Ord. No. 17-2374, 3-16-2017)

Chapters 15—17

RESERVED

Chapter 18

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- Sec. 18-21. Permits and fees.
- Sec. 18-22. Escrow inspection fee.
- Sec. 18-23. Corner lots.
- Sec. 18-24. Side yards; setbacks.
- Sec. 18-25. Fences.
- Sec. 18-26. Access.
- Sec. 18-27. Grade.
- Sec. 18-28. Lot size requirement in undeveloped platted area requiring sewer facilities.
- Sec. 18-29. Water and sewer connection agreement.
- Sec. 18-30. Drainage.
- Sec. 18-31. Certificate of occupancy.
- Sec. 18-32. Conditions to issuance of a contractor's permit.
- Sec. 18-33. Plumbing.
- Secs. 18-34—18-54. Reserved.

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- Sec. 18-55. Inspections.
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- Sec. 18-57. City electrical code.
- Sec. 18-58. Code compliance.
- Sec. 18-59. Permits; fees.
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- Sec. 18-81. Definitions.
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BUILDINGS AND CONSTRUCTION

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ARTICLE I. IN GENERAL

Secs. 18-1—18-18. Reserved.

ARTICLE II. CONSTRUCTION CODES AND REGULATIONS***DIVISION 1. GENERALLY****Sec. 18-19. State building code; adopted by reference.**

The most current edition of the state building code, as adopted by the department of labor and industry pursuant to M.S.A. § 326B.101 et seq., including all of the amendments, rules and regulations established, adopted and published from time to time by the department of labor and industry, through the construction codes and licensing division, is hereby adopted by reference including chapter 1306 with options 1306.0020, subpart 2, and 1306.0030 E, option 1. The state building code is hereby incorporated in this article as if fully set out in this section.

(Code 1963, § 37.01; Code 1980, § 6-1; Code 2004, § 18-41; Ord. No. 410, 12-5-1974; Ord. No. 88-1107, 12-1-1988; Ord. No. 95-1568, 7-20-1995; Ord. No. 98-1744, 10-1-1998; Ord. No. 03-1973, 4-17-2003; Ord. No. 07-2137, 7-19-2007)

State law reference—Adoption by reference, M.S.A. § 471.62.

Sec. 18-20. Application, administration and enforcement of code.

(a) The application, administration, and enforcement of the code shall be in accordance with the state building code. This code shall be enforced by the state certified building official designated by the city to administer the code.

(b) Any person which shall violate any provisions of this chapter or the state building code shall be guilty of a misdemeanor.

(c) Each day any such violation shall continue shall constitute a separate offense, unless otherwise specifically provided.

(Code 1963, § 37.02; Code 1980, § 6-2; Code 2004, § 18-42; Ord. No. 410, 12-5-1974; Ord. No. 03-1973, 4-17-2003)

Sec. 18-21. Permits and fees.

The issuance of permits and the collection of fees shall be as authorized in M.S.A. §§ 326B.107 and 326B.153. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the action of the council. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S.A. § 326B.148. For work commencing before

***State law reference**—State building code, M.S.A. § 326B.101 et seq.

permit issuance, an investigative fee, equal to the amount of the required permit fee, shall be collected. The investigative fee shall be in addition to the required permit fee.

(Code 1963, § 37.58; Code 1980, § 6-3; Code 2004, § 18-43; Ord. No. 88-1107, 12-1-1988; Ord. No. 03-1973, 4-17-2003; Ord. No. 07-2137, 7-19-2007)

State law reference—Permit fees, M.S.A. § 326B.153.

Sec. 18-22. Escrow inspection fee.

An inspection fee shall be charged for each visit to inspect progress or completion of nonstructural work associated with any building permit. Where a financial escrow is posted to guarantee completion of such work, the return of any such escrow may be reduced by the amount of any accumulated unpaid inspection fees. The inspection fee shall be an amount as established by action of the city council.

(Code 1980, § 6-28; Code 2004, § 18-44; Ord. No. 94-1541, 11-17-1994)

Sec. 18-23. Corner lots.

Corner lots shall be considered as fronting the street upon which their narrow width is actually fronting. The property line lying between the intersecting street and the corner lot along the depth of the lot shall be considered as a side line. All of the regulations relative to front yards and setbacks shall apply to each corner on this basis regardless of which street is actually faced by the building constructed thereon.

(Code 1963, § 37.78; Code 1980, § 6-16; Code 2004, § 18-1)

Sec. 18-24. Side yards; setbacks.

The space between any part of a dwelling or apartment and the property line shall be deemed a side yard or a setback as the term might apply. The term "any part of a dwelling, or apartment house" shall include vestibules of any other construction which is a part of or attached to the building except chimneys and fireplaces. The measurements for side yard space or setback shall be made between the side lot line or the front lot line and the part of the building nearest to it and shall be made on a line perpendicular to the side or front lot line. The measurements shall be made at the grade level, at the building, and the cornice or eave projection shall not affect the case unless this projection is over two feet from the face of the building. If the cornice or eave projection is over two feet, an amount shall be added to the required space equal to the difference between the cornice or eave projection and two feet.

(Code 1963, § 37.79; Code 1980, § 6-17; Code 2004, § 18-2)

Sec. 18-25. Fences.

Fences, when constructed to enclose any lot or tract of land, shall be located in such a way that the entire fence shall be on the property of the builder thereof. Posts

and framework shall be placed within the property lines of the owner, and the actual fencing material, such as wire, lumber, pickets, etc., shall be placed on the side of the fence which faces the street or the adjacent property.

(Code 1963, § 37.81; Code 1980, § 6-18; Code 2004, § 18-3)

Sec. 18-26. Access.

All applications for building permits must be on property with proper frontage on a publicly dedicated street as set forth in the zoning ordinance and have direct access to a publicly dedicated street which must be continuous to other publicly dedicated streets and not interrupted by private road easements.

(Code 1963, § 37.63; Code 1980, § 6-19; Code 2004, § 18-4; Ord. No. 89-1173, 12-21-1989)

Sec. 18-27. Grade.

Prior to the placing of any surfacing material of a permanent or semipermanent nature on that portion of any driveway lying between the edge of the traveled road or street and the property line of the property being served by such driveway, the owner or builder shall obtain from the city a special permit which shall establish the grade and elevation which can be used in the construction of the proposed driveway.

(Code 1963, § 37.83; Code 1980, § 6-21; Code 2004, § 18-5)

Sec. 18-28. Lot size requirement in undeveloped platted area requiring sewer facilities.

No building permit shall be issued for the construction of any dwelling or other building requiring sanitary sewer facilities in any undeveloped recorded plat, the lots of which are of smaller dimensions than those required by the city's zoning regulations.

(Code 1963, § 37.821; Code 1980, § 6-22; Code 2004, § 18-6)

Sec. 18-29. Water and sewer connection agreement.

When new buildings are constructed on property which can be served by either a sanitary sewer or public water supply, or both, the applicant for such building permit shall be required to agree to connect such building to these utilities. In these cases, no permit for a well or private disposal system shall be issued.

(Code 1963, § 37.88; Code 1980, § 6-23; Code 2004, § 18-7; Ord. No. 55, 2-17-1961)

Sec. 18-30. Drainage.

(a) *Obstruction of natural waterway.* No permit shall be issued for the construction of any building which construction or necessary grading incidental shall obstruct any natural drainage waterway.

(b) *Conflicting grades.* No permit shall be issued in any case where the relative elevations of the proposed building grade and the established road grade shall conflict in such a manner as to cause damage through drainage conditions.

(c) *Inadequate drainage.* No permit shall be issued for the construction of a building upon ground which cannot be properly drained.

(d) *Protection of waterways.* Where application is made for a building permit and subsequent investigation shows that the property to be occupied by such building is adjacent to a portion of a public road or street containing a drainage culvert, catchbasin, sewer special ditch or any other artificial drainage structure used for the purpose of draining such property or neighboring property, the applicant shall specifically agree in writing to protect these waterways in such a way that they shall not be affected by the proposed building construction or grading work incidental thereto.

(Code 1963, §§ 37.65—37.68; Code 1980, § 6-24; Code 2004, § 18-8)

Sec. 18-31. Certificate of occupancy.

(a) *Required.*

(1) A certificate of occupancy shall be required whenever:

- a. Any structure is erected or moved;
- b. Any portion of any existing industrial or commercial structure is structurally altered or remodeled; or
- c. Any existing industrial or commercial structure changes occupancy classification or is occupied by a new tenant or owner.

(2) No structure or portion of a structure shall be occupied prior to obtaining a certificate of occupancy.

(b) *Time of application and issuance.* All certificates of occupancy shall be applied for prior to occupying the building or structure. Such certificates shall be issued within five days after the erection, moving or alteration shall have been finally approved.

(c) *Temporary.* Under such rules and regulations as may be established by the council, a temporary certificate of occupancy for not more than 60 days for a part of a building may be issued.

(d) *Fee.* For a certificate of occupancy, there shall be a fee established by action of the council.

(e) *Recordkeeping.* The city manager shall maintain a record of all certificates, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.

(Code 1963, §§ 37.62, 37.89, 37.892—37.895, 38.896; Code 1980, §§ 6-4, 6-5, 6-7—6-9; Code 2004, §§ 18-71—18-75; Ord. No. 55, 2-17-1961; Ord. No. 666, 10-18-1979; Ord. No. 777, 11-4-1982; Ord. No. 96-1610, 6-20-1996; Ord. No. 98-1695, § 4, 2-5-1998; Ord. No. 03-1973, 4-17-2003)

Sec. 18-32. Conditions to issuance of a contractor's permit.

No permit for the erection, construction, alteration of heating, ventilating, air conditioning or refrigeration shall be issued to any person unless such person is licensed to carry on the business of a contractor, except that such permit may be granted to a bona fide owner of residential property, who intends to conduct such work on such owner's property and who occupies or intends to occupy such property, and further who demonstrates to the satisfaction of the building official that such owner has sufficient knowledge to perform the required work.

(Code 1963, § 39.05; Code 1980, § 6-51; Code 2004, § 18-161)

Sec. 18-33. Plumbing.

(a) *Administration; enforcement; setting fees.*

- (1) The chief building official shall be responsible for the administration of this section.
- (2) The city manager may designate inspectors for the enforcement of this section.
- (3) The council shall, by its action, adopt fees for service rendered under this section.

(b) *Plumbing code adopted.* The current state plumbing code adopted by the state board of health, and all its appendices, and all amendments thereafter adopted, is hereby adopted and shall be in full force and effect in the city insofar as applicable to plumbing, gas, piping and building construction therein. All such work done in the city shall be done in accordance with the provisions thereof. The city clerk shall have on file one copy of the state plumbing code which shall be available for the inspection and use of the public. It shall be marked as the official copy of the city. (Code 1963, §§ 41.01, 41.02, 41.18; Code 1980, §§ 6-60, 6-61; Code 2004, §§ 18-191, 18-192; Ord. No. 221, 5-19-1970; Ord. No. 531, 2-17-1977; Ord. No. 88-1107, 12-1-1988)

State law references—State building code, M.S.A. § 326B.101 et seq.; adoption by reference, M.S.A. § 471.62.

Secs. 18-34—18-54. Reserved.

DIVISION 2. ELECTRICAL STANDARDS

Sec. 18-55. Inspections.

The city hereby provides for the inspection of all electrical installations, pursuant to M.S.A. § 326B.36, subd. 6.

(Code 2004, § 18-530; Ord. No. 11-2230, § 1, 8-4-2011)

Sec. 18-56. Enforcement; administration.

The city manager may contract with or designate inspectors for the enforcement of this article. The chief building official shall be responsible for the administration of this article.

(Code 2004, § 18-531; Ord. No. 11-2230, § 1, 8-4-2011)

Sec. 18-57. City electrical code.

The Minnesota Electrical Act, as adopted by the commissioner of labor and industry pursuant to M.S.A. ch. 326B, §§ 326B.31 to 326B.399 is hereby incorporated into this ordinance as if fully set out herein. The state building code incorporates by reference the National Electrical Code, pursuant to Minn. R. 1315.0020. All such codes incorporated herein by reference constitute the electrical code of the city.

(Code 2004, § 18-532; Ord. No. 11-2230, § 1, 8-4-2011)

Sec. 18-58. Code compliance.

All electrical installations shall comply with the requirements of the electrical code of the city and this division.

(Code 2004, § 18-533; Ord. No. 11-2230, § 1, 8-4-2011)

Sec. 18-59. Permits; fees.

The issuance of permits and the collection of fees shall be as authorized in M.S.A. § 326B.37. Any inspection or handling fees will be payable to the city. In addition, a state surcharge fee, as determined by the state, shall be collected on all permits issued for work governed by this article in accordance with M.S.A. § 326B.148.

(Code 2004, § 18-534; Ord. No. 11-2230, § 1, 8-4-2011)

Sec. 18-60. Conformance with state statutes.

All notices of violations and orders issued under this article shall be in conformance with M.S.A. § 326B.36, subd. 4.

(Code 2004, § 18-535; Ord. No. 11-2230, § 1, 8-4-2011)

Sec. 18-61. Violations.

A violation of the Minnesota Electrical Act is a misdemeanor.

(Code 2004, § 18-536; Ord. No. 11-2230, § 1, 8-4-2011)

Secs. 18-62—18-80. Reserved.

DIVISION 3. RESIDENTIAL EXTERIOR STORAGE

Sec. 18-81. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ornamental yard enhancements means landscaping, light poles, trellises, benches designed and intended for exterior use, and other permanent improvements designed to enhance the appearance of the yard.

Residential storage means storage of personal property, exceeding 72 hours, at a residence including, but not limited to, lawn furniture, yard maintenance equipment, toys, and recreational equipment, exclusive of vehicles and ornamental yard enhancements.

Temporary residential storage container means a container up to eight feet wide by eight feet tall by 16 feet long used for temporary storage of items typically found in a residential home or equipment related to an active construction project on the property the container is located on.

(Code 1980, § 11-121; Code 2004, § 18-261; Ord. No. 01-1929, 12-6-2001; Ord. No. 22-2514, 12-19-2022)

Sec. 18-82. Penalties.

Any person violating any provision of this division shall be guilty of a misdemeanor and may be subject to criminal and administrative municipal court action.

(Code 1980, § 11-123; Code 2004, § 18-262; Ord. No. 01-1929, 12-6-2001)

Sec. 18-83. Purpose.

The purpose of this division is to preserve property values, eliminate blighted properties, and protect the character and appearance of residential neighborhoods through the regulation of exterior storage.

(Code 1980, § 11-120; Code 2004, § 18-263; Ord. No. 01-1929, 12-6-2001)

Sec. 18-84. Residential exterior storage limited.

Exterior residential storage is prohibited, except for temporary residential storage containers under either of the following circumstances:

- (1) Temporary residential storage containers are permitted for a period of time not to exceed 180 days during active fire or water damage repair, remodeling or additions to the home on the property.

- (2) Temporary residential storage containers are permitted for a period not to exceed 30 days when used for the purposes of moving into or out of the dwelling on the property.

(Code 1980, § 11-122; Code 2004, § 18-264; Ord. No. 01-1929, 12-6-2001; Ord. No. 22-2514, 12-19-2022)

Secs. 18-85—18-111. Reserved.

ARTICLE III. SWIMMING POOLS

DIVISION 1. GENERALLY

Sec. 18-112. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Health authority means the county health department.

Pool deck surround means an area immediately adjacent to or attached to a pool or spa that is specifically constructed or installed for sitting, standing, or walking.

Pool platform means a raised platform similar to a deck, surrounding an above ground pool.

Private residential swimming pool means a pool connected with a single-family residence or owner-occupied duplex, located on private property under the control.

Public swimming pool includes any pool, other than a private residential pool operated by any person whether the person is an owner, lessee, operator, or concessionaire.

Swimming pool or *pool* means any structure, chamber, or tank containing an artificial body of water for swimming, diving, relaxation, or recreational use including special purpose pools and wading pools.

(Code 1963, § 48.01; Code 1980, § 6-110; Code 2004, § 18-381; Ord. No. 16-2341, 2-18-2016; Ord. No. 22-2498, 3-21-2022)

Sec. 18-113. Variances.

A variance to the provisions of this article may be issued by the city council to provide relief to the landowner in those cases where the article imposes practical difficulty on the property owner in the use of their land. Section 101-6 shall apply to any variances from this article.

(Code 1963, § 48.04; Code 1980, § 6-114; Code 2004, § 18-382; Ord. No. 85-865, 3-7-1985; Ord. No. 22-2498, 3-21-2022)

Sec. 18-114. Inspections; water sanitation.

(a) The building official is authorized to conduct such inspection as it deems necessary to ensure compliance with all provisions of this article, and shall have the right of entry at any reasonable hour to a swimming pool for this purpose. Water in a pool shall be maintained in a suitable manner to avoid health hazards of any type and shall be subject to periodic inspection by the health authority.

(b) All wiring, installation of heating units, grading, installation of pipes and all other installations and construction shall be subject to inspection.

(Code 1963, § 48.04(H), (I); Code 1980, § 6-113; Code 2004, § 18-383; Ord. No. 85-865, 3-7-1985)

Sec. 18-115. Supervision.

Every swimming pool is under the supervision of a capable individual who shall assume the responsibility for compliance with all parts of this article relating to pool operation and maintenance and safety of the occupants of the pool. Above-ground pools with a removable means of entry consisting of ladders, staircases, or ladder and staircase combinations, which do not require a building permit and are not protected by a barrier/fence in accordance with section 18-177, must have the means of entry removed when the swimming pool is not under supervision.

(Code 1963, § 48.04(M); Code 1980, § 6-123; Code 2004, § 18-384; Ord. No. 22-2498, 3-21-2022)

Secs. 18-116—18-143. Reserved.

DIVISION 2. BUILDING PERMIT

Sec. 18-144. Required; application.

(a) A building permit is required for the installation of any swimming pool except private residential prefabricated pools entirely above ground which do not exceed both 5,000 gallons in capacity and a 24-inch depth.

(b) An application for a building permit shall show, among other items, the following:

- (1) Type and size of pool.
- (2) A site plan indicating the following:
 - a. Location of pool;
 - b. Location of house, garage, barrier/fencing, and other improvements on the lot;
 - c. Location of filter unit, pump, and wiring, indicating the type of such unit;

- d. Location of back-flush and drainage outlet;
 - e. Grading plan, finished elevations, and final treatment (decking, landscaping, etc.) around the pool;
 - f. Location of existing overhead or underground wiring, utility easements, trees, and similar features;
 - g. Location of any water heating unit.
- (Code 1963, § 48.02; Code 1980, § 6-111; Code 2004, § 18-401; Ord. No. 16-2341, 2-18-2016)

Sec. 18-145. Fees.

After plan review and possible site inspections of any proposed swimming pool, a permit fee shall be paid prior to issuance of the building permit.
(Code 1963, § 48.03; Code 1980, § 6-112; Code 2004, § 18-402; Ord. No. 85-865, 3-7-1985; Ord. No. 88-1107, 12-1-1988; Ord. No. 16-2341, 2-18-2016)

Secs. 18-146—18-173. Reserved.

DIVISION 3. DESIGN AND CONSTRUCTION STANDARDS

Sec. 18-174. Location.

- (a) *Proximity to utility lines; location in easements.*
 - (1) The location of all pools in relation to all electrical wiring shall comply with the most current state/national electrical code.
 - (2) Pools shall not be located within any private or public utility, walkway, drainage, or other easement.
- (b) *Restrictions in all districts in which pools and fences are permitted.*
 - (1) Pools shall not be located within ten feet of any side or any rear lot line, nor within six feet of any principal structure or frost footing, unless part of the principal structure. Pools shall not be located within the required front yard but are permitted in the corner side yard provided the corner side yard house setback is met.
 - (2) All pool deck surrounds, adjacent patios/aprons, or other similar areas, other than pool platforms, used in conjunction with the swimming pool, shall be located not closer than five feet to any adjacent property owner's lot line. Pool platforms shall be located not closer than ten feet to any adjacent property owner's lot line.

- (3) The filter unit, pump, heating unit, and other noise-making mechanical equipment shall be located no closer than ten feet to any lot line and be located in the rear yard or side yard.

(Code 1963, § 48.04(B), (C), (Q)(1), (2); Code 1980, §§ 6-115—6-117; Code 2004, § 18-421; Ord. No. 16-2341, 2-18-2016; Ord. No. 18-2408, 6-21-2018; Ord. No. 22-2498, 3-21-2022; Ord. No. 24-2568, § 18-421, 11-18-2024)

Sec. 18-175. Protection of other property and occupants thereof.

(a) In the case of underground pools, due precautions shall be taken during the construction period to:

- (1) Avoid damage, hazards, or inconvenience to adjacent or nearby property.
- (2) Ensure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust, or other infringement on adjacent property.

(b) All access for construction shall be via the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.

(c) Back-flush water or water from pool drainage shall be on the owner's property or into public drainageways with the approval of the council. Water shall not drain onto adjacent or nearby private land.

(d) Lighting for the pool shall be directed into or onto the pool and not onto adjacent property and shall measure no more than one footcandle power at any point on the boundary line of any adjacent property owner.

(e) Nuisances, such as undue noise, lighting onto adjacent property, health and safety hazards, damage to nearby vegetation and the like, shall not be permitted. (Code 1963, § 48.04(A), (D)—(G), (J), (K); Code 1980, § 6-118; Code 2004, § 18-422; Ord. No. 85-865, 3-7-1985)

Sec. 18-176. Interference with rights of others; noise.

(a) No swimming pools shall be so located, designed, operated or maintained as to interfere unduly with the property rights of others. It is unlawful for any person to make, continue to cause to be made or continued in any swimming pool, any loud or unusual noise or any noise which annoys, disturbs, injures, or endangers the comfort, repose, peace or safety of others.

(b) The use, or permitting the use of or operation of radios, musical instruments, audio speakers or other machine or device for the producing or reproducing of sound in such volume as to disturb the peace, quiet, comfort, or repose of adjacent property owners shall not be permitted.

(Code 1963, § 48.04(R); Code 1980, § 6-119; Code 2004, § 18-423; Ord. No. 22-2498, 3-21-2022)

Sec. 18-177. Standards for pool barriers.

(a) All private residential outdoor swimming pools and pool barriers, existing (subject to any variance heretofore granted by the council), modified, and hereafter constructed, shall meet the requirements of these standards. Exceptions: EXISTING pools and equipment that complied with the city requirements at the time they were constructed, permitted or approved by the city.

(b) Barrier/fencing and post materials shall be of substantial construction, decay or corrosion resistant, and capable of resisting a 200 pound lateral load applied in any direction at any point along the top. All fence posts shall be set in concrete bases or other suitable protection. Alternative barrier construction materials, climbing protection, and design must be approved by the building official.

(c) All private residential outdoor swimming pools shall be made inaccessible when not in use by a non-climbable barrier. It must also be positioned far enough away from permanent structures so that they do not provide climbing assistance. Exceptions: spas and hot tubs with a lockable safety cover that complies with ASTM F 1346.

(d) Installed barriers should be at least 48 inches high from finished ground level, as measured along the outside of the barrier, and should have no more than a two-inch gap from the bottom of the barrier to the ground. Such height shall exist around the entire perimeter for a distance of three feet where measured horizontally from the required barrier. Openings in the barrier shall not allow passage of a four-inch diameter sphere.

(e) Pedestrian access gates must be self-closing and must have a self-latching device and shall be equipped to accommodate a locking device. Utility/service gates that are not meant for pedestrian use must have a self-latching device and shall be equipped to accommodate a locking device. Double or multiple gates shall have at least one leaf secured in place and the adjacent leaf shall be secured with a self-latching device and shall be equipped to accommodate a locking device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism shall be located on the poolside of the gate at least three inches below the top of the gate, and the gate and barrier shall not have openings greater than one-half inch within 18 inches of the release mechanism.

(f) Solid barriers that do not have openings shall not contain indentations or protrusions that form handholds and footholds, except for normal tolerances and tooled masonry joints.

(g) Chain link dimensions. The maximum opening formed by a chain link fence shall be not more than two inches.

(h) When fences are comprised of diagonal members, the maximum opening formed by the diagonal members shall not be more than 1 $\frac{3}{4}$. The angle of the diagonal members shall not be greater than 45 degrees from the vertical.

(i) Where the barrier is constructed of diagonal members, the maximum opening shall not be more than 1 $\frac{3}{4}$ inches. The angle of diagonal members shall not be greater than 45 degrees from vertical.

(j) The pool side of a parallel barrier shall not be less than 20 inches from the water's edge.

(k) Structures can serve as a barrier as approved by the building official.

(l) A pool structure wall, itself, can serve as a barrier if the wall is at least four feet above grade. If a barrier is mounted to the top of the pool structure, the barrier must be installed in accordance with the manufacturer's instructions. Above-ground pools shall have a means of entry and exit consisting of one ladder, staircase, or a ladder and staircase combination that must remain in place when the pool has water. All entry points such as a ladder or steps shall be surrounded by a barrier.

(m) No person owning or operating an outdoor swimming pool permitted under section 18-144 shall use, operate, or allow the use of such swimming pool unless such pool complies with the provisions of this section. The required safety barrier/fencing shall be completely installed with installation of the pool.

(Code 1963, § 48.04(P); Code 1980, § 6-121; Code 2004, § 18-424; Ord. No. 85-865, 3-7-1985; Ord. No. 02-1952, 8-1-2002; Ord. No. 16-2341, 2-18-2016; Ord. No. 18-2408, 6-21-2018; Ord. No. 22-2498, 3-21-2022)

Secs. 18-178—18-207. Reserved.

DIVISION 4. PUBLIC SWIMMING POOLS

Sec. 18-208. Permit required.

(a) No person shall operate or maintain a public swimming pool until such person has obtained a permit to operate such pool from the building official. No such permits shall be issued to operate a public swimming pool unless the pool conforms to the regulations in this division.

(b) No person shall begin construction of a public swimming pool or shall substantially alter or reconstruct any public swimming pool without first having submitted plans and specifications to the city for review and approval. All plans and specifications, including site plan, shall be submitted in duplicate. The zoning administrator shall arrange for the review and approval of the plans and specifications by other appropriate departments concerned with such matters as zoning,

electrical, structural and plumbing requirements. No permits to construct, alter, or renovate shall be issued until approval is granted by the other departments involved.

(c) The application for permit to construct or remodel a public swimming pool shall be on such forms as may be prescribed by the building official, together with any supporting data as may be required for the proper review of the plans.

(Code 1963, § 48.05(A), (B), (C); Code 1980, § 6-130; Code 2004, § 18-451; Ord. No. 85-865, 3-7-1985; Ord. No. 16-2341, 2-18-2016)

Sec. 18-209. Plans.

The plans shall be drawn to scale and accompanied by proper specifications so as to permit a comprehensive engineering review of the plans, including the piping and hydraulic details, and shall include:

- (1) Plans and sectional views with all necessary dimensions and details of the pool barrier and surrounding areas.
- (2) A piping diagram showing all appurtenances including treatment facilities in sufficient detail, as well as pertinent elevation data, to permit a hydraulic analysis of the system.
- (3) The specifications shall contain details on all treatment equipment, including catalog identification of pumps, chlorinators, and related equipment.

(Code 1963, § 48.05(F); Code 1980, § 6-131; Code 2004, § 18-452; Ord. No. 16-2341, 2-18-2016)

Sec. 18-210. Construction; facilities; adoption of state rules.

(a) The pool and facilities shall be built in accordance with the plans as approved unless approval of changes has been given in writing. The owner or the owner's agent shall notify the city at specific predetermined stages of construction and at the time of completion of the pool to permit adequate inspection of the pool and related equipment during and after construction. The pool shall not be placed in operation until such inspections show compliance with the requirements of this article.

(b) The criteria to be followed in the review and approval of plans shall be as set forth in rules and regulations of the state commissioner of health, relating to public swimming pools, being Minn. R. ch. 4717. The same are hereby adopted by reference, and all terms of such regulations are made a part of this division as if fully set forth in this section.

(Code 1963, § 48.05(D), (E); Code 1980, § 6-132; Code 2004, § 18-453)

Secs. 18-211—18-228. Reserved.

ARTICLE IV. RESIDENTIAL MAINTENANCE CODE**DIVISION 1. GENERALLY****Sec. 18-229. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Whenever the terms "dwelling," "dwelling unit," "premises" or "structure" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

Accessory building or use means a subordinate building or use which is located on the same premises on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or principal use.

Accessory structure means a structure subordinate to the main or principal dwelling, which is not used or authorized to be used for living or sleeping by human occupants, and which is located on or partially on the premises of the principal dwelling.

Approved means approved as to construction, installation, and maintenance in accordance with applicable statutes of the state, and the provisions of this Code.

Basement means that portion of a building between floor and ceiling, which is partly below grade, but so located that the vertical distance from grade to floor below is less than the vertical distance from grade to ceiling.

Boardinghouse means a building other than a hotel where, for compensation and by prearrangement for definite periods, meals, or lodging are provided for persons not members of the principal family, not to exceed ten persons.

Building means any structure erected for the support, shelter, or enclosure of persons, animals, chattels, or moveable property of any kind.

City inspector means the city manager or the city manager's authorized representative.

Clean means the absence of rubbish, garbage, vermin, and other unsightly, offensive, or extraneous matter.

Dwelling means a structure or portion thereof, designated or used predominantly for residential occupancy of a continued nature, but not including hotels and motels.

Dwelling unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Easily cleanable means readily accessible and of such material and finish, and so fabricated and placed that residue which may accumulate can be completely removed by normal cleaning methods.

Electrical system means any and all methods of transmitting electricity for use to any dwelling, dwelling unit, or manufactured home.

Exit means a continuous and unobstructed means of egress to a public or private way and shall include intervening doors, doorways, corridors, ramps, stairways, smokeproof enclosures, horizontal exits, exit passageways, exit courts and yards.

Extermination means the control and destruction of insects, rodents, vermin or other pests.

Family means an individual or a group of two or more persons each related by blood, marriage, adoption, or foster care arrangement living together as a single housekeeping unit, or a group of not more than four persons not so related, maintaining a common household, and using common cooking and kitchen facilities, exclusive of usual servants.

Floor area, gross, means the sum of the gross horizontal area of the several floors of such structure measured from the exterior faces and exterior walls or from the centerline of common walls separating dwelling units. Basements devoted to storage or off-street parking shall not be included.

Functioning means in such physical condition as to safely perform the service or services for which an item is designed or intended.

Garbage means every accumulation of animal, vegetable or other matter that attends the preparation, consumption, display, dealing or storage of meat, fish, fowl, birds, fruit, or vegetables, including the cans, containers or wrappers wasted along with such materials.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes; excluding bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements, pantries, utility rooms, foyers, communicating corridors, stairways, closets, storage spaces and attics.

Habitable structure means any structure or part thereof that meets minimum standards for use as a home or place of abode by one or more persons.

Heating, ventilating and air conditioning system means any and all units, equipment, material, and miscellaneous devices used in the process of heating, ventilating, and air conditioning of any dwelling, dwelling unit or manufactured home.

Infestation means the presence within or around a dwelling of any insect, rodent, or other pests.

Kitchen means a habitable room intended to be used for the cooking of food or the preparation of meals.

Living room means a habitable room within a dwelling unit, which is intended to be used primarily for general living purposes.

Lot means a parcel of land of at least sufficient size to meet zoning and platting requirements for use, coverage, and area, and to provide such yards and other open spaces as are required by the city zoning and platting codes.

Maintenance means to keep in a good state of repair; to preserve from deterioration.

Manufactured home means any site, lot, parcel, or tract of land designed, maintained or intended for the purpose of supplying a location or accommodation for any manufactured home and upon which any manufactured home is parked and shall include all buildings used or intended for the use as part of the equipment thereof whether a charge is made for the use of a manufactured home park and its facilities or not.

Multiple-family dwelling means a building or portion thereof containing three or more dwelling units.

Multiple occupancy means the occupancy of a building that supports, shelters, or encloses more than one distinct use.

Noncombustible means any material or a combination of materials which will not ignite or support combustion during a five minute exposure.

Occupancy means the purpose for which a building, or part thereof, is used or intended to be used.

Occupant means any person residing in a dwelling unit or rooming unit.

Occupied areas means, for dwelling units, those areas designated and utilized as habitable space, as well as nonhabitable space, which are easily accessible and normally utilized by the occupant.

Operator means the owners or their agents, who have charge, care, control, or management of a building or part thereof.

Owner means any person who, alone, jointly, or severally with others, shall be in actual possession of, or have charge, care or control of, any building or a portion thereof within the city as owner, employee or agent of the owner, or as trustee or guardian of the estate or person of the title holder. Any such person representing the actual owner shall be bound to comply with the provisions of this article to the same extent as the owner.

Plumbing system means all potable water supplies and distribution pipes, all plumbing fixtures and traps, all drainage and vent pipes, and all building drains,

including their respective joints and connections, devices and appurtenances within the property lines of the premises and shall include potable water treatment or using equipment.

Premises means a platted lot or part thereof or unplatted parcel of land, either occupied or unoccupied or any dwelling or nondwelling structure, including such building, accessory structure, or other structure thereof.

Proper connection to an approved sewer system means a functioning sewer connection free from defects, leaks, or obstructions with sufficient capacity to drain all fixtures or appliances which feed into it. The sewer system (be it municipal or private) must be capable of disposing of sewage in a safe, sanitary, and adequate manner.

Proper connection to an approved water system means a functioning plumbing connection free from defects, leaks or obstructions providing an uncontaminated, controllable flow of cold or heated water.

Public areas means those areas which are normally occupied or open to the general public.

Public hall means a hall, court or passageway for providing ingress to or egress from a dwelling unit which is not within the exclusive control of one family.

Reasonable care means the treatment of all facilities, fixtures, equipment, and structural elements such that depreciation of these objects and materials is due to their age and normal wear rather than due to neglect.

Refuse means all putrescible and nonputrescible waste solids, including garbage and rubbish.

Rental dwelling means any structure or portion thereof which is designated or used for residential occupancy by one or more persons who are not the owner or a member of the owner's family. The term "rental dwelling" includes commercial living facilities, not governed by state licensing requirements.

Repair means to restore to a sound and acceptable state of operation, serviceability, or appearance in the determination of the city inspector.

Rodent harborage means any place where rodents live, nest, or seek shelter.

Rubbish means wood, leaves, trimmings from shrubs, dead trees or branches thereof, shavings, sawdust, excelsior, wooden ware, printed matter, paper, paper board, paste board, grass, rags, straw, boots, shoes, hats and all other combustibles not included under the term "garbage."

Safety means the condition of being free from danger and hazards which may cause accidents or disease.

Sober living home means a dwelling unit occupied by more than four unrelated individuals with all individuals residing in recovery from chemical dependency and considered disabled under the federal Fair Housing Act Amendments of 1988. The term "sober living home" does not include group facilities that are licensed by other governmental agencies or otherwise considered permitted uses as defined by state statute.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Substandard dwelling means any dwelling which does not conform to the minimum standards established by this Code.

Supplied means paid for, furnished by, provided by or under the control of the owner, operator or agent thereof, of a building or portion thereof.

Unsafe means, as applied to a structure, a condition or combination of conditions which is dangerous or hazardous to persons or property.

Unsanitary means, as applied to a structure, conditions which are dangerous or hazardous to the health of persons.

Use means the purpose or activity for which the land or building is designed or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this article.

Water closet means a toilet, with a bowl and trap made in one piece, which is connected to the city water and sewer system or other approved water supply and sewer system.

(Code 1963, § 45.05; Code 1980, § 6-144; Code 2004, § 18-301; Ord. No. 645, 8-2-1979; Ord. No. 12-2244, 3-15-2012; Ord. No. 19-2435, 9-16-2019)

Sec. 18-230. Findings.

It is hereby found and declared that impaired structures contain conditions dangerous to the public health, safety, and general welfare of the citizens of the city. It is found that impaired structures exist within the city because of faulty design or construction, failure to keep them in a proper state of repair, lack of adequate lighting or ventilation, inability to properly heat, improper management, or any combination of these factors. It is declared that the improvement of impaired structures and the prevention of existence of impaired structures in the future is in the best interest of the citizens of the city.

(Code 1963, § 45.02; Code 1980, § 6-141; Code 2004, § 18-302; Ord. No. 645, 8-2-1979)

Sec. 18-231. Purpose.

The purpose of this article is to maintain the city's sanitation, public health and attractiveness, protect the safety of the people, and to promote the general welfare by legislation which shall be systematically enforced upon all residential rental property and act as a public service to residents who are homeowners. These general objectives include, among others, the following:

- (1) To protect the character and stability of residential areas within the city.
 - (2) To correct and prevent conditions that adversely affect or are likely to adversely affect the safety, general welfare, and health of persons owning or renting residential facilities within the city.
 - (3) To provide for sound maintenance of cooking, heating, sanitary, electrical, light and ventilation systems necessary for health and safety.
 - (4) To provide basic standards for the maintenance of existing residential structures and to prevent deterioration and blight.
 - (5) To preserve the value of land and structures throughout the city.
- (Code 1963, § 45.04; Code 1980, § 6-143; Code 2004, § 18-303; Ord. No. 645, 8-2-1979)

Sec. 18-232. Scope.

The provisions of this article shall apply uniformly to the maintenance, repair, equipment, use and occupancy of all existing residential structures, within the city. Section 18-290 is the only section of this article which the city is empowered to enforce against owner-occupied homes. This article shall apply to building codes in effect at the time of the issuance of the building permit.

(Code 1963, § 45.03; Code 1980, § 6-142; Code 2004, § 18-304; Ord. No. 645, 8-2-1979; Ord. No. 01-1930, 12-6-2001)

Sec. 18-233. Temporary family health care dwellings; opting out of state law.

Pursuant to authority granted by M.S.A. § 462.3593, subd. 9, the city opts-out of the requirements of M.S.A. § 462.3593, which defines and regulates temporary family health care dwellings.

(Code 2004, § 18-305; Ord. No. 16-2359, 8-4-2016)

Secs. 18-234—18-259. Reserved.**DIVISION 2. ADMINISTRATION AND ENFORCEMENT****Sec. 18-260. Administration.**

(a) *Generally.* The city inspector or the city inspector's designated agents shall administer and enforce the provisions of this article, and they are hereby authorized to cause inspections on a scheduled basis or when reason exists to believe that a violation of this article has been or is being committed.

(b) *Authority.* When a city inspector determines a violation, the inspector's written evaluation of deficiencies shall be considered prima facie evidence in any subsequent litigation of a violation under this article.

(c) *Inspection access.* If any owner, occupant, or other person in charge of a dwelling, dwelling unit or manufactured home, fails or refuses to permit free access and entry to the structure or premises under that person's control for an inspection pursuant to this article, the city inspector may seek a court order authorizing such inspection.

(Code 1963, § 45.12; Code 1980, § 6-145; Ord. No. 645, 8-2-1979)

Sec. 18-261. Rental dwelling license required.

All rental dwellings shall be licensed as required by article V of this chapter.
(Code 2004, § 18-322; Ord. No. 12-2244, 3-15-2012)

Sec. 18-262. Compliance and enforcement.

(a) *Compliance order.* Whenever the city inspector determines that any rental dwelling or unit fails to meet the provisions of this article, or if any owner-occupied dwelling fails to meet the provisions of section 18-290, the city may issue a compliance order setting forth the violations of the article and ordering the owner or agent to correct such violations. This compliance order shall:

- (1) Be in writing;
- (2) Describe the location and nature of the violations of this article;
- (3) Establish a reasonable time for the correction of such violations; and
- (4) Be served upon the owner or agent. Such notice shall be deemed to be properly served upon such owner or agent, if a copy thereof is:
 - a. Served upon such person;
 - b. Sent by registered mail to the last known address; or
 - c. Upon failure to effect notice through subsection (a)(4)a or b of this section, as set out in this section, posted at a conspicuous place in or about the dwelling which is affected by the notice.

(b) *Penalty for violation of article.* Failure to meet the requirements of the compliance order is a violation of this article and a misdemeanor and is subject to all penalties provided for such violation under the provisions of this Code. Each day the violation continues in existence shall be deemed a separate violation.

(c) *Emergency cases.* When a violation of section 18-290 constitutes an imminent peril to life, health, or property, the city inspector may require immediate compliance and if necessary, take appropriate action to protect that life, health or property.

(d) *Unfit for human habitation.*

- (1) *Declaration.* Any dwelling, dwelling unit, or rooming unit or manufactured home, which is damaged, decayed, dilapidated, unsanitary, unsafe, vermin or rodent infested, or which lacks provision for illumination, ventilation, or sanitary facilities to the extent that the defects create a hazard to the health, safety, or welfare of the occupants or of the public may be declared unfit for human habitation. Whenever any dwelling, dwelling unit, rooming unit or manufactured home, has been declared unfit for human habitation, the city inspector shall order the same vacated within a reasonable time and shall post a placard on the same indicating that it is unfit for human habitation and any operating license previously issued for such dwelling shall be revoked.
- (2) *Vacated building.* It is unlawful for a vacant dwelling, dwelling unit, rooming unit or manufactured home which has been declared unfit for human habitation as provided in subsection (d)(1) of this section, to be used for human habitation until the defective conditions have been corrected and written approval has been issued by the city inspector. It is unlawful for any person to deface or remove the declaration placard from any such dwelling, dwelling unit, rooming unit or manufactured home.
- (3) *Secure unfit and vacated dwellings.* The owner of any dwelling, dwelling unit, rooming unit or manufactured home which has been declared unfit for human habitation, or which is otherwise vacant for a period of 60 days or more, shall make the same safe and secure so that it is not hazardous to the health, safety and welfare of the public and does not constitute a public nuisance. Any vacant dwelling open at doors or windows, if unguarded, shall be deemed to be a hazard to the health, safety, and welfare of the public and a public nuisance within the meaning of this article.
- (4) *Hazardous building declaration.* If a dwelling has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and treated consistent with the provisions of M.S.A. §§ 463.15 through 463.26.

(e) *Execution of compliance orders by public authority.* Upon failure to comply with a compliance order within the time set and no appeal having been taken, the council may, by resolution cause the cited deficiency to be remedied as set forth in the compliance order. The cost of such remedy shall be placed against the subject property and may be levied and collected as a special assessment in the manner provided by M.S.A. ch. 429.

(f) *Right of appeal.* When it is alleged by any person to whom a compliance order is directed that such compliance order is based upon erroneous interpretation of this article, such person may appeal the compliance order to the council as a board of appeals. The filing of an appeal shall stay all proceedings, unless such a stay would cause imminent peril to life, health or property.

(g) *Liability of ownership transferee.* Anyone securing an interest in the dwelling, dwelling unit or manufactured home which has received a violation tag or compliance order shall be bound by the same without further service of notice upon such person and shall be subject to all penalties and procedures prescribed by this article.

(Code 1963, § 45.13; Code 1980, § 6-152; Code 2004, § 18-323; Ord. No. 645, 8-2-1979)

State law reference—Hazardous and substandard buildings, M.S.A. § 463.15 et seq.

Secs. 18-263—18-287. Reserved.

DIVISION 3. MINIMUM STANDARDS

Sec. 18-288. Basic requirements pertaining to the maintenance of properties.

(a) *Responsibility of owners.* The owner of a dwelling shall be responsible for the maintenance of that structure and for meeting the provisions of this article. Those responsibilities may not be abrogated by a private agreement.

(b) *Removal of basic equipment or facilities.* No owner, operator, or occupant shall cause any facility or equipment which is required under this article to be removed from or shut off from any occupied building or dwelling unit except for such temporary interruptions as may be necessary while actual repairs or alterations are in progress, or during temporary emergencies.

(c) *Heating facilities.* Every heating facility shall be maintained in a safe and good working condition, and shall comply with all of the following requirements:

- (1) No fuel burning heater shall be of a portable type.
- (2) Every fuel burning heater shall be properly vented to a chimney or duct leading to outdoor space.
- (3) Every fuel burning heater shall have a fire resistant panel beneath it.
- (4) Every heater located within three feet of a wall shall be equipped with insulation sufficient to prevent overheating of the wall during periods of maximum operation.
- (5) Every heater smoke pipe shall be equipped with guards properly constructed of nonflammable material at the point where the pipe goes through a wall, ceiling, or partition.

- (d) *Public health requirements for services and utilities.*
- (1) *Minimum plumbing standards.* All plumbing in every dwelling unit shall be properly installed and maintained in a sanitary, safe, and functioning condition, and shall be connected to an approved utility system.
 - (2) *Minimum heating standards.* All structures shall have heating facilities which are properly installed, and which are maintained in safe and good working condition, and which are capable of safely maintaining a minimum indoor temperature of 68 degrees Fahrenheit at an outside temperature of 20 degrees below zero Fahrenheit at 36 inches above the floor in all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located therein. Gas or electric appliances designed primarily for cooking or water heating purposes shall not be considered as heating facilities within the meaning of this section. Portable heating equipment employing flame and the use of liquid fuel does not meet the requirements of this section and is prohibited. No owner or occupant shall install, operate or use a heater employing a flame that is not vented outside the structure in an approved manner.
 - (3) *Minimum water heating standards.* Every dwelling shall have water heating facilities which are installed in an approved manner, are maintained and operated in safe and good working condition, are properly connected with the hot water lines, and are capable of allowing heated water to be drawn at every required fixture at a minimum temperature of 120 degrees Fahrenheit.
 - (4) *Units at or below grade.*
 - a. All windows located at or near ground level used or intended to be used for ventilation, all other openings located at or near ground level, and all exterior doorways which might provide an entry for rodents shall be supplied with adequate screens or such other devices as will prevent the entrance of rodents into the structure.
 - b. All sewers, pipes, drains or conduits and openings around such pipes and conduits shall be constructed to prevent the ingress and egress of rodents to or from a building.
 - c. Interior floors or basements, and other areas in contact with the soil shall be rodent-proofed to prevent the entrance of rodents into the structure.
 - (5) *Facilities for storage and disposal of rubbish and garbage.* Every owner of a multiple-family dwelling shall be responsible for providing and maintaining facilities for the storage and disposal of rubbish and garbage, and for arranging for the collection of this material. In the case of single-family or two-family dwellings, these responsibilities shall be those of the occupants.

- (6) *Rodent harborages in occupied areas.* It shall be the responsibility of the owner of a dwelling unit to prevent the formation of rodent harborages in or about the premises. It shall further be the responsibility of such owner to prevent the placement or accumulation of materials that may serve as food for rodents in a site accessible to rodents in these areas.
 - (7) *Pest or vermin extermination.* The owner of a dwelling or dwelling units shall be responsible for the extermination of pest or vermin infestations on the premises.
- (Code 1963, § 45.06; Code 1980, § 6-146; Code 2004, § 18-341; Ord. No. 645, 8-2-1979)

Sec. 18-289. Basic safety requirements for interior and exterior maintenance.

(a) *Kitchen facilities.* Kitchen facilities in every dwelling unit shall be maintained in the following manner:

- (1) A kitchen sink shall be in good working condition and properly connected to an approved water supply system which provides, at all times heated, and unheated running water under pressure, and which is connected to an approved sewer system.
- (2) Cabinets or shelves and counter or table shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect on food.
- (3) A stove or similar device for cooking food, and a refrigerator or similar device for the safe storage of food, shall be properly maintained with all necessary connections for safe, sanitary, and efficient operation.

(b) *Windows, doors, and screens.* Every window, exterior door, and hatchway shall be substantially tight and shall be kept in sound condition and repair. Every window, other than a fixed window or storm window, shall be capable of being easily opened.

(c) *Lighting.* All electrical light fixtures shall be kept in a good state of repair.

(d) *Minimum electrical standards.* Every dwelling unit and all public and common areas supplied with electric service, functioning overcurrent protection devices, electric outlets, and electric fixtures shall be maintained in good and safe working condition, and shall be connected to a source of electric power in a manner prescribed by the ordinances, rules and regulations of the city and by the laws of the state.

(e) *Floors, interior walls, and ceilings.* Every floor, interior wall, and ceiling shall be kept in sound condition and good repair. Every floor shall be free of loose, warped, protruding or rotted flooring materials. Every interior wall and ceiling shall be free of holes and large cracks and loose plaster and shall be maintained in a tight, weatherproof condition.

(f) *Stairways, porches, and balconies.* Every stairway, inside or outside of a dwelling and every porch or balcony, shall be kept in a safe condition and sound repair.

(g) *Doors, locks and security.* No owner shall occupy nor let to another for occupancy any dwelling or dwelling unit unless all exterior doors of the dwelling and dwelling unit are equipped with safe, functioning locking devices.

(h) *Protective treatment.* All exterior surfaces, including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water-tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(Code 1963, § 45.07; Code 1980, § 6-147; Code 2004, § 18-342; Ord. No. 645, 8-2-1979; Ord. No. 01-1930, 12-6-2001)

Sec. 18-290. Immediate health, welfare and safety hazards.

The following are considered immediate hazards to the health, safety and welfare of the residents of the city:

- (1) Heating systems that are unsafe due to:
 - a. Burned out or rusted out heat exchanges (firebox);
 - b. Burned out or plugged flues; not being vented;
 - c. Being connected with unsafe gas supplies;
 - d. Failing to meet the minimum heating standards set forth in section 18-288(d).
- (2) Water heaters that are unsafe due to:
 - a. Burned out or rusted out heat exchanges (firebox);
 - b. Burned out, rusted out or plugged flues;
 - c. Not being vented;
 - d. Being connected with unsafe gas supplies; or
 - e. Lack of temperature and pressure relief valves.
- (3) Electrical systems that are unsafe due to:
 - a. Dangerous overloading;

- b. Damaged or deteriorated equipment;
 - c. Improperly taped or spliced wiring;
 - d. Exposed uninsulated wires;
 - e. Distribution systems of extension cords or other temporary methods;
 - f. Ungrounded systems, ungrounded appliances in contact with earth.
- (4) Plumbing systems that are unsanitary due to:
- a. Leaking waste systems fixtures and traps;
 - b. Lack of a water closet;
 - c. Lack of washing and bathing facilities; or
 - d. Cross connection of pure water supply with fixtures of sewage lines.
- (5) Structural systems, walls, chimneys, ceilings, roofs, foundations, and floor systems, that will not safely carry imposed loads.
- (6) Refuse, garbage, human waste, decaying vermin or dead animals, animal waste, other materials rendering it unsanitary for human occupancy.
- (7) Interior storage, including, but not limited to, accumulations of wood products, paper and paper products, refuse, food waste, clothing, bedding, towels, linens, tablecloths, drapes, area rugs, maintenance supplies, or flammable materials which constitutes a fire or health hazard because of:
- a. The increased fuel load and the limited ability to access walls, ceilings, windows, doors, and heating appliances and other fixtures,
 - b. Blocked or obstructed exits,
 - c. Infestation by rodents or arthropods or other pests.
- (8) Infestation of rodents, insects, vermin and other pests.
- (9) The following exterior building components which lack maintenance or are experiencing long-term deterioration, including, but not limited to:
- a. Exterior surfaces, including siding, fascia, or roof surfaces which are missing, rotting, lacking paint, or have peeling paint over 20 percent of any one side or ten percent of all sides combined,
 - b. Missing exterior doors or broken windows.
 - c. Decks or exterior stairs which have any structural defects which create an immediate hazard or have over 20 percent rotting or missing structural components.
 - d. Structural deterioration creating a danger of collapse.

(Code 1963, § 45.08; Code 1980, § 6-148; Code 2004, § 18-343; Ord. No. 645, 8-2-1979; Ord. No. 01-1930, 12-6-2001)

Sec. 18-291. Provisions and maintenance of basic services and utilities in manufactured home parks.

(a) *Plumbing, heating and electrical service.* Every owner of a manufactured home park shall be responsible for the provision and maintenance of plumbing, heating, and electrical service to each manufactured home. All utilities shall be constructed, installed and maintained in accordance with the laws of the state, the recommendations of the state health department, and the ordinances and requirements of the city.

(b) *Illumination.* Every public hall and stairway in every mobile park community building shall be adequately lighted by natural or electric light at all times so as to provide effective illumination in all parts thereof.

(Code 1963, § 45.10; Code 1980, § 6-150; Code 2004, § 18-344; Ord. No. 645, 8-2-1979)

Secs. 18-292—18-315. Reserved.

ARTICLE V. RENTAL DWELLINGS

Sec. 18-316. License required; definitions.

(a) *License.* No person shall allow to be occupied or let to another for occupancy a unit or units in a rental dwelling for which a license has not been granted by the city.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Rental dwelling means any structure or portion thereof which is designated or used for residential occupancy by one or more persons who are not the owner or a member of the owner's family. The term "rental dwelling" includes commercial living facilities, not governed by state licensing requirements.

(Code 2004, § 18-501; Ord. No. 07-2122, 3-8-2007; Ord. No. 12-2245, 3-15-2012; Ord. No. 19-2435, 9-16-2019)

Sec. 18-317. Application.

(a) Before any license shall be issued or renewed, the owner of the rental dwelling shall complete an application. The following persons shall be authorized to sign and submit the application:

- (1) If the owner is a natural person, by the owner thereof.
- (2) If the owner is a corporation, by an officer thereof.
- (3) If the owner is a partnership, by a partner thereof.

(b) The application shall be made on a form prescribed by the city and shall include:

- (1) The name and address of the owner of the rental dwelling.
- (2) The name and address of any operator or agent actively managing the rental dwelling.
- (3) If the operator or agent is a business entity, the application shall include the names, telephone numbers and addresses of individuals who will be involved in such management, together with a description of the scope of services and manner of delivering these services by the manager.
- (4) If the applicant is a corporation, the name and address of all officers.
- (5) If the applicant is a partnership, the name and address of all partners.
- (6) If the rental dwelling is being sold on a contract for deed, the name and address of the vendees.
- (7) The legal address of the rental dwelling.
- (8) Owner, agent or manager to whom notices of violation should be directed pursuant to this article.
- (9) Proof of smoking policy disclosure for rental dwelling residents as part of the rental agreement.

(Code 2004, § 18-502; Ord. No. 07-2122, 3-8-2007; Ord. No. 23-2522, 2-22-2023)

Sec. 18-318. License issuance.

(a) The city may issue a license in its discretion if the building and the application are found to be in compliance with the provisions of this article and article IV of this chapter, provided that all real estate taxes and municipal utility bills for the premises have been paid. Real estate taxes will not be considered to be unpaid for purposes of this section while a proper and timely appeal of such taxes is pending.

(b) No license shall be issued or renewed for a nonresident owner of a rental dwelling (one who does not reside in any of the following counties: Hennepin, Ramsey, Anoka, Carver, Dakota, Scott, Washington, Sherburne, Isanti, or Chisago and some locations immediately into the State of Wisconsin), unless such owner designates in writing to the city inspector the name of such owner's resident agent, (who also needs to reside in the above-noted locations) who is responsible for maintenance and upkeep and who is legally constituted and empowered to receive service of notice of violation of the provisions of the city ordinances, to receive orders and to institute remedial action to effect such orders and to accept all service or process pursuant to law. The city inspector shall be notified in writing of any change

of resident agent. This requirement may be waived if, in the city inspector's determination, the owner not living in one of the above specified counties is nonetheless sufficiently accessible for the purposes of this article.

(Code 2004, § 18-503; Ord. No. 07-2122, 3-8-2007; Ord. No. 12-2245, 3-15-2012)

Sec. 18-319. Term of license.

Licenses will be issued for a one-year period, and the license term shall commence on January 1.

(Code 2004, § 18-504; Ord. No. 07-2122, 3-8-2007; Ord. No. 18-2403, 4-19-2018)

Sec. 18-320. License fees.

(a) The license fees shall be established by resolution. The license fee shall be collected for each building and unit in a rental dwelling.

(b) If an application for a license is made after its due date of January 1, a late fee, as established by resolution, will be added to the initial license fee. For each subsequent 30-day period, an additional late fee will be imposed.

(Code 2004, § 18-505; Ord. No. 07-2122, 3-8-2007; Ord. No. 18-2403, 4-19-2018)

Sec. 18-321. Posting of license.

The licensee shall post a copy of the license in a conspicuous public corridor or hallway or lobby of the licensed rental dwelling.

(Code 2004, § 18-506; Ord. No. 07-2122, 3-8-2007)

Sec. 18-322. Transfer of license.

A license is transferable for a fee to any person who has actually acquired legal ownership of the rental dwelling. The transfer shall be effective for the unexpired portion of the license period, provided that a transfer application is filed with the city prior to the actual change of legal ownership and that the transferee is not disqualified from holding the license. A license shall terminate upon an owner's failure to apply for a transfer prior to change of legal ownership. The fee for the license transfer shall be established by resolution.

(Code 2004, § 18-507; Ord. No. 07-2122, 3-8-2007)

Sec. 18-323. Conduct on licensed premises.

(a) *Disorderly premises.* The licensee shall be responsible for ensuring that persons occupying or present at the rental dwelling conduct themselves in such a manner as not to cause the premises to be disorderly. For purposes of this section, a premises is disorderly if any of the following occur:

- (1) Violation of chapter 50, article III, division 3 or M.S.A. § 609.72.

- (2) Violation of laws relating to the possession of controlled substances as defined in M.S.A. § 152.01, subd. 4.
- (3) The unlawful possession or sale of intoxicating liquor or 3.2 percent malt liquor.
- (4) Violation of laws relating to gambling.
- (5) Violation of laws relating to prostitution as defined in M.S.A. § 609.321, subd. 9, or acts relating to prostitution.
- (6) Unlawful use or possession of a firearm or weapon in violation of chapter 50, article III, division 2 or M.S.A. § 609.66, subd. 1a, 609.67 or 624.713.
- (7) Violation of M.S.A. § 609.705 (Unlawful Assembly).
- (8) Violation of M.S.A. § 609.71 (Riot).
- (9) Violation of M.S.A. § 609.713 (Terrorist Threat).
- (10) Violation of M.S.A. § 609.715 (Presence at Unlawful Assembly).
- (11) Any other conduct deemed disorderly by the city manager or designee.

(b) *Enforcement authority.* The city manager or designee shall be responsible for enforcement and administration of this article. Authority to take any action authorized by this article may be delegated to the city manager's authorized designee.

(c) *Notice of violation.* Upon determination by the city that a rental dwelling was deemed to be a disorderly premises, notice of the violation shall be given to the licensee or designee. The notice shall include a directive for the licensee to take steps to prevent further violations. All notices given by the city under this section shall be served on the licensee or designee, sent by mail to the licensee's last known address, or, by posting the notice in a conspicuous place at the rental dwelling.

(d) *Second instance.* If a second instance of a disorderly premises occurs within the annual license term the city shall notify the licensee or designee of the violation and shall also require the licensee to submit a written report of the actions taken and proposed to be taken by the licensee to prevent further disorderly use of the premises. This written report shall be submitted to the city within five days of receipt of the notice of disorderly premises and shall detail all actions taken by the licensee in response to all notices of disorderly premises within the license term.

(e) *Third instance.* If a third instance of a disorderly premises occurs within the annual license term the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed in accordance with section 18-324.

(f) *Instances defined.* For purposes of this section, second and third instances of disorderly premises shall be those which:

- (1) Occur at the same rental dwelling unit; or

- (2) Involve tenants at the same rental dwelling unit; or
- (3) Involve guests or invitees at the same rental dwelling unit; or
- (4) Involve guests or invitees of the same tenant; or
- (5) Involve the same tenant.

(g) *Eviction proceedings.* No adverse license action shall be imposed where the instance of disorderly premises occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days of notice given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings shall not be a bar to license action, however, unless they are being diligently pursued by the licensee.

(h) *Evidence of disorderly premises.* A determination of disorderly premises shall be made upon substantial evidence. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly premises. Moreover, a dismissal or acquittal of any such criminal charge will not operate as a bar to license action under this article.

(i) *Council action not exclusive.* Enforcement actions provided in this article shall not be exclusive. The city council may take any action with respect to a licensee, a tenant, or the licensed premises as is authorized by the city Code or state law. (Code 2004, § 18-508; Ord. No. 07-2122, 3-8-2007)

Sec. 18-324. Suspension, revocation, denial, non-renewal.

(a) *Hearing.* An action to deny, revoke, suspend, or not renew a license under this article shall be initiated by the city by giving written notice to the licensee of a hearing by a hearing officer, on behalf of the city council to consider such denial, revocation, suspension or non-renewal. The written notice shall specify all violations and shall state the date, time, place and purpose of the hearing. The hearing shall be held no less than ten days and no more than 30 days after giving the notice. In such hearing, the hearing officer shall give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply with city requirements. Following the hearing, the hearing officer, in its sole discretion may deny, revoke, suspend, or decline to renew the license for all or any part or parts of the rental dwelling, or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this article. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this article may be postponed or discontinued at any time if it appears that the licensee has taken appropriate measures which will prevent further instances of disorderly use. The hearing officer shall issue its decision upon written findings.

(b) *Reason for action.* The hearing officer may revoke, suspend, deny or decline to renew any license issued under this article upon any grounds it deems appropriate, including, but not limited to, the following:

- (1) False statements on any application or other information or report required by this article to be given by the applicant or licensee.
- (2) Failure to pay any application fee, penalty, re-inspection, or reinstatement fee required by this article and resolutions.
- (3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
- (4) Any other violation of this article.

(c) *Reinstatement of license.* Upon a decision to revoke, deny, or not renew a license, no new application for the same rental dwelling will be accepted for a period of time specified in the written decision of the hearing officer, not exceeding one year. Any such new application must be accompanied by a reinstatement fee, as specified by resolution, in addition to all other fees required by this article.

(d) *No new rentals.* A written decision to revoke, suspend, deny, or not renew a license shall specify the part or parts of the rental dwelling to which it applies. Thereafter, and until a license is reissued or reinstated, no rental units becoming vacant in such part or parts of the rental dwelling may be re-let or occupied. Revocation, suspension or non-renewal of a license shall not excuse the owner of a rental dwelling from compliance with the terms of this article for any other unit or units in the rental dwelling which remain occupied.

(e) *Failure to comply.* Failure to comply with any term of this article during a period of revocation, suspension, or non-renewal is a misdemeanor and is also grounds for extension of the term of such revocation or suspension or continuation of non-renewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation or non-renewal specified in the hearing officer's written decision.

(Code 2004, § 18-509; Ord. No. 07-2122, 3-8-2007; Ord. No. 19-2435, 9-16-2019)

Sec. 18-325. No retaliation.

No licensee shall evict, threaten to evict, or take any other punitive action against any tenant by reason of good faith calls made by such tenant to law enforcement agencies relating to criminal activity, suspected criminal activity, suspicious occurrences, or public safety concerns. This section shall not prohibit the eviction of tenants from a dwelling unit for unlawful conduct of a tenant or invitee or violation of any rules, regulations or lease terms other than a prohibition against contacting law enforcement agencies.

(Code 2004, § 18-510; Ord. No. 07-2122, 3-8-2007)

Sec. 18-326. Sober living home—Licensing and standards.*(a) Purpose and intent.*

- (1) The purpose of this section is to establish process and standards to ensure that sober living housing is habitable, safe and is operated and maintained as to not detract from the neighborhood or to become an influence that fosters blight, deterioration or disincentive to reinvestment in the community. It is the intent to establish standards that are applicable to all sober living dwellings in the city. Any inconsistencies between various sections contained elsewhere in article IV of this chapter and this section shall be resolved in favor of this section.
- (2) The provisions of this section are in addition to those requirements set forth in article IV of this chapter and this article.

(b) Defined. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Sober living home means a dwelling unit occupied by more than four unrelated individuals with all individuals residing in recovery from chemical dependency and considered disabled under the federal Fair Housing Act Amendments of 1988. The term "sober living home" does not include group facilities that are licensed by other governmental agencies or otherwise considered permitted uses as defined by state statute.

(c) License required.

- (1) No person or entity shall operate a sober living home until a sober living home license has been applied for and issued by the city.
- (2) The city may issue a license in its discretion if the building and the application are found to be in compliance with the provisions of this article and with article IV of this chapter, provided that all real estate taxes and municipal utility bills for the premises have been paid. Real estate taxes will not be considered to be unpaid for purposes of this section while a proper and timely appeal of such taxes is pending.

(d) Application for license. The application process shall follow the requirements of section 18-317 with the following additional requirements:

- (1) Description, number and size of available bedrooms.
- (2) Basic floor plan of dwelling (including all living levels).
- (3) Scaled site plan of property showing house, driveways and garage.
- (4) A description and the number of off-street parking stalls available.

- (5) A property management plan, including tenant selection process as well as maintenance of the facility.
- (6) A crime free/drug free lease addendum signed by and applicable to all occupants of the sober living home.
- (7) Proof of membership with the Minnesota Association of Sober Homes, Inc. (MASH) that outline additional living standards and criteria related to safety, health, and house management.

(e) *Public hearing.* Applications for a sober living home license require a public hearing before the city council. The city will provide written notice to all property owners within 350 feet of the applicant's property not less than ten days before any scheduled public hearing.

(Code 2004, § 18-511; Ord. No. 19-2435, 9-16-2019)

Sec. 18-327. Sober living home—Inspections of dwellings.

Upon receipt of a properly executed application for licensing and receipt of the appropriate fee, the city shall complete an initial inspection of the premises to determine whether the property is in compliance with this article. Any sober living home dwelling may be reinspected after a renewal application or transfer of license is filed to determine compliance. The city shall further have the right to reinspect the premises at any time it is deemed necessary to assure compliance with this article.

- (1) The city shall be authorized to make or cause to be made inspections to determine the condition of dwellings, multiple dwellings, dwelling units, roominghouses, rooming units, and premises in order to safeguard the health, safety, morals, and welfare of the public. The city shall be authorized to enter any dwelling, multiple dwelling, dwelling unit, roominghouse, rooming unit, or premises at any reasonable time for the purpose of performing inspections under this article. The owner, operator, or occupant of the sober living home shall give the city access to such dwelling, multiple dwelling, dwelling unit, roominghouse, rooming unit and premises on which it is located at all reasonable times for the purpose of such inspection.
- (2) If the owner, operator, person in charge, or occupant shall refuse to consent to the inspection, a search warrant may be obtained. If the city finds it necessary to obtain an administrative search warrant to enter the property for inspection due to the owner, operator, person in charge or occupant's lack of cooperation, said person may also be charged with all costs of obtaining the warrant, including court costs and attorney's fees.
- (3) No warrant is needed where an emergency condition exists which endangers persons or property and insufficient time is available to obtain a warrant and protect such endangered persons or property.

(4) Entry under this section is subject to M.S.A. § 504B.211 (Residential Tenant's Right to Privacy), as amended.
(Code 2004, § 18-512; Ord. No. 19-2435, 9-16-2019)

Sec. 18-328. Sober living home—Length and terms of license.

(a) The license period shall commence upon issuance of the license. A sober living home license shall be issued for a period of one year.

(b) A sober living home license is transferable to any person who has actually acquired legal ownership of a licensed building for the unexpired portion of the term for which it was issued or reissued, provided that the application to transfer such registration is filed with the city within 30 days of closing and the transferee is not disqualified from holding a license due to prior revocation, suspension, or denial of a sober living home license. The sober living home license shall terminate upon failure to apply for its transfer within 30 days of closing.

(Code 2004, § 18-513; Ord. No. 19-2435, 9-16-2019)

Sec. 18-329. Sober living home—License suspension, revocation, denial and non-renewal.

(a) The city council may revoke, suspend, deny or decline to renew any sober living home license issued under this article upon any of the following grounds:

- (1) False statements on any application or other information or report required by this article to be given by the applicant or licensee.
- (2) Failure to pay any license or reinstatement fee required by this article.
- (3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
- (4) Any other violation of the property maintenance, zoning, environmental, and utility chapters of this Code.

(b) No action will be taken by the city council to revoke, suspend, deny, or decline renewal of a sober living home license without a hearing and written notice of that hearing is sent to the property owner, agent, and affected tenants a minimum of ten days prior to the hearing.

(c) The city council shall give due regard to the frequency and seriousness of the violations, the ease with which such violations could have been cured or avoided, and good faith efforts to comply and shall issue a decision to revoke, suspend, deny, or decline renewal of a license only upon written findings.

(d) Upon a decision to revoke, suspend, deny or decline renewal of a license, no new application for the same facility will be accepted for a period of time as specified in the city council's written decision, which time shall not exceed one year. All new applications shall be accompanied by a reinstatement fee as required by this article.

(e) A written decision to revoke, suspend, deny or decline renewal of a license or application shall specify the part of the facility to which it applies. Thereafter, and until a license is reissued or reinstated, no units becoming vacant in such part or parts of the facility may be re-let or occupied. Revocation, suspension, denial or non-renewal of a license shall not excuse the owner from compliance with all terms of this article for as long as any units in the facility are occupied. Failure to comply with all terms of this article during the term of revocation, suspension, denial or non-renewal is a misdemeanor and grounds for an extension of the term of such revocation, suspension, or non-renewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation, denial or non-renewal specified in the city council's written decision or in this subsection.

(f) Notice and hearing. Any license revocation or suspension process by a hearing officer, on behalf of the city council, shall be preceded by written notice to the licensee and a hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application.

(Code 2004, § 18-514; Ord. No. 19-2435, 9-16-2019)

Sec. 18-330. Sober living home—Display of license.

Licenses issued under this article must be displayed on the premises of sober living home dwellings. All property owners must produce a copy of the sober living home license upon demand of a prospective tenant or city official.

(Code 2004, § 18-515; Ord. No. 19-2435, 9-16-2019)

Sec. 18-331. Sober living home—Fees.

Sober living home license fees and reinstatement fees are to be determined annually by the city council.

(Code 2004, § 18-516; Ord. No. 19-2435, 9-16-2019)

Sec. 18-332. Violations and penalties.

Any person violating any provision of this article is guilty of a misdemeanor and, upon conviction, shall be subject to the penalties set forth in state statutes.

(Code 2004, § 18-517; Ord. No. 19-2435, 9-16-2019)

Sec. 18-333. Reasonable accommodations.

It is the policy of the city, pursuant to the federal Fair Housing Amendments Act of 1988, to provide reasonable accommodations in the application of its zoning regulations for persons with disabilities seeking fair and equal access to housing. The term "reasonable accommodation" means providing an individual with a disability or developers of housing for an individual with a disability flexibility in

the application of land use and zoning regulations or policies, including the modification or waiver of certain requirements, when it is necessary to eliminate barriers to housing opportunities. The purpose of this section is to establish a process for making and acting upon requests for reasonable accommodation.

- (1) Any person who requests reasonable accommodation in the form of modification in the application of a zoning regulation which may act as a barrier to fair housing opportunities due to the disability of existing or proposed residents may do so on an application form provided by the city. The term "person" includes any individual with a disability, their representative or a developer or provider of housing for an individual, with a disability. The application shall include a detailed explanation of why the modification is reasonably necessary to make the specific housing available to the person, including information establishing that the applicant is disabled under applicable laws, as well as other information required by the city to make the determination. If the project for which the request is being made also requires an additional land use review or approval, the applicant shall file the request concurrently with the land use review.
- (2) City staff shall review the request and make a formal recommendation to the city council. The request shall be evaluated under the following factors:
 - a. Whether there is a qualifying disability;
 - b. Whether the request is needed to allow a disabled person equal opportunity to use and enjoy a dwelling or to live in a particular neighborhood as a person without disabilities;
 - c. Whether the request is reasonable, considering the potential impact on surrounding uses, the extent to which the accommodation meets the stated need, and other alternatives that may meet that need;
 - d. Whether the request would constitute a fundamental alternation of the city's regulations, policies, or procedures;
 - e. Whether the request would impose an undue financial or administrative burden on the city;
 - f. The number, nature and extent of the requested accommodation in relation to the physical limitations of the building and site; and
 - g. Any other factor that may have a bearing on the request, as determined by the city.
- (3) The city council shall consider the request following receipt of the recommendation of the city staff.
- (4) An approved sober living home license is granted only to an individual or operating entity and does not run with the land.

- (5) No sober living home shall be located within 1,320 feet of another sober living home that has been granted a sober living home license as measured from the property lines closest to one another.
(Code 2004, § 18-518; Ord. No. 19-2435, 9-16-2019)

Secs. 18-334—18-356. Reserved.

ARTICLE VI. NEWSPAPER OR ADVERTISING RECEPTACLES

Sec. 18-357. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Newspaper/advertising receptacles means any outside container which may be attached to the sides of buildings, freestanding posts, mailbox posts or other outside structures used to hold newspapers, advertising flyers, or similar printed material which may be delivered by a carrier.

(Code 1980, § 6-162; Code 2004, § 18-221; Ord. No. 85-864, 3-7-1985)

Sec. 18-358. Penalty for violation.

Any person or corporation in violation of any provision of this article shall be guilty of a misdemeanor. Every newspaper/advertising receptacle in violation shall be considered a separate offense.

(Code 1980, § 6-167; Code 2004, § 18-222; Ord. No. 85-864, 3-7-1985)

Sec. 18-359. Intent.

The purpose of the regulation of newspaper/advertising tubes is to ensure that the public right-of-way remains visually unobstructed, accessible for work on utilities, and to ensure safe, unhampered snow removal. This section will also preserve residential neighborhood appearance, thus protecting property values. This article is also designed to assist city citizens in the removal of unwanted newspaper/advertising receptacles.

(Code 1980, § 6-161; Code 2004, § 18-223; Ord. No. 85-864, 3-7-1985)

Sec. 18-360. Requirements for use.

(a) Newspaper/advertising receptacles shall be placed symmetrically on the mailbox post whenever possible, at a height not to exceed 45 inches. If the newspaper/advertising receptacle is not placed on the mailbox post, the supporting post shall be placed so that the front edge of the newspaper/advertising receptacle does not extend beyond the back of the curb and does not exceed a height of 45

inches. The supporting post shall be placed within 18 inches of the mailbox and shall be designed and mounted in a secure manner to ensure the post remains in a vertical position.

(b) Newspaper/advertising receptacles shall be limited to two per household or business.

(c) Newspaper/advertising receptacle colors and identifying marks shall be limited to brown, black, or other neutral color as approved by the director of community development.

(d) Newspaper/advertising receptacles shall not display any advertising message but may display an identifying mark for the person or corporation using such receptacles not to exceed two inches by two inches in size.

(e) It shall be the responsibility of the applicant to remove the accumulated advertising on a weekly basis.

(f) All subscribers with newspaper/advertising receptacles currently installed and all new subscribers shall be provided with a self-addressed postcard printed in such a manner so as to allow the subscribers to instruct the applicant placing the newspaper/advertising receptacle to remove it. The applicant is required to send this postcard semiannually to all subscribers with newspaper/advertising receptacles. (Code 1980, § 6-165; Code 2004, § 18-224; Ord. No. 85-864, 3-7-1985)

Sec. 18-361. Maintenance.

Maintenance of all newspaper/advertising receptacles as set forth in this article shall be the responsibility of the applicant.

(Code 1980, § 6-166; Code 2004, § 18-225; Ord. No. 85-864, 3-7-1985)

Sec. 18-362. Regulation.

Placement or attachment of all newspaper/advertising receptacles by any person or corporation shall be prohibited unless in compliance with all provisions of this article.

(Code 1980, § 6-163; Code 2004, § 18-226; Ord. No. 85-864, 3-7-1985)

Secs. 18-363—18-382. Reserved.

ARTICLE VII. CONTRACTORS

DIVISION 1. GENERALLY

Secs. 18-383—18-407. Reserved.

DIVISION 2. LICENSE

Sec. 18-408. Required; exceptions.

(a) Except as otherwise provided by law, before any person shall engage in the business of doing or performing any of the various types of work listed in this section, such person shall first obtain a license to do so as provided in this section:

- (1) Cement work, cement block work, cement block laying or brick work.
- (2) General construction, including erection, alteration, or repair of a building.
- (3) The moving or wrecking of buildings.
- (4) Plastering, outside stucco work, or lathing.
- (5) Blacktopping (parking lots, driveways, etc.).
- (6) Roofing.
- (7) Reserved.
- (8) Excavators (for basements, foundations, grading of lots, etc.).
- (9) Heating, ventilating or air conditioning.
- (10) Automatic sprinkler system design and installation contractor.

(b) No person shall perform electrical, plumbing or well water contracting work for another within the city without first having provided a copy of their state-issued license. Every person holding a license from the state board of electricity or the state commissioner of health and doing electrical, plumbing or well water contracting work for another within the city shall have on file with the building official a copy of the current license issued by the respective agency or such other evidence of such license as may be provided by the respective agency.

(Code 1963, § 37.04; Code 1980, § 6-40; Code 2004, § 18-121; Ord. No. 329, 11-15-1973; Ord. No. 89-1129, 4-6-1989; Ord. No. 23-2526, § 1(1), 5-15-2023)

State law reference—Licensing of construction contractors, M.S.A. § 326B.091 et seq.

Sec. 18-409. Scope of general contractor's license; compliance by subcontractors.

A license granted to a general contractor shall include the right to perform all the work included in such contractor's general contract. Such licenses shall include all of the persons performing the work which is classified and listed in section 18-408, provided that each person performing such work is in the regular employ of such general contractor and qualified under state law and the provisions of the building code to perform such work. In these cases, the general contractor shall be

responsible for all of the work so performed. Subcontractors on any work shall be required to comply with the sections of this chapter pertaining to license, bond, qualifications, etc., for this particular type of work.

(Code 1963, § 37.044; Code 1980, § 6-41; Code 2004, § 18-122)

Sec. 18-410. Filing of state license.

No state license granted under the terms stated in this division shall become effective until the licenses shall have been filed with the building official.

(Code 1963, § 37.049; Code 1980, § 6-47; Code 2004, § 18-123)

Sec. 18-411. Liability insurance; indemnification and hold harmless.

(a) No license shall be issued until the applicant shall furnish an umbrella or all perils policy providing coverage of at least \$500,000.00.

(b) In addition, no license will be issued until the contractor agrees to hold the city harmless from all damages and claims of damages which may arise by reason of any negligence of the contractor or the contractor's agents or employees while engaged in the performance of this contract, and will indemnify the city for the amount of all claims, liens, expenses and claims for liens for work, tools, machinery, materials or insurance premiums and for the amount of all loss by reason of the failure of the contractor to fully perform its obligations under this contract, including, but not limited to, attorney fees and costs incurred relative to such claims and losses.

(Code 1963, § 37.041; Code 1980, § 6-42; Code 2004, § 18-124; Ord. No. 94, 5-15-1964; Ord. No. 88-1107, 12-1-1988)

Sec. 18-412. Fee.

All licenses shall be obtained from the city manager. Application for licenses shall be filed with the building official on the forms furnished by the municipality. The fee for each license shall be established by action of the council.

(Code 1963, § 37.041; Code 1980, § 6-43; Code 2004, § 18-125; Ord. No. 94, 5-15-1964; Ord. No. 88-1107, 12-1-1988; Ord. No. 98-1695, § 4, 2-5-1998)

Sec. 18-413. Expiration; renewal.

(a) All licenses shall expire on July 1 following the date of issuance unless sooner revoked or forfeited. If a license granted under this article is not renewed previous to its expiration, then all rights granted by such license shall cease, and any work performed after the expiration of the license shall be in violation of this chapter.

(b) Persons renewing their license after the expiration date shall be charged the full annual license fee. No prorated license fee shall be allowed for renewals.

(Code 1963, §§ 37.041, 37.043; Code 1980, § 6-44; Code 2004, § 18-126; Ord. No. 80, 3-1-1963; Ord. No. 152, 3-7-1968)

Sec. 18-414. Competency.

Each applicant for a license shall satisfy the city manager that such applicant is competent by reason of education, special training, and experience, and that such applicant is equipped to perform the work for which a license is requested in accordance with all state laws and city ordinances and the building code.

(Code 1963, § 37.045; Code 1980, § 6-45; Code 2004, § 18-127)

Sec. 18-415. Suspension or revocation.

(a) The council shall have the power to suspend or revoke the license if any person licensed under the regulations of this article, whose work is found to be improper or defective or so unsafe as to jeopardize life or property, providing the person holding such license is given 20 days' notice granting the opportunity to be heard before such action is taken. If and when such notice is sent to the legal address of the licensee and such licensee fails or refuses to appear at the hearing, the license will be automatically suspended or revoked five days after date of hearing.

(b) When a license is suspended the period of suspension shall be not less than 30 days nor more than one year, such period being determined by the council.

(c) When any person holding a license as provided in this division has been convicted for the second time by a court of competent jurisdiction for violation of any of the provisions of this chapter, the council shall revoke the license of the person so convicted. Such person may not make application for a new license for a period of one year.

(Code 1963, §§ 37.046, 37.047, 37.048; Code 1980, § 6-46; Code 2004, § 18-128)

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ARTICLE I. IN GENERAL**Sec. 22-1. Gun clubs and firing ranges.**

(a) *Club license authorized.* The council may issue a license to an organization to operate a gun club within the city, subject to the provisions of city zoning regulations.

(b) *Application, hearing, issuance or denial.* Application shall be directed to the city clerk and contain the name of the organization, the description of the property to be used, and the names of all residents within 1,000 feet of the proposed gun range. The council shall set a hearing on such license application within one week's published notice of such hearing. The council may, in its discretion, grant or deny such license.

(c) *Discharge hours restricted.* It is unlawful to fire or discharge high powered rifles, side arms or shotguns on the premises of the gun club on Saturdays, Sundays and holidays except between the hours of 10:00 a.m. and 7:30 p.m. on Saturdays and 12:00 noon and 7:30 p.m. on Sundays and holidays, except that the hour limitation shall not be applicable to any Saturdays, Sundays or holidays occurring within 15 days prior to a legally designated deer season, during which, deer may be taken by firearms, pursuant to applicable state law. The hour limitation shall not apply to the discharge of shotguns on the premises of the gun club during any legally designated hunting season.

(d) *Exemption.* This section shall not prohibit the use of firearms by a legally appointed police officer or by a member of a duly licensed gun club as provided in this article when firing or discharging such firearms on the authorized firing range of such club and within the prescribed hours for shooting.

(Code 1963, §§ 63.02—63.05; Code 1980, §§ 4-3—4-6; Code 2004, §§ 22-331, 22-332, 22-351; Ord. No. 326, 8-1-1974)

Secs. 22-2—22-22. Reserved.**ARTICLE II. ADULT USES****DIVISION 1. GENERALLY****Sec. 22-23. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult use means adult bookstores, adult motion picture theaters, adult minimotion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna

facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas which are capable of being seen by members of the public. Activities classified as obscene as defined by M.S.A. § 617.241 are not included.

Adult use, accessory, means the offering of goods or services which are classified as adult uses on a limited scale and which are incidental to the primary activity and goods or services offered by the establishment. The term "accessory adult use" does not include any principal adult uses, as that term is defined by this section, nor the rental or sale of adult magazines, adult books or adult movies, provided the display of such items complies with M.S.A. § 617.293, is limited to no more than 20 percent of the floor area of the establishment, and is not internally or externally advertised.

Adult use, principal, means the offering of goods or services which are classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:

- (1) Body painting studio: an establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas.
- (2) Bookstore: a building or portion of a building, comprising more than 20 percent of the floor area of the establishment used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public, generally, but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
- (3) Cabaret: a building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas.
- (4) Companionship establishment: a companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the

establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

- (5) Conversation/rap parlor: a conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- (6) Health/sport club: a health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- (7) Hotel or motel: Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- (8) Massage parlor, health club: a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- (9) Minimotion picture theater: a building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building, as a prevailing practice, excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons therein.
- (10) Modeling studio: an establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
- (11) Motion picture arcade: any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

- (12) Motion picture theater: a building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building, as a prevailing practice, excludes minors by virtue of age or if such material is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons therein.
- (13) Novelty business: a business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.
- (14) Sauna: a sauna which excludes a minor by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- (15) Steam room/bathhouse facility: a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty;
- (2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

- (4) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast;
 - (5) Situations involving persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person;
 - (6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or
 - (7) Human excretion, urination, menstruation, vaginal or anal irrigation.
- (Code 1980, § 15-200; Code 2004, § 22-31; Ord. No. 92-1287, § 2, 3-19-1992; Ord. No. 92-1308, §§ 1, 2, 8-20-1992)

Secs. 22-24—22-49. Reserved.

DIVISION 2. LICENSE

Sec. 22-50. Required.

No person shall operate an adult use, either principal or accessory, without having first secured a license as provided in this division. Licenses shall be one of two types:

- (1) Accessory adult use.
 - (2) Principal adult use.
- (Code 1980, § 15-201; Code 2004, § 22-51; Ord. No. 92-1287, § 2, 3-19-1992)

Sec. 22-51. Applications.

An application for a license must be made on a form provided by the city. In addition to such information as the city manager may require in their sole discretion, the application shall also include:

- (1) The name, residence, phone number and birthdate of the applicant, if an individual; and if a corporation, the names, residences, phone numbers and birthdates of those owners holding more than five percent of the outstanding stock of the corporation;
- (2) The name, address, phone number and birthdate of the manager of such operation, if different from the owners;
- (3) The premises wherein the adult use is to be located;
- (4) A building plan of the premises detailing all internal operations and activities, including a statement of total floor space occupied by the business. This sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;

- (5) Confirmation of compliance with health, fire and building regulations certified by duly authorized representatives of the health department, fire department and building officials;
 - (6) The activities and types of businesses to be conducted;
 - (7) The hours of operation;
 - (8) The provisions made to restrict access by minors;
 - (9) A statement detailing each gross misdemeanor or felony relating to a sex offense, obscenity offense or the operation of adult uses and related activities of which the applicant or, in the case of a corporation, the owners of more than five percent of the outstanding stock of the corporation, have been convicted, and whether or not the applicant has ever applied for or held a license to operate a similar type of business in other communities.
- (Code 1980, § 15-202; Code 2004, § 22-52; Ord. No. 92-1287, § 2, 3-19-1992)

Sec. 22-52. Individuals ineligible.

No license shall be granted to or held by any person:

- (1) Under 18 years of age;
 - (2) Who is overdue or whose spouse is overdue in the person's payment to the city, county or state of taxes, fees, fines or penalties assessed against them or imposed upon them in relation to an accessory adult use or principal adult use;
 - (3) Who has been convicted or whose spouse has been convicted of a felony or of violating any law of this state or local ordinances relating to sex offenses, obscenity offenses or adult uses;
 - (4) Who is not the proprietor of the establishment for which the license is issued;
 - (5) Who is residing with a person who has been denied a license by the city or any other state municipal corporation to operate a principal adult use or accessory adult use business within the preceding 12 months, or residing with a person whose license to operate an accessory adult use or principal adult use business has been revoked within the preceding 12 months;
 - (6) Who is an on-sale liquor, on-sale wine or 3.2 percent malt beverage license holder in the city; or any license holder under chapter 6.
 - (7) Who has not paid the license fee required by section 22-60.
- (Code 1980, § 15-203; Code 2004, § 22-53; Ord. No. 92-1287, § 2, 3-19-1992; Ord. No. 01-1920, 10-4-2001)

Sec. 22-53. Places ineligible for a license.

(a) No license shall be granted for adult uses on any premises which has not been approved by the health department, fire department and the building official as being in compliance with applicable laws and ordinances. All necessary inspections shall be completed within 30 days from the date the application was submitted, provided that the application contains all of the information required by this article. If the application is deficient, the necessary inspection shall be completed within 30 days from the date the deficiency is corrected.

(b) The floor area to be occupied by the proposed principal adult use shall be at least 750 feet from the nearest property line of any land in any residential zone, or any school, day care, library, park playground, or other public recreational facility in any zone, and at least 750 feet from the nearest property line of any religious institution.

(c) A principal adult use business shall not be located within 750 feet of another principal adult use business.

(d) No license shall be granted for adult uses on any premises where a licensee has been convicted of a violation of this section, or where any license hereunder has been revoked for cause, or until one year has elapsed after such conviction or revocation.

(e) No license shall be issued to any premises which has on-sale liquor, on-sale wine or 3.2 percent malt beverage license, or any license holder under chapter 6.

(f) Except for uses lawfully existing at the time of the adoption of the ordinance from which this article is derived, no license shall be granted for any adult use which is not in compliance with the city's zoning regulations.

(Code 1980, § 15-204; Code 2004, § 22-54; Ord. No. 92-1287, § 2, 3-19-1992; Ord. No. 92-1308, § 3, 8-20-1992; Ord. No. 01-1920, 10-4-2001)

Sec. 22-54. Conditions.

(a) *Principal adult use.*

- (1) No adult use business shall be open to the public from the hours of 11:00 p.m. to 8:00 a.m.
- (2) All entrances and exits to businesses, with the exception of emergency fire exits which are not usable by patrons to enter the business, shall be visible from a public right-of-way. If such businesses are located within an enclosed commercial complex, all patron entrances shall open onto the common concourse.
- (3) The adult use business shall not be constructed, used, designed or operated for the purpose of facilitating or permitting persons to engage in specified

sexual activities. Any booths, stalls or partitioned portions of a room or individual rooms, used for the viewing of motion pictures or other forms of entertainment, shall:

- a. Be visible from a well-illuminated continuous main aisle;
 - b. Not be obscured by any curtains, door or other enclave;
 - c. Be without holes or openings in all side or rear walls or holes or openings in any other walls which are designed to allow persons to engage in specified sexual activities as specified in this article;
 - d. Not be occupied by more than one person at a time;
 - e. Be illuminated by a light bulb of no less than 25 watts.
- (4) The operators of the adult use business shall not permit specified sexual activities on the premises and shall have an affirmative duty to supervise the establishment and prevent any such activity.
 - (5) All building openings, entries and windows shall be located, covered or screened in such a manner as to prevent a view into the interior from any public or semipublic area in conformance with architectural requirements of the zoning district.
 - (6) Signs visible to the public for principal adult use businesses shall comply with the city's sign ordinance and shall not contain graphic descriptions or representations of the principal adult use of the operation.
 - (7) No minor shall be permitted on the licensed premises of a principal adult use business unless accompanied by the minor's parent or legal guardian.
 - (8) Any designated inspection officer or law enforcement officer shall have the unqualified right to enter, inspect, and search the premises of the licensee during business hours without a search and seizure warrant.
 - (9) All licensed premises shall have the license posted in a conspicuous place at all times.
 - (10) Every licensee shall be responsible for the conduct of their place of business and shall maintain conditions of order.
 - (11) Every license shall be granted subject to such conditions and all other provisions of this article and of any applicable sections of this Code or state law.
- (b) *Accessory adult use.*
- (1) All licensed premises shall have the license posted in a conspicuous place at all times.

- (2) Any designated inspection officer or law enforcement officer of the city shall have the unqualified right to enter, inspect, and search the premises of a licensee during business hours without a search and seizure warrant.
 - (3) Every licensee shall be responsible for the conduct of the licensee's place of business and shall maintain conditions of order.
 - (4) The accessory adult use shall comprise no more than 20 percent of the floor area of the establishment in which it is located.
 - (5) The displays and display areas for accessory adult use shall comply with M.S.A. § 617.293 and any amendments thereto and shall comply with all state and federal laws regarding the display and dissemination of harmful materials to minors.
 - (6) Accessory adult uses shall be prohibited from both internal and external advertising and signing of adult materials and products.
- (Code 1980, §§ 15-205, 15-206; Code 2004, § 22-55; Ord. No. 92-1287, § 2, 3-19-1992; Ord. No. 92-1308, § 4, 8-20-1992)

Sec. 22-55. Investigation fees.

(a) At the time of each original application for a license, the applicant shall pay a minimum investigating fee. This minimum fee shall be in an amount as provided in the city's fee schedule on the application, and additional direct costs associated with the investigation will be billed to the applicants. The minimum investigating fee shall not be subject to refund. If the expenses of the investigation relating to any application exceed the minimum investigation fee, the city shall notify the applicants of this fact and shall require the applicants to pay an additional investigating fee which the city manager deems necessary to complete its investigation of the applicants. The applicants shall pay such an additional investigating fee within five days of being so notified. If such additional investigating fee is not paid within such five-day period, the city shall discontinue consideration of the application.

(b) Each application shall contain a provision on the application in bold print indicating that any withholding of information or the providing of false or misleading information will be grounds for denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be brought to the attention of the city council by the applicant or licensee. If such changes take place during the investigation, such data shall be provided to the police chief or the city clerk in writing and they shall report the changes to the city council. Failure to report such changes by the applicants or the licensee may result in a denial or revocation of a license.

(Code 1980, § 15-207; Code 2004, § 22-56; Ord. No. 92-1287, § 2, 3-19-1992)

Sec. 22-56. Fees.

(a) The annual fee for an accessory adult use license shall be in an amount as provided in the city's fee schedule. The annual fee for a principal adult use license shall be in an amount as provided in the city's fee schedule.

(b) Each application for a license shall be accompanied by a receipt from the city treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the city. Upon rejection of any application for a license, the treasurer shall refund the amount paid.

(c) All licenses shall expire on June 30 in each year. Each license shall be issued for a period of one year, except that, if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a prorated fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

(d) No part of the fee paid by any license issued under this article shall be refunded except in the following instances upon application to the city administrator within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:

- (1) Destruction or damage of the licensed premises by fire or other catastrophe.
- (2) The licensee's illness.
- (3) The licensee's death.
- (4) A change in the legal status making it unlawful for the licensed business to continue.

(Code 1980, § 15-208; Code 2004, § 22-57; Ord. No. 92-1287, § 2, 3-19-1992)

Sec. 22-57. Granting.

(a) The city manager and police chief shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and administrative hearing, the city manager shall grant or refuse the application.

(b) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the city manager.

(Code 1980, § 15-209; Code 2004, § 22-58; Ord. No. 92-1287, § 2, 3-19-1992)

Sec. 22-58. Expiration.

(a) Each license shall expire one year from the date of issuance and may be renewed only by making an application as provided in section 22-55. Application for renewal should be made at least 60 days before the expiration date, and, when made less than 60 days before the expiration date, the expiration of the license will not be affected.

(b) If the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(Code 1980, § 15-210; Code 2004, § 22-59; Ord. No. 92-1287, § 2, 3-19-1992)

Sec. 22-59. Appeal of denial of licensure by city manager.

Denials of licensure by the city manager on grounds specifically set forth in this article are mandatory and not subject to appeal. For all other license denials, the applicant may appeal the final determination of the city manager to the city council within ten days of the denial by filing written application therefor with the city clerk. The city council, or a hearing officer appointed to act on its behalf, shall conduct a review and a hearing. The determination of the city council or the hearing officer shall be final.

Sec. 22-60. Transfer.

A licensee shall not transfer this license to another, nor shall a licensee operate an adult use business under the authority of a license at any place other than the address designated in the application.

(Code 1980, § 15-213; Code 2004, § 22-60; Ord. No. 92-1287, § 2, 3-19-1992)

Sec. 22-61. Suspension.

(a) The city may suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

- (1) Violated or is not in compliance with any provisions of this article.
- (2) Engaged in excessive use of alcoholic beverages while on the principal adult use premises.
- (3) Refused to allow an inspection of the principal adult use premises as authorized by this Code.
- (4) Knowingly permitted gambling by any person on the principal adult use premises.

- (5) Demonstrated inability to operate or manage a principal adult use in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(b) A suspension by the city shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof.

(Code 1980, § 15-211; Code 2004, § 22-61; Ord. No. 92-1287, § 2, 3-19-1992)

Sec. 22-62. Revocation.

- (a) The city may revoke a license if it determines that:

- (1) The cause of suspension as set forth in section 22-65 occurs, and the license has been suspended within the preceding months.
- (2) The licensee gave false or misleading information in the material submitted to the city during the application process.
- (3) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises.
- (4) A licensee or an employee has knowingly allowed prostitution on the premises.
- (5) A licensee violated any of the provisions of M.S.A. §§ 617.241 through 617.299 relating to the illegal distribution, possession or sale of obscene materials.
- (6) A licensee or an employee knowingly operated the adult use business during a period of time when the licensee's license was suspended.
- (7) A licensee has been convicted of an offense listed in section 22-56 for which the time period required has not elapsed.
- (8) On two or more occasions within a 12-month period, persons committed an offense occurring in or on the licensed premises of a crime listed in section 22-56 for which a conviction has been obtained, and the persons were employees of the adult use business at the time the offenses were committed.
- (9) A licensee or an employee has knowingly allowed specified sexual activities to occur in or on the licensed premises.
- (10) A licensee is delinquent in payment to the county or state for hotel occupancy taxes, ad valorem taxes, or sales taxes related to the adult use business.

(b) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(c) Subsection (a)(8) of this section does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

(d) When the city revokes a license, the revocation shall continue for two years, and the licensee shall not be issued an adult use business license for two years from the date revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(e) A revocation by the city shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.

(Code 1980, § 15-212; Code 2004, § 22-62; Ord. No. 92-1287, § 2, 3-19-1992)

Secs. 22-63—22-82. Reserved.

ARTICLE III. CHRISTMAS TREE LOTS

DIVISION 1. GENERALLY

Secs. 22-83—22-107. Reserved.

DIVISION 2. LICENSE AND BOND

Sec. 22-108. Required.

It is unlawful for any person to maintain and operate a Christmas tree lot without having first secured a license from the city manager and posting a cash bond therefor.

(Code 1963, § 66.01; Code 1980, § 15-1; Code 2004, § 22-111; Ord. No. 172, 3-6-1969)

Sec. 22-109. Application; fee; term; issuance or denial.

Any person desiring to operate a Christmas tree lot may make application to the city manager for a license therefor. Such application shall give the name and address of the applicant, a description of the land to be used, and either evidence of

ownership in the applicant or written permission to so use the land. The council may establish the license fee by action. All such licenses shall be issued by the city clerk and shall expire on February 1 following the year of its issuance.

(Code 1963, § 66.02; Code 1980, § 15-2; Code 2004, § 22-112; Ord. No. 172, 3-6-1969; Ord. No. 341, 11-15-1973)

Sec. 22-110. Appeal of denial of licensure by city manager.

The applicant may appeal the final determination of the city manager to the city council within ten days of the denial by filing written application therefor with the city clerk. The city council, or a hearing officer appointed to act on its behalf, shall conduct a review and a hearing. The determination of the city council or the hearing officer shall be final.

Sec. 22-111. Cash cleanup bond; cleanup.

(a) Before issuing a license to any person or entity, such person or entity shall deposit with the city clerk a cash bond in the amount to be established by action of the council, and the posting of such bond shall be a condition precedent to the issuance of a license by the city clerk.

(b) Such cash bond shall be held until such lot or parcel of land has been cleared and cleaned of all Christmas trees, Christmas tree debris, and all other Christmas paraphernalia.

(c) If prior to February 1 following the Christmas season that a license was applied for, the applicant has cleared and cleaned such lot or parcel of ground and the city manager has so certified this fact to the city clerk, then the applicant's cash bond shall be returned.

(d) If the city manager has not certified to the city clerk that such lot has been cleared or cleaned of all Christmas trees, Christmas tree debris, and other Christmas paraphernalia, the applicant shall forfeit such cash bond and the city, at its discretion with or without permission of the applicant or lot owner, may clear and clean such lot of all Christmas trees, Christmas tree debris and Christmas paraphernalia.

(Code 1963, § 66.02; Code 1980, § 15-3; Code 2004, § 22-113; Ord. No. 172, 3-6-1969; Ord. No. 341, 11-15-1973)

Secs. 22-112—22-135. Reserved.

ARTICLE IV. PAWNBROKERS*

DIVISION 1. GENERALLY

Sec. 22-136. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Manager means a person who is primarily responsible for the operations of the pawn shop.

Noncompliant transaction means those transactions which are not properly documented in the format as prescribed by the police chief or designee.

Pawnbroker means a person or entity engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

Reportable transaction means every transaction conducted by a pawnbroker, in which merchandise is received through a pawn, purchase, consignment or trade, is reportable except:

- (1) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record.
 - (2) Retail and wholesale sales of merchandise originally received by pawn or purchase and for which all applicable hold or redemption periods have expired.
 - (3) Pawn renewals, extensions and redemptions.
- (Code 1980, § 15-110; Code 2004, § 22-201; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 03-1985, § 15-110, 7-17-2003; Ord. No. 08-2171, 12-4-2008)

***State law references**—Pawnbrokers, M.S.A. ch. 325J; local regulation of pawnbrokers, M.S.A. §§ 325J.02(a), 325J.13.

Sec. 22-137. More restrictive state law adopted by reference.

If a requirement of this article is less restrictive than a similar provision of the Pawnbroker Regulation Act, M.S.A. ch. 325J, the more restrictive provision of the Act shall apply and be adopted and made a part of this article as completely as if set out in full.

(Code 1980, § 15-127; Code 2004, § 22-205; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

State law reference—Adoption by reference, M.S.A. § 471.62.

Sec. 22-138. Penalty for violation.

Any person violating any provision of this article shall be guilty of a misdemeanor. (Code 1980, § 15-126; Code 2004, § 22-202; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 08-2171, 12-4-2008)

State law reference—Penalty for ordinance violations, M.S.A. §§ 410.33, 412.231, 609.0332, 609.034.

Sec. 22-139. Inspection.

Any person licensed under the provisions of sections 22-180 and 22-181 shall, at all times during the terms of such license, allow the police officers of the city to enter the premises where the licensee is carrying on such business or at any property or buildings used for storage of items related to the business for the purpose of inspecting such premises and inspecting the goods, wares and merchandise therein and for the purpose of locating goods suspected or alleged to have been stolen or otherwise improperly disposed of.

(Code 1980, § 15-114; Code 2004, § 22-204; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 08-2171, 12-4-2008)

Sec. 22-140. Records required.

(a) Every pawnbroker purchasing or receiving on deposit for a loan any article or personal property shall give to the person selling or depositing such article a plain written or printed ticket or receipt for the article sold or deposited, showing the terms of such sale or loan. The following shall be printed on all pawn tickets:

- (1) The statement that: "Any personal property pledged or sold to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than 90 days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods."
- (2) The statement that: "The pledgor of this item attests that it is not stolen, the pledgor attests the property belongs to him/her, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item";

(3) The statement that: "This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for the release of property to persons other than the original pledgor must be maintained along with the original transaction record"; and

(4) A blank line for the pledgor's signature.

(b) Each licensee shall keep a record of each transaction made in the course of business. Such records shall be in a form prescribed by the police chief, or designee, at the chief's discretion, and shall, in all instances, be legibly made in ink and be in the English language; or, in the case of computerized records, data shall be accurately entered. The pawnbroker shall maintain such records on the premises for all pawn transactions for at least three years from the date of each transaction. These records shall be a correct copy of the entries made of the pawn transactions. A pawnbroker shall, upon request, provide to the appropriate law enforcement agency a complete and accurate record of pawn transactions. If the pawnbroker provides the records in a computerized format, they must be provided in the interchange file specification format. For purposes of this subsection, the term "in the interchange file specification format" means transactional data must be uploaded to the current system used by the city police department at the time of upload. The records so kept shall include the following information about each transaction:

- (1) The full name, residence address, residence telephone number, and date of birth of the pledgor or seller.
- (2) The time and date of the transaction.
- (3) A complete description of the item pledged or sold, including all identifying numbers and identifying marks.
- (4) A physical description of the person pawning or selling the item, including:
 - a. Sex;
 - b. Height;
 - c. Weight;
 - d. Race;
 - e. Color of eyes;
 - f. Color of hair.
- (5) The amount of money paid or loaned for the item, including the following:
 - a. The maturity date of the pawn transaction and the amount due; and

- b. The monthly and annual interest rates, including all pawn fees and charges.
 - (6) The signature of the person pledging or selling the item.
 - (7) A legible copy of any of the following forms of identification of the seller:
 - a. A valid state picture driver's license;
 - b. A current valid state picture identification card;
 - c. A current valid photo identification card issued by another state or a province of Canada; or
 - d. A valid U.S. military identification card.
 - (8) In addition to the requirements of subsection (b)(7) of this section:
 - a. A color photograph or video of the pledgor or seller, at the time of the transaction, that clearly and accurately depicts the pledgor or seller;
 - b. All identification methods used to identify the pledgor or seller must be able to be electronically transmitted to the police department;
 - c. All identification methods used to identify the pledgor or seller must be readily matched and correlated to the item being pawned.
 - (9) If the property is stored at a place other than the permanent place of business designated in the license, the location of the property or buildings used for the storage of the item must be identified in the application for the pawnbroker license as set forth in section 22-181.
 - (10) Any other information the police chief, or designee, shall require. Every pawnbroker shall make available to the police chief or designee, every day, before the hour of 12:00 noon, a complete, legible and correct copy of the records required by this section for all transactions which occurred on the previous day. The records required in this section shall be kept at the licensee's place of business for three years and shall be available for police inspection at any reasonable time.
- (c) For any item received or sold, regardless of resale price, a pawnbroker must make out, on forms or in an electronic format approved by the appropriate law enforcement agency and send daily by mail or electronically to the appropriate law enforcement agency a legible description of the goods received during the preceding day, together with the time received and a description of the person from whom the goods were received. Any item received or sold that does not have a unique serial number or identification number (which is permanently engraved or affixed) must be photographed.
- (d) Evidence related to any transaction shall be made immediately available to law enforcement.

(e) Licensees must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the pawn shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be reused.

(Code 1980, § 15-113; Code 2004, § 22-206; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008; Ord. No. 11-2220, 2-3-2011; Ord. No. 19-2440, 12-2-2019)

Sec. 22-141. Holding of property.

(a) When the police chief or designee, or any member of the police department designated by the police chief, or any other law enforcement officer notifies any pawnbroker not to sell any property received on deposit or purchased by the pawnbroker, or not to permit the same to be redeemed, the pawnbroker shall not sell nor permit such property to be redeemed until such property is released in writing by the police chief, or designee.

(b) No personal property deposited with or purchased by any licensee under this article shall be sold from the place of business of the licensee until 30 days after the copy of the records required by section 22-140 have been made available to the police chief, except upon written permission of the police chief or designee.

(c) No personal property deposited with or purchased by any licensee under this article shall be permitted to be redeemed from the place of business of licensee until three working days after the copy of the records required by section 22-140 have been made available to the police chief or designee, except upon written permission of the police chief or designee.

(d) In addition to the other requirements of this section, a pawnbroker who holds a title to a motor vehicle as part of a pawn transaction shall:

- (1) Be licensed as a used motor vehicle dealer under M.S.A. § 168.27, and post such license on the pawnshop premises;
- (2) Verify that there are no liens or encumbrances against the motor vehicle with the department of public safety; and
- (3) Verify that the pledgor has automobile insurance on the motor vehicle as required by law.

A pawnbroker may not sell a motor vehicle covered by a pawn transaction in a timeframe other than as specified by subsection (b) of this section.

(Code 1980, § 15-115; Code 2004, § 22-207; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 03-1985, § 15-115, 7-17-2003; Ord. No. 08-2171, 12-4-2008; Ord. No. 11-2220, 2-3-2011)

Sec. 22-142. Report of stolen or lost goods.

If any goods, articles or things shall be advertised in any public newspaper of the city as having been lost or stolen, and such goods, articles or things shall then be, or shall thereafter come into the possession of any licensee under the terms hereof, such licensee shall, upon actual notice hereof, immediately thereafter, as a supplement to such licensee's daily report for that day to the police chief or designee, give information in writing that certain goods, articles or things advertised are in such licensee's possession and shall not thereafter dispose of the same except upon written authority so to do from the city police chief or designee.

(Code 1980, § 15-116; Code 2004, § 22-208; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 08-2171, 12-4-2008)

Sec. 22-143. Redemption period.

Any person who pawns an item shall have at least 90 days to redeem the item before it may be sold.

(Code 1980, § 15-117; Code 2004, § 22-209; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008; Ord. No. 11-2220, 2-3-2011)

Sec. 22-144. Prohibited transactions.

(a) No pawnbroker shall purchase or receive on deposit or pledge anything of value as security for a loan of money from any person under the age of 18 years, nor knowingly from an intoxicated person or one of unsound mind.

(b) A pawnbroker may not receive goods unless the seller presents identification in the form specified in section 22-140.

(c) No person may pawn, pledge, sell, leave, or deposit any article of property not their own; nor shall any person pawn, pledge, sell, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, leave, or deposit any article of property in which another has a security interest; with any licensee.

(d) No person seeking to pawn, pledge, sell, leave, or deposit any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth, nor give a false or out of date address of residence or telephone number; nor present a false driver's license or identification card to any licensee.

(e) All licensees shall, by adequate signage and separate written notice, inform persons seeking to pawn, pledge, sell, leave, or deposit articles of property with the licensee of the foregoing requirements.

- (1) For the purpose of this section, the term "adequate signage" means at least one sign, of not less than four square feet in surface area, comprised of

lettering of not less than three-quarters of an inch in height, posted in a conspicuous place on the licensed premises and stating substantially the following:

TO PAWN OR SELL PROPERTY:

YOU MUST BE AT LEAST 18 YEARS OF AGE.

YOU CANNOT PAWN ANY PROPERTY FOR ANOTHER PERSON.

YOU MUST BE THE TRUE OWNER OF THE PROPERTY.

THE PROPERTY MUST BE FREE OF ALL CLAIMS AND LIENS.

YOU MUST PRESENT VALID PHOTO IDENTIFICATION.

VIOLATION OF ANY OF THESE REQUIREMENTS IS A CRIME!

- (2) For the purposes of this section, the term "separate written notice" means either the receipts required in section 22-140(a), or a printed form, incorporating a statement to the effect that the person pawning, pledging, selling, leaving, or depositing the article is at least 18 years of age; is the true owner of the article; is not pawning the property for another person; and that the article is free of all claims and liens; which is acknowledged by way of signature of the person pawning, pledging, selling, leaving, or depositing the article.
- (f) Permitted charges are as follows:
 - (1) Notwithstanding any other statute, ordinance, rule, regulation, or M.S.A. § 325J.13, a pawnbroker may contract for and receive a pawnshop charge not to exceed three percent per month of the principal amount advanced in the pawn transaction, plus a reasonable fee for storage and services. A fee for storage and services may not exceed \$20.00 if the property is not in the possession of the pawnbroker.
 - (2) The pawnshop charge allowed under subsection (f)(1) of this section shall be deemed earned, due, and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due, and owing on the same day of the succeeding month; however, if full payment is made more than two weeks before the next succeeding date, the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledgor.
 - (3) Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest or fees than would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this section.
 - (4) Any interest, charge or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this section, is uncollectible and the pawn transaction shall be void.

(5) A schedule of charges permitted by this section shall be posted on the pawnshop premises in a place clearly visible to the general public.
(Code 1980, § 15-118; Code 2004, § 22-210; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

Sec. 22-145. Storage of firearms.

A pawnbroker holding for sale a firearm or other dangerous weapon shall store the firearm or dangerous weapon in a locked compartment, not accessible by the general public, except when being viewed by a customer following a request to view the firearm or dangerous weapon.
(Code 1980, § 15-119; Code 2004, § 22-211; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 08-2171, 12-4-2008)

Sec. 22-146. Method of payment.

When a pawnbroker accepts an item for purchase or as security for a loan, payment shall be made by check only, made payable to the actual intended seller or borrower.
(Code 1980, § 15-122; Code 2004, § 22-212; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 08-2171, 12-4-2008)

Secs. 22-147—22-175. Reserved.

DIVISION 2. LICENSE

Sec. 22-176. Required.

(a) No person, partnership, company, or corporation shall engage in or carry on the business of pawnbroker, without a license issued by the city for each and every separate office or place of business operated by such licensee in the city. The fee for such license will be established by the city council in a separate fee schedule.

(b) A license issued under this division shall expire on December 31 of the year of issuance. The annual license fee shall be paid in full before the application for a license is accepted. The fee for a pawnbroker license granted after the commencement of the license year shall be prorated on a monthly basis, or any part thereof exceeding 15 days. For the purposes of establishing the prorated license fee, the month of the application is excluded.

(c) The actual license fee shall be based upon the date of council approval of the license and if the licensee paid a fee in excess of the required fee at the time of application, any excess payment shall be refunded. Upon rejection of a license application or upon withdrawal of the application for a license before approval of the issuance by the council, the license fee shall be refunded.

(d) A license under this section shall authorize the licensee to carry on its business only at the permanent place of business designated in the license. No license may be transferred to a different location or to a different licensee. Any change, directly or beneficially, in the ownership of any licensed pawnshop shall require the application for a new license, and the new owner must satisfy all current eligibility requirements. Any and all property or buildings used for storage of items related to the pawn shop must be identified in the application for such license. The conduct of agents or employees of a licensee, while engaged in performance of their duties for their principal or employer under such license, shall be deemed the conduct of the licensee.

(e) A pawnbroker may not operate or engage in the business of secondhand goods dealer without having obtained a secondhand goods dealer license in addition to a pawnbroker's license. A secondhand goods dealer may not conduct, operate or engage in the business of pawnbroker without having first obtained a pawnbroker's license in addition to a secondhand goods dealer license.

(f) No pawnbroker license approved by the city grants to the licensee a property right or entitlement to the license. The city may refuse to issue or renew, or may revoke the license for any reason and will not incur liability for any damages, including, but not limited to, direct, consequential, or incidental damages, deprivation of property, loss of income, loss of profits, or loss of livelihood.

(Code 1980, § 15-111; Code 2004, § 22-231; Ord. No. 92-1294, § 1, 5-21-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

Sec. 22-177. Application procedure.

(a) Every applicant for a license to maintain, operate, or conduct a pawnbroker business shall file a completed application under oath with the city council by completion of a form provided by the office of the city clerk, submitted to the city clerk together with a nonrefundable application fee. In addition to the application fee, applicants will be responsible for all costs involved in the required background investigation that exceed the application fee. A good faith estimate of such costs will be provided to the applicant prior to the start of the background investigation. The application, once accepted, shall be referred to the city police department for investigation. Copies of this application shall be forwarded to such other city departments as shall be necessary for verification and the investigation of the facts set forth in the application.

(b) The police chief or designee, and such other department heads shall make a written recommendation to the city council as to the issuance or non-issuance of the license within 60 days of receipt of the completed application. The completed application form shall be on a form prescribed by the city and shall contain all information requested, including, but not limited to:

- (1) Full name, place, date of birth, and street residence of the applicant.

- (2) The business address and the name and address of the owner of the premises.
- (3) Whether applicant has ever been convicted of a felony, gross misdemeanor or misdemeanor, excluding traffic violations; and, if so, the date and place of conviction and the nature of the offense.
- (4) Whether the applicant is a natural person, corporation, limited liability corporation or partnership, and:
 - a. If the applicant is a corporation, the state of the incorporation and the names and addresses of all officers and directors.
 - b. If the applicant is a partnership, the names and addresses of all partners.
 - c. If the applicant is a limited liability corporation, the names of its members.
- (5) The name of the owner and manager of the business.
- (6) Each application shall be accompanied by a bond in the amount of \$5,000.00 executed by a corporation authorized to do business in the state and conditioned that in conducting such business the licensee will observe all laws in relation to pawnbrokers and will conduct business in conformity thereto, and that the licensee will account for and deliver to any person legally entitled any goods which have come into the licensee's possession through the licensee's business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person. Such bond shall be maintained so long as the pawnbroker does business and shall be for the benefit of the city or any person who shall suffer any damage through the act of such pawnbroker and shall not be terminable without the bond company giving written notice 30 days in advance of termination to the city clerk.
 - (c) If the applicant is a natural person, the application shall be signed and sworn to by the person; if a corporation, the application shall be signed and sworn to by an agent authorized to sign; if a limited liability corporation, the application shall be signed and sworn to by a member; if a partnership, the application shall be signed and sworn to by a general partner.
 - (d) No person shall make any material false statement in the application. In addition to other penalties, the licensee's license may be revoked or not renewed by the city council for giving false information on the application.
 - (e) All licenses shall expire one year after issuance unless earlier renewed. A new application fee shall be required whenever there is any change in the facts presented by the application other than date, applicant's home address or building owner's address.

(f) All applicants requesting a license pursuant to this chapter will be required to submit to a comprehensive background investigation, including a criminal history check. Fees for the background investigation will be established by the city council in a separate fee schedule.

(g) The maximum number of pawnbroker licenses within the city shall be one. Priority may be given to qualified applicants for renewal of an existing license. The non-renewal of an existing license shall not be subject to any procedural requirements, if any, which may apply to the suspension or revocation of a license.

(h) When a licensee places a manager in charge of a business or if the named manager in charge of a licensed business changes, the licensee must complete and submit the appropriate application within 14 days of the changing of the manager. (Code 1980, § 15-112; Code 2004, § 22-232; Ord. No. 92-1294, § 2, 5-21-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

Sec. 22-178. Persons ineligible.

A pawnbroker license will not be issued to:

- (1) A person not a citizen of the United States or a resident alien;
- (2) A person under 18 years of age;
- (3) A person who, within five years of the license application date, had a pawnbroker or secondhand goods dealer license revoked or denied;
- (4) A person who has been convicted of any crime directly related to the occupation licensed as prescribed by M.S.A. § 364.03, subd. 2, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this section as prescribed by M.S.A. § 364.03, subd. 3;
- (5) A person whom the city council determines not to be of sufficient good moral character and repute; or
- (6) When the city council determines, after investigation and public hearing, that issuance or renewal of the license would adversely affect the public health, safety, or welfare.

(Code 1980, § 15-120; Code 2004, § 22-233; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

Sec. 22-179. Places ineligible.

A license will not be issued or renewed under this section for any place or for any business:

- (1) If taxes, assessments or other financial claims of the city or the state on the licensee's business premises are delinquent and unpaid;
- (2) If the premises is located within 300 feet of a school or church;

- (3) Where operation of a licensed premises would violate zoning ordinances; or
- (4) If the premises is located within ten driving miles of any gambling casino.
(Code 1980, § 15-121; Code 2004, § 22-234; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

Sec. 22-180. Denial, non-renewal, suspension or revocation.

(a) Violations of this article by any licensee will be referred by the police chief, or designee, to the office of the city clerk, for any action as the city clerk deems necessary or appropriate.

(b) Any license under this article may be denied, suspended, not renewed or revoked for any of the following reasons:

- (1) Any conflict with subpart B of this Code;
- (2) Any conflict with any health, building, building maintenance or provisions of this Code or state law;
- (3) Failure by the applicant to comply with one or more provisions of this article;
- (4) Fraud, misrepresentation, or bribery in securing a license;
- (5) Fraud, misrepresentation, or false statements in the course of the applicant's business.

(c) The appropriate local law enforcement agency shall be notified by the city of any licensee whose license has expired or been surrendered, suspended, or revoked.
(Code 1980, § 15-123; Code 2004, § 22-235; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

Sec. 22-181. Renewal.

(a) Applications for the renewal of an existing pawnbroker license shall be made at least 60 days prior to the date of expiration of the license.

(b) The annual fee for a pawnbroker license shall be paid before the application for renewal of the license is accepted.
(Code 1980, § 15-128; Code 2004, § 22-236; Ord. No. 98-1764, 12-17-1998; Ord. No. 08-2171, 12-4-2008)

Sec. 22-182. Appeal.

Denial, suspension, non-renewal, or revocation of licensure by a designated city official acting on behalf of the city council on grounds specifically set forth in this article are mandatory and not subject to appeal. For all other license denials, the applicant may appeal the final determination of the city designated city official to the city council within ten days of the denial by filing written application therefor

with the city clerk. The city council, or a hearing officer appointed to act on its behalf, shall conduct a review and a hearing. The determination of the city council or the hearing officer shall be final.

Secs. 22-183—22-202. Reserved.

ARTICLE V. PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS*

DIVISION 1. GENERALLY

Sec. 22-203. Purpose.

The city council recognizes that transient and itinerant merchants, vendors, peddlers, solicitors, and canvassers, by the very nature of their operation whether from a fixed location or traveling door-to-door, may intrude upon the rights and privacy of other citizens and have a deleterious effect upon the public health, safety and welfare. The intent of this article is to establish a uniform set of rules and regulations that are fair and equitable, and to develop a system for accommodating these businesses that will enhance the overall appearance and environment along public streets, pedestrian ways and other public properties. The regulations contained in this article are not intended to prohibit or hamper speech that is protected by the First Amendment of the United States Constitution, but merely to regulate specific activities that are commercial in nature.

(Code 2004, § 22-271; Ord. No. 19-2437, 11-4-2019)

Sec. 22-204. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Noncommercial door-to-door advocate means a person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. The term "door-to-door advocate" shall fall under the term "solicitor" and include door-to-door canvassing and pamphleteering intended for noncommercial purposes.

Peddler means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to

***State law references—**Peddlers and transient merchants, M.S.A. ch. 329; municipalities may regulate, M.S.A. §§ 329.15, 437.02; consumer protection; solicitation of sales, M.S.A. ch. 325G.

sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. The term "peddler" shall have the same common meaning as the term "hawker."

Regular business day means 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 considered regular business days.

Solicitor means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which the person 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 "solicitor" shall have the same meaning as the term "canvasser."

Transient merchant means 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 in any one location for more than 14 consecutive days.
(Code 2004, § 22-272; Ord. No. 19-2437, 11-4-2019)

Sec. 22-205. Exceptions to definitions.

(a) For the purpose of this article, the terms "peddler," "solicitor," and "transient merchant" shall not apply to:

- (1) Noncommercial door-to-door advocates. Nothing within this article shall be interpreted to prohibit or restrict noncommercial door-to-door advocates. A person engaging in noncommercial door-to-door advocacy shall not be required to register as a solicitor under section 22-238.
- (2) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.
- (3) 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 or milk.
- (4) Any person making deliveries of perishable food and dairy products to the customers on their established delivery route.

- (5) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
- (6) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.
- (7) Any person participating in an organized multi-person bazaar or flea market.
- (8) Any person conducting an auction as a properly licensed auctioneer.
- (9) Any officer of the court conducting a court-ordered sale.
- (10) Mobile food trucks as defined in section 22-427.

(b) Exemption from these definitions shall not, for the scope of this article, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

(Code 2004, § 22-273; Ord. No. 19-2437, 11-4-2019; Ord. No. 21-2485, 11-15-2021)

Secs. 22-206—22-233. Reserved.

DIVISION 2. LICENSE

Sec. 22-234. 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 may be required by M.S.A. 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 article, no person, including their employee or contractor, shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a city license. Solicitors need not be licensed but are required to register with the city pursuant to section 22-238.

(c) *Application.* An 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 a business operation within the city. Application for a license shall be made on a form approved by the city council and available from the office of the city clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) The applicant's full legal name.
- (2) Any and all other names under which the applicant has conducted or does conduct business, or to which the applicant will officially answer to.

- (3) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or 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 an agent.
 - (7) Full address of applicant's regular place of business, if any exists.
 - (8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.
 - (9) The type of business for which the applicant is applying for a license.
 - (10) Whether the applicant is applying for an annual or six-month license.
 - (11) The dates during which the applicant intends to conduct business.
 - (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 their 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 violating any state or federal statute or any local ordinance, other than minor traffic offenses.
 - (14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.
 - (15) Proof of any required county license.
 - (16) Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant.
 - (17) A general description of the items to be sold or services to be provided.
 - (18) Any and all additional information as may be deemed necessary by the city council.
 - (19) The applicant's driver's license number or other acceptable form of identification.
 - (20) The license plate number, registration information, vehicle identification number (VIN) and physical description for any vehicle to be used in conjunction with the licensed business operation.
- (d) *Fee.* All applications for a license under this article shall be accompanied by the fee established in the city licensing fee schedule as it may be amended from time to time.

(e) *Procedure.* Upon receipt of the application and payment of the license fee, the city clerk will, within two regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the city clerk determines that the application is incomplete, the city clerk must inform the applicant of the required, necessary information that is missing. If the application is complete, the city clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application the city clerk must issue the license unless grounds exist for denying the license application under section 22-236, in which case the clerk must deny the request for a city peddler or transient merchant license. If the city clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a hearing before a hearing officer, on behalf of the city council. The hearing officer council shall hear the appeal within 20 days of the date of the request for a hearing. The decision of the hearing officer following the hearing can be appealed by petitioning the state court of appeals for a writ of certiorari.

(f) *Duration.* Each license shall be valid only for the period specified, and no license may extend beyond December 31 of the year in which it is granted.

(g) *Display of licenses.* At all times while peddling, soliciting or operating as a transient merchant, every peddler, solicitor, or transient merchant shall wear a city-issued photo identification license visible to all persons with whom the licensee comes in contact. The license shall set forth the licensee's name, the name and address of the business or organization and license expiration date and shall exhibit the license to any police officer, other city officer, or any other person to whom such licensee is or would peddle or solicit when so requested.

(h) *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 for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

(Code 2004, § 22-291; Ord. No. 19-2437, 11-4-2019)

Sec. 22-235. License ineligibility.

The following shall be grounds for denying a peddler or transient merchant license:

- (1) The failure of an applicant to obtain and demonstrate proof of having obtained any required county license.
 - (2) The failure of an applicant to truthfully provide any information requested by the city as part of the application process.
 - (3) The failure of an applicant to sign the license application.
 - (4) The failure of an applicant to pay the required fee at the time of application.
 - (5) A conviction within the past five years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
 - (6) The revocation within the past five years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
 - (7) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three complaints against an applicant with the Better Business Bureau, the office of the Minnesota attorney general or other state attorney general's office, or other similar business or consumer rights office or agency, with the preceding 12 months, or three complaints filed with the city against an applicant within the preceding five years.
 - (8) If the location for a transient merchant is proposed for an area not zoned heavy industrial (I-2A or I-2) as provided for in the city zoning regulations.
- (Code 2004, § 22-292; Ord. No. 19-2437, 11-4-2019)

Sec. 22-236. License suspension and revocation.

(a) *Generally.* Any license issued under this division may be suspended or revoked at the discretion of a hearing officer on behalf of the city council for violation of any of the following:

- (1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.
- (2) Fraud, misrepresentation or false statements made during the course of the licensed activity.

- (3) Subsequent conviction of any offense to which the granting of the license could have been denied under section 22-236.
- (4) Engaging in any prohibited activity as provided under section 22-240.
- (5) Violation of any other provision of this article.

(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 a license holder with written notice of the alleged violations and inform the licensee of the 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) *Hearing.* Upon receiving the notice provided in subsection (c) of this section, the licensee shall have the right to request a hearing. If no request for a hearing is received by the city clerk within ten days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a hearing is requested within the stated time frame, a hearing shall be scheduled with a hearing officer on behalf of the city council within 20 days from the date of the request for the hearing. Within three regular business days of the hearing, the hearing office, on behalf of the city council, shall notify the licensee of its decision.

(e) *Emergency.* If, in the discretion of the city manager or their designee, 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 article, the city manager or their designee, on behalf of the city council, may immediately suspend the person's license and provide notice of the right to hold a subsequent hearing as prescribed in subsection (c) of this section.

(f) *Appeal.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.
(Code 2004, § 22-293; Ord. No. 19-2437, 11-4-2019)

Sec. 22-237. License transferability.

No license issued under this division shall be transferred to any person other than the person to whom the license was issued.
(Code 2004, § 22-294; Ord. No. 19-2437, 11-4-2019)

Sec. 22-238. Registration.

(a) All solicitors and any person exempt from the licensing requirements of this division under section 22-235 shall be required to register with the city prior to engaging in those activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the city clerk shall issue to the registrant a certificate of registration as proof of the registration. Registrations shall be nontransferable.

(b) Individuals that will be engaging in noncommercial door-to-door advocacy shall not be required to register.

(Code 2004, § 22-295; Ord. No. 19-2437, 11-4-2019)

Sec. 22-239. Prohibited activities.

(a) No peddler, solicitor, transient merchant, noncommercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manners:

- (1) Calling attention to their business or the 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.
- (2) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.
- (3) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.
- (4) Conducting business before 8:00 a.m. or after 9:00 p.m.
- (5) Failing to provide proof of license, or registration, and identification when requested.
- (6) Using the license or registration of another person.
- (7) Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement.
- (8) Remaining on the property of another when requested to leave.
- (9) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

(b) 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.

(Code 2004, § 22-296; Ord. No. 19-2437, 11-4-2019)

Sec. 22-240. Exclusion by placard.

Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, noncommercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, noncommercial door-to-door advocate, or similar activity when the property is marked with a sign or placard that is reasonably sized to be seen and states "No Peddlers, Solicitors or Transient Merchants," 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.

(Code 2004, § 22-297; Ord. No. 19-2437, 11-4-2019)

Sec. 22-241. Penalty.

Any individual found in violation of any provision of this article shall be guilty of a misdemeanor.

(Code 2004, § 22-298; Ord. No. 19-2437, 11-4-2019)

Secs. 22-242—22-260. Reserved.**ARTICLE VI. LEGALIZED GAMBLING*****Sec. 22-261. Definitions.**

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Gambling means any activity or device prohibited by M.S.A. §§ 609.75, 609.755 and 609.76 and shall further include any activity, event, or contrivance that simulates any such activity or device when in or on any commercial establishment or property, except as otherwise allowed pursuant to city ordinances or state statutes, or rules adopted pursuant to authority contained therein. Prohibited gambling and gambling simulations include, but are not limited to, sports bookmaking, poker, blackjack, slot machines, and other similar activities, events and contrivances normally associated with gambling and gambling locations.

***State law references**—Lawful gambling and gambling devices, M.S.A. ch. 349; local regulation of gambling, M.S.A. § 349.213.

(b) The terms used in this article which are defined in M.S.A. §§ 349.11 through 349.60, inclusive, and are defined in rules adopted pursuant to the authority contained in such statutes shall have the meanings set forth in such statutes and rules.

(Code 1980, § 4-90; Code 2004, § 22-381; Ord. No. 88-1108, 1-5-1989; Ord. No. 04-2004, 2-5-2004)

State law reference—Applicable definitions, M.S.A. §§ 349.12, 349.30.

Sec. 22-262. Adoption of state law by reference.

M.S.A. §§ 391.11 through 349.60, inclusive, and rules adopted pursuant to the authority contained therein are adopted by reference and are incorporated in this article as completely as if set forth in full.

(Code 1980, § 4-93; Code 2004, § 22-385; Ord. No. 88-1108, 1-5-1989; Ord. No. 04-2000, 2-5-2004)

State law reference—Adoption by reference, M.S.A. § 471.62.

Sec. 22-263. Lawful gambling.

There shall be no gambling in the city except bingo, raffle games, and pull-tabs, duly licensed or otherwise allowed pursuant to the provision of this article, M.S.A. §§ 349.11 through 349.60, inclusive, and rules adopted pursuant to the authority contained in said statutes, and the state lottery authorized pursuant to M.S.A. §§ 349A.01 through 349A.15 inclusive.

- (1) No permit shall be required for the conduct of gambling exempt from licensing under M.S.A. § 349.166.
- (2) Nothing in this article shall be deemed to be an automatic approval of a premises permit or bingo license applied for with the gambling control board. A licensed organization may not conduct lawful gambling in the city unless a premises permit or bingo license is approved by city council resolution. A premises permit shall be perpetual, unless revoked pursuant to this article or state statute.

(Code 1980, § 4-91; Code 2004, § 22-383; Ord. No. 88-1108, 1-5-1989; Ord. No. 91-1262, 9-5-1991; Ord. No. 04-2004, 2-5-2004; Ord. No. 25-2576, § 22-383, 5-19-2025)

Sec. 22-264. Additional regulations.

In addition to the requirements of M.S.A. §§ 349.11 through 349.60, inclusive, and rules adopted pursuant to the authority contained in said statutes, lawful gambling shall be subject to the following regulations:

- (1) It is unlawful to make side bets or other wagers in connection with the conduct of lawful gambling.

- (2) A duly licensed pull-tab distribution, bingo or raffle game must be under the supervision of a gambling manager licensed under M.S.A. § 349.167. In order to qualify as a gambling manager, an individual must have been a member of the organization for at least two years.
- (3) No organization may maintain more than four lawful gambling locations in the city at one time, except that an organization operating lawful gambling activities at more than four locations as of January 1, 2004, may continue to operate at those same locations pursuant to the following conditions:
 - a. The organization complies with all other state and local lawful gambling laws and ordinances.
 - b. Each location continues to qualify as a lawful gambling premises.
 - c. No lawful gambling activity is moved to a new location unless the organization is in conformance with the four-location limitation.
 - d. When a premises permit has lapsed or been revoked at a location for any reason, the organization may not commence operations at that location unless the organization is in conformance with the four-location limitation.
- (4) No premises permit or bingo hall license will be approved for:
 - a. Any organization to conduct lawful gambling on any premises other than a church, the premises of a fraternal, veterans or other nonprofit organization, or the premises of an on-sale intoxicating liquor licensee licensed pursuant to the applicable sections of this Code.
 - b. Any organization or local subdivision thereof unless all of the following requirements are met:
 - 1. The activities of the organization or its local subdivision directly or primarily benefit citizens of the city.
 - 2. The organization or the local subdivision must have had a principal business or operations location in the city for a continuous period of at least two years immediately preceding the permit request and maintain such a location as long as the organization operates lawful gambling activities in the city. The organization must have been in continuous existence holding meetings for at least two years prior to the approval of the license.
 - 3. The organization or the local subdivision may be granted a waiver of operational requirement if the city council determines the organization has significant community involvement, and such a waiver would have to be granted per location up to the four-location limit.
 - 4. The simultaneous conducting of lawful gambling by more than one organization on authorized premises.

- (5) It is unlawful to sell, give or otherwise transfer in the city, any raffle ticket, paddle ticket or any other opportunity to participate in any gambling event not approved by the city pursuant to the provisions of the state statutes and rules adopted by reference herein.
 - (6) Copies of the reports, which must be filed with the gambling control board, as required by M.S.A. § 349.19, shall be filed simultaneously with the city clerk.
 - (7) A licensed organization conducting lawful gambling within the city shall expend all of its expenditures for lawful purposes on lawful purposes conducted or located within the city's trade area. The city's trade area is defined as and is specially limited to the Cities of Blaine, Circle Pines, Coon Rapids, Ham Lake, Lexington, Lino Lakes, Mounds View, Shoreview and Spring Lake Park.
 - (8) A licensed organization conducting lawful gambling within the city shall contribute ten percent of its net profits derived from lawful gambling to a fund administered and regulated by the city without cost to the fund, for disbursement by the city of the receipts for lawful purposes as defined in M.S.A. § 349.12. For the purposes of this requirement, the term "net profits" means gross profits, less sums actually expended for allowable expenses as reported to the state department of revenue. Such contributions shall be made to the city within 15 days of the end of each calendar quarter.
 - (9) A premises permit or bingo hall license approved by the city may be suspended or revoked for violations of this chapter, or M.S.A. ch. 349, or for failure to meet the qualifications set out in this article, or M.S.A. ch. 349, or for the failure to comply, for any reason, with any provision, guaranty or claim made in the applicant's original license application to either the city or the state.
 - (10) No license or permit approved by the city, including any bingo hall license, grants the licensee a property right or entitlement to a license or permit. The city may refuse to issue, renew or may revoke the license or permit for any reason and will not incur liability for any damages, including, but not limited to, direct, consequential or incidental damages, deprivation of property, loss of income, loss of profits, or loss of livelihood.
- (Code 1980, § 4-92; Code 2004, § 22-384; Ord. No. 88-1108, 1-5-1989; Ord. No. 91-1262, 9-5-1991; Ord. No. 93-1388, 6-3-1993; Ord. No. 04-2004, 2-5-2004; Ord. No. 25-2576, § 22-384, 5-19-2025)

Sec. 22-265. Investigation fee.

Organizations applying for or renewing a license to conduct charitable gambling in the city shall pay an investigation fee established by council. Said fee shall be

paid along with the submission of its application to the city clerk. The investigation fee shall reimburse the city for its costs incident to a background investigation of the organization.

(Code 1980, § 4-94; Code 2004, § 22-386; Ord. No. 88-1108, 1-5-1989; Ord. No. 98-1695, § 2, 2-5-1998; Ord. No. 04-2004, 2-5-2004)

Sec. 22-266. Violations.

Any person who has violated a provision of this article or the statutes or rules adopted by reference in this article shall be guilty of a misdemeanor.

(Code 1980, § 4-95; Code 2004, § 22-382; Ord. No. 88-1108, 1-5-1989; Ord. No. 04-2002, 2-5-2004)

Secs. 22-267—22-295. Reserved.

ARTICLE VII. THERAPEUTIC MASSAGE

DIVISION 1. GENERALLY

Sec. 22-296. Purpose.

The purpose of this article is to prohibit massage businesses and services to the public except those licensed as therapeutic massage enterprises and massage therapists pursuant to this article. The licensing regulations prescribed herein are necessary in order to protect businesses that are operating legitimate enterprises, to prevent criminal activity and to protect the health and welfare of the community. The purpose of this article is not to impose restrictions or limitations on the freedom of protected speech or expression.

(Code 2004, § 22-421; Ord. No. 12-2243, 4-19-2012)

Sec. 22-297. Findings.

The city council makes the following findings regarding the need to license therapeutic massage enterprises and therapists and to prohibit all other types of massage businesses and services to the public:

- (1) Persons who have bona fide and standardized training in therapeutic massage, health, and hygiene can provide a legitimate and necessary service to the general public.
- (2) Health and sanitation regulations governing therapeutic massage enterprises and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.

- (3) Limiting the number of therapeutic massage enterprise licenses and license qualifications for the restrictions on therapeutic massage enterprises and therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.
 - (4) Massage services provided by persons with no specialized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.
 - (5) Massage businesses which employ persons with no specialized and standardized training can tax city law enforcement services, because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training.
 - (6) The training of professional massage therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety, and welfare.
- (Code 2004, § 22-422; Ord. No. 12-2243, 4-19-2012; Ord. No. 15-2312, 6-18-2015)

Sec. 22-298. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accredited institution means an educational institution holding accredited status approved by the United States Department of Education or the state office of higher education.

Accredited program means a professional massage program or educational institution accredited by the commission on massage therapy accreditation (COMTA).

Clean means the absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

Good repair means free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

Issuing authority means the city clerk or designee.

Massage means any method of applying pressure on, or friction against, or the rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating, or rolling of the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations.

Massage therapist means an individual who practices or administers massage to the public who can demonstrate to the issuing authority that said individual:

- (1) Has current insurance coverage of \$1,000,000.00 for professional liability in the practice of massage;
- (2) Is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the city; and
- (3) Has completed 500 hours of certified therapeutic massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice from an accredited program, accredited institution, or a program or institution licensed or verified by a state licensing board or agency that has been approved by the issuing authority. These training hours must be authenticated by a single provider through a certified copy of the transcript of academic record from the school issuing the training, degree or diploma. In the event the accredited program or accredited institution is no longer in existence, in the sole discretion of the city, a certified copy of the transcript of academic record may be accepted directly from the applicant with an affidavit stating said transcript of academic record is authentic. The transcript of academic record must be from a program or institution that was once accredited and approved by the issuing authority. The certified copy of the transcript of academic record must contain the applicant's name, last address of the accredited institution at the time of closing, and reflect the 500 hours of certified therapeutic massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice as required.

Operate means to own, manage, or conduct, or to have control, charge, or custody over.

Therapeutic massage enterprise means an entity which operates a business which hires only licensed therapeutic massage therapists to provide therapeutic massage to the public. The owner/operator of a therapeutic massage enterprise need not be licensed as a therapeutic massage therapist if the owner/operator does not at any time practice or administer massage to the public. A therapeutic massage enterprise may employ other individuals such as cosmetologists and estheticians, and these individuals are not required to have a massage therapist license as long as they are not providing therapeutic massage to the public.

Within the city means and includes physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the city, serves as a point of assignment of employees who respond to requests for services from within the city.
(Code 2004, § 22-423; Ord. No. 12-2243, 4-19-2012; Ord. No. 15-2312, 6-18-2015; Ord. No. 18-2411, 8-16-2018)

Sec. 22-299. License required; number of licenses.

(a) *Therapeutic massage enterprise license.* It is unlawful for any person or entity to own, operate, engage in, or carry on, within the city, any type of massage services to the public for consideration without first having obtained a therapeutic massage enterprise license from the city pursuant to this section. The city council shall issue therapeutic massage enterprise licenses in such a manner that the number of therapeutic massage enterprise licenses shall not exceed ten. Existing licenses shall remain in effect until, through attrition, the maximum number of licenses is met. The city council is not required to issue the full number of therapeutic massage enterprise licenses that it has available.

(b) *Massage therapist license.* It is unlawful for any individual to practice, administer, or provide massage services to the public for consideration within the city without first having obtained a massage therapist license from the city pursuant to this section.

(Code 2004, § 22-424; Ord. No. 12-2243, 4-19-2012; Ord. No. 15-2312, 6-18-2015; Ord. No. 18-2411, 8-16-2018)

Sec. 22-300. Exceptions.

A therapeutic massage enterprise or therapist license is not required for the following persons and places:

- (1) Persons duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, or professional practices licensed or registered by this state and regulated by a governmental body with a board where concerns and complaints could be directed, provided the massage is administered in the regular course of the medical business and not provided as part of a separate and distinct massage business.
- (2) Persons duly licensed by this state as beauty culturists or barbers, provided such persons do not hold themselves out as giving massage treatments and provided the massage by beauty culturists is limited to the head, hand, neck, and feet and the massage by barbers is limited to the head and neck.
- (3) Persons working solely under the direction and control of a person duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry or professional practices licensed or registered by this state and regulated by a governmental body with a board where concerns and complaints could be directed.
- (4) Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings.
- (5) Students of an accredited institution who are performing massage services in the course of a clinical component of an accredited program of study, provided

that the students are performing the massage services at the location of the accredited institution or provided the students are limited to performing massage therapy only on owners or staff of licensed massage enterprises and not on members of the public.

- (6) Individuals licensed in another municipality performing massage services as part of a wellness event/expo where such event will not be more than three days in length. Written notice must be provided to the city and must include dates, times, and location of such event.

(Code 2004, § 22-425; Ord. No. 12-2243, 4-19-2012; Ord. No. 15-2312, 6-18-2015; Ord. No. 18-2411, 8-16-2018)

Secs. 22-301—22-318. Reserved.

DIVISION 2. LICENSES

Sec. 22-319. Application.

(a) *Therapeutic massage enterprise license application.* An application for a therapeutic massage enterprise license shall be made on a form supplied by the city clerk and shall request the following information:

- (1) *All applicants.* For all applicants:
 - a. Whether the applicant is an individual, corporation, partnership, or other form of organization.
 - b. The legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities.
 - c. The floor number, street number, suite number and rooms where the massage services are to be conducted.
 - d. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid and, if not paid, the years and amounts that are unpaid.
 - e. Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans for design are on file with the city's building and inspection department, no plans need be submitted to the issuing authority.
 - f. The name, street address, and suite number of the business if it is to be conducted under a designation, name, or style other than the name of the applicant, and a certified copy of the certificate as required by M.S.A. § 333.02.

- g. The amount of the investment that the applicant has in the business, buildings, premises, fixtures, furniture, and equipment, and proof of the source of such investment. The identity of all other persons investing in the business, building, premises, fixture, furniture and equipment, the amount of their investment and proof of the source of such investment.
- h. All applications for licenses, whether enterprise or individual applications, shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by an incorporated association, by the manager or officer thereof; if by a limited liability company (LLC), by a member thereof. Any falsification of information on the license application shall result in the denial of the license and the applicant may be subject to prosecution for forgery as defined by state statute.
- i. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority.
- j. Such application must identify a responsible party relative to each license who shall be responsible for the conduct of the business. If the responsible party for a licensee will change, an application for the change shall be provided to the city clerk at least 30 days prior to such change and shall be treated the same as an application for a new license. In the event that a 30-day prior notice is not feasible, a written explanation will be submitted to the city clerk within one week of the known change documenting the reason for the deviation; this is subject to approval by the police chief or designee. Failure to file a timely application or explanation for a change in responsible party shall be grounds for revocation, suspension or non-renewal of any license.
- k. Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, place, dates and length of time of the involvement of any and all such establishments.
- l. Federal and state income tax returns, business and personal, for the previous three years.
- m. Such other information as the city council or issuing authority shall require.
- n. Applicant is responsible for reading and understanding the city ordinance regarding therapeutic massage and for communicating and providing interpretation when necessary to all massage therapists licensed at the enterprise to ensure compliance.

(2) *Individuals.* For applicants who are individuals:

- a. The name, place and date of birth, and street residence address of the applicant.
- b. Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the names and information concerning dates and places where used.
- c. Whether the applicant is a citizen of the United States or a resident alien or has the legal authority to work in the United States.
- d. Street addresses and dates at which the applicant has lived during the preceding ten years.
- e. The type, name, location, and dates of every business or occupation the applicant has been engaged in during the preceding ten years.
- f. Whether the applicant is currently licensed in other communities to perform massage therapy and, if so, where.
- g. Names, addresses, contact information and dates of the applicant's employers for the preceding ten years.
- h. Whether the applicant has ever been arrested, charged or convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense. If so, the applicant shall furnish information as to the date, time, place and offense for which arrests, charges or convictions were had.
- i. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority.
- j. Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, dates, place and length of time of the involvement in such an establishment.
- k. Such other information as the city council or issuing authority shall require.

(3) *Partnerships.* For the applicants that are partnerships: the names and addresses of all general and limited partners and all information concerning each general partner as is required in subsection (a)(2) of this section. The managing partners shall be designated and the interest of each general and limited partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application, and, if the

partnership is required to file a certificate as to a trade name under M.S.A. § 333.02, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.

- (4) *Corporations and other organizations.* For applicants that are corporations or other types of organizations:
- a. The name of the organization and, if incorporated, the state of incorporation.
 - b. A true copy of the certificate of incorporation, and, if a foreign corporation, a certificate of authority as described in M.S.A. § 303.02.
 - c. The name of the general manager, corporate officers, proprietor, and other persons in charge of the premises to be licensed, and all the information about said persons as is required in subsection (a)(2) of this section.
 - d. A list of all persons who own or control an interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in subsection (a)(2) of this section.

(b) *Massage therapist license application.* An application for a massage therapist license shall be made on a form supplied by the city clerk and shall request the following information:

- (1) The applicant's name and current address.
- (2) The applicant's current employer.
- (3) The applicant's employers for the previous ten years, including the employer's name, address and dates of employment.
- (4) The applicant's addresses and dates for the previous ten years.
- (5) The applicant's date of birth, home telephone number, weight, height, color of eyes, and color of hair. A color photocopy of the applicant's state driver's license or state identification front and back, or any other government-issued identification. If the photocopy is not acceptable to the police chief, the police department may take photographs for the file.
- (6) Whether the applicant has ever been arrested, charged or convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense and, if so, the time, place, date and offense for which arrests, charges or convictions were had.
- (7) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority.

- (8) The names, resident and business addresses and contact information of those residents of the metropolitan area, of good moral character, not related to the applicant or financially interested in the premises of the business, who may be referred to as to the applicant's character.
- (9) Whether the applicant is a U.S. citizen or resident alien or has the legal authority to work in the United States.
- (10) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.
- (11) Whether the applicant has met the definition of a massage therapist in section 22-302.
- (12) Whether the applicant has ever been the subject of an investigation, public or private, criminal or noncriminal, regarding massage therapy.
- (13) Such other information as the city council or issuing authority shall require. (Code 2004, § 22-426; Ord. No. 12-2243, 4-19-2012; Ord. No. 15-2312, 6-18-2015; Ord. No. 18-2411, 8-16-2018)

Sec. 22-320. Fees.

The fees for therapeutic massage enterprise and massage therapist licenses shall be as provided in the city's fee schedule. An investigation fee shall be charged for therapeutic massage enterprise licenses and an individual massage therapist license. Each application for a license shall be accompanied by payment in full of the required license and investigation fees. No investigation fee shall be refunded. (Code 2004, § 22-427; Ord. No. 12-2243, 4-19-2012; Ord. No. 15-2312, 6-18-2015)

Sec. 22-321. Application verification and consideration.

(a) *Therapeutic massage enterprise license.* All applications shall be referred to the police chief or designee, and such other city departments as the city manager shall deem necessary for verification and investigation of the facts set forth in the application. The police chief, or designee, is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry or a driver's license history inquiry on the applicant. The police chief, or designee, is authorized to access data maintained in the state bureau of criminal apprehensions (BCA) computerized criminal history information system in accordance with BCA policy. The police chief, or designee, and other consultants shall make a written recommendation to the city council as to the issuance or non-issuance of the license. The city council or police chief or designee may order and conduct such additional investigation as it deems necessary, including, but not limited to, contacting other state agencies. In addition, all applications must include results of a comprehensive national criminal background

check from a background investigative provider approved by the city. The national criminal background check is to be obtained and paid for by the therapeutic massage enterprise licensee upon signed release from employee. Upon completion of its investigation, the council shall grant or deny the license.

(b) *Massage therapist license.*

- (1) *Verification and consideration.* Within a reasonable period after receipt of a complete application and applicable fees for a massage therapist license, the issuing authority shall make recommendation to grant or deny the application. The issuing authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry, background check, or a driver's license history inquiry on the applicant. The city council or police chief or designee may order and conduct such additional investigation as it deems necessary, including, but not limited to, contacting other state agencies. In addition, all applications must include results of a comprehensive national criminal background check from a background investigative provider approved by the city. The national criminal background check is to be obtained and paid for by the therapeutic massage enterprise licensee upon signed release from employee. Notice shall be sent by the city clerk by regular mail to the applicant upon a denial informing the applicant of the right to appeal to the city council within 20 days. If an appeal is properly made, the matter shall be scheduled before a hearing officer, on behalf of the city council, for consideration and conclusion.
 - (2) *Photo I.D. cards.* Photo identification cards shall be issued to individuals receiving a therapeutic massage therapist license and each person licensed as a massage therapist shall have the photo identification card issued by the issuing authority readily available.
- (Code 2004, § 22-428; Ord. No. 12-2243, 4-19-2012; Ord. No. 18-2411, 8-16-2018)

Sec. 22-322. Ineligible persons.

(a) *Therapeutic massage enterprise license.* No therapeutic massage enterprise license shall be issued to an individual or entity which:

- (1) Is not 18 years of age or older at the time the application is submitted to the issuing authority;
- (2) Has been arrested, charged or convicted of any crime directly related to the occupation licensed as prescribed by M.S.A. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by M.S.A. § 364.03, subd. 3;

- (3) Has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority;
- (4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
- (5) Is not of good moral character or repute;
- (6) Is not the real party in interest of the enterprise;
- (7) Has knowingly misrepresented or falsified information on a license application at any time in the preceding ten years;
- (8) Cannot meet the definition of therapeutic massage enterprise in section 22-298;
- (9) Owes taxes or assessments to the state, county, school district, or city that are due and delinquent; or
- (10) Is the spouse of a person whose massage-related license has been denied, suspended or revoked in the past ten years.
- (11) Allowed a license to expire or surrendered a license, unless, at the sole discretion of the city, a license application is submitted for consideration. The application shall be treated the same as an application for a new license, subject to all ordinance regulations and review.

(b) *Massage therapist license.* No massage therapist license shall be issued to a person who:

- (1) Is not 18 years of age or older at the time the application is submitted to the issuing authority;
- (2) Has been arrested, charged or convicted of any crime directly related to the occupation licensed as prescribed by M.S.A. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by M.S.A. § 364.03, subd. 3;
- (3) Whether the applicant has had an interest in, individually or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority;
- (4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
- (5) Is not of good moral character or repute;

- (6) Has knowingly misrepresented or falsified information on a license application at any time in the preceding ten years;
 - (7) Is not affiliated with, employed by, or does not own a therapeutic massage enterprise licensed by the city; or
 - (8) Cannot meet the definition of massage therapist in section 22-298.
 - (9) Allowed a license to expire or surrendered a license, unless, at the sole discretion of the city, a license application is submitted for consideration. The application shall be treated the same as an application for a new license, subject to all ordinance regulations and review.
- (Code 2004, § 22-429; Ord. No. 12-2243, 4-19-2012; Ord. No. 18-2411, 8-16-2018)

Sec. 22-323. Ineligible locations.

(a) *Delinquent taxes.* No therapeutic massage enterprise shall be licensed if such enterprise is located on property on which taxes, assessments, or other financial claims to the state, county, school district, or city are due and delinquent. In the event a suit has been commenced under M.S.A. § 278.01—278.13, questioning the amount or validity of taxes, the city council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.

(b) *Improper zoning.* No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in conformance with subpart B of this Code.

(c) *Building, fire, and code compliance violations.* No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in compliance with state building and fire codes in addition to this Code.

(d) *Distinct entrance.* No therapeutic massage enterprise, unless a home-based enterprise, shall be licensed if the location of such enterprise does not have a distinct, front-facing, public entrance. A distinct, front-facing public entrance for an entire building is required for enterprise locations with multiple suites.

(e) *Previous license infractions.* No therapeutic massage enterprise license shall be issued or renewed if the massage therapy enterprise has employed two or more massage therapists whose licenses have been suspended or revoked within any 12-month period during period of employment.

(Code 2004, § 22-430; Ord. No. 12-2243, 4-19-2012; Ord. No. 15-2312, 6-18-2015; Ord. No. 18-2411, 8-16-2018)

Sec. 22-324. Restrictions.

(a) *Posting of license.* A therapeutic massage enterprise license issued must be posted in a conspicuous place on the premises for which it is used. A person licensed as a massage therapist shall also post their massage therapist license, with color

photo, in a conspicuous place on the premises at which the therapist is associated. A person licensed as a massage therapist shall have readily available at all times that therapeutic massage services are rendered, the photo identification card issued by the issuing authority. The photo identification card issued by the issuing authority must be presented to each client when providing massage off-site.

(b) *Licensed premises.* A therapeutic massage enterprise license is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered, or extended, the licensee shall inform the city clerk within ten business days. A massage therapist license shall entitle the licensed therapist to perform on-site massage at the therapeutic massage enterprise they are licensed for, the place of residence of the licensed massage therapist or client, or at an office, business, park or institution excluding hotel and motel guest rooms. It shall be the continuing duty of each licensee to properly notify the city clerk within ten business days of any change in the information or facts required to be furnished on the application for license and failure to comply with this section shall constitute cause for revocation or suspension of such license. All therapeutic massage must be performed within a building with a valid certificate of occupancy and not in or upon any vacant lot, lot, motor vehicle, trailer, tent or railroad car, including, but not limited to, structures not meant for human habitation.

(c) *Transfer of license prohibited.* The license issued is for the person or the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application. Transfer of ownership of a current licensed therapeutic massage enterprise in good standing may be applied for but does not ensure approval of a new therapeutic massage enterprise. The council is not required to issue the full number of therapeutic massage enterprise licenses that it has available.

(d) *Affiliation with enterprise required.* A massage therapist shall be employed by, affiliated with, or own a massage enterprise business licensed by the city, unless a person or place is specifically exempted from obtaining a therapeutic massage enterprise license in section 22-300.

(e) *Employment of unlicensed massage therapists prohibited.* No therapeutic massage enterprise shall employ or use any person to perform massage who is not licensed as a therapeutic massage therapist under this section, unless the person is specifically exempted from obtaining a therapist license in section 22-300.

(f) *Coverage of genitals/breasts during massage.* The licensee shall require that the person who is receiving the massage shall completely cover, at all times, genitals and breasts with nontransparent material or clothing.

(g) *Therapist dress/uniform requirements.* Any therapist performing massage shall, at all times, be dressed professionally, including short sleeved shirts, skirts no shorter than three inches above the knees, no cleavage showing, nails trimmed and neat, hair pulled back and closed-toed shoes.

(h) *Effect of license suspension or revocation.* No licensee shall solicit business or offer to perform massage services while under license suspension or revocation by the city.

(i) *Massage of certain body parts prohibited.* At no time shall the massage therapist intentionally massage or offer to massage the penis, scrotum, mons veneris, vulva, or vaginal area. In addition, the massage therapist shall not intentionally massage or offer to massage the breasts of a person, unless massage of pectoral muscles is requested by the customer or patron.

(j) *Restrictions regarding hours of operation.* No therapeutic massage enterprise shall be open for business, nor will any therapeutic massage therapist offer massage services, before 7:00 a.m. or after 10:00 p.m. any day of the week. No customers or patrons shall be allowed to remain upon the licensed premises after 10:30 p.m. and before 7:00 a.m. daily. Therapeutic massage enterprises located within Northtown Mall, 398 Northtown Drive, Blaine, MN, shall coincide with mall hours of operations. Support activities such as cleaning, maintenance and bookkeeping are allowed outside of business hours.

(k) *Proof of local residency required.* In the case of a therapeutic massage enterprise, the licensee, managing partner, or manager of the licensed premise must show proof of residency in one of the following counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright in Minnesota, and St. Croix, Pierce, or Polk in Wisconsin, or proof of residency within 150 miles of the city. In the case of therapeutic massage therapists, the licensee must show proof of residing in one of the following counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright in Minnesota, and St. Croix, Pierce, or Polk in Wisconsin or proof of residing within 150 miles of the city.

(l) *Inspections.* In light of the high risk of involvement with illegal conduct an establishment providing massage therapy poses to the general public, the issuing authority, environmental health department or designee, or the city police department shall have the right to enter, inspect, and search the licensed premises during the hours in which the licensed premises is open for business to ensure compliance with all provisions of this section. Any search of the licensed premises are subject to reasonableness standards as recognized by the courts; search warrants will be secured when applicable. Any entry into a private residence will require either consent, exigent circumstances, or a search warrant. With reasonable notice, the business records of the licensee, including income tax returns, shall be available for inspection during the hours in which the licensed premises is open for business. The

licensee is subject to fee in an amount as provided in the city's fee schedule for a third inspection, if orders to correct are issued to the licensee and those orders are not corrected upon re-inspection. Licenses shall be granted only to establishments which can meet the safety and sanitary requirements of the city and of the building code regulations of the city and state.

(m) *Posting of rates.* All massage enterprise businesses must post their rates for service in a prominent place in the entrance or lobby of the business.

(n) *Illegal activities.* In addition to the license restrictions set forth in this section, any advertising by a licensee or representative of any potential unlawful, misleading, sexually explicit, obscene or erotic conduct at the licensed establishment shall be prohibited. A licensee under this article shall be strictly responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises. No audio or visual recording is allowed at any time.

(o) *Restrictions involving minors.* No person under the age of 18 years shall be permitted at any time to be in or on the licensed premises as a customer, guest, or employee, unless accompanied by their parent or guardian.

(p) *Food preparation.* Food preparation on site shall only occur in locations specifically designed for that purpose and with proper building permits having been obtained. Food preparation is limited to use for employees during breaks during the regular shift.

(q) *Habitation.* Massage enterprises shall not contain nor allow the use by any person of sleeping quarters or living spaces of any kind intended for habitation, including, but not limited to, beds, cots, or mattresses. Home-based enterprises shall not contain nor allow the use by any person of sleeping quarters or living spaces of any kind intended for habitation, including, but not limited to, beds, cots, or mattresses in any area where massage is performed.

(r) *Intoxicating alcoholic beverages.* Per M.S.A. § 340A.401, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession or otherwise dispose of intoxicating alcoholic beverages on site. The term "intoxicating alcoholic beverages" does not include alcohol used in direct conjunction with massage therapy, such as in cleaning.

(s) *Sign permit required.* In the event of transfer or new ownership of any existing massage enterprise, a sign permit application must be submitted within 30 days of approval of enterprise license that matches the approved license.
(Code 2004, § 22-431; Ord. No. 12-2243, 4-19-2012; Ord. No. 15-2312, 6-18-2015; Ord. No. 16-2338, 2-4-2016; Ord. No. 18-2411, 8-16-2018)

Sec. 22-325. Restrictions regarding sanitation, health and safety.

(a) *Toilet room requirements.* A licensed therapeutic massage enterprise shall be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons. The toilet room shall be well ventilated by natural or mechanical methods and be enclosed with a door. The toilet room shall be kept clean and in good repair and shall be adequately lighted.

(b) *Paper/linen requirements.* A licensed therapeutic massage enterprise shall provide single-service disposal paper or clean linens to cover the massage therapy table or chair, on which the patron receives the massage, or, in the alternative, if the massage therapy table or chair on which the patron receives the massage is made of material impervious to moisture, such massage therapy table or chair shall be properly sanitized after each massage.

(c) *Washing of hands required.* The massage therapist shall wash their hands and arms with water and soap, anti-bacterial scrubs, alcohol, or other disinfectants prior to and following each massage service performed.

(d) *Door latches and locks.* Doors on massage therapy rooms shall not be locked or capable of being locked. Locks, latches or other devices intended to secure a door so as to prevent it from being opened by any person from either side of the door with or without a key cannot be present on any doors of rooms intended for massage therapy.

(e) *Equipment.* All modalities shall be performed on a raised massage therapy table or chair; no bed, mattress or other similar type equipment shall be allowed onsite except for a mat similar to those used in yoga. No modality may be performed that requires a massage therapist to stand on the massage therapy table or chair unless necessary due to the size ratio of the massage therapist/client.

(f) *Prohibited modalities.* Modalities involving work performed on the floor or requiring a massage therapist to stand on a massage therapy table, including, but not limited to, Shiatsu, are strictly prohibited unless completely clothed and massage therapist is certified in Shiatsu or other modality by an accredited institution or program.

(Code 2004, § 22-432; Ord. No. 12-2243, 4-19-2012; Ord. No. 18-2411, 8-16-2018)

Sec. 22-326. Term, renewal of license.

(a) The term of a massage therapist license and a therapeutic massage enterprise license is one year. If an individual or enterprise submits an application any time during a calendar year, the term shall expire December 31 of the year of issuance. The license fee for a partial calendar year may be pro-rated to one-half of the annual fee if an application is filed with the issuing authority after June 30.

(b) Licenses must be renewed annually. A massage therapist license issued under this section shall expire on December 31 of the year of issuance of the license. A therapeutic massage enterprise license issued under this section shall expire on December 31 of the year of issuance. An application for the renewal of an existing license shall be made at least 75 days prior to the expiration date of the license and shall be made in such form as the issuing authority requires.

(c) An application for a renewal of an enterprise or individual license shall be made in the same manner as the original application. The license and investigation fees for a renewal shall be the same as those contained in section 22-320. If the license holder is a corporation, licenses must also be renewed within 30 days whenever more than ten percent of the corporation's stock is transferred. If the license holder is a partnership, the license must also be renewed within 30 days whenever a new partner is added to the partnership. If the license holder is an LLC, the license must be renewed within 30 days whenever a change in membership or chief manager occurs.

(d) After the completion of the renewal license verification process, the issuing authority shall present the enterprise license application to the city council in accordance with this section. If the application is denied, the city clerk shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form. The notice shall inform the applicant of the right, within 20 days after receipt of the notice by the applicant, to request an appeal of the denial. If an appeal is timely received by the city clerk, the hearing before a hearing officer, on behalf of the city council, shall take place within a reasonable period of receipt of the appeal by the issuing authority.

(e) After the completion of the renewal license verification process, the issuing authority shall issue the massage therapist license in accordance with this section. If the application is denied, the city clerk shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form. The notice shall inform the applicant of the right, within 20 days after receipt of the notice by the applicant, to request an appeal of the denial. If an appeal is timely received by the city clerk, the hearing before a hearing officer, on behalf of the city council, shall take place within a reasonable period of receipt of the appeal by the issuing authority.

(f) The council is not required to issue the full number of therapeutic massage enterprise licenses that it has available.
(Code 2004, § 22-433; Ord. No. 12-2243, 4-19-2012; Ord. No. 15-2312, 6-18-2015; Ord. No. 18-2411, 8-16-2018)

Sec. 22-327. Sanctions for license violations.

(a) *Suspension or revocation.* A hearing officer, on behalf of the city council, may impose an administrative penalty, suspend or revoke a license issued pursuant to this section, at its discretion, for:

- (1) A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application.
- (2) A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
- (3) Any violation of this section or state law.
- (4) A violation by any licensee or individual that is directly related to the occupation or business licensed as defined by M.S.A. § 364.03, subd. 2.
- (5) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.
- (6) If the owner, manager, lessee or any of the employees are found to be in control or possession of an alcoholic beverage, a narcotic drug or controlled substance on the premises, other than drugs which may be purchased over the counter without a prescription or those for which the individual has a prescription.
- (7) If the holder of an enterprise license fails to maintain with the issuing authority a current list of all employees of such licensed premises. The list shall include all massage therapists licensed under this section.
- (8) A material variance in the actual plan and design of the premises from the plans submitted.
- (9) Neither the charging of a criminal violation nor a criminal conviction is required in order for the hearing officer on behalf of the council or issuing authority to impose an administrative penalty or suspend, deny or revoke a license.
- (10) In the event of multiple massage enterprise locations, any license suspension/revocation shall apply to any and all massage enterprise locations within the city.

(b) *Notice and hearing.* A revocation or suspension by the hearing officer, on behalf of the city council, shall be preceded by written notice to the licensee and a hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application.

(c) *Ability to reapply after revocation.* The holder of a massage enterprise license or massage therapist license may not reapply for a new license for a period of five years if their license is revoked under this section.

(d) *Ability to reapply after denial.* The applicant for a massage enterprise license or massage therapist license may not reapply for a license for a period of five years if the applicant's license has previously been denied due to fraud, misrepresentation, or false statement contained in a previous license or renewal application.

(e) *Previous license infractions.* In the event there is a license infraction or a pending citation involving a licensed establishment or a licensed massage therapist, the city may, at its option, choose not to take action on any license or renewal application until such infraction or pending citation has been resolved. The applicant for a massage enterprise license or massage therapist license may not be eligible to reapply for a license for a period of five years if the licensee is arrested, charged or convicted of any violation of this article.

(Code 2004, § 22-434; Ord. No. 12-2243, 4-19-2012; Ord. No. 15-2312, 6-18-2015; Ord. No. 18-2411, 8-16-2018)

Sec. 22-328. Suspension of license for violations.

The police chief or designee may immediately suspend a license, pending a hearing, if the licensee, or any person working on behalf of the licensee, is determined to be conducting business in an unlawful manner, any manner that constitutes a breach of the peace or a menace to the health, safety, or general welfare of the public, or after repeated complaints received regarding conduct of business practices or method of solicitation.

(Code 2004, § 22-435; Ord. No. 18-2411, 8-16-2018)

Sec. 22-329. Violations and penalties.

Any person or entity violating the provisions of this article is guilty of a misdemeanor under state law and shall be punished by a fine or by imprisonment, or both, together with the costs of prosecution. Each violation of this article shall constitute a separate offense. Arrests, charges, or conviction of a violation of this article, while not required, may be grounds for the non-renewal, suspension, denial or revocation of any license issued under this section.

(Code 2004, § 22-451; Ord. No. 12-2243, 4-19-2012; Ord. No. 18-2411, 8-16-2018)

Secs. 22-330—22-346. Reserved.

ARTICLE VIII. TEMPORARY NURSERY SALES

DIVISION 1. GENERALLY

Sec. 22-347. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Temporary nursery sales means temporary sales associated with a primary use erected on a commercially zoned lot for the purpose of displaying or selling seasonal plant and landscape materials not inside a permanent structure.

(Code 1980, § 15-300; Code 2004, § 22-561; Ord. No. 98-1719, 5-21-1998)

Sec. 22-348. Requirements.

- (a) Temporary nursery sales must be related to a permitted use of the site.
- (b) Sales and setup must be limited to a maximum of 75 days per calendar year.
- (c) Temporary nursery sales site must provide for adequate parking, sanitation, and lighting as approved by the zoning administrator.
- (d) All temporary nursery sales operations shall be operated free of any nuisance, litter, fire, or safety violations.
- (e) Temporary nursery sales must comply with the approved site plan. All temporary nursery sales shall be established on a hard surface.
- (f) Additional requirements may be imposed to ensure public health, safety, and welfare.

(Code 1980, § 15-304; Code 2004, § 22-563; Ord. No. 98-1719, 5-21-1998)

Sec. 22-349. Penalty for violation.

Violation of any provision of this article shall be a misdemeanor. Each day on which the violation continues shall constitute a separate offense.

(Code 1980, § 15-306; Code 2004, § 22-562; Ord. No. 98-1719, 5-21-1998)

Secs. 22-350—22-371. Reserved.

DIVISION 2. LICENSE

Sec. 22-372. Required.

- (a) No person shall operate temporary nursery sales within the limits of the city on property without legal nonconforming status as an open sales lot approved by a conditional use permit prior to August 20, 2020.

(b) No person shall operate temporary nursery sales within the city without a temporary nursery sales license.

(c) For the purposes of this license, the applicant shall be the operator of the temporary nursery sales.

(Code 1980, § 15-301; Code 2004, § 22-581; Ord. No. 98-1719, 5-21-1998; Ord. No. 20-2447, 7-20-2020)

Sec. 22-373. Application; insurance, issuance.

(a) Application for such license shall be made to the city clerk on a form supplied by the city. The application shall contain the full name and address of the applicant, the location of the temporary nursery sales, the kind of business conducted at such location, and other information as required by the application form.

(b) The applicant shall submit proof of liability insurance for the temporary premises to be licensed, with the city named as an additional insured. The applicant shall comply with provisions of M.S.A. § 176.182 regarding workers' compensation by providing evidence of workers' compensation insurance.

(c) The city clerk shall forward the completed application to the city council for its consideration and, if granted by the council, a license shall be issued by the city clerk, provided the conditional use permit is approved by the city council.

(Code 1980, § 15-302; Code 2004, § 22-582; Ord. No. 98-1719, 5-21-1998)

Sec. 22-374. Fee; expiration; nontransferable.

(a) The license fee for temporary nursery sales shall be set by council action.

(b) The license will be issued to the applicant only and is nontransferable.

(c) Only one license shall be issued per lot of record per calendar year.

(Code 1980, § 15-303; Code 2004, § 22-583; Ord. No. 98-1719, 5-21-1998)

Sec. 22-375. Revocation.

A license may be revoked by the city council for a violation of any provision of this article, except when an immediate safety, health hazard or nuisance situation exists, the city manager may revoke a permit immediately. The city council reserves the right to deny a license for a temporary nursery sales with a previous zoning violation or conditional use permit violation.

(Code 1980, § 15-305; Code 2004, § 22-584; Ord. No. 98-1719, 5-21-1998)

Sec. 22-376. Appeal.

Denials, suspension, non-renewal, or revocation of licensure by a designated city official acting on behalf of the city council on grounds specifically set forth in this article are mandatory and not subject to appeal. For all other license denials, the applicant may appeal the final determination of the city-designated city official to

the city council within ten days of the denial by filing written application therefor with the city clerk. The city council, or a hearing officer appointed to act on its behalf, shall conduct a review and a hearing. The determination of the city council or the hearing officer shall be final.

Secs. 22-377—22-395. Reserved.

ARTICLE IX. VENDING TRUCKS

Sec. 22-396. License.

(a) *Required; definition; exceptions.*

- (1) No owner or operator of any vehicle which is used for the purpose of dispensing or vending confections or other goods directly from such vehicle shall carry on such dispensing or vending unless licensed as provided in this article.
- (2) This article shall not apply to persons using vehicles for the delivery of goods or services directly to homes or establishments where the goods are taken by the operator of the vehicle onto private property for delivery, nor shall it apply to the operations of any political subdivision or unit of government.
- (3) The term "vehicle," for purposes of this article, shall mean any mobile unit being used on the public streets for the purpose of vending or dispensing.

(b) *Application; fee; term.* Application for a license shall be made to the city clerk and shall describe the vehicles from which such vending operations will be carried on and shall give the names of the persons interested in such business. It shall describe the types of confections or other goods which will be sold from such vehicles. The applicant shall also set forth the names of the insurers providing liability coverage on the vehicles and the amount of coverage carried. The application shall be accompanied by the annual fee. Licenses shall run from May 1 to April 30 of the following year. The council may, by action, establish fees for the purposes of this article. If an application for a license is denied, the fee shall be refunded to the applicant.

(c) *Appeal.* Denials, suspension, non-renewal, or revocation of licensure by a designated city official acting on behalf of the city council on grounds specifically set forth in this article are mandatory and not subject to appeal. For all other license denials, the applicant may appeal the final determination of the city-designated city official to the city council within ten days of the denial by filing written application therefor with the city clerk. The city council, or a hearing officer appointed to act on its behalf, shall conduct a review and a hearing. The determination of the city council or the hearing officer shall be final.

(Code 1963, §§ 5.01, 5.02; Code 1980, §§ 15-29, 15-30; Code 2004, § 22-621)

Sec. 22-397. Hours of operation and use of bells.

No person licensed under this article shall carry on vending operations between the hours of 4:00 p.m. and 6:30 p.m. No bells or other audible signals shall be used after the hour of 8:00 p.m.

(Code 1963, § 5.03; Code 1980, § 15-31; Code 2004, § 22-62)

Sec. 22-398. Liability insurance.

Every licensee shall maintain liability insurance in the amount established by council action.

(Code 1963, § 5.04; Code 1980, § 15-32; Code 2004, § 22-63)

Sec. 22-399. Violations.

Any person violating any provision of this article or who drives or operates such vehicle in a careless and negligent fashion may, in addition to the penalties provided in section 1-7, have such person's license revoked after a hearing before the council upon reasonable notice.

(Code 1963, § 5.05; Code 1980, § 15-33; Code 2004, § 22-64)

Secs. 22-400—22-426. Reserved.**ARTICLE X. MOBILE FOOD TRUCKS****DIVISION 1. GENERALLY****Sec. 22-427. Defined.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mobile food truck means a food or beverage service establishment that is a vehicle-mounted unit, either motorized or trailer, and readily movable, without disassembling, for transport to another location. The term "mobile food truck" shall not apply to vending trucks or transient merchants as defined in this chapter; provided, however, that exemption from this definition shall not excuse any person from complying with any other applicable statutory provision or requirement provided by another provision of this Code.

(Code 2004, §§ 22-721, 22-722; Ord. No. 21-2485, 11-15-2021)

Sec. 22-428. Licensing.

(a) *City license required.* No person shall operate a mobile food truck within the city limits without first having obtained the appropriate license from the city as it may be amended from time to time.

(b) *License application.* An application for a mobile food truck license shall be made on a form supplied by the city clerk's office and shall request the following information:

- (1) The applicant's name, business name, food truck name, business address, Minnesota tax identification number, description of food being offered, vehicle/trailer license plate numbers, description of vehicles/trailers, vehicle insurance company, policy number, and date of insurance coverage.
- (2) Proof of any required county or state license.
- (3) Proof of successful fire inspection report from fire inspection staff within any county fire department.
- (4) Additional information as may be necessary.

(c) *Fee.* An annual license fee and fire inspection fee are hereby established and included in the city's fee schedule.

(d) *Duration.* Each city license shall be valid through March 31 of the year in which provided.
(Code 2004, § 22-731; Ord. No. 21-2485, 11-15-2021; Ord. No. 25-2575, § 22-731, 3-17-2025)

Sec. 22-429. Revocation.

(a) *Generally.* Any license issued under this division may be suspended or revoked at the discretion of a hearing officer on behalf of the city council for violation of any of the following:

- (1) Subsequent knowledge by the city of fraud, misrepresentation, or incorrect statements provided by an applicant on the application form.
- (2) Fraud, misrepresentation, or false statements made during the course of the licensed activity.
- (3) Engaging in any prohibited activity as provided under section 22-462.
- (4) Violation of any other provision of this article.

(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 mobile food truck operators on behalf of the licensed mobile food truck operator shall serve as a suspension or revocation of each authorized person's authority to conduct business as a mobile food truck operator on behalf of the licensed mobile food truck operator whose license is suspended or revoked.

(c) *Notice.* Prior to revoking or suspending any license issued under this article, the city shall provide a license holder with written notice of the alleged violations and inform the licensed mobile food truck operator of their 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) *Hearing.* Upon receiving the notice provided in subsection (c) of this section, the licensed mobile food truck operator shall have the right to request a hearing. If no request for a hearing is received by the city clerk within ten days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a hearing is requested within the stated timeframe, a hearing shall be scheduled with a hearing officer on behalf of the city council within 20 days from the date of the request for the hearing. Within three regular business days of the hearing, the hearing office, on behalf of the city council, shall notify the licensee of its decision.

(e) *Emergency.* If, in the discretion of the city manager or their designee, imminent harm to the health or safety of the public may occur because of the actions of mobile food truck operation licensed under this article, the city manager or their designee, on behalf of the city council, may immediately suspend the person's license and provide notice of the right to hold a subsequent hearing as prescribed in subsection (d) of this section.

(f) *Appeal.* Any person whose license is denied, suspended or revoked under this section shall have the right to appeal that decision in court.
(Code 2004, § 22-732; Ord. No. 21-2485, 11-15-2021; Ord. No. 25-2575, § 22-732, 3-17-2025)

Sec. 22-430. License transferability.

No license issued under this article shall be transferred to any person other than the person to whom the license was issued.
(Code 2004, § 22-733; Ord. No. 21-2485, 11-15-2021; Ord. No. 25-2575, § 22-733, 3-17-2025)

Sec. 22-431. Violation constitutes misdemeanor.

Any individual found in violation of any provision of this article, shall be a guilty of a misdemeanor.
(Code 2004, § 22-743; Ord. No. 21-2485, 11-15-2021)

Secs. 22-432—22-460. Reserved.

DIVISION 2. OPERATION STANDARDS

Sec. 22-461. Allowed activities.

Mobile food trucks are allowed under the following circumstances:

- (1) In conjunction with a private party or event located at a city park, provided the renter of the park initiates the request for a food truck.
- (2) In conjunction with a city-sponsored event located at a city park or other city-owned property.
- (3) In conjunction with a school-sponsored event located on school district-owned property.
- (4) In conjunction with a private event, on private property, such as a customer appreciation or employee event, grand opening, birthday party, graduation, etc. Consent of the private property owner shall be obtained.
- (5) At the National Sports Center in conjunction with an event hosted at the National Sports Center.
- (6) At Northtown Mall, as part of a food truck-oriented event.
- (7) In conjunction with a special event as defined under section 70-27.
(Code 2004, § 22-741; Ord. No. 21-2485, 11-15-2021)

Sec. 22-462. Prohibited activities.

(a) No mobile food truck operator shall conduct business in any of the following manners:

- (1) Calling attention to their business or the 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.
- (2) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway or other public right-of-way.
- (3) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.
- (4) Conducting business before 7:00 a.m. or after 10:00 p.m.
- (5) Failing to provide proof of license, or registration, and identification when requested.
- (6) Using the registration of another person.
- (7) Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement.
- (8) Remaining on the property of another when requested to leave.

- (9) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.
- (b) Parking of mobile food trucks shall not occur on any public right-of-way, except for events permitted under section 22-461(3) located in a residential zoning district or events identified in section 22-461(2).
- (c) No mobile food truck operator shall claim to have the endorsement of the city solely based on the city having issued a license to that person.
- (d) No mobile food truck may be parked for storage at a residentially zoned property within the city, except one mobile food truck may be parked for storage if the property is zoned farm residential and greater than five acres in size.
(Code 2004, § 22-742; Ord. No. 21-2485, 11-15-2021; Ord. No. 25-2575, § 22-742, 3-17-2025)

Secs. 22-463—22-493. Reserved.

ARTICLE XI. ADULT-USE CANNABIS

DIVISION 1. ADMINISTRATION

Sec. 22-494. Findings and purpose.

The city makes the following legislative findings:

- (1) The purpose of this article is to implement the provisions of M.S.A. ch. 342, which authorizes the city to protect the public health, safety, welfare of the residents by regulating cannabis businesses within the legal boundaries of the city.
 - (2) The city finds and concludes that the proposed provisions are appropriate and lawful land use regulations, that the proposed amendments will promote the community's interest in reasonable stability in zoning for now and in the future, and that the proposed provisions are in the public interest and for the public good.
- (Ord. No. 25-2573, § 7.1, 1-22-2025)

Sec. 22-495. Authority and jurisdiction.

The city has the authority to adopt this article pursuant to:

- (1) M.S.A. § 342.13(c), regarding the authority of a local unit of government to adopt reasonable restrictions of the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses.

- (2) M.S.A. § 342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses.
 - (3) M.S.A. § 152.0263, subd. 5, regarding the use of cannabis in public places.
 - (4) M.S.A. § 462.357, regarding the authority of a local authority to adopt zoning ordinances.
- (Ord. No. 25-2573, § 7.2, 1-22-2025)

Sec. 22-496. Enforcement.

The city manager or designee is responsible for the administration and enforcement of this article. Any violation of the provisions of this article or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in this article.

(Ord. No. 25-2573, § 7.4, 1-22-2025)

Sec. 22-497. Definitions.

Unless otherwise noted in this section, words and phrases contained in M.S.A. § 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meanings in this article. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cannabis cultivation means a cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant. harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.

Cannabis retail businesses means a retail location and the retail locations of mezzobusinesses with retail operations endorsement, microbusinesses with retail operations endorsement, medical combination businesses operating retail locations.

Cannabis retailer means any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.

Day care means a location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Lower-potency hemp edible means as defined under M.S.A. § 342.01, subd. 50.

Office of cannabis management means Minnesota Office of Cannabis Management, referred to as "OCM" in this article.

Place of public accommodation means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

Preliminary license approval means OCM pre-approval for a cannabis business license for applicants who qualify under M.S.A. § 342.17.

Public place means a public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.

Residential treatment facility means as defined under M.S.A. § 245.462, subd. 23.

Retail registration means an approved registration issued by the city to a state-licensed cannabis retail business.

School means a public school as defined under M.S.A. § 120A.05 or a nonpublic school that must meet the reporting requirements under M.S.A. § 120A.24.

State license means an approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.
(Ord. No. 25-2573, § 7.5, 1-22-2025)

Secs. 22-498—22-517. Reserved.

DIVISION 2. REGISTRATION OF CANNABIS BUSINESS

Sec. 22-518. Consent to registering of cannabis business.

(a) No individual or entity may operate a state-licensed cannabis retail business within the city without first registering with the city.

(b) Any state-licensed cannabis retail business that sells to a customer or patient without valid retail registration shall incur a civil penalty of up to \$2,000.00 for each violation.

(Ord. No. 25-2573, § 7.16, 1-22-2025)

Sec. 22-519. Compliance checks prior to retail registration.

(a) Prior to issuance of a cannabis retail business registration, the city shall conduct a preliminary compliance check to ensure compliance with local ordinances.

(b) Pursuant to M.S.A. ch. 342, within 30 days of receiving a copy of a state license application from OCM, the city shall certify on a form provided by OCM whether a proposed cannabis retail business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

(Ord. No. 25-2573, § 7.17, 1-22-2025)

Sec. 22-520. Registration fees.

(a) A registration fee, as established in the city's fee schedule, shall be charged to applicants depending on the type of retail business license applied for.

(b) An initial retail registration fee shall not exceed \$500.00 or half the amount of an initial state license fee under M.S.A. § 342.11, whichever is less. The initial registration fee shall include the initial retail registration fee and the first annual renewal fee.

(c) Any renewal retail registration fee imposed by the city shall be charged at the time of the second renewal and each subsequent renewal thereafter.

(d) A renewal retail registration fee shall not exceed \$1,000.00 or half the amount of a renewal state license fee under M.S.A. § 342.11, whichever is less.

(e) A medical combination business operating an adult-use retail location may only be charged a single registration fee, not to exceed the lesser of a single retail registration fee, defined under this section, of the adult-use retail business.

(Ord. No. 25-2573, § 7.18, 1-22-2025)

Sec. 22-521. Registration application.

The city shall issue a retail registration to a state-licensed cannabis retail business that adheres to the requirements of M.S.A. § 342.22.

- (1) An applicant for a retail registration shall fill out an application form, as provided by the city. Said form shall include, but is not limited to:
 - a. Full name of the property owner and applicant;
 - b. Address, email address, and telephone number of the applicant;
 - c. The address and parcel ID for the property which the retail registration is sought;
 - d. Certification that the applicant complies with the requirements of local ordinances established pursuant to M.S.A. § 342.13.
- (2) The applicant shall include with the form:
 - a. The registration fee as required in section 22-520;
 - b. A copy of a valid state license or written notice of OCM license preapproval.

- (3) Once an application is considered complete, the city shall inform the applicant as such, process the application fees, and forward the application to the city clerk's office for approval or denial.
- (4) The application fee shall be nonrefundable once processed.
(Ord. No. 25-2573, § 7.19, 1-22-2025)

Sec. 22-522. Application approval.

- (a) A state-licensed cannabis retail business application shall not be approved if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under section 22-527.
- (b) A state-licensed cannabis retail business application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance.
- (c) A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved.
(Ord. No. 25-2573, § 7.20, 1-22-2025)

Sec. 22-523. Annual compliance checks.

- (a) The city shall complete at minimum one compliance check per calendar year of every cannabis business to assess if the business meets age verification requirements, as required under M.S.A. § 342.22, subd. 4(b) and M.S.A. § 342.24.
- (b) Age verification compliance checks shall involve persons at least 17 years of age but under the age of 21 years who, with the prior written consent of a parent or guardian if the person is under the age of 18 years, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products under the direct supervision of a law enforcement officer or an employee of the local unit of government.
- (c) Any failures under this section must be reported to the office of cannabis management.
(Ord. No. 25-2573, § 7.21, 1-22-2025)

Sec. 22-524. Location change.

If a state-licensed cannabis retail business seeks to move to a new location still within the legal boundaries of the city, it shall notify the city clerk's office of the proposed location change, and submit necessary information to meet all the criteria in this chapter.
(Ord. No. 25-2573, § 7.22, 1-22-2025)

Sec. 22-525. Renewal of registration.

- (a) The city shall renew an annual registration of a state-licensed cannabis retail business at the same time OCM renews the cannabis retail business' license.

(b) A state-licensed cannabis retail business shall apply to renew registration on a form established by the city clerk's office.

(c) A cannabis retail registration issued under this article shall not be transferred.

(d) The city may charge a renewal fee for the registration starting at the second renewal, as established in the city's fee schedule.

(Ord. No. 25-2573, § 7.23, 1-22-2025)

Sec. 22-526. Suspension of registration.

(a) The city may suspend a cannabis retail business's registration if it violates the provisions of this chapter or poses an immediate threat to the health or safety of the public. The city clerk shall immediately notify the cannabis retail business in writing of the grounds for the suspension.

(b) The city clerk shall immediately notify the OCM in writing of the grounds for the suspension. OCM will provide the city clerk and cannabis business retailer a response to the complaint within seven calendar days and perform any necessary inspections within 30 calendar days.

(c) The suspension of a cannabis retail business registration may be for up to 30 calendar days, unless OCM suspends the license for a longer period. The business may not make sales to customers if their registration is suspended.

(d) The city may reinstate a registration if it determines that the violations have been resolved.

(e) The city clerk shall reinstate a registration if OCM determines that the violations have been resolved.

(Ord. No. 25-2573, § 7.24, 1-22-2025)

Sec. 22-527. Limiting of registrations.

The city shall limit the number of cannabis retail businesses to no fewer than one registration for every 12,500 residents as determined by annual population estimates determined by the Metropolitan Council.

(Ord. No. 25-2573, § 7.25, 1-22-2025)

Secs. 22-528—22-547. Reserved.

DIVISION 3. REQUIREMENTS FOR CANNABIS BUSINESS

Sec. 22-548. Minimum buffer requirements.

(a) The operation of a cannabis business shall be prohibited within the following distances of the uses listed below. Distance shall be measured from the property line of the uses listed below and building wall of the cannabis business.

- (1) 1,000 feet of a school.

- (2) 500 feet of a daycare.
- (3) 500 feet of a residential treatment facility.
- (4) 500 feet of an attraction within a public park that is regularly used by minors, including a playground or athletic field.

(b) Pursuant to M.S.A. § 462.357, subd. 1e, nothing in this section shall prohibit an active cannabis business or a cannabis business seeking registration from continuing operation at the same site if a (school/daycare/residential treatment facility/attraction within a public park that is regularly used by minors) moves within the minimum buffer zone.

(Ord. No. 25-2573, § 7.36, 1-22-2025)

Sec. 22-549. Hours of operation.

Cannabis businesses are limited to retail sales of cannabis, cannabis flower, cannabis products or hemp-derived consumer projects between the hours of 10:00 a.m. to 9:00 p.m., seven days a week.

(Ord. No. 25-2573, § 7.37, 1-22-2025)

Sec. 22-550. Temporary cannabis events.

Temporary cannabis events shall not be permitted within the city.

(Ord. No. 25-2573, § 7.38, 1-22-2025)

Chapters 23—25

RESERVED

Chapter 26

ELECTIONS*

- Sec. 26-1. Councilmember election wards.
- Sec. 26-2. Voter registration.
- Sec. 26-3. Political campaign signs.

***State law references**—Elections, M.S.A. chs. 200—212; municipal elections, M.S.A. ch. 205.

Sec. 26-1. Councilmember election wards.

Pursuant to section 2.03(a) of the city Charter, the city is divided into three wards for the election of councilmembers, pursuant to section 2.03 of the city Charter. The wards established in this section shall exist as of August 9, 2022, and candidates for the office of councilmember shall seek election at the regular city election of 2022.

- (1) *Ward No. 1.* Ward No. 1 is that part of the city lying within its corporate limits and lying south of the following described line: beginning on the west corporate limits at the intersection of C.S.A.H. 51 (University Avenue) and C.S.A.H. 12 (109th Avenue); thence east along C.S.A.H. 12 (109th Avenue) to C.S.A.H. 52 (Radisson Road); thence south along C.S.A.H. 52 (Radisson Road) to 101st Avenue; thence east along 101st Avenue to C.S.A.H. 52 (Radisson Road); thence southeast along C.S.A.H. 52 (Radisson Road) to the intersection of I35W and 95th Avenue; thence north a distance of 1,288 feet on I35W to the corporate limits adjacent to Circle Pines; thence following the corporate limits in alignment with 97th Lane to Hamline Avenue; thence south along Hamline Ave to Edgewood Road; thence east along Edgewood Avenue to C.S.A.H. 17 (Lexington Avenue); thence north on C.S.A.H. 17 (Lexington Avenue) to County Road 49 (North Road); thence east along County Road 49 (North Road) to the east corporate limits and County Road 53 (Sunset Avenue); and there terminating.
- (2) *Ward No. 2.* Ward No. 2 is that part of the city within its corporate limits bounded on the west by C.S.A.H. 51 (University Avenue), and within the following described line: beginning on the west corporate limits at the intersection of C.S.A.H. 51 (University Avenue) and C.S.A.H. 12 (109th Avenue); thence east along C.S.A.H. 12 (109th Avenue) to C.S.A.H. 52 (Radisson Road); thence south along C.S.A.H. 52 (Radisson Road) to 101st Avenue; thence east along 101st Avenue to C.S.A.H. 52 (Radisson Road); thence southeast along C.S.A.H. 52 (Radisson Road) to the intersection of I35W and 95th Avenue; thence north a distance of 1,288 feet on I35W to the corporate limits adjacent to Circle Pines; thence following the corporate limits in alignment with 97th Lane to Hamline Avenue; thence south along Hamline Ave to Edgewood Road; thence east along Edgewood Avenue to C.S.A.H. 17 (Lexington Avenue); thence north on C.S.A.H. 17 (Lexington Avenue) to County Road 49 (North Road); thence east along County Road 49 (North Road) to the east corporate limits and County Road 53 (Sunset Avenue); thence north on County Road 53 (Sunset Avenue) to C.S.A.H. 14 (125th Avenue); thence west along C.S.A.H. 14 (125th Avenue) to Harpers Street; thence south along Harpers Street to Lakes Parkway; thence southwest along Lakes Parkway to the intersection of C.S.A.H. 52 (Radisson Road) and 119th Avenue; thence west along 119th Avenue to Arnold Palmer Trail; thence west along Arnold Palmer Trail to 117th Lane, thence west 117th Lane to London Street; thence north along London Street to 118th Lane;

thence northwest along 118th Lane to 119th Avenue; thence west along 119th Avenue to the intersection of T.H. 65 and 117th Avenue; thence west along 117th Avenue to the west corporate limits of the city at C.S.A.H. 51 (University Avenue); thence south along C.S.A.H. 51 (University Avenue) to the point of beginning; and there terminating.

- (3) *Ward No. 3.* Ward No. 3 is that part of the city lying within its corporate limits and lying north of the following described line: beginning on the west corporate limits at the intersection of C.S.A.H. 51 (University Avenue) and 117th Avenue; thence east along 117th Avenue to the intersection of T.H. 65 and 119th Avenue; thence east along 119th Avenue to 118th Lane; thence southeast along 118th Lane to London Street; thence south along London Street to 117th Lane; thence east along 117th Lane to Arnold Palmer Trail; thence east along Arnold Palmer Trail to 119th Avenue; thence east along 119th Avenue to the intersection of C.S.A.H. 52 (Radisson Road) and Lakes Parkway; thence northeast along Lakes Parkway to Harpers Street; thence north along Harpers Street to C.S.A.H. 14 (125th Avenue); thence east along C.S.A.H. 14 (125th Avenue) to east corporate limits of the city, County Road 53 (Sunset Avenue); and there terminating.

(Code 1980, § 2-7; Code 2004, § 26-1; Ord. No. 528, 4-7-1971; Ord. No. 728, 6-4-1981; Ord. No. 757, 6-14-1982; Ord. No. 86-991, 11-20-1986; Ord. No. 92-1283, § 2, 3-19-1992; Ord. No. 02-1946, 4-18-2002; Ord. No. 12-2246, 3-15-2012; Ord. No. 22-2499, 3-21-2022)

Sec. 26-2. Voter registration.

(a) *Adoption of system.* The system for the permanent registration of voters provided for by M.S.A. ch. 201 is hereby adopted for the city.

State law references—Voter registration system established, M.S.A. §§ 201.021, 201.022; state election laws to apply to municipalities, M.S.A. § 205.02.

(b) *Prerequisite to voting.* No person shall be permitted to vote at any election held in the city unless such person shall have registered as provided in M.S.A. ch. 201.

(Code 1963, §§ 113.01, 113.02; Code 1980, §§ 2-5, 2-6; Code 2004, § 26-2; Ord. No. 72, 3-2-1962)

Sec. 26-3. Political campaign signs.

(a) Political campaign signs designating candidates seeking public political office and other data pertinent thereto shall be subject to the following restrictions:

- (1) Signs shall be permitted only on private property provided that the property owner's permission has been obtained by the candidate. Signs are prohibited on public property.

- (2) At a corner of an intersection, signs are prohibited within a triangle formed by measuring 30 feet along the curbs from the point where the curbs intersect and drawing an imaginary line from curb to curb to define the triangle.
 - (3) Along the street edge, away from an intersection, signs shall be placed not less than ten feet from the nearest edge of the pavement.
 - (4) Where a sidewalk is installed parallel to a public street, 12 inches from the sidewalk edge farthest from the street shall be the minimum setback from the street for sign placement.
 - (5) All signs are presumed to be the property and responsibility of the candidate. Each candidate shall provide to the city clerk the names and means of contacting two persons that may receive notices of violation on the candidate's behalf.
 - (6) Any candidate who fails to remove a sign placed in violation of this subsection (a) within 48 hours after receiving notice from the city shall be guilty of a petty misdemeanor and shall be subject to the penalty contained in section 1-7.
 - (7) Nothing in this section shall preclude the immediate removal of signs deemed by the city manager to be a safety hazard.
- (b) Signs placed in violation of this section are also subject to immediate removal by the city.
(Code 1980, § 2-10; Code 2004, § 26-3; Ord. No. 97-1657, 5-1-1997; Ord. No. 01-1906, 6-21-2001)

State law reference—Display of noncommercial signs in a state general election year, M.S.A. § 211B.045.

Chapters 27—29

RESERVED

Chapter 30

EMERGENCY MANAGEMENT AND SERVICES

Article I. In General

Secs. 30-1—30-18. Reserved.

Article II. Emergency Management

- Sec. 30-19. Policy and purpose.
- Sec. 30-20. Definitions.
- Sec. 30-21. Establishment of an emergency management organization.
- Sec. 30-22. Powers and duties of the director.
- Sec. 30-23. Local emergencies.
- Sec. 30-24. Emergency regulations.
- Sec. 30-25. Emergency management is a governmental function.
- Sec. 30-26. Participation in labor dispute or politics.
- Secs. 30-27—30-55. Reserved.

Article III. Alarm Systems

- Sec. 30-56. Purpose and findings.
- Sec. 30-57. Definitions.
- Sec. 30-58. Duties of alarm user.
- Sec. 30-59. Duties of alarm company.
- Sec. 30-60. Alarm regulations.
- Sec. 30-61. New alarm and alarm system installations.
- Sec. 30-62. Certain governmental entities exempt.
- Sec. 30-63. Suspension of police response.
- Sec. 30-64. Penalties for false alarms.
- Sec. 30-65. Liability to the city.
- Sec. 30-66. Violations declared misdemeanor.

ARTICLE I. IN GENERAL

Secs. 30-1—30-18. Reserved.

ARTICLE II. EMERGENCY MANAGEMENT*

Sec. 30-19. Policy and purpose.

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

- (1) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters.
- (2) To provide for the exercise of necessary powers during emergencies and disasters.
- (3) To provide for the rendering of mutual aid between the city and other political subdivisions of the state and of other states with respect to the carrying out of emergency preparedness functions.
- (4) To comply with the provisions of M.S.A. § 12.25, which requires that each political subdivision of the state establish a local organization for emergency management.

(Code 1980, § 7-1; Code 2004, § 30-31; Ord. No. 08-2165, 9-18-2008)

Sec. 30-20. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

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

***State law references**—Emergency management, M.S.A. ch. 212; local emergencies, M.S.A. § 12.29.

Emergency means an unforeseen combination of circumstances, which calls for immediate action to prevent from developing or occurring.

Emergency management means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters from acute shortages of energy or from incidents occurring at nuclear power plants that pose radiological or other health hazards. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency human services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, implementation of energy supply emergency conservation and allocation measures, and other functions related to civilian protection, together with all other activities necessary or incidental to preparing for and carrying out these functions.

Emergency management forces means the total personnel resources engaged in city-level emergency management functions in accordance with the provisions of this resolution or any rule or order thereunder. The term "emergency management forces" includes personnel from city departments, authorized volunteers, and private organizations and agencies.

Emergency management organization means the staff element responsible for coordinating city-level planning and preparation for disaster response. This organization provides city liaison and coordination with federal, state, and local jurisdictions relative to disaster preparedness activities and ensures implementation of federal and state program requirements.

(Code 1980, § 7-2; Code 2004, § 30-32; Ord. No. 08-2165, 9-18-2008)

Sec. 30-21. Establishment of an emergency management organization.

The city council has created within the city government an emergency management organization, which is under the supervision and control of the city emergency management director, hereinafter called the director. The director shall be appointed by the city manager for an indefinite term and may be removed by the manager at any time. The director serves at a salary determined by the city manager and shall be paid necessary expenses. The director shall have direct responsibility for the organization, administration, and operation of the emergency preparedness organization, subject to the direction and control of the city manager.

(Code 2004, § 30-33; Ord. No. 08-2165, 9-18-2008)

Sec. 30-22. Powers and duties of the director.

(a) The director, with the consent of the city manager, shall represent the city on any regional or state conference for emergency management. The director shall develop proposed mutual aid agreements with other political subdivisions of the

state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted and shall present such agreements to the city council for its action. Such arrangements shall be consistent with the state emergency plan.

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

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

(d) In accordance with the state and county emergency plan, the director shall institute such training programs and public information programs and conduct practice warning alerts and emergency exercises as may be necessary to ensure prompt and effective operation of the city emergency plan when a disaster occurs.

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

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

(g) Consistent with the state emergency services law, the director shall coordinate the activity of municipal emergency management organizations within the city and assist in establishing and conducting training programs as required to ensure emergency operational capability in the several services.

(h) The director shall carry out all orders, rules and regulations issued by the governor with reference to emergency management.

(i) The director shall act as principal aide and advisor to the city official responsible for direction and control of all city emergency operations during an emergency. The director's main responsibility is to ensure coordination among the operating departments, nongovernmental groups, and with higher and adjacent governments.

(j) The director shall prepare and submit such reports on emergency preparedness activities as may be requested by the city council and city manager.

(Code 2004, § 30-34; Ord. No. 08-2165, 9-18-2008)

Sec. 30-23. Local emergencies.

(a) Only the mayor or the mayor's legal successors may declare a local emergency. It shall not be continued for a period in excess of three days except by or with the consent of the city council. Any order or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed promptly by the city clerk.

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

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

(Code 2004, § 30-35; Ord. No. 08-2165, 9-18-2008)

Sec. 30-24. Emergency regulations.

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

(b) Every resolution of emergency regulations shall be in writing, shall be dated, shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the city manager, which copy shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulation and its availability for inspection at the manager's office shall be conspicuously posted at the front of the city hall or other headquarters of the city or at such other places in the affected area as the city council shall designate in the resolution. By like resolution, the city council may modify or rescind any such regulation.

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

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

(Code 2004, § 30-36; Ord. No. 08-2165, 9-18-2008)

Sec. 30-25. Emergency management is a governmental function.

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

(Code 2004, § 30-37; Ord. No. 08-2165, 9-18-2008)

Sec. 30-26. Participation in labor dispute or politics.

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

(Code 2004, § 30-38; Ord. No. 08-2165, 9-18-2008)

Secs. 30-27—30-55. Reserved.

ARTICLE III. ALARM SYSTEMS

Sec. 30-56. Purpose and findings.

The purpose of this article is to encourage alarm users and alarm companies to maintain the operational effectiveness and reliability of alarm systems and to foster the proper use of these systems in order to reduce or eliminate unnecessary responses by the city police and fire departments to false alarms. Nothing herein stated should be construed as imposing or implying any duty upon the city police and fire departments to respond to alarm dispatch requests, as limiting the discretion of the police chief or fire chief in establishing response policies, or as waiving otherwise applicable governmental immunities. The number of false alarms to which the city police and fire departments now respond has reached a level which places a significant burden upon the time and resources of the city. The city council makes the following findings regarding the need to regulate alarm systems operating within the city:

- (1) False alarm responses, by unduly diverting safety services personnel, wasting limited resources and potentially threatening the safety of police officers, firefighters, and the public;
- (2) To promote the general safety and welfare of the citizens of the city;
- (3) To minimize the hazards associated with emergency response to city and fire department employees and other persons using the roadways in the city during the time an alarm is activated;
- (4) To control the loss of time and financial resources resulting from the response of emergency personnel to false alarms;
- (5) To promote the installation and use of alarms and alarm systems in the city which are of such quality and skill that false alarm signals, due to inferior product design, installation or maintenance, are eliminated;
- (6) To promote training by alarm owners of their employees and subcontractors in the proper use of and care for their alarms so that false alarms, due to human error, are eliminated; and

- (7) To establish penalties for negligent installation of, use of, or maintenance of alarms and alarm systems.
(Code 2004, § 30-61; Ord. No. 04-2015, 5-20-2004)

Sec. 30-57. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act of nature means an alarm or alarm system activated by a utility line mishap, tornado, severe wind or electrical storm or other climatic condition shall not be considered a false alarm.

Alarm or alarm system means a single device or assembly of devices operating mechanically, electrically or by means of radio frequency method, such as cellular or private radio signal, indicating a need for a response by emergency personnel or services. Such signals emitted may be audible or may be transmitted to some receiving site for the purpose of notification of the need for an emergency response.

Alarm administrator means a person designated by the safety services manager to administer and review the city's false alarm tracking and reduction efforts.

Alarm company means the business of any individual, partnership, corporation, or other entity involving the selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, monitoring or installing any alarm system at an alarm site located within the city or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed, any alarm system in or on any building structure, facility or other alarm site located within the city. Specifically included in this definition and the provisions of this division are individuals, partnerships, corporations, or other entities performing alarm system monitoring services.

Alarm site means a single premise, building, structure facility or location served by an alarm system. Each tenant's space within a multi-tenant building or complex, if served by a separate system, shall be considered a separate alarm site.

Alarm user means the person or entity, which uses or is in control of an alarm system site, regardless of whether it owns or leases the system.

Alarm user permit means a permit issued by the city to any owner or other person in control of a residential dwelling, building structure, property or any part thereof, located in the city who has leased, purchased or otherwise possesses an alarm system for use on any premises.

Alarm verification process means an independent method by which an alarm company makes a reasonable attempt to verify the legitimacy of an alarm with the alarm user or responsible party that a signal from an alarm system requires an immediate dispatch of police or firefighting personnel.

Automotive alarms means alarms or alarm systems installed in motor vehicles, including boats, snowmobiles, and similar conveyance devices are exempt from the provisions of this article.

Calendar year means January 1 through December 31 of each year.

False alarm means an alarm signal eliciting notification to and a response by police or fire personnel where the responding personnel, is unable to find any evidence that a fire, burglary or attempted burglar has occurred. Alarm or alarm system malfunction due to improper installation or maintenance, mechanical, electrical or radio frequency failure, or human error on the part of an alarm user, or an employee or agent or subcontractor of the alarm user, shall be considered a false alarm.

Hold-up alarm means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress to law enforcement personnel.

Panic alarm means an audible or silent alarm system signal generated by the manual activation of a device intended to signal a life-threatening or emergency situation requiring the dispatch of law enforcement personnel, including, but not limited to, duress and ambush alarms.

(Code 2004, § 30-62; Ord. No. 04-2015, 5-20-2004)

Sec. 30-58. Duties of alarm user.

- (a) *Generally.* Alarm users whose alarm site is located within the city shall:
- (1) Maintain the premises and alarm systems in a manner that will minimize or eliminate false alarms, including, but not limited to, having their security alarm system inspected by a properly licensed alarm company technician at least once every two years. Fire alarm systems shall be inspected and tested at least once every year by qualified technicians;
 - (2) Maintain a current key holder list with their alarm company, monitoring station and safety services division. Failure to notify the safety services division/alarm administrator of any key holder information will be considered a violation of this article;
 - (3) Have key holders who shall respond to alarm calls;
 - (4) Notify the alarm company of a false alarm activation as soon as the user is aware of the false alarm;
 - (5) Not manually activate an alarm except when in need to immediately dispatch law enforcement or fire personnel to an emergency situation;

- (6) Remove any nonrequired components from the alarm system which have created ongoing false alarms;
- (7) Take immediate steps to repair equipment creating false alarms.

(b) *Registration.*

- (1) Every alarm user shall be required to register each alarm system on the alarm user's premises on a form provided by the city. The form shall contain all information the city deems necessary to administer this system. In commercial or multihousing situations, it shall also include key holder information.
- (2) The registration fee for existing residential alarm systems owners shall be waived until such system produces a false alarm, at which time the resident shall pay the alarm system registration fee;
- (3) The registration fee for existing commercial alarm system owners shall be waived for one year from the effective date of the ordinance from which this article is derived provided registration occurs within this one-year period;
- (4) New commercial and residential alarm owners shall pay the registration fee at the time of installation;
- (5) Registration fee shall be established by council resolution; and
- (6) Alarm user registrations are not transferable from one person to another or from one location to another.

(c) *Applicability.* The provisions of this section are not applicable to audible alarms affixed to automobiles.

(Code 2004, § 30-63; Ord. No. 04-2015, 5-20-2004)

Sec. 30-59. Duties of alarm company.

(a) Alarm companies shall:

- (1) Not install any burglary control panel, after the effective date of the ordinance from which this article is derived, which fails to meet security industry association standards with false alarm prevention features programmed to the factory default;
- (2) Not install an alarm system, after the effective date of the ordinance from which this article is derived, which does not meet the requirements of this article, applicable National Fire Protection Association (NFPA) standards, manufactures specifications and other nationally recognized standards;
- (3) Complete an alarm verification process, as defined in section 30-57, for all single-family residential alarm signals prior to requesting a response by emergency personnel;

- (4) Complete an alarm verification process, as defined in section 30-57, for all multifamily and commercial burglary alarm signals prior to requesting a response by the emergency personnel;
- (5) Maintain a current record, available for review by the alarm administrator upon request on an individual case by case basis during regular business hours, of alarm users and sites serviced by the company that includes the names of the alarm user serviced by the company, the address of the protected properties, the type of alarm system, the original installation date and the subsequent modifications, if any for each protected property, a record of the date and the time of alarm dispatch requests to each protected property, record of the false alarms at each property with evidence of the company's attempt to verify the alarm and its explanation of the cause of the false alarm;
- (6) Provide each of its alarm users with written operating instructions for their alarm system, including an explanation of the company's alarm verification process; a telephone number to call for assistance in operating the system; and a summary of the provision of this article relating to penalties for false alarms;
- (7) Work cooperatively with the alarm system user and the alarm administrator to determine the cause of any false alarm recurrences; and
- (8) Establish a training period during the first seven days following the installation of any alarm system during which the alarm user will be trained on the proper use of the system.

(b) Every alarm company performing work within the city shall be required to register with the city annually on a form provided by the city. The form shall contain all information the city deems necessary to administer this article. The alarm registration must be accompanied by a copy of the board of electricity technology systems contractor's license, bond and insurance certificate.

(Code 2004, § 30-64; Ord. No. 04-2015, 5-20-2004)

Sec. 30-60. Alarm regulations.

Alarm system installations within the city shall comply with the following requirements:

- (1) Annunciator panels. When installed, burglary and fire alarm annunciator panels, in other than single-family residences, shall be located at the main entrance unless otherwise approved by the authority having jurisdiction.
- (2) Audible security alarms. Audible security alarms shall emit a sound distinguishable from that of a police, fire or ambulance siren. No audible security alarm shall emit an alarm sound for a continuous period of time in

excess of 15 minutes. However, once having signaled an alarm, an audible alarm or audible alarm system may, by means of a reset device, once again be armed to signal an alarm upon subsequent good cause.

- (3) When multiple calls are received at the same location within a 48-hour period and a key holder does not respond or resolve the cause of the false alarms, the police and fire departments may stop further response to the site until the false alarm problem is resolved.
 - (4) Alarm equipment specifications. Except as otherwise provided herein, no alarm equipment shall be installed which is not listed in the appropriate Underwriters Laboratories, Inc., (UL) directory. All equipment shall be installed according to UL and NFPA standards or other nationally recognized standards.
 - (5) No alarm or alarm system user shall use or cause to be used any device which automatically telephones directly to a public safety agency for the purpose of summoning a response from emergency personnel.
 - (6) No person shall willfully and intentionally create a false alarm, by any means.
 - (7) No device shall be installed that activates a hold-up alarm by the depression of a single-action nonrecessed button at alarm sites within the city;
 - (8) No panic or hold-up alarm system shall be installed in residential sites that activates a silent alarm signal by alteration of the last digit of the normal arm/disarm code at alarm sites within the city;
 - (9) No silent burglary alarm system shall be installed at alarm sites within the city.
- (Code 2004, § 30-65; Ord. No. 04-2015, 5-20-2004)

Sec. 30-61. New alarm and alarm system installations.

Upon the installation of a new alarm or alarm system, the alarm user may be granted a grace period of 30 days for the purpose of training necessary persons in the use of the system, and to eliminate any deficiencies or malfunctions from the system, provided the responsible party is taking immediate steps to remedy the deficiencies.

(Code 2004, § 30-66; Ord. No. 04-2015, 5-20-2004)

Sec. 30-62. Certain governmental entities exempt.

The city, county, state, and federal government are exempt from the penalty provisions of this article, as set forth in section 30-64. Alarm systems to monitor temperature, carbon dioxide, humidity, medical emergencies or any other condition

not related to the detection of fire, a criminal intrusion into an alarm site or an attempted robbery at an alarm site are specifically excluded from the provisions of this article. Alarm systems on a person are also excluded.

(Code 2004, § 30-67; Ord. No. 04-2015, 5-20-2004)

Sec. 30-63. Suspension of police response.

(a) *Notice of suspension.* Upon the occurrence of the fourth false burglary alarm from a residential alarm site or the sixth false burglary alarm from a commercial alarm site within a calendar year, or where the alarm user is more than 120 days overdue in their payment of alarm fines, the city's alarm administrator shall serve, in person or by U.S. certified mail, the alarm user's designated contact person with written notification that effective 14 days from the date of the notice, the police department will not be responding to burglary alarm dispatch requests from that site for the remainder of the calendar year unless there is an in-person call for assistance from someone at or near the premises or other independent information that verifies the need for an immediate police response.

(b) *Written appeal of suspension notice.*

- (1) Within seven days from the date of the suspension notice the alarm user may file with the city's alarm administrator a written appeal of the proposed suspension of police response explaining the steps taken to correct the problem, any facts pertaining to the overdue payment of fines, the facts and circumstances of the false alarms from that alarm site and any other information relevant to the alarm administrator's proposed suspension of police response.
- (2) Within five days of the alarm administrator's receipt of the written appeal and after reviewing the city's files for the alarm site, alarm user and alarm company and all of the submissions of the alarm user, the alarm administrator shall issue a decision to confirm, suspend or rescind the suspension notice and serve a written copy thereof on the alarm user's contact person by mail.

(c) *Failure to appeal suspension notice; decision to confirm order of suspension.* Where an alarm user has failed to properly file a timely appeal of a notice to suspend or where the alarm administrator has issued a decision confirming a notice to suspend, the police department, in determining whether to make an immediate police dispatch in response to notification of a signal from that alarm user's alarm system, may disregard that burglary alarm dispatch request when the alarm signal is the only basis for making the dispatch request. Where there is, in addition to the alarm dispatch request, an in-person call, verification from a person at or near the premises or other independent evidence shows a need for police dispatch to the alarm site, police may consider the suspension of police response as an additional factor in the decision to order an immediate response.

(Code 2004, § 30-68; Ord. No. 04-2015, 5-20-2004)

Sec. 30-64. Penalties for false alarms.

(a) The following are established for repeat false alarms:

(1) Fire alarms.

- a. For the fourth false alarm in a calendar year, the penalty shall be established by council resolution.
- b. For each successive false fire alarm in addition to four in a calendar year, the penalty shall be established by council resolution for each successive fire alarm.

(2) Other alarms.

- a. For the fourth, fifth, and sixth false alarm in a calendar year requiring police, the penalty shall be established by council resolution.
- b. For the seventh false alarm and each succeeding false alarm thereafter in a calendar year, the penalty shall be an additional amount established by council resolution per false alarm.
- c. For the second and subsequent false panic or hold up alarms the penalty shall be established by the city council.

(b) False alarm penalties will be billed to the alarm user on a 30-day billing schedule, and payment must be made to the city finance department within 30 days of the billing date. Penalties not paid to the city within 30 days of the billing date will be considered delinquent and subject to a ten percent late payment fee. Penalties and late fees not paid to the city finance department within 90 days of the billing date may be certified to the city clerk for collection in the same manner that audible alarm taxes are collected relating to the subject property.

(Code 2004, § 30-69; Ord. No. 04-2015, 5-20-2004)

Sec. 30-65. Liability to the city.

The regulation of alarms and alarm systems, along with the attendant response to alarm signals emitted shall not constitute acceptance by the city of liability to maintain equipment, to answer alarms, or to respond to alarms in any particular manner.

(Code 2004, § 30-70; Ord. No. 04-2015, 5-20-2004)

Sec. 30-66. Violations declared misdemeanor.

Any violation of any provision of this article shall be a misdemeanor.

(Code 2004, § 30-71; Ord. No. 04-2015, 5-20-2004)

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ARTICLE I. IN GENERAL**Sec. 34-1. Underground storage tanks for heating fuel oil.**

(a) Underground storage tanks utilized for the storage of heating fuel oil must meet all applicable regulations of the state uniform fire code and the state pollution control agency, as well as the requirements of this section.

(b) Soil samples and tests for pollution shall be required for all heating fuel oil tank removals as visual inspection indicates.

(Code 1980, § 6-56; Code 2004, § 34-1; Ord. No. 90-1234, 11-1-1990)

Sec. 34-2. Public nuisances generally.

(a) Whoever by an 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:

- (1) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- (2) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (3) Is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

(b) Whoever, having control of real property, permits it to be used to maintain a public nuisance or lets the same knowing it will be so used is guilty of a misdemeanor.

(c) Except as otherwise provided in this Code, nuisances shall be abated and costs collected as provided in the state statutes.

(Code 1980, §§ 11-2, 11-3)

Sec. 34-3. Blowing sand, dust, or topsoil.

(a) *Declared nuisance.* The city council has determined that the blowing of sand, dust or topsoil upon residential properties is a public nuisance.

(b) *Notice to abate.* The building official is empowered to notify the owner, lessee, or agent of any land in the city from which sand, topsoil or dust is blowing upon adjacent residential property so as to seriously affect the enjoyment of the residence of the adjacent property owner, that such premises be seeded, harrowed, or any method be employed reasonably necessary to abate the blowing of the sand, dust or topsoil. The notice to the property owner shall be served personally upon the owner, lessee or agent. The notice shall state the requirements which the city manager

deems reasonably necessary to abate the blowing of sand, dust or topsoil. The owner, lessee or agent shall comply with such requirements stated in the notice within ten days of receipt of such notice.

(c) *Failure to comply constitutes misdemeanor.* Any owner, lessee or agent who fails to comply with the requirements after due notice as provided in subsection (b) of this section shall be guilty of a misdemeanor.

(Code 1963, §§ 86A.01—86A.03; Code 1980, §§ 6-25—6-27; Code 2004, §§ 34-61—34-63; Ord. No. 287, 7-9-1972)

Secs. 34-4—34-24. Reserved.

ARTICLE II. COMPOSTING

Sec. 34-25. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Compost means a mixture of decayed organic matter.

Composting means any aboveground microbial process that converts organic matter to a soil amendment or mulch by decomposition of material through an aerobic process furnished adequate oxygen and moisture.

Yard waste means compostable, organic material consisting of grass clippings and leaves but excluding hedge trimmings and tree limbs.

(Code 1980, § 11-61; Code 2004, § 34-91; Ord. No. 92-1301, 7-16-1992)

Sec. 34-26. Intent.

The intent of this article is to promote the health, safety and welfare of the community by regulating the home composting of food and yard waste. Food and yard waste that is not properly composted may create a nuisance to the community through odor and appearance and may be detrimental to nearby property or property values, and may constitute a public health and safety issue by attracting vermin.

(Code 1980, § 11-60; Code 2004, § 34-92; Ord. No. 92-1301, 7-16-1992)

Sec. 34-27. Declaration of nuisance.

Compost material stored or processed in violation of this article is declared to be public nuisance and shall be removed in accordance with the provisions of the applicable ordinances and state law.

(Code 1980, § 11-63; Code 2004, § 34-94; Ord. No. 92-1301, 7-16-1992)

Sec. 34-28. Standards and specifications.

Composting is permitted only in residential properties up to four dwelling units, provided that all of the following conditions are met:

- (1) Permitted composting materials. Only yard waste, small shrub trimmings or twigs (one-quarter inch diameter maximum), straw, fruit and vegetable scraps, coffee grounds, egg shells generated from the site on which the composting is located. In addition, commercially available composting ingredients can be placed in a composting container.
 - (2) Prohibited materials. The following materials shall not be placed in the composting container: meat, bones, fat oils, whole eggs, dairy products, unshredded branches or logs, plastics, synthetic fibers, human or pet wastes, diseased plants, and any other garbage or refuse except for those permitted in subsection (1) of this section.
 - (3) Composting structure. All composting materials must be contained in a bin which may be constructed of wood, wire mesh, a combination of wood and wire or commercially fabricated compost bins designed to contain composting materials.
 - (4) Composting container size. Composting shall be conducted within an enclosed container not to exceed a total of 100 cubic feet (for example, five feet by five feet by four feet in volume for those lots less than 10,000 square feet. For those lots greater than 10,000 square feet, a total of 150 cubic feet in volume will be allowed. The maximum height of the composting container shall be five feet.
 - (5) Composting container location. Composting containers shall be located at least five feet from the property line and shall be entirely contained with the rear yard.
 - (6) Maintenance. All composting operations shall be maintained in such a manner not to create a nuisance to the community. This shall include appropriately frequent watering and turning of the compost pile.
- (Code 1980, § 11-62; Code 2004, § 34-95; Ord. No. 92-1301, 7-16-1992)

Sec. 34-29. Penalty.

Any person in violation of any of the provisions in this article shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

(Code 1980, § 11-64; Code 2004, § 34-93; Ord. No. 92-1301, 7-16-1992)

Secs. 34-30—34-46. Reserved.

ARTICLE III. EARTH REMOVAL AND LAND RECLAMATION

Sec. 34-47. Exclusions.

This article shall not apply to:

- (1) The excavation, removal, storage, or placement of rock, sand, dirt, gravel, clay, or other like material for any construction for which a building permit has been issued or a development contract signed.
- (2) Such excavation, removal, storage, or placement of rock, sand, dirt, gravel, clay, or other like material as may be required by the state, county, or city authorities within their acquired rights-of-way in connection with the construction or maintenance of roads and highways. The term "rights-of-way," as used in this article, shall not include isolated parcels used exclusively for borrow pits.

(Code 1980, § 6-100; Code 2004, § 34-132; Ord. No. 90-1190, 4-19-1990)

Sec. 34-48. Permit required.

(a) Earth removal, land reclamation, material storage or filling, shall be permitted in all zoning districts, on any lot or parcel except that it is unlawful for any person to remove, store, excavate, or place as fill any rock, sand, dirt, gravel, clay, or other like material within the city, in excess of 100 cubic yards without first having applied for and having obtained a permit from the city. When 5,000 or more cubic yards of material is to be removed or deposited on any lot or parcel, an interim use permit shall be required.

(b) The inclusion of an earth removal and land reclamation permit process in the city ordinance does not automatically imply an applicant's entitlement to issuance of a permit. The city may refuse to issue a permit if in the opinion of the city the application is not in the best interests of the city.

(Code 1980, § 6-101; Code 2004, § 34-151; Ord. No. 90-1190, 4-19-1990; Ord. No. 24-2568, § 34-151, 11-18-2024)

Sec. 34-49. Application; fee.

(a) The application for the permit shall be made in writing to the city manager in such form as the city manager may designate, shall include such information as may be required by the city manager, and shall contain among other things a map or plat of the proposed pit, excavation, or fill area showing the confines or limits thereof together with the proposed finished elevations based on sea level readings. The plan shall also include erosion control measures, final restoration improvements and other features as required by the city.

(b) Each application shall be filed with the city manager.

(c) Each application for permit shall be accompanied by a fee.
(Code 1980, § 6-102; Code 2004, § 34-152; Ord. No. 90-1190, 4-19-1990)

Sec. 34-50. Conditions for issuance.

Permits required by the provisions of this article shall be issued upon a showing of compliance with all applicable state statutes, state rules and city ordinances and upon a further showing that public health and public safety will not be endangered thereby.

Sec. 34-51. Designation of conditions in permit.

The permit to be issued shall designate all of the conditions permitted and required under section 34-49.

(Code 1980, § 6-103; Code 2004, § 34-154; Ord. No. 90-1190, 4-19-1990)

Sec. 34-52. Conditions which may be required.

The city manager or city council, as a prerequisite to the granting of a permit, may require the applicant or the owner of the premises to incorporate and attach any conditions or restrictions that it deems necessary for the preservation of health, welfare, and safety of the citizens, including, but not limited to, the following:

- (1) Properly fence any pit or excavation, and barricade entrances to prevent the general public from depositing garbage or refuse.
- (2) Slope the banks and otherwise guard and keep any pit or excavation in such condition as not to be dangerous because of sliding or caving banks.
- (3) Properly drain, fill, or level off any pit or excavation so as to make the same safe and healthful as the permitting authority may determine.
- (4) Limit the depth of such excavation to an elevation no lower than the minimum floor elevation for building construction, as established by the city engineer, so as not to diminish development potential of the parcel.
- (5) Limit any fill material to clean fill, defined as rock, sand, gravel, clay, or other like and similar nondecomposable material. Concrete, asphalt, metal, wood, and other debris shall be prohibited.
- (6) Require that all decomposable material, or other unsuitable foundation material, be removed from an area before deposition of fill begins.
- (7) Prepare site plan showing existing and proposed grade elevations and effect of stormwater drainage on adjacent areas.
- (8) Specify a time when the excavation or land reclamation project shall be completed.
- (9) Place a minimum of four inches of topsoil over the completed project and establish appropriate ground cover within 14 days of completion.

- (10) Reimburse the city for the cost of periodic inspections by the city for the purpose of determining that the terms under which the permit has been issued are being complied with.
 - (11) In addition to a conditional use permit, permits in excess of 25,000 cubic yards may require the applicant to conduct a neighborhood meeting and to notify affected property owners within one quarter of a mile.
 - (12) Post a surety bond, in such form and sum as the permitting authority may require, running to the city, conditioned to pay the city the cost and expense of repairing or cleaning any highways, streets, or other public ways within the city made necessary by the special burden resulting from transporting thereon by the applicant material to or from the site, the amount of such cost to be determined by the council; and conditioned further to comply with all the requirements of this article and the particular permit, and to save the city free and harmless from all suits or claims for damages resulting from the negligent excavation, removal, storage, or filling of rock, sand, dirt, gravel, clay or other like material within the city.
 - (13) Other conditions deemed appropriate to the application by the permitting authority.
- (Code 1980, § 6-104; Code 2004, § 34-155; Ord. No. 90-1190, 4-19-1990; Ord. No. 10-2205, 5-20-2010)

Sec. 34-53. Violations.

Any person who shall refuse, neglect or fail to comply with any provision or requirement of this article as promptly as the same can be reasonably done, shall be guilty of a misdemeanor. Violations of this article shall be considered grounds for revocation of the earth removal or land reclamation permit. The failure to comply with permit requirements, after notice, or the continuing excavation, removal, storage, or filling of rock, sand, dirt, gravel, clay or other like materials on the premises shall be considered a public nuisance and may be abated as provided by state statutes.

(Code 1980, § 6-105; Code 2004, § 34-131; Ord. No. 90-1190, 4-19-1990)

Secs. 34-54—34-79. Reserved.

ARTICLE IV. INDIVIDUAL SUBSURFACE SEWAGE TREATMENT SYSTEMS

Sec. 34-80. Purpose, applicability and authority.

(a) *Purpose.* It is the purpose of this article to establish standards for the proper design, installation, location, construction, operation, use, and maintenance of subsurface sewage treatment systems (SSTS) and individual subsurface sewage treatment systems (ISTS) in order to protect the public health, safety, and general welfare.

(b) *Applicability.* This article shall apply to those sites or facilities that are licensed, permitted, or otherwise regulated by the city. The sewer provisions of this article shall also apply to any premises in the city that are not served by a sewage treatment system permitted by the state pollution control agency.

(c) *Authority.* This article is adopted pursuant to the authorization and requirements contained in M.S.A. §§ 145A.05 and 115.55, and Minn. R. ch. 7082. (Code 2004, § 34-241; Ord. No. 14-2299, 12-4-2014)

Sec. 34-81. General provisions.

(a) *Treatment required.* All sewage generated in unsewered areas shall be treated and disbursed by an approved SSTS or a system permitted by the state pollution control agency.

(b) *Administration.* This article shall be administered by the city building department. The term "department," where used in this article, shall mean the city building department.

(c) *Compliance.* No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of a subsurface sewage treatment system, except in full compliance with the provisions of this article.

(d) *Conditions.* Violation of any condition imposed by the city on a license, permit, or variance issued under this article shall be deemed a violation of this article and subject to the penalty provisions set forth herein.

(e) *Site evaluation, system design, construction, inspection, and servicing.* Site evaluation, system design, construction, inspection, and system servicing shall be performed by state pollution control agency listed SSTS businesses or qualified employees of local governments or persons exempt from licensing in Minn. R. 7083.0700. For lots platted after January 23, 1996, a design shall evaluate and locate space for a minimum of two soil treatment areas.

(f) *Inspection.* No part of an individual sewage treatment system shall be covered until it has been inspected and approved by the department. If any part of the system is covered before being inspected and approved as provided herein, it is uncovered upon the direction of the department. The department shall cause such inspections as are necessary to determine compliance with this article. It shall be the responsibility of the permittee to notify the department that the system is ready for inspection. If the integrity of the system is threatened by adverse weather if left open and the department is unable to conduct an inspection, the permittee may, after receiving written permission from the department, document compliance with this article by photographic means that show said compliance and submit that evidence to the department prior to final approval being sought.

(g) *Compliance inspection and certificate of compliance required.* An SSTS compliance inspection and a certificate of compliance are required:

- (1) For a new or replacement SSTS prior to the issuance of a building permit.
- (2) When altering an existing structure to add a bedroom, prior to the issuance of a building permit.
- (3) When a parcel having an existing system undergoes development, subdivision, or split, prior to the issuance of a building permit.
- (4) For all parcels serviced by a subsurface sewage treatment system prior to property sale or transfer of ownership.

Systems less than five years old from date of septic permit are an exception to the provisions of this subsection.

(h) *Imminent public health and safety threat; failing system; and surface discharge.*

- (1) The owner of an SSTS that poses an imminent threat to public health and safety shall immediately abate the threat according to instructions by the department and be brought into compliance with this article in accordance with a schedule established by the department, which schedule shall not exceed ten months.
- (2) A failing system, including an SSTS that is not protective of groundwater, shall be brought into compliance with 24 months after receiving notice from the department.
- (3) An SSTS discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System.

(i) *Noncomplying systems.* Existing systems that are noncomplying but are not an imminent health or safety threat, failing, or discharging to the surface may continue in use so long as the use is not changed or expanded. If the use changes or is expanded, the noncomplying elements of the existing system must be brought into compliance.

(j) *Noncomplying work.* New individual sewage treatment system construction that is noncompliant, or other work on a system that is noncomplying, must be brought into compliance with this article in accordance with a schedule established by the department, which schedule shall not exceed seven days unless the department finds extenuating circumstances.

(k) *Change in use.* A certificate of compliance may be voided if, subsequent to the issuance of the certificate, the use of the premises or condition of the system has changed or been altered.

(l) *Variances, setback reduction.* Where conditions prevent the construction, alteration, or repair of an individual sewage treatment system on an existing developed parcel of real property, the department may reduce property line and building setbacks and system sizing requirements, provided said reduction does not endanger or unreasonably infringe on adjacent properties.

(m) *Floodplain.* An SSTS shall not be located in a floodway or floodplain. Location within the flood fringe is permitted, provided that the design complies with this article and all of the rules and statutes incorporated herein by reference.

(n) *Class V injection wells.* All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the 40 CFR 144, are required by federal law to submit SSTS inventory information to the Environmental Protection Agency.

(Code 2004, § 34-242; Ord. No. 14-2299, 12-4-2014)

Sec. 34-82. Standards adopted.

(a) *Minnesota Rules adopted.* Minn. R. chs. 7080 and 7081, that are in effect on the date of passage of the ordinance from which this article is derived, relating to subsurface sewage treatment systems, are adopted by reference and made a part of this article as if fully set forth herein.

(b) *Rules amended.* The rules, adopted in this section, are amended as follows:

- (1) *Compliance inspection, 15 percent vertical separation reduction.* Minn. R. 7080.1500, subp. 4D is amended to allow 15 percent reduction of vertical separation (separation distance no less than 30.6 inches) may be determined to be compliant for existing systems to account for settling and variable interpretation of soil characteristics.
- (2) *Preliminary evaluations, amending Minn. R. 7080.1710(L).* On all lots created after January 23, 1996, a minimum of one additional soil treatment area shall be identified which can be shown by appropriate soil evaluations and percolation tests, to support a standard soil treatment system.
- (3) *Other technical requirements for all system, amending Minn. R. 7080.2150, subp. 3, item E.* The system's absorption area and mound absorption ratio must be sized according to Tables IX and IXa.

(c) *Holding tanks.* Holding tanks may be allowed for the following applications:

- (1) As replacement to a failing system;
- (2) As replacement for an SSTS that poses an imminent threat to public health and safety; or
- (3) For an existing lot in which an SSTS cannot feasibly be installed and the department finds extenuating circumstances.

(d) *System abandonment.* An SSTS or any component thereof that is no longer intended to be used must be abandoned in accordance with the adopted standards of this article.

(Code 2004, § 34-243; Ord. No. 14-2299, 12-4-2014)

Sec. 34-83. Permits.

(a) *General permit.* No person shall cause or allow the location, construction, alteration, extension, conversion, modification of any SSTS without first obtaining a permit for such work from the department. No person shall construct, alter, extend, convert, or modify any structure that is or will utilize an SSTS without first obtaining a permit.

- (1) All work performed on an SSTS shall be done by an appropriately licensed business, qualified employees or persons exempt from licensing. Permit applications shall be submitted by the person doing the individual SSTS construction on forms provided by the department and accompanied by required site and design data, and permit fees.
- (2) Permits shall only be issued to the person doing the individual sewage treatment system construction.
- (3) Permit applications for new and replacement SSTS shall include a management plan for the owner that includes a schedule for septic tank maintenance.
- (4) A permit is not required for minor repairs or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of system components, or otherwise change the original system's design, layout, or function.
- (5) Any request for a permit for installation of any subsurface sewage treatment system shall include a site plan drawn to scale of one inch equals 40 feet or larger showing the following:
 - a. The topography;
 - b. The boundary lines of the lot;
 - c. Setbacks;
 - d. Location of existing and proposed roads;
 - e. Parking areas;
 - f. Driveways;
 - g. Easements;
 - h. Bodies of water as well as wetlands;
 - i. All dwelling units and accessory buildings, together with location of swimming pools and sport courts; and
 - j. Wells.

(b) *Operating permit.* An operating permit shall be required of all owners of new holding tanks, Type IV and V systems, mid-sized septic tank system (MSTS), and other SSTS that the department has determined require operational oversight.

(1) *Application.* Application for an operating permit shall be made on a form provided by the department.

(2) *Holding tanks.* The owner of holding tanks installed after the effective date of the ordinance from which this article is derived shall provide the department with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents.

(Code 2004, § 34-244; Ord. No. 14-2299, 12-4-2014)

Sec. 34-84. Violations and penalties.

(a) *Misdemeanor.* Any person who fails to comply with the provisions of this article shall be guilty of a misdemeanor. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(b) *Civil action / injunctive relief.* In the event of a violation or a threat of violation of this article, the department may institute appropriate civil or administration actions or proceedings, include actions seeking damages, declaratory relief, or injunctive relief to prevent, restrain, correct, or abate such violations or threatened violations, and the city attorney is authorized to institute such action.

(Code 2004, § 34-245; Ord. No. 14-2299, 12-4-2014)

Sec. 34-85. Periodically saturated soil disagreements.

(a) If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purposes, all the disputing parties must follow the procedure outlined as follows.

(1) The disputing parties must meet at the disputed site in an attempt to resolve differences.

(2) If the provision in subsection (a)(1) of this section does not resolve the differences, then one or more of the following methods must be employed:

a. Obtain an opinion from a qualified employee of the local permitting authority with jurisdiction, if the local permitting authority is willing to provide an opinion.

b. Obtain an opinion from an SSTS technical evaluation committee, if a committee has been developed for this purpose and is available and willing to render an opinion. The committee must be created in cooperation with the commissioner.

c. Obtain an opinion from a state-licensed professional soil scientist who is a certified SSTS designer or inspector and who is independent of, and agreed upon by, both parties.

If options under subsection (a)(2)a or b of this section are not viable, an opinion must be rendered under subsection (a)(2)c of this section.

- (3) If opinions rendered in subsection (a)(1) or (2) of this section do not resolve the dispute, all initial and follow-up documents and information generated must be submitted to the local unit of government. The local unit of government shall take into consideration all information and opinions rendered and make a final judgment. The local unit of government shall render findings of fact, conclusions of law, and findings setting forth the reasons for any final decisions it renders.

(b) If a documented discrepancy arises on the depth of the periodically saturated soil between an SSTS licensed business and a local unit of government for SSTS design or compliance purposes, all disputing parties shall follow the following procedure:

- (1) The local unit of government and the licensed business must meet at the disputed site in an attempt to resolve differences.
- (2) If the provision in subsection (b)(1) does not resolve differences, then one or more of the methods in subsection (a)(2)b or c of this section are allowed to be employed.
- (3) If opinions in subsection (b)(2) of this section are not sought or do not resolve the dispute, the local unit of government shall take into consideration all information and opinions rendered and make a final judgment. The local unit of government shall render findings of fact, conclusions of law, and findings setting forth the reasons for any final decisions they render.

(c) Upon resolution of a dispute, amendments to initial disputed documents containing the resolution shall be made and submitted to the local unit of government and all other parties involved.

(Code 2004, § 34-246; Ord. No. 14-2299, 12-4-2014)

Sec. 34-86. Permit prerequisite to issuance of building permit.

No building permit for any building requiring an on-site sewage treatment system shall be issued until the permit as required by sections 34-121 and 34-122 has been obtained.

(Code 2004, § 34-247; Ord. No. 14-2299, 12-4-2014)

Sec. 34-87. Property access.

The department inspector and the department's agents and contractors shall have the right of free access to the property at reasonable times for the purpose of inspecting subsurface sewage treatment systems and abating imminent health threats and nuisances.

(Code 2004, § 34-248; Ord. No. 14-2299, 12-4-2014)

Sec. 34-88. Abatement of imminent health threat and nuisance by city.

(a) If a lot owner fails to abate an imminent health threat and nuisance declared pursuant to section 34-120(h) within the time prescribed in section 34-120(h), the city may immediately abate the imminent health threat and nuisance and shall bill the owner of the lot (and the owner shall pay within 30 days of billing) for the costs incurred for the abatement together with an administrative fee of an amount as provided in the city's fee schedule.

(b) On or before September 1 of each year, the city clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this article. The city council may then charge all or any portion of the charges, together with an additional administrative fee of an amount as provided in the city's fee schedule against the property involved as a special assessment under applicable state statutes for certification to the county auditor with collection in the following year with that year's taxes.

(Code 2004, § 34-249; Ord. No. 14-2299, 12-4-2014)

Sec. 34-89. Property access.

If the property owner fails to pump or maintain the subsurface sewage treatment system in accordance with Minn. R. ch. 7080.2450, after notification by the department, the city may order the required pumping or maintenance and the owner will be responsible for the costs, plus an administration fee of an amount as provided in the city's fee schedule.

(Code 2004, § 34-250; Ord. No. 14-2299, 12-4-2014)

Secs. 34-90—34-106. Reserved.**ARTICLE V. PROPERTY MAINTENANCE****Sec. 34-107. Sanitation.**

All exterior property and premises shall be maintained in a clean, safe and sanitary condition so that they do not pose a threat to the public health, safety or welfare.

(Code 1980, § 11-30; Code 2004, § 34-281; Ord. No. 01-1929, 12-6-2001)

Sec. 34-108. Declaration of nuisance; to be abated.

For the purposes of this article, the following are declared a public nuisance and shall be abated, removed or exterminated in accordance with the provisions of this article:

- (1) Refuse, garbage, accumulations of animal, fruit, or vegetable matter, human waste, decaying vermin, dead animals, animal waste, junk or junk vehicles or any other materials rendering the property unsanitary.

- (2) Infestation of rodents, insects, vermin, and other pests.
 - (3) Excess interior storage posing a threat to occupants or firefighters.
 - (4) Damaged, decayed, or dilapidated structures which are in danger of collapse.
 - (5) Motor vehicle salvage yards not in compliance with article VII, division 2 of this chapter.
 - (6) Swimming pools not in compliance with the fencing provision of section 18-177.
 - (7) Refrigerators and accessible containers: refrigerators or other containers, sufficiently large to retain a child and with doors which fasten automatically when closed, exposed and accessible to children.
 - (8) Vacant unsecured buildings.
 - (9) Polluted properties.
- (Code 1980, § 11-32; Code 2004, § 34-282; Ord. No. 01-1929, 12-6-2001)

Sec. 34-109. Elimination of public nuisance.

It is unlawful for the owner, lessee or occupant of any property within the city to allow any items declared to be a public nuisance to exist on any property within the city.

(Code 1980, § 11-33; Code 2004, § 34-283; Ord. No. 01-1929, 12-6-2001)

Sec. 34-110. Emergency cases.

When the city manager determines that a nuisance constitutes an imminent peril to life, health and property, the city inspector may take immediate action to abate the nuisance and assess costs as outlined in section 34-160.

(Code 1980, § 11-34; Code 2004, § 34-284; Ord. No. 01-1929, 12-6-2001)

Sec. 34-111. Notice; abatement by city.

When any premises are found to have a public nuisance, the owner, lessee or occupant, if other than the owner, shall, upon written notice given by the authorized representative, take appropriate action to eliminate the nuisance. Notice shall be served by posting on the property or delivered by regular or certified mail. Should the owner, lessee, or occupant, if other than the owner, of any premises fail to comply with the notice, the authorized representative may take all action necessary to abate the public nuisance.

(Code 1980, § 11-35; Code 2004, § 34-285; Ord. No. 01-1929, 12-6-2001)

Sec. 34-112. Assessment of abatement cost.

All costs and expenses incurred in abating the public nuisances described above shall be paid by the owner of the affected property, after notice in writing of the costs

and expenses incurred has been served on the owner of the property. If the costs are not paid by the owner within 30 days after service, the total costs and expenses incurred, plus a penalty of eight percent, shall be assessed against the affected property in accordance with section 90-24.

(Code 1980, § 11-36; Code 2004, § 34-286; Ord. No. 01-1929, 12-6-2001)

Sec. 34-113. Penalty for violation.

Any person who allows a nuisance to exist or fails to abate a nuisance as set forth in this article, or who shall fail to comply with the provisions of any notice provided herein, or who shall resist or obstruct the health inspector, or authorized representative, in the abatement of the nuisance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to punishment as provided in section 1-7. Each day on which such violation continues shall constitute a separate offense.

(Code 1980, § 11-37; Code 2004, § 34-287; Ord. No. 01-1929, 12-6-2001)

Secs. 34-114—34-139. Reserved.

ARTICLE VI. JUNK SALVAGE FACILITIES AND JUNKYARDS

DIVISION 1. GENERALLY

Sec. 34-140. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hazardous waste means as prescribed by M.S.A. § 116.06, subd. 11.

Junk shall include, but not be limited to, old or scrap copper, brass, rope, rags, batteries, paper, synthetic or organic, trash, tires, rubber debris, solid or liquid waste, junk vehicles, dismantled vehicles, parts from vehicles, machinery, machinery parts, iron, steel and other old or scrap ferrous or nonferrous material.

Junk vehicle means any vehicle, motor vehicle, trailer or semitrailer, as defined by M.S.A. § 169.11, which is not in an operable condition. An abandoned vehicle, as defined by M.S.A. § 168B.011, shall be considered a junk vehicle. All vehicles, motor vehicles, trailers or semitrailers which are not properly licensed for operation on public highways within the state are also considered junk vehicles.

Motor vehicle salvage facilities or junkyards means the storing or keeping of two or more junk vehicles, or ten or more pieces of junk.

Person means any person or entity, and the singular includes the plural.

Racing car means any motor vehicle designed or intended for operation on a speedway, racetrack, or other facility used or designed for high speed contests between two or more vehicles or for timing of speed.

Stock car means any motor vehicle of standard design and construction which is modified, adapted or altered in any manner to increase its speed or safety, and designed or intended for operation on a speedway, racetrack, or other facility used or designed for high speed contests between two or more vehicles or for timing of speed. (Code 1963, §§ 4.02, 62.01, 124.01; Code 1980, § 10-50; Code 2004, § 34-321; Ord. No. 116, 5-5-1966; Ord. No. 117, 5-5-1966; Ord. No. 147, 8-3-1967; Ord. No. 712, 12-18-1980; Ord. No. 84-842, 9-20-1984; Ord. No. 91-1273, 1-9-1992; Ord. No. 96-1634, 1-16-1997)

Sec. 34-141. Storage of junk and junk vehicles.

No person or entity shall park, keep, place or store, or permit the parking or storage of a stock car, racing car, junk vehicle, or junk, refuse, yard waste or recyclable materials, on public lands, streets or alleys, or on any private lands or premises unless it shall be within an enclosed garage or storage building on such private premises except as provided in this article.

(Code 1963, § 124.01; Code 1980, § 10-51; Code 2004, § 34-322; Ord. No. 117, 5-5-1966; Ord. No. 84-842, 9-20-1984; Ord. No. 91-1273, 1-9-1992)

Sec. 34-142. Repair of vehicles.

No person or entity shall service, repair, replace parts or do maintenance work on a stock car, racing car, or junk vehicle on public lands or streets, or on any private lands or premises unless it shall be within an enclosed garage or storage building on such private premises.

(Code 1963, § 124.03; Code 1980, § 10-52; Code 2004, § 34-323; Ord. No. 117, 5-5-1966; Ord. No. 84-842, 9-20-1984)

Secs. 34-143—34-167. Reserved.

DIVISION 2. VEHICLE SALVAGE FACILITIES AND JUNKYARDS*

Subdivision I. In General

Sec. 34-168. Purpose and intent of division.

Motor vehicle salvage facilities or junkyards process materials and debris contaminated by petroleum and chemical products, generate waste tires, batteries, and other materials requiring special disposal methods, and store accumulations of materials and debris with the potential of contamination of soil, groundwater and

***State law reference**—Junkyards adjacent to highways, M.S.A. § 161.242.

surface waters. It is in the best interests of the public's health, safety and welfare to regulate their operations for the protection of the environment, to preserve the public's health, and guard against the danger of fire.

(Code 1963, § 4.01; Code 1980, § 10-60; Code 2004, § 34-341; Ord. No. 116, 5-5-1966; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

Sec. 34-169. Violations.

Any person who violates any provisions of this division shall be guilty of a misdemeanor as defined by state law and subject to the penalties thereof.

(Code 1980, § 10-69; Code 2004, § 34-342; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

Sec. 34-170. Closure.

Prior to discontinuing the motor vehicle salvage facility or junkyard operation a plan must be submitted documenting a plan to remove all outside storage of materials and vehicles, structures, fencing, hazardous wastes and documenting the owners'/operators' responsibilities for full site and pollution cleanup.

(Code 1963, § 62.06; Code 1980, § 10-68; Code 2004, § 34-343; Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

Sec. 34-171. Site management plan.

Each person holding a motor vehicle salvage facility or junkyard license issued by the city shall maintain a current site management plan on file with the city clerk. The plan must be updated annually to accurately reflect the site conditions. At a minimum, the site management plan shall include the following:

- (1) A site sketch showing the general location and dimensions of all fire lanes, buildings, storage areas of hazardous, explosive or flammable materials, waste piles of ten or more tires, location of all fire extinguishers, and site entrance and exit points.
- (2) A fluid management plan describing in detail the processing of hazardous or flammable fluids, to include fluid drainage, storage, proof of proper disposal, and spill containment and cleanup.
- (3) A plan for the storage, processing, and disposal of batteries, tires, and parts containing hazardous materials. Proof of proper disposal will be required.
- (4) The location and depth of all wells registered with the county public health department, located within 1,000 feet of the property lines of the motor vehicle salvage facility or junkyard.

(Code 1963, § 62.02; Code 1980, § 10-63; Code 2004, § 34-344; Ord. No. 147, 8-3-1967; Ord. No. 338, 11-15-1973; Ord. No. 774, 10-21-1982; Ord. No. 84-842, 9-20-1984; Ord. No. 84-846, 10-18-1984; Ord. No. 96-1634, 1-16-1997)

Sec. 34-172. Inspections and monitoring.

(a) *Inspections by officials.* In order to ensure compliance with the license granted in this division, and as a condition for the issuance of the license granted under this division, the applicant shall allow inspections at reasonable and appropriate times by officials of the city or such consultants as the city deems appropriate to retain.

(b) *Monitoring wells.* The council may require that any licensee construct and maintain, at the licensee's expense, groundwater monitoring wells on the premises of the licensee's motor vehicle salvage facility or junkyard and conduct tests to determine the impact the facility is having on the city's groundwater. Where appropriate, soil sampling may be required in place of or in addition to groundwater monitoring. In determining whether to require monitoring wells, the council shall:

- (1) Evaluate the condition of site, hazardous waste storage and disposal practices, evidence of spills or vehicle fluid drainage problems;
- (2) Consider the specific geographic, topographical and other features of the operation as they pertain to the facilities' potential to contaminating the city's groundwater;
- (3) Consider the professional recommendation of the city engineer, or other qualified individual or firm as to the necessity or desirability of constructing monitoring wells and the frequency of required tests at the facility.

(c) *Reporting spills or discharges; cleanup.* It is the duty of every person to notify the state pollution control agency of any spill or discharge of a substance in accordance with M.S.A. § 115.061. Any person holding a motor vehicle salvage facility or junkyard license from the city shall also report to the city, in writing, the time, date, location, cause, and method of cleanup of any hazardous material spill reported to the state pollution control agency.

(Code 1963, § 62.04; Code 1980, § 10-66; Code 2004, § 34-345; Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

Sec. 34-173. General operating practices.

Any motor vehicle salvage facility or junkyard located in the city must operate in conformance with the following provisions:

- (1) No motor vehicle salvage facility or junkyard shall be allowed to become a nuisance or shall be operated in such a manner so as to become injurious to the health, safety, or welfare of the community or any residents.
- (2) The facility operation shall be in compliance with the Motor Vehicle Salvage Facility Environmental Compliance Manual and other applicable state pollution control agency rules.

- (3) Vehicle crushing shall be conducted on an impermeable surface with adequate spill control equipment. Waste fluids shall be properly managed according to state pollution control agency guidelines.
- (4) Disassembly of any vehicle, or component thereof, which allow for the leakage of fluids, will be completed within a covered structure with an impermeable floor.
- (5) Draining of vehicle fluids will be completed within a covered structure with an impermeable floor; with spill-control equipment, and absorbent material immediately available to contain any spill which may occur.
- (6) Parts cleaning operations shall be conducted in accordance with current state pollution control agency parts-cleaning methods and wastewater management guidelines.
- (7) Drained vehicle parts and cores will be stored in closed bins or in a covered area to minimize exposure to precipitation. Vehicle parts which pose a risk to the environment including, but not limited to, lead parts, mercury switches, catalytic converters, and airbags, shall be removed and stored in accordance with the current state pollution control agency guidelines and recycled through an approved recycling facility.
- (8) All batteries must be stored on a nonreactive, curbed and impermeable surface without a floor drain and protected from accumulations of rain, snow and drain water, or stored within a covered, nonreactive, impermeable container.
- (9) Waste tire storage shall be kept in one location and shall not exceed 500 tires or the volume permitted in one semitrailer.
- (10) Uncrushed junk and junk vehicles shall be stored in piles not exceeding one vehicle in height and shall be so arranged to permit emergency access (see section 34-174(b)).
- (11) Flammable and hazardous materials shall be stored in compliance with the state uniform fire code in covered and appropriately marked containers suitable to the contents in storage. Adequate aisle space shall be provided for access by emergency personnel and for spill containment and cleanup equipment (see section 34-174(b)).
- (12) Antifreeze shall be collected and recycled, or disposed of through other state pollution control agency approved methods. Antifreeze shall not be discharged to land, water, any septic system, or public sewer system.
- (13) Refrigerants, such chlorofluorocarbons (CFCs), shall be recovered and recycled or reclaimed by methods approved by state pollution control agency.

- (14) Used oil filters shall be recycled, disposed of as hazardous waste, or after being drained and tested by a professional testing laboratory, disposed of as solid waste. Oil filters may remain attached to engines or motors when sold to a second party or transported as scrap, so long as the receiving person will accept the filter.
 - (15) Lead battery cable ends and heater cores shall be removed from vehicles prior to crushing and shall be recycled separately, unless accepted as a vehicle component by a second person.
 - (16) Other recyclables designated by the state pollution control agency shall be disposed of as required by current state pollution control agency guidelines.
 - (17) On-site disposal of any material is prohibited, except under proper license or permit.
 - (18) Spills of oil, lubricants, or other hazardous material shall be promptly contained, cleaned, and disposed of in accordance with current state pollution control agency guidelines.
 - (19) Used oil, including engine oil, transmission fluid, hydraulic oil, and similar petroleum products, shall be recycled or disposed of through state pollution control agency approved methods.
- (Code 1963, § 62.07; Code 1980, § 10-64; Code 2004, § 34-346; Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

Sec. 34-174. Site requirements.

(a) *Fencing.* Fencing shall be installed in accordance with city specifications on the perimeter of all motor vehicle salvage facilities or junkyards at least eight feet high and not to exceed 20 feet in height. Such enclosure shall be maintained in good condition at all times and constructed so that no dust or other material may pass through. Any such fence shall not have more than one opening upon any public street and each opening shall not be more than 25 feet wide and shall be equipped with a substantial, solid tight gate or door of the same height as such fence or wall, and the same shall be kept securely closed at all times when such establishment is not open for business. No junk or storage of any description shall be kept, displayed or exhibited on the outside or protrude above such fence.

(b) *Emergency access.* Adequate access shall be provided on the site to ensure fire protection throughout site. A minimum of a 20-foot wide access road shall be provided to within 150 feet of all vehicle or vehicle parts storage areas. The road shall be capable of supporting 35-ton emergency vehicles.

(c) *Site access.* Sites shall provide a driveway with a surface equal to the street surface to extend from the street to the required screen fence.

(d) *Parking stalls.* A minimum of one parking stall per employee, one parking stall per acre of outside storage, and one parking stall per 2,000 square feet of indoor storage shall be provided.

(Code 1963, § 62.03; Code 1980, § 10-65; Code 2004, § 34-347; Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

Secs. 34-175—34-201. Reserved.

Subdivision II. License

Sec. 34-202. Required.

(a) It is unlawful for any person to operate or maintain a motor vehicle salvage facility or junkyard within the city without a valid junkyard or auto dismantling facility license. Licenses shall not be assignable or transferable by the applicant.

(b) An application for a motor vehicle salvage facility or junkyard shall be made to the city clerk on a form supplied by the city. The application fee, as specified in section 34-259, shall accompany the application. The clerk shall present the application to the city council for consideration, and if approved and granted by the city council a license shall be issued by the clerk.

(Code 1963, § 4.04; Code 1980, § 10-61; Code 2004, § 34-371; Ord. No. 116, 5-5-1966; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

Sec. 34-203. Information to be shown on application.

(a) Each application for a motor vehicle salvage facility or junkyard license shall include the following information:

- (1) The name, date of birth, social security number and street address of the applicant and the full name of the business which the facility will operate under.
- (2) The street address and legal description of the premises upon which the motor vehicle salvage facility or junkyard is to be operated.
- (3) The applicant must present evidence of ownership of the property or the name, street address, and written consent of the owner of the premises, to use the premises for the purposes detailed on the application.
- (4) The date of issuance and status of the conditional use permit, if applicable, for use of the premises for the purposes detailed on the application.
- (5) A copy of a current industrial stormwater permit from the state pollution control agency for the site.
- (6) A copy of the appropriate watershed approval, if applicable.

- (7) A copy of a current county hazardous waste generator's license for the site, if necessary.
- (8) A site management plan.
- (9) Proof of general liability insurance in an amount not less than \$300,000.00.
- (10) A copy of any licenses from the state department of public safety for selling used parts or vehicles.
- (11) Federal and state sales tax identification numbers.

(b) In addition, no license will be issued until the applicant agrees in writing to hold the city harmless from all damages and claims of damages which may arise by reason of any negligence of the applicant or the applicant's agents or employees while engaged in the performance of the license and will indemnify the city for the amount of all claims.

(Code 1963, § 62.01; Code 1980, § 10-62; Code 2004, § 34-372; Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

Sec. 34-204. Issuance; display.

- (a) Licenses shall be issued under this division for a period not to exceed one year.

(b) Every license shall be kept conspicuously posted about the place for which it is issued, along with the telephone numbers of the state pollution control agency spill unit and the Spring Lake Park-Blaine-Mounds View fire department. Licenses shall be exhibited to any person upon request.

(Code 1963, § 62.06; Code 1980, § 10-67(a), (b); Code 2004, § 34-373; Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997; Ord. No. 98-1695, § 5, 2-5-1998)

Sec. 34-205. Fee.

The fee for every motor vehicle salvage facility or junkyard license shall be an amount established by council action per year. Such fees do not include costs to be paid by the licensee in the design, supervision, and construction of any groundwater monitoring wells required as part of this license.

(Code 1963, § 62.06; Code 1980, § 10-67(c); Code 2004, § 34-374; Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997; Ord. No. 98-1695, § 5, 2-5-1998)

Sec. 34-206. Hearing on granting, denial, renewal, or revocation.

Every license may be revoked by the council for violation of any provision of this division, after the licensee has been given reasonable notice and the opportunity to be heard, or upon any change in zoning or conditional use permit status of the

premises whereby motor vehicle salvage facilities or junkyards are prohibited. There shall be no refund of any license fee, or any portion thereof upon revocation. (Code 1963, § 62.06; Code 1980, § 10-67(d); Code 2004, § 34-375; Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997; Ord. No. 98-1695, § 5, 2-5-1998)

Secs. 34-207—34-235. Reserved.

ARTICLE VII. WOOD STORAGE

Sec. 34-236. Intent of article.

The intent of this article is to promote the health, safety, and appearance of the community by regulating the storage of wood. Wood stored improperly may be detrimental to nearby property or property values and may constitute a fire hazard if proper fire and safety measures are not observed.

(Code 1980, § 11-47; Code 2004, § 34-412; Ord. No. 84-859, 1-3-1985)

Sec. 34-237. Exemptions.

The provisions of this article shall not apply to:

- (1) Persons having property on which new construction is taking place and the wood on such property is being used for such construction, unless the wood has remained on the property for more than 30 days and is not a permanent part of the new construction at the end of that time.
 - (2) Persons storing or keeping wood on property when such wood is stored within an enclosed structure which otherwise conforms to the zoning requirements of the district.
 - (3) Temporary storage of logs for up to 14 days outside of the required areas of setback from property lines and street is allowed for the purpose of cutting and splitting logs to a size usable in the residence's wood burning device.
 - (4) Lumber companies or approved woodlots.
- (Code 1980, § 11-50; Code 2004, § 34-413; Ord. No. 84-859, 1-3-1985)

Sec. 34-238. Declaration of nuisance.

Wood stored in violation of this article is declared to be a public nuisance and shall be removed in accordance with the provisions of the applicable ordinances and state law.

(Code 1980, § 11-52; Code 2004, § 34-414; Ord. No. 84-859, 1-3-1985)

Sec. 34-239. Regulation.

In any R-1, R-2, R-3A, R-3B, R-3C and R-4 zoning districts, no person shall keep, store, or allow wood to remain outside on property which such person owns, occupies, or controls, unless such wood is kept or stored in compliance with the provisions of this article.

(Code 1980, § 11-48; Code 2004, § 34-415; Ord. No. 84-859, 1-3-1985)

Sec. 34-240. Requirements.

(a) Wood shall be kept or stored in neat and secure stacks (maximum of four stacks), each of which shall be no higher than five feet, with the combined wood stacks not exceeding a volume equal to five feet high by ten feet wide by 25 feet long.

(b) Unless screened by a solid fence or wall, stacks shall not be closer than five feet from the property line.

(c) The wood stacks shall not be infested or inhabited with rats, rodents, vermin, or insects noxious or dangerous to persons or property. Elevating stacks eight to 11 inches is recommended to reduce these problems.

(d) Wood shall be stored only in the side or rear yards.

(e) Firewood may be stored upon a residential premises solely for use upon the premises and not for resale.

(Code 1980, § 11-49; Code 2004, § 34-416; Ord. No. 84-859, 1-3-1985)

Sec. 34-241. Violation constitutes misdemeanor; continuing violations.

Any person in violation of any of the provisions in this article shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

(Code 1980, § 11-53; Code 2004, § 34-411; Ord. No. 84-859, 1-3-1985)

Secs. 34-242—34-260. Reserved.

ARTICLE VIII. STORMWATER MANAGEMENT

DIVISION 1. GENERALLY

Sec. 34-261. Findings.

It is hereby determined that:

- (1) Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition; and

- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants; and
- (3) Stormwater runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

Therefore, the city establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety. (Code 2004, § 34-461; Ord. No. 10-2205, 5-20-2010)

Sec. 34-262. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bench is a relatively level step excavated into earth material on which fill is to be placed.

Best management practices (BMP) are erosion control, sediment control and water quality management practices that are most effective and practicable for means of controlling, preventing and reducing the degradation of surface water as published by state or designated area-wide planning agencies.

Buffer means land that is used to protect adjacent lands and waters from development and more intensive land uses. The land is kept in a natural state of trees, shrubs, and low ground cover and understory of plants and functions to filter runoff, control sediment and nutrient movement, and protect fish and wildlife habitat. In areas of agricultural use, the land may be used for less intensive agricultural purposes provided its function as a buffer remains intact.

Channel means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Common plan of development or sale is a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, or on different schedules, but under one proposed plan. This item is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur.

Detention facility is a temporary or permanent natural or man made structure that provides for the temporary storage of stormwater runoff.

Discharge is the release, conveyance, channeling, runoff or drainage of stormwater, including snowmelt, from a construction or development site.

Filter strip is a vegetated section of land designed to treat runoff as overland sheet flow. It may be designed in any natural vegetated form from a grassy meadow to a small forest. The dense vegetated cover facilitates pollutant removal, reduces erosion and promotes infiltration.

Floodplain means the channel or beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood.

High water level is the expected elevation the water in a stormwater pond will rise to a 100-year rain event as calculated by the pond design.

Hydric soils are soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper soil horizon.

Hydrologic soil group (HSG) means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

Impaired waters are water bodies that do not meet water quality standards and designated uses because of pollutant, pollution, or unknown causes of impairment.

Impervious surface is a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads. Class 5 gravel surfaces are considered to be impervious surfaces.

Land disturbance activity is any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within this government's jurisdiction, including but not limited to construction, clearing and grubbing, grading, excavating, transporting and filling of land. The term "land disturbance activity" does not mean:

- (1) Minor land disturbance activities including, but not limited to, underground utility repairs, home gardens, home landscaping, minor repairs and maintenance work which do not disturb more than 2,000 square feet of land or exceed 100 cubic yards of earthwork provided work does not obstruct or modify a watercourse or storm sewer system and is not located in a floodplain;

- (2) Installation and maintenance of fences, signs, posts, poles, electric, telephone, cable television, utility lines or individual service connections to these utilities; or
- (3) General farming practices; or
- (4) Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the city's requirements as soon as possible.

Native vegetation is the pre-settlement (already existing in the state at the time of statehood in 1858) group of plant species native to the local region, that were not introduced as a result of European settlement or subsequent human introduction.

Normal water level refers to the permanent pool of water retained in a stormwater pond. By design, this is the water level below the invert elevation of the pond outlet with a depth not to exceed eight feet.

Ordinary high water level means the boundary of water basins, watercourses, public waters, and public waters wetlands, and:

- (1) The ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- (2) For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- (3) For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Outfall is the point of discharge to any watercourse from a public or private stormwater drainage system.

Permanent cover means final stabilization. Examples include grass, gravel, asphalt and concrete.

Pretreatment means directing stormwater runoff through a BMP or series of BMPs for the purpose of removing sediment or other pollutants prior to discharge into a receiving basin.

Project is a planned undertaking resulting in changes to the condition of a property.

Public waters are waters of the state as defined in M.S.A. § 103G.005, subd. 15.

Retention facility is a temporary or permanent natural or artificial structure that provides for the storage of stormwater runoff by means of a permanent pool of water.

Runoff is rainfall, snowmelt, dewatering discharge, irrigation or any manmade sources of water flowing over the ground surface.

Sediment is the product of an erosion process, solid material both mineral and organic, which is in suspension, is being transported, or has been moved by water, wind, or ice and has come to rest on the earth's surface either above or below water level.

Slope is the incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

Special water means a surface water or receiving water that is of a high quality or is deemed worthy to receive extra protection.

Stormwater.

(1) The term "stormwater" means:

- a. Under Minn. R. 7077.0105, subpt. 41b, precipitation runoff, stormwater runoff, snow melt runoff and any other surface runoff and drainage.
- b. According to 40 CFR 122.26(b)(13), stormwater runoff, snow melt runoff and surface and drainage.

(2) The term "stormwater" does not include construction site dewatering.

Storm sewer system includes, but is not limited to, the combination of roadway gutters, roadway section ditches, culverts, storm sewer piping, overflow channels, infiltration trenches, detention and retention water quality treatment basins and other methods or devices used for capturing, conveying, controlling and treating stormwater and snow melt runoff.

Stormwater pollution prevention plan is joint stormwater, erosion prevention and sediment control plan that is a document containing the requirements of section 101-12(c). When implemented, the plan will define the methods to be used to reduce soil erosion on a parcel of land and off-site non-point pollution. The plan involves both temporary and permanent controls.

Stormwater pond, also referred to as wet sedimentation basin, wet retention basin, or simply wet pond, means an artificial or modified natural basin constructed to capture and retain stormwater runoff for the purpose of removing pollutants and mitigating downstream water quantity impacts.

Surface waters means all streams, ponds, lakes, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems, whether natural or artificial, public or private.

Vegetated (grassy) swale means a vegetated earthen channel that conveys stormwater while treating the stormwater by biofiltration. Such swales aid in the removal of pollutants by both filtration and infiltration.

Waters of the state, as defined in M.S.A. § 115.01, subd. 22, means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Watercourse means a ditch, stream, creek, or other defined channel intended for the conveyance of water, runoff, groundwater discharge or similar hydraulic or hydrologic purpose.

Wetlands means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- (1) Have a predominance of hydric soils;
 - (2) Are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
 - (3) Under normal circumstances support a prevalence of such vegetation.
- (Code 2004, § 34-462; Ord. No. 10-2205, 5-20-2010)

Sec. 34-263. Purpose.

The city has a strong interest in protecting and managing its valuable water and natural resources, recognizing the relationships between resource protection, land use management, development, redevelopment and fiscal responsibility. Federal and state regulations have placed restrictions and requirements on the management and discharge of stormwater with which the city must comply. The city local surface water management plan (LSWMP) established goals and policies to meet those regulations. The Code provides requirements for stormwater management on development and redevelopment projects to ensure the city's goals and policies are met and that there is compliance with federal, state, and local rules.

(Code 2004, § 34-463; Ord. No. 10-2205, 5-20-2010)

Secs. 34-264—34-289. Reserved.

DIVISION 2. STORMWATER MANAGEMENT PLAN

Sec. 34-290. General criteria.

- (a) A stormwater management plan shall be required of all new development, redevelopment and land disturbance projects greater than one acre in parcel size or part of a greater plan of development. This plan shall be designed to reduce or

minimize the impervious area of the site, control the peak flow rate, and minimize the volume of stormwater runoff from the same as required in the LSWMP and this article. Plans must be submitted to the city for review and approval prior to the start of construction. Each project will construct, implement and maintain all best management practices (BMP) that are deemed necessary to achieve the goals of this division, including post-construction stormwater management BMPs. Prior to the start of construction, all projects shall be in possession of any and all permits required for the project, including, but not limited to:

- (1) Watershed districts;
- (2) The city;
- (3) U.S. Army Corps of Engineers;
- (4) National Pollutant Discharge Elimination System (NPDES); and
- (5) Wetland restoration or mitigation plan approval.

(b) Projects smaller than one acre in size are encouraged to implement BMPs that will promote infiltration and contribute to improved water quality.

(Code 2004, § 34-481; Ord. No. 10-2205, 5-20-2010; Ord. No. 15-2306, 4-16-2015)

Sec. 34-291. Design standards.

Minimal impact design standards (MIDS) (see Minnesota Stormwater Manual) shall be followed to achieve the best stormwater management. The BMPs used should seek to mimic the natural hydrology, utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity. The Minnesota Stormwater Manual (published by the state pollution control agency), the state Urban Small Sites BMP Manual (published by the Metropolitan Council), Local Road Research Board BMP Maintenance Guide, and Protecting Water Quality in Urban Areas (published by the MPCA) are resources that provide guidance in achieving these goals.

- (1) *Implementation.* Low impact development, better site design, or green infrastructure design techniques are the preferred methods of achieving stormwater management. Mimicking the natural topography and land cover as they exist in the pre-developed condition to meet the standards and requirements of the city and other regulatory agencies shall be the first consideration.
- (2) *Recommended practices.* Practices and methods used to achieve the intent of subsection (1) of this section shall include, but not be limited to, the following:
 - a. Rain gardens;
 - b. Green roofs;

- c. Bio-retention practices;
 - d. Pervious pavements or pavers;
 - e. Plots of native vegetation or buffers in place of sod;
 - f. Reforestation and revegetation;
 - g. Trees and tree box filters;
 - h. Reduction of impervious area;
 - i. Rainwater harvesting.
- (3) *Other practices.* Other traditional stormwater BMPs may be approved on a site-by-site basis to achieve the goals of water quality and quantity, and rate control. These practices shall conform to the standards outlined in the resources referenced above.
- (4) *Pre-treatment of runoff.* All stormwater runoff shall be pre-treated prior to discharge to any surface water.
- (5) *Maintenance plan.* A plan shall be established to maintain all temporary and permanent BMPs in a working and efficient condition. This may include removal of invasive species, sediment, debris, or any other foreign or obstructive object or condition that prevents the BMPs from performing as designed.
- (6) *Exemption.* The mill and overlay or rehabilitation of a public roadway that does not create additional impervious surfaces and sidewalk or trail projects are exempt from these stormwater requirements. These projects may be subject to other regulations.
- (Code 2004, § 34-482; Ord. No. 10-2205, 5-20-2010; Ord. No. 15-2306, 4-16-2015)

Sec. 34-292. Drainage.

Site alteration, grading, placement and installation of BMPs and other related activities shall be implemented in such a way that drainage from the site shall not exceed the pre-developed rates and will not adversely affect neighboring properties. Sections 101-13 and 129-15 shall also apply.

(Code 2004, § 34-483; Ord. No. 10-2205, 5-20-2010)

Sec. 34-293. Calculations.

Hydrologic and hydraulic design calculations must be submitted for the pre-development and post-development conditions for the two-, ten-, and 100-year events as well as the ten-day snowmelt event. Such calculations shall include:

- (1) Description of the design storm frequency, intensity and duration;
- (2) Time of concentration;
- (3) Soil curve numbers or runoff coefficients;

- (4) Peak runoff rates and total runoff volumes for each watershed area;
- (5) Infiltration rates, where applicable;
- (6) Culvert capacities;
- (7) Flow velocities;
- (8) Data on the increase in rate and volume of runoff for the design storms used;
and
- (9) Documentation of sources for all computation methods and field test results.
(Code 2004, § 34-484; Ord. No. 10-2205, 5-20-2010)

Sec. 34-294. Volume control and pollutant management.

(a) Stormwater volume management practices shall be the equivalent of infiltrating or retaining the first 1 ¹/₁₀ inches of precipitation over the impervious surface of the site. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots and landscaped areas to the maximum extent practical to provide treatment for both water quantity and quality.

(b) New development projects shall achieve no net increase from pre-project conditions (on an annual average basis) of stormwater discharge volume; discharges of total suspended solids (TSS); and discharge of total phosphorus (TP).

(c) Redevelopment projects shall achieve a net reduction from pre-project conditions (on an annual average basis) of stormwater discharge volume; discharges of TSS; and discharge of TP.

(d) No pre- or post-construction testing will be required by the city to determine the no net increase or net reduction requirements stated above.

(e) Using best management practices will be accepted as compliance.

(f) The requirements provided for in subsections (a) through (e) of this section may be altered and alternative treatment BMPs approved under the following limitations:

- (1) Infiltration techniques shall be prohibited when the infiltration structural BMP will receive discharges from or be constructed in areas:
 - a. Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS permit;
 - b. Where vehicle fueling and maintenance occur;
 - c. With less than three feet of separation from the bottom of the infiltration system to the elevation of the seasonally saturated soils or top of bedrock;

- d. Where high levels of contaminants in soil or groundwater will be mobilized by the infiltration of stormwater.
- (2) Infiltration techniques will be restricted when the infiltration device will be constructed in areas:
 - a. With predominately hydrologic soil Group D soils;
 - b. Within 1,000 feet up-gradient or 100 feet down-gradient of active karst features;
 - c. Within a drinking water source management area (DWSMA) as defined in the city's wellhead protection plan;
 - d. Where soil infiltration rates are more than 8 $\frac{3}{10}$ inches per hour.
- (g) If volume and pollutant management controls cannot be constructed on-site, off-site locations where the controls can be met must be identified.
- (h) Guidance for best management practices and standards for these mitigation processes should follow the minimal impact design standards (MIDS) design sequence flowchart for flexible treatment options contained in the Minnesota Stormwater Manual.
(Code 2004, § 34-485; Ord. No. 10-2205, 5-20-2010; Ord. No. 15-2306, 4-16-2015)

Sec. 34-295. Impaired waters and total maximum daily loads.

If a site drains to a surface water that has been listed as impaired pursuant to section 303(d) of the federal Clean Water Act more stringent water quality measures will be required. If a total maximum daily load (TMDL) has been written for the impaired water then all best management practices deemed necessary to comply with the requirements of the TMDL must be implemented.
(Code 2004, § 34-486; Ord. No. 10-2205, 5-20-2010)

Sec. 34-296. Industrial sites.

Certain industrial sites are required to prepare and implement a stormwater pollution prevention plan and shall file a notice of intent (NOI) under the provisions of the NPDES general permit. The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.
(Code 2004, § 34-487; Ord. No. 10-2205, 5-20-2010)

Sec. 34-297. Wetlands.

Runoff shall not be routed directly to wetlands without first passing through an appropriate settling or approved pre-treatment basin. Said basins must meet engineering standards for volume and flow directed to the basin.

- (1) A protective buffer strip of natural vegetation at least 15 feet (25 feet is preferred) in width shall surround all wetlands.

- (2) Wetlands must not be drained, filled, or altered, wholly or partially, unless in compliance with and as permitted under the most current rules adopted by the state board of water and soil resources in the Wetland Conservation Act (WCA). Wetland replacement must be guided by the following principles in descending order:
 - a. Avoidance.
 - b. Minimization.
 - c. Mitigation.
 - (3) Permits to work in wetlands must be obtained from the local water management organizations, acting as local governmental units (LGU), with respective jurisdiction within the city to administer the WCA.
 - (4) Permanent boundary markers, in the form of signage approved by the city, should be installed prior to final approval of the required clearing and grading plan.
- (Code 2004, § 34-488; Ord. No. 10-2205, 5-20-2010)

Sec. 34-298. Maintenance of stormwater BMPS.

(a) The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(b) All private stormwater BMPs shall be maintained by the owners such that the BMP performs the intended treatment function. Public stormwater BMPs shall be the responsibility of the city in that the city will ensure that the capacity of retention/detention ponds is adequate and will repair or replace storm sewer system components as needed.

(c) The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property.

(d) The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by any on-site stormwater management measure in accordance with the specifications of this division.

(Code 2004, § 34-489; Ord. No. 10-2205, 5-20-2010)

Secs. 34-299—34-329. Reserved.

DIVISION 3. SPECIFIC USE OF STORMWATER PONDS

Sec. 34-330. Alterations to and use of public and private stormwater ponds.

(a) No alterations to shorelines or vegetation around stormwater ponds shall be allowed unless authorized by the city.

(b) Fountains or other circulating devices will not be allowed in stormwater ponds unless authorized by the city.

(c) Chemical treatment of stormwater ponds will not be allowed unless authorized by the city.

(d) Structures will not be allowed within the stormwater pond or protective buffer zone. These will include, but not be limited to, retaining walls, docks, piers, diving platforms, bridges, etc.

(e) Recreational activities, including, but not limited to, boating, swimming, fishing and skating are discouraged on all stormwater ponds.

(f) Dumping of yard waste materials in, on or around any stormwater pond is prohibited. Cattails growing in and around stormwater ponds may be cut with the permission and direction of the city.

(Code 2004, § 34-521; Ord. No. 10-2205, 5-20-2010; Ord. No. 18-2395, 1-18-2018)

Sec. 34-331. Appropriations from stormwater ponds.

Appropriation of water from stormwater ponds for the purpose of private irrigation may be allowed based upon criteria established by the city. City approval must be granted before use begins.

(Code 2004, § 34-522; Ord. No. 10-2205, 5-20-2010)

Sec. 34-332. Stormwater pond aeration permit.

(a) *Purpose.* The purpose of this section is to authorize the issuance of permits for stormwater pond aeration in the city in order to protect the health, safety, and welfare of the general public.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Aeration equipment means electrical or mechanical equipment used to place oxygen into contact with water by mixing water with atmospheric oxygen. Also, the term "aeration equipment" refers to floating fountains.

Floating fountain means a free-floating structure that is tethered, anchored, or otherwise secured to prevent movement from which an artificially produced jet of water arises.

Institutional property means a property owned by a governmental unit that is developed and used for active governmental purposes.

Private property refers to property owned by a person or group and kept for their exclusive use.

Private stormwater pond means a body of standing water wholly located within a single private/institutional property or multiple adjoining properties that provide water quality protection or flood protection, either natural or artificial, that is part of the infrastructure for land use management.

Public stormwater pond means a body of standing water that provides water quality protection or flood protection, either natural or artificial, is a part of the infrastructure for land use management, is wholly or partially located on property which is dedicated to the use of the public, and is not considered private property by the definition of private property as defined in this section.

Qualified professional means a person whose training and experience qualifies said person to make water quality recommendations. The term "qualified professional" includes, but is not limited to: registered engineers, hydrologists, scientists, vendors, or technically trained individuals functioning under the direct supervision of a qualified professional.

Representative means an agent, deputy, or substitute who is acting or speaking in the place or on behalf of another or others.

Stormwater pond, also referred to as wet sedimentation basin, wet retention basin, or simply wet pond, means an artificial or modified natural basin constructed to capture and retain stormwater runoff for the purpose of removing pollutants and mitigating downstream water quantity impacts.

(c) *Stormwater pond aeration permit required.*

- (1) *Required.* A stormwater pond aeration permit is required to install, alter or relocate stormwater pond aeration equipment on public stormwater ponds as defined in this section. Only removable aeration equipment may be installed. Aeration equipment is permitted from April 1 through October 15. Permanently installed aeration equipment and winter aeration are prohibited. Aeration equipment shall be located and operated in a manner where it does not cause a nuisance to other abutting property owners. The city engineer may limit any lighting and the height and width of spray on fountain type aeration equipment. Only one permit shall be issued for a stormwater pond. Stormwater ponds operating aeration systems other than what is listed on the approved permit shall be prohibited and any existing stormwater pond aeration permits may be revoked.

(2) *Application.*

- a. Application for a permit under this section shall be made in writing to the engineering division and shall be on a form provided by the engineering division. All stormwater pond aeration permits shall be issued by the city engineer or designee.
- b. The application shall be accompanied with the following:
 1. Completed application form, including signatures from 75 percent of the abutting property owners and a signed agreement included with the application form.
 2. Aeration system specifications, including sizing criteria, type and details of the equipment and power supply details provided by a qualified professional.
 3. Documentation indicating the installer is a qualified professional and will properly install all equipment.
 4. Removal and maintenance documentation.
 5. Payment of permit fee (as established by the city schedule of fees).

(3) *Special conditions.*

- a. Aeration equipment will not be allowed in ponds with a design permanent pool elevation of less than five feet of depth. The depth of influence of the equipment cannot extend below the design sediment storage elevation of the pond.
- b. Aeration equipment may be no more than one horsepower and draw water from a horizontal direction only.
- c. If the pond water level drops to less than five feet of depth the equipment must be turned off until the water level rises to the design normal water elevation, but not above the high water elevation.
- d. Where the surface area of the pond is no more than what is required to meet stormwater regulations, when a storm event causes the water level to rise, the equipment must be turned off until the pond depth returns to the design permanent pool elevation and sediment has settled out of the water column.
- e. A staff gauge, for determining the water level elevation, must be installed in the pond and surveyed annually for accuracy.
- f. The equipment may only be operated between the hours of 7:00 a.m. and 10:00 p.m. to comply with city nuisance regulations.

(4) *Expiration.* If installation, alteration or relocation of the aeration equipment for which a stormwater pond aeration permit was issued has not commenced within 180 days from the date of its issuance, or if work authorized by the stormwater pond aeration permit is suspended or abandoned for a period

over 180 days, the permit shall expire by operation of law and shall no longer be of any force or effect and a new permit shall be obtained. The city engineer may, for good cause shown in writing, extend the validity of any such permit for an additional period which is reasonable under the circumstances, but in no event shall the continuance exceed a period of 60 days.

- (5) *Renewal.* The stormwater pond aeration permit requires an annual renewal. If 75 percent of the property owners adjacent to the stormwater pond oppose aeration at any time, the permit will not be renewed and the stormwater aeration equipment must be removed.
- (6) *Exemptions.* The following are exemptions to the requirements of this section:
 - a. Stormwater pond locations where a department of natural resources (DNR) permit already exists for aeration year round do not require a city stormwater pond aeration permit and are allowed to aerate year round, per the DNR permit.
 - b. Public agencies with a pond or lake management plan or other master plan, such as a park or natural resource master plan, which places controls on the use of aeration equipment in ponds are not required to obtain a city stormwater pond aeration permit for stormwater pond aeration on public property.
 - c. Private stormwater ponds, as defined in this section, are not required to obtain a city stormwater pond aeration permit for stormwater pond aeration, provided they do not discharge to the public storm sewer system or any downstream water body.
- (d) *Other permits required.*
 - (1) *Electrical permit.* An electrical permit, pursuant to this Code, shall be required, and the electrical work shall be done by a licensed electrician.
 - (2) *Applicant responsibility.* It is the responsibility of the applicant to determine if any other permits are required and to obtain those permits before a city permit will be issued and prior to installation, alteration, or relocation of the aeration equipment.
- (e) *Right of entry.* The city shall be permitted to enter and inspect facilities subject to regulation under this division as often as may be necessary to determine compliance with this division.
- (f) *Penalty.* Should a person be found in violation of this division they will receive a notice of violation and have 30 days to achieve compliance. If compliance is not met after the 30-day notice of violation, the violator will be issued an administrative citation. Failure to respond to said administrative citation or to pay any administrative fine shall result in the issuance of a misdemeanor citation.

(g) *Remedies not exclusive.* The remedies listed in this division are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies. The city may recover all attorneys' fees, court costs and other expenses associated with enforcement of this division, including sampling and monitoring expenses.

(h) *Ultimate responsibility.* The standards set forth herein and promulgated pursuant to this division are minimum standards; therefore, this division does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, unauthorized discharge of pollutants, or reduction or elimination of any substance or organism.

(Code 2004, § 34-523; Ord. No. 16-2354, 8-4-2016)

Secs. 34-333—34-352. Reserved.

DIVISION 4. RAIN GARDENS

Sec. 34-353. Rain gardens in road right-of-way.

In order to obtain a right-of-way permit, rain gardens constructed in the right-of-way will be required to capture street runoff. The property owner must agree to this condition and accept responsibility for maintenance of the rain garden and associated features.

- (1) If the homeowner is not agreeable to allowing street runoff into the rain garden, they must agree to install features that would direct all driveway runoff to the rain garden and capture 75 percent of front yard and roof runoff. Maintenance of the rain garden and associated features will be the responsibility of the homeowner.
- (2) Rain gardens proposed for construction in the right-of-way must have plans approved by the city engineering department. These plans will include an illustration of the area draining to the rain garden; design details to prove proper sizing/capacity to handle the area of drainage; illustrate property boundaries, locations of street features, driveway, house and other structures in relation to the rain garden; and include proof of infiltration potential and ability to drawdown within a 48-hour period.
- (3) Rain gardens capturing street runoff would require a curb cut to direct flow into the rain garden. Curb cuts for rain gardens approved in the right-of-way will be constructed and paid for by the city. All other construction and maintenance associated with the rain garden is the sole responsibility of the homeowner.
- (4) City staff or designee has right of entry to all rain gardens in the right-of-way to ensure proper function of the features.

- (5) Rain gardens in the right-of-way will be mapped as part of the city stormwater management system. These features will be counted toward meeting compliance of the city's municipal separate storm sewer system (MS4) permit with the state or other regulatory requirements imposed on the city through state, federal or other government agencies.
- (6) The city shall have no liability for the rain garden or its associated features. (Code 2004, § 34-541; Ord. No. 10-2205, 5-20-2010)

Secs. 34-354—34-379. Reserved.

DIVISION 5. ILLICIT DISCHARGE DETECTION AND ELIMINATION

Sec. 34-380. Purpose of division.

The purpose of this division is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This division establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the MS4 permit issued to the city by the Minnesota Pollution Control Agency (MPCA) under the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this division are:

- (1) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
- (2) To prohibit illicit connections and discharges to the MS4.
- (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this division.

(Code 2004, § 34-561; Ord. No. 10-2205, 5-20-2010)

Sec. 34-381. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hazardous materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal discharge means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in section 34-437.

Illicit connections means either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system, including, but not limited to sewage, process wastewater, wash water and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial activity means activities subject to NPDES industrial stormwater permits, as defined in 40 CFR 122.26(b)(14).

Municipal separate storm sewer system (MS4) means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, manmade channels, or storm drains) owned and operated by the city and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit means a permit issued by state pollution control agency that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Pollutant means anything which causes or contributes to pollution. The term "pollutant" may include, but is not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm drainage system means publicly owned facilities by which stormwater is collected or conveyed, including, but not limited to, any roads with drainage

systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and humanmade or altered drainage channels, reservoirs, and other drainage structures.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater management plan means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, or receiving waters to the maximum extent practicable.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse means a ditch, stream, creek, or other defined channel intended for the conveyance of water, runoff, groundwater discharge or similar hydraulic or hydrologic purpose.

(Code 2004, § 34-562; Ord. No. 10-2205, 5-20-2010)

Sec. 34-382. Applicability.

This division shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by the city.

(Code 2004, § 34-563; Ord. No. 10-2205, 5-20-2010)

Sec. 34-383. Responsibility for administration.

The city shall administer, implement, and enforce the provisions of this division. Any powers granted or duties imposed upon the city may be delegated in writing by the city manager to persons or entities acting in the beneficial interest of or in the employ of the city.

(Code 2004, § 34-564; Ord. No. 10-2205, 5-20-2010)

Sec. 34-384. Compatibility with other regulations.

This division is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this division are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this division imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(Code 2004, § 34-565; Ord. No. 10-2205, 5-20-2010)

Sec. 34-385. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this division are minimum standards; therefore, this division does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

(Code 2004, § 34-567; Ord. No. 10-2205, 5-20-2010)

Sec. 34-386. Discharge and connection prohibitions.

(a) *Prohibition of illegal discharges.* No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this division: water line flushing, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, and street washwater.
- (2) Discharge of swimming pools, crawl spaces, sump pumps, footing drains, and other sources that may be determined to contain sediment or other forms of pollutants may not be discharged directly to a gutter or storm sewer. This discharge must be allowed to flow over a vegetated area to allow filtering of pollutants, evaporation of chemicals, and infiltration of water consistent with the stormwater requirements of the city.
- (3) Discharges or flow from firefighting, and other discharges specified in writing by the city as being necessary to protect public health and safety.
- (4) Discharges associated with dye testing; however, this activity requires a verbal notification to the city prior to the time of the test.
- (5) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or wastewater discharge order issued to the discharger and administered under the authority of the Minnesota Pollution Control Agency (MPCA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) *Prohibition of illicit connections.*

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
 - (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - (3) A person is considered to be in violation of this division if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
 - (4) Improper connections in violation of this division must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the city.
 - (5) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the city requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance shall be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point shall be identified. Results of these investigations are to be documented and provided to the city.
- (Code 2004, § 34-568; Ord. No. 10-2205, 5-20-2010)

Sec. 34-387. Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, yard waste, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Code 2004, § 34-569; Ord. No. 10-2205, 5-20-2010)

Sec. 34-388. Right of entry.

The city shall be permitted to enter and inspect facilities subject to regulation under this division as often as may be necessary to determine compliance with this division.

(Code 2004, § 34-570; Ord. No. 10-2205, 5-20-2010)

Sec. 34-389. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

(a) The city will adopt requirements identifying best management practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs.

(b) Further, any person responsible for a property or premises that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater management plan (SWMP) as necessary for compliance with requirements of the NPDES permit. (Code 2004, § 34-571; Ord. No. 10-2205, 5-20-2010)

Sec. 34-390. Violations and penalties.

Any person violating any provision of this division is guilty of a misdemeanor.

- (1) *Emergency cease-and-desist orders.* When the city finds that any person has violated, or continues to violate, any provision of this division, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation has caused or contributed to an actual or threatened discharge to the MS4 or waters of the state which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the city may issue an order to the violator directing it immediately to cease-and-desist all such violations.
- (2) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this division may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. Such suspension may also be imposed if it is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger.
- (3) *Violations deemed a public nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this division is a threat to public health, safety, and welfare, is declared and deemed a nuisance, and may be

summarily abated or restored at the violator's expense; or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Code 2004, § 34-572; Ord. No. 10-2205, 5-20-2010)

Sec. 34-391. Remedies not exclusive.

The remedies listed in this division are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies. The city may recover all attorney's fees, court costs and other expenses associated with enforcement of this division, including sampling and monitoring expenses.

(Code 2004, § 34-573; Ord. No. 10-2205, 5-20-2010)

Chapters 35—37

RESERVED

Chapter 38

FIRE PREVENTION, PROTECTION AND CONTROL*

Article I. In General

- Sec. 38-1. State fire code adopted by reference.
- Sec. 38-2. Amendments to state fire code.
- Sec. 38-3. Fire protection permits and inspection program; fire sprinkler systems.
- Sec. 38-4. Penalties.
- Secs. 38-5—38-26. Reserved.

Article II. Ignition Devices

- Sec. 38-27. Definitions.
- Sec. 38-28. Penalties for violation of article.
- Sec. 38-29. Confiscation.
- Sec. 38-30. Prohibited acts.
- Secs. 38-31—38-48. Reserved.

Article III. Open Burning

- Sec. 38-49. Adoption of state law by reference.
- Sec. 38-50. City may be more restrictive than state law.
- Sec. 38-51. Purpose.
- Sec. 38-52. Definitions.
- Sec. 38-53. Prohibited materials.
- Sec. 38-54. Open burning prohibited except by permit.
- Sec. 38-55. Permitted open burning; special circumstances.
- Sec. 38-56. Permit application and fees.
- Sec. 38-57. Permit process.
- Sec. 38-58. Denial of permit.
- Sec. 38-59. Permit holder responsibility.
- Sec. 38-60. Revocation of permit.
- Sec. 38-61. Burning ban or air quality alert.
- Secs. 38-62—38-82. Reserved.

Article IV. Fire Protection Water Supplies

- Sec. 38-83. Authority.
- Sec. 38-84. Purpose.
- Sec. 38-85. Privately owned hydrants.

***State law reference**—Fire prevention and protection, M.S.A. chs. 299F—299N.

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Sec. 38-86. Emergency repairs.

Sec. 38-87. Hydrant access.

ARTICLE I. IN GENERAL**Sec. 38-1. State fire code adopted by reference.**

The most current edition of the state fire code, as adopted by the commissioner of public safety pursuant to M.S.A. § 299F.011, including all of the amendments, rules and regulations established, adopted and published from time to time by the state commissioner of public safety, through the state fire marshal division is adopted by reference. The state fire code is incorporated in this article as if fully set out in this section.

(Code 1980, § 9-1; Code 2004, § 38-31; Ord. No. 93-1331, 5-6-1993; Ord. No. 03-1972, 4-17-2003)

State law reference—Adoption by reference, M.S.A. § 471.62.

Sec. 38-2. Amendments to state fire code.

The following sections of the state fire code are revised:

- (1) *101.1.* These regulations shall be known as the city fire regulations.
- (2) *109.3.* Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the code official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor.
- (3) *111.4. Failure to comply.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a misdemeanor.
- (4) *Limitations.* The limits referred to in certain sections of the state fire code are established as follows:
 - a. *Section 3204.3.1.1.* Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited except in industrial zoning districts.
 - b. *Section 3404.2.9.5.1.* The storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited except in commercial and industrial zoning districts.
 - c. *Section 3406.2.4.4.* The storage of Class I and II liquids in aboveground tanks shall not be prohibited as outlined in section 3406.

(Code 1980, § 9-2; Code 2004, § 38-32; Ord. No. 93-1331, 5-6-1993; Ord. No. 03-1972, 4-17-2003)

Sec. 38-3. Fire protection permits and inspection program; fire sprinkler systems.

(a) *Fire protection permit and inspection program.* Pursuant to Minn. R. 7512.2800, the city requires a fire protection system plan review and permit to perform fire protection-related work. The application, administration and enforcement for the program shall be in the manner provided for in the state building code and state fire code, and shall be enforced within all areas where the city enforces these Codes to the fullest extent permitted by law.

(b) *Permit required.* No person shall engage in any sprinkler installation, modification, changing and/or removal of any sprinkler protection systems within the city without obtaining a permit from the city. It shall be the duty of an applicant to secure a permit prior to commencement of any fire protection-related activities described in this subsection.

(c) *Application process.* Applications shall be submitted to the city for review. If the application is incomplete or denied, the city will inform the applicant as to the reason for incompleteness or denial and any information required to complete the application. Following review and approval of an application, the city shall issue a permit and inform the applicant of any special provisions associated with the proposed fire protection activities related to the permit.

(d) *Permit fees.* The issuance of permits and the collection of fees shall be in the manner authorized in M.S.A. § 326B.121. Fees for permits under this subsection, which may include a surcharge in accordance with M.S.A. § 326B.153, shall be included in the fee schedule and as adopted by action of the city council.

(e) *Maintenance.* All fire sprinkler systems shall be maintained in accordance with the state fire code.

(Code 1980, § 9-3; Code 2004, § 38-33; Ord. No. 93-1331, 5-6-1993; Ord. No. 03-1972, 4-17-2003; Ord. No. 24-2562, § 38-33, 9-4-2024)

Sec. 38-4. Penalties.

(a) Any person who shall violate any provisions of this article and/or the state fire code shall be guilty of a misdemeanor.

(b) The application of the penalty in subsection (a) of this section shall not be held to prevent the enforced removal of prohibited conditions.

(c) Each day any such violation shall continue shall constitute a separate offense. (Code 1980, § 9-4; Code 2004, § 38-34; Ord. No. 93-1331, 5-6-1993; Ord. No. 03-1972, 4-17-2003; Ord. No. 24-2562, § 38-34, 9-4-2024)

Secs. 38-5—38-26. Reserved.

ARTICLE II. IGNITION DEVICES**Sec. 38-27. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ignition device means:

- (1) Matches.
 - (2) Lighters.
 - (3) Any other materials when used for purposes of ignition.
- (Code 1980, § 9-15; Code 2004, § 38-61; Ord. No. 00-1856, 6-1-2000; Ord. No. 17-2382, 9-7-2017)

Sec. 38-28. Penalties for violation of article.

(a) Any minor who violates any of the provisions of this article shall be guilty of a misdemeanor.

(b) In addition to any other penalties provided for in this Code, any minor found guilty of violating this article may be required to participate in an educational program when appropriate and include, as part of the penalty therein, that such minor pay the cost of such educational program.

(Code 1980, § 9-18; Code 2004, § 38-62; Ord. No. 00-1856, 6-1-2000; Ord. No. 17-2382, 9-7-2017)

Sec. 38-29. Confiscation.

Any ignition device possessed by a minor may be confiscated by any peace officer, fire chief or authorized designee. Once confiscated, the ignition device shall become property of the confiscating authority and shall be processed accordingly as evidence in the commission of a crime or made inoperable and disposed of properly.

(Code 1980, § 9-17; Code 2004, § 38-63; Ord. No. 00-1856, 6-1-2000)

Sec. 38-30. Prohibited acts.

No minor may possess any ignition device, unless under the direct supervision of, or with the direct permission of, a parent or legal guardian.

(Code 1980, § 9-16; Code 2004, § 38-64; Ord. No. 00-1856, 6-1-2000; Ord. No. 17-2382, 9-7-2017)

Secs. 38-31—38-48. Reserved.

ARTICLE III. OPEN BURNING

Sec. 38-49. Adoption of state law by reference.

The provisions of M.S.A. ch. 88, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, permits, and all other matters pertaining to open burning are adopted by reference and are made a part of this article as if set out in full. It is the intention of the city council that all future amendments of M.S.A. ch. 88, are adopted by reference or referenced as if they had been in existence at the time the ordinance from which this article is derived was adopted.

(Code 2004, § 38-70; Ord. No. 10-2215, 12-16-2010)

Sec. 38-50. City may be more restrictive than state law.

The council is authorized to impose, and has imposed in this article, additional restrictions on open burning within its limits beyond those contained in M.S.A. ch. 88, as it may be amended from time to time.

(Code 2004, § 38-71; Ord. No. 10-2215, 12-16-2010)

Sec. 38-51. Purpose.

The purpose of this article is to regulate open burning within the city, to protect the public health, safety and welfare. Through passage of this article, the designated fire official is authorized to adopt and impose burning restrictions to aid in the prevention of wildfire and to consult with the department of natural resources (DNR), division of forestry to develop any restrictions or other criteria.

(Code 2004, § 38-72; Ord. No. 10-2215, 12-16-2010)

Sec. 38-52. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Designated fire official means the fire chief, fire marshal, city fire warden, or other designee who provides fire protection or public safety services to the city.

Open burning means the burning of any matter if the resulting combustion products are emitted directly into the atmosphere without passing through a stack, duct or chimney, except a recreational or camp fire, as defined herein. Mobile cooking devices, such as charcoal grills, wood smokers, manufactured hibachis, and propane or natural gas devices are not considered open burning devices.

Recreational/camp fire means a fire set in accordance with the Spring Lake Park/Blaine/Mounds View Fire Department Regulation 3-95 and is no more than three feet in diameter, contained within 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, or social food preparation; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality requirements 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/camp fire site means an area of no more than a three-foot diameter circle (as measured from the inside of the fire ring or border); completely surrounded by noncombustible and non-smoke or odor producing material, either natural rock, cement, brick, tile, blocks or ferrous metal. Burning barrels are not a recreational fire site, as defined herein. Recreational fire sites shall not be located closer than 25 feet to any structure or combustible material.

Running fire means an attended fire allowed to spread through surface vegetative matter under controlled conditions for the purpose of vegetative management, forest management, game habitat management, or agricultural improvement.

Starter fuels means dry, untreated, unpainted, kindling, branches or charcoal fire starter. Paraffin candles are permitted as a starter fuel and an aid to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an open burn.

Vegetative materials means dry leaves, dry grass clippings, twigs, branches, tree limbs, and other similar materials. Paper and cardboard are not considered vegetative materials.

Wood means dry, clean fuels, such as twigs, branches, limbs, manufactured fireplace logs, charcoal, or cord wood. The term "wood" does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives.

(Code 2004, § 38-73; Ord. No. 10-2215, 12-16-2010)

Sec. 38-53. Prohibited materials.

(a) No person shall conduct, cause or permit the open burning of dimensional lumber, oils, petroleum fuels, rubber, plastic, chemically treated materials, or other materials that produce excessive or noxious smoke, such as, but not limited to: tires; railroad ties; treated, painted or glued wood composite shingles; tar paper; insulation; composition board; sheet rock; wiring; or paint and paint filters.

(b) No person shall conduct, cause or permit the open burning of: hazardous waste or materials from salvage operations; solid waste generated from an industrial or manufactured process; materials from a service or commercial establishment; or building materials generated from construction or demolition of commercial or institutional structures.

(c) No person shall conduct, cause or permit the open burning of discarded materials resulting from the handling, processing, storage, preparation, serving or consumption of food.

(d) No person shall conduct, cause or permit the open burning of any leaves or grass clippings.

(e) No person shall conduct, cause or permit the open burning of any wood or other vegetative materials through the use of a burner, as described in M.S.A. § 88.16, within the city's jurisdiction.

(f) No person shall conduct, cause or permit the open burning of any materials that have been hauled onto the site.

(g) No person shall conduct, cause or permit the open burning on any commercial property within the city.

(Code 2004, § 38-74; Ord. No. 10-2215, 12-16-2010)

Sec. 38-54. Open burning prohibited except by permit.

No person shall start or allow any open burning on any property in the city without first having obtained an open burning permit. A permit is not required for any fire which is a recreational/camp fire, as defined in section 38-52.

(Code 2004, § 38-75; Ord. No. 10-2215, 12-16-2010)

Sec. 38-55. Permitted open burning; special circumstances.

(a) Under special or extraordinary circumstances, open burning permits may be issued by the city or by a DNR forestry official for:

- (1) Elimination of health hazards that cannot be abated by other practical means, as determined by the commissioner of health or the local health authority.
- (2) Ground thawing for utility repair and construction.
- (3) Running fires (prairie restoration).
- (4) Disposal of diseased trees generated on-site, diseased or infected nursery stock, or diseased bee hives.

(b) Fire training permits may only be issued by the DNR.

(c) Permits for the operation of permanent tree and brush burning sites may only be issued by the DNR.

(Code 2004, § 38-76; Ord. No. 10-2215, 12-16-2010)

Sec. 38-56. Permit application and fees.

(a) Open burning permits shall be obtained by making application on a form prescribed by the DNR and adopted by the fire department. The permit application shall be presented to the designated fire official for review.

(b) An open burning permit shall require the payment of a fee. Permit fees shall be in an amount established by the council.

(Code 2004, § 38-77; Ord. No. 10-2215, 12-16-2010)

Sec. 38-57. Permit process.

(a) The applicant shall demonstrate to the designated fire official the ability to comply with the applicable state statutes, this article, or any additional guidelines as may be adopted.

(b) Upon receipt of the completed open burning permit application and fee, the designated fire official may, if they believe necessary, require a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and

times of permitted burn and review fire safety considerations, including the preparation of a detailed burn event safety plan with the designated fire official, when conditions require.

(Code 2004, § 38-78; Ord. No. 10-2215, 12-16-2010)

Sec. 38-58. Denial of permit.

(a) If the established criteria for the issuance of an open burning permit are not met, the application will be denied.

(b) Even if the established criteria for the issuance of an open burning permit are met, if it is determined that a practical alternative method for disposal exists, a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the designated fire official, the application may be denied.

(Code 2004, § 38-79; Ord. No. 10-2215, 12-16-2010)

Sec. 38-59. Permit holder responsibility.

(a) Prior to starting an open burn, the permit holder shall have had the required pre-burn inspection completed and approved and is responsible for confirming that no burning ban or air quality alert is in effect and that the winds do not exceed ten miles per hour (mph).

(b) The open burning site shall:

- (1) Be on a lot with a minimum size of five acres.
- (2) Have a snow cover of at least four inches.
- (3) Have a maximum pile dimension not to exceed ten feet in diameter.
- (4) Have a minimum separation from structures, utilities and aboveground hazardous materials tanks in accordance with the following table:

<i>Fire Size—Diameter</i>	<i>Separation Requirement</i>
10 ft.	400 feet
8 ft.	300 feet
6 ft.	200 feet
> 3 ft. to < 6 ft.	100 feet

- (5) Have a minimum separation of 100 feet from property lines.
- (6) Have an approved means of communication to notify emergency response personnel.
- (7) Have approved fire suppression equipment on site.

(c) The open burn shall be attended to at all times by the property owner or an approved representative as indicated on the permit application. No fire may ever be allowed to smolder. The fire shall be completely extinguished before the permit

holder or representative leaves the site. It is the responsibility of the permit holder to have a valid permit, as required by this article, available for inspection on site by law enforcement, the fire department, a Minnesota Pollution Control Agency (MPCA) representative or DNR officer.

(d) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and guidelines 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.

(Code 2004, § 38-80; Ord. No. 10-2215, 12-16-2010)

Sec. 38-60. Revocation of permit.

An open burning permit is subject to revocation at the discretion of a DNR officer or the designated fire official. Reasons for revocation include, but are not limited to: a fire hazard existing or developing during the course of the burn; any permit conditions 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, or attendant, present.

(Code 2004, § 38-81; Ord. No. 10-2215, 12-16-2010)

Sec. 38-61. Burning ban or air quality alert.

(a) The designated fire official is authorized to determine when conditions make open burning potentially hazardous and to declare a burning ban within the city.

(b) No recreational fire or open burn will be permitted when the city or the DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert.

(Code 2004, § 38-82; Ord. No. 10-2215, 12-16-2010)

Secs. 38-62—38-82. Reserved.

ARTICLE IV. FIRE PROTECTION WATER SUPPLIES

Sec. 38-83. Authority.

Section 507 of the state fire code requires inspection, testing and maintenance of fire protection water supplies which include water lines and fire hydrant systems. Fire hydrant systems shall be subject to periodic tests, maintained in an operative condition at all times and shall be repaired where defective. Additions, repairs, alterations and servicing shall comply with approved standards. Section 101 of the state fire code authorizes the city to adopt rules to implement the fire code.

(Code 2004, § 38-95; Ord. No. 20-2451, 7-20-2020)

Sec. 38-84. Purpose.

The city council finds that it is in the best interest of the city to outline the policy and procedures for the maintenance and use of public and private fire hydrants. It is in the public interest that both public and private hydrants are inspected and tested by qualified personnel and repaired and maintained in good working order to protect life and property.

(Code 2004, § 38-96; Ord. No. 20-2451, 7-20-2020)

Sec. 38-85. Privately owned hydrants.

(a) The city considers the private hydrants part of the municipal waterworks system. It is in the public interest that private hydrants be inspected and tested by qualified personnel and repaired and maintained in good working order to protect life and property.

(b) Fire protection inspections shall be conducted annually on all private hydrants directly or indirectly connected to the municipal water system. This inspection shall include testing of the operation, flow of the hydrants and ensuring a good condition marking flag is properly installed. The city utility staff shall work with Spring Lake Park/Blaine/Mounds View (SBM) fire department to complete all inspections, including those on private property as private infrastructure.

(c) In the event the inspection indicates that repairs are required, the city shall notify the owner of the hydrant or water line, with a copy to the fire department, setting forth the repairs required. If repairs are not made within the time period set forth by the public works department in the notification, the necessary repairs shall be made by the city and the cost billed to the owner.

(d) The property owner may sign a waiver and petition the city for the repairs. The city will contract for the repairs and bill the property owner. Unpaid invoices shall be assessed to the property in accordance with the city's assessment policy.

(e) Private hydrants shall be painted in the color red.

(Code 2004, § 38-97; Ord. No. 20-2451, 7-20-2020)

Sec. 38-86. Emergency repairs.

Should emergency repairs become visibly evident (broken water main, hydrant won't shut off, etc.), during the inspection/testing process, the public works department will be notified immediately by the inspector. The public works department shall take actions necessary to stabilize the water supply from further loss.

(Code 2004, § 38-98; Ord. No. 20-2451, 7-20-2020)

Sec. 38-87. Hydrant access.

(a) There shall be no less than 36 inches of horizontal clearance on all sides of the hydrant.

(b) All hydrants are to be free of obstacles so that the hydrant may be seen by approaching fire apparatus at a minimum distance of 200 feet.

(c) Posts, fences, vehicles, brush, trash, and other items shall not be placed or kept near fire hydrants.

(d) The fire department shall not be deterred or hindered from gaining immediate access to a hydrant.

(Code 2004, § 38-99; Ord. No. 20-2451, 7-20-2020)

Chapters 39—41

RESERVED

Chapter 42

HEALTH AND PUBLIC WELFARE*

Article I. In General

Sec. 42-1. Board of health.
Secs. 42-2—42-20. Reserved.

Article II. Tobacco

Division 1. Generally

Sec. 42-21. Purpose.
Sec. 42-22. Definitions and interpretations.
Sec. 42-23. Criminal violations.
Sec. 42-24. Violations and administrative penalties.
Sec. 42-25. Exceptions and defenses.
Sec. 42-26. Prohibited sales.
Sec. 42-27. Responsibility.
Sec. 42-28. Compliance checks and inspections.
Sec. 42-29. Other prohibited acts.
Secs. 42-30—42-46. Reserved.

Division 2. License

Sec. 42-47. General provisions.
Sec. 42-48. Basis for denial.
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Secs. 42-50—42-71. Reserved.

Article III. Clandestine Drug Lab Sites and Chemical Dumpsites

Sec. 42-72. General provisions.
Sec. 42-73. Administration.
Sec. 42-74. Violations and penalties.

***State law reference**—Health, M.S.A. chs. 144—159 et seq., as amended from time to time.

ARTICLE I. IN GENERAL**Sec. 42-1. Board of health.**

Pursuant to M.S.A. ch. 145A, a board of health is established in and for the city, with the powers, rights, duties and functions as provided in such statutes. (Code 1963, § 11-1; Code 1980, § 11-1; Code 2004, § 42-1)

State law references—Local board of health authorized, M.S.A. § 145A.03, subd. 1; minimum number of members of local board of health, M.S.A. § 145A.03, subd. 4.

Secs. 42-2—42-20. Reserved.**ARTICLE II. TOBACCO****DIVISION 1. GENERALLY****Sec. 42-21. Purpose.**

Because the city recognizes that the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to persons under the age of 21 years violates both state and federal law, this article is intended to regulate the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, to protect youth and young adults against the serious health effects associated with use and inhalation, and to further the official public policy of the state to prevent young people from starting to smoke, as stated in M.S.A. § 144.391, as it may be amended from time to time.

(Code 2004, § 42-31; Ord. No. 23-2522, 2-22-2023)

State law references—Minnesota Clean Indoor Air Act, M.S.A. § 144.411 et seq.; cigarette licenses, M.S.A. § 461.12 et seq.; sale of tobacco to underage persons, M.S.A. § 609.685; local regulation of tobacco sales, M.S.A. §§ 462.12, subd. 1, 461.19, 609.685, subd. 4.

Sec. 42-22. Definitions and interpretations.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Child-resistant packaging means packaging that meets the definition set forth in 16 CFR 1700.15(b), and was tested in accordance with the method described in 16 CFR 1700.20, as in effect on January 1, 2015.

Cigar means any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in M.S.A. § 297F.01, subd. 3, as it may be amended from time to time.

Compliance checks means the system the city uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this article. Compliance checks involve the use of persons under the age of 21 years who purchase or attempt to purchase licensed products. Compliance checks may also be conducted by the city or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to licensed products.

Electronic delivery device means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. The term "electronic delivery device" includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. The term "electronic delivery device" includes any component part of a product, whether or not marketed or sold separately. The term "electronic delivery device" does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as drugs, devices, or combination products, as defined in the Federal Food, Drug, and Cosmetic Act.

Flavored product means any licensed product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the product, including, but not limited to, any taste or smell relating to chocolate, cocoa, menthol, mint, wintergreen, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a licensed product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces a taste or smell other than a taste or smell of tobacco will constitute presumptive evidence that the product is a flavored product.

Imitation tobacco product means any edible non-tobacco product designed to resemble a tobacco product, or any non-edible tobacco product designed to resemble a tobacco product and intended to be used by children as a toy. The term "imitation tobacco product" includes, but is not limited to, candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling chewing tobacco, and shredded beef jerky in containers resembling tobacco snuff tins. The term "imitation tobacco product" does not include electronic delivery devices or nicotine or lobelia delivery products.

Indoor area means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

Licensed products is the term that collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

Loosies is the common term used to refer to single cigarettes, cigars, and any other licensed products that have been removed from their original retail packaging and offered for sale. The term "loosies" does not include premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor.

Moveable place of business means any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and that is not a fixed address or other permanent type of structure licensed for over-the-counter sales transactions.

Nicotine or lobelia delivery product means any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device, as defined in this section. The term "nicotine or lobelia delivery product" does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as drugs, devices, or combination products, as defined in the Federal Food, Drug, and Cosmetic Act.

Retail establishment means any place of business where licensed products are available for sale to the general public. The term "retail establishment" includes, but is not limited to, grocery stores, tobacco products stores, convenience stores, liquor stores, gasoline service stations, bars, and restaurants.

Sale means any transfer of goods for money, trade, barter or other consideration.

Self-service display means the open display of licensed products in a retail establishment in any manner where any person has access to the licensed products without the assistance or intervention of the licensee or the licensee's employee and where a physical exchange of the licensed product from the licensee or the licensee's employee to the customer is not required in order to access the licensed products.

Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made of, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. The term "smoking" also includes carrying or using an activated electronic delivery device.

Tobacco means any product containing, made of, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to, cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. The term "tobacco" does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as drugs, devices, or combination products, as defined in the Federal Food, Drug, and Cosmetic Act.

Tobacco products store means a retail establishment that has an entrance door opening directly to the outside and that derives or is expected to derive more than 90 percent of its gross revenue from the sale of tobacco, tobacco-related devices, and electronic delivery devices, but does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

Tobacco-related device means any rolling papers, wraps, pipes, or other devices intentionally designed or intended to be used with tobacco products. The term "tobacco-related device" includes components of tobacco-related devices or tobacco products, which may be marketed or sold separately. Tobacco-related devices may or may not contain tobacco.

Vending machine means any mechanical, electric or electronic, or other type of device that dispenses licensed products upon the insertion of money, tokens, or other form of payment into or onto the device by the person seeking to purchase the licensed product.

(Code 2004, § 42-32; Ord. No. 23-2522, 2-22-2023)

Sec. 42-23. Criminal violations.

(a) *Misdemeanor prosecution.* Nothing in this section prohibits the city from seeking prosecution as a misdemeanor for an alleged second violation of this article by a person 21 years of age or older within five years of a previous conviction under this article.

(b) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(Code 2004, § 42-33; Ord. No. 23-2522, 2-22-2023)

Sec. 42-24. Violations and administrative penalties.

(a) *Violations.*

(1) *Notice.* A person violating this article may be issued, either personally or by mail, a citation from the city that sets forth the alleged violation and that

informs the alleged violator of their right to a hearing on the matter and how and where a hearing may be requested, including a contact address and phone number.

(2) *Hearings.*

- a. Upon issuance of a citation, a person accused of violating this article may request in writing a hearing on the matter. Hearing requests must be made within ten business days of the issuance of the citation and delivered to the city clerk or other designated city officer. Failure to properly request a hearing within ten business days of the issuance of the citation will terminate the person's right to a hearing.
- b. The city clerk or other designated city officer will set the time and place for the hearing. Written notice of the hearing time and place will be mailed or delivered to the accused violator at least ten business days prior to the hearing.

(3) *Hearing officer.* The city council will designate a hearing officer. The hearing officer will be an impartial employee of the city or an impartial person retained by the city to conduct the hearing.

(4) *Decision.* A decision will be issued by the hearing officer within ten business days of the hearing. If the hearing officer determines that a violation of this article did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed, will be recorded in writing, a copy of which will be provided to the city and the accused violator by in-person delivery or mail as soon as practicable. If the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings will be recorded and a copy will be provided to the city and the acquitted accused violator by in-person delivery or mail as soon as practicable. The decision of the hearing officer is final, subject to an appeal as described in subsection (a)(6) of this section.

(5) *Costs.* If the citation is upheld by the hearing officer, the city's actual expenses in holding the hearing, up to a maximum of \$1,000.00, must be paid by the person requesting the hearing.

(6) *Appeals.* Appeals of any decision made by the hearing officer must be filed in the county district court within ten business days of the date of the decision.

(b) *Administrative penalties.*

(1) *Licensees.* Any licensee cited for violating this article, or whose employee has violated this article, will be charged an administrative fine of \$300.00 for a first violation; \$600.00 for a second offense at the same licensed premises within a 36-month period; and \$1,000.00 for a third or subsequent offense at the same location within a 36-month period. Upon the third violation, the

license will be suspended for a period of not less than 30 consecutive days and may be revoked. Upon a fourth violation within a 36-month period, the license will be revoked.

- (2) *Employees of licensees and other individuals.* Individuals, other than persons under the age of 21 years regulated by subsection (b)(3) of this section, who are found to be in violation of this article may be charged an administrative fine of \$50.00.
- (3) *Persons under the age of 21 years.* Persons under the age of 21 years who use a false identification to purchase or attempt to purchase licensed products may only be subject to noncriminal, non-monetary civil penalties or remedies, such as tobacco-related education classes, diversion programs, community services, or another non-monetary, civil penalty that the city determines to be appropriate. The city council will consult with educators, parents, guardians, persons under the age of 21 years, public health officials, court personnel, and other interested parties to determine an appropriate remedy for persons under the age of 21 years in the city in the best interest of the underage person. The remedies for persons under 21 years of age who use a false identification to purchase or attempt to purchase licensed products may be established by ordinance and amended from time to time.
- (4) *Statutory penalties.* The administrative penalties for violation provided in subsection (b)(1) of this section are as currently authorized by M.S.A. § 461.12. If M.S.A. § 461.12 is amended to provide higher penalties, the then higher statutory penalties shall apply in lieu of those provided in this section. (Code 2004, § 42-34; Ord. No. 23-2522, 2-22-2023)

Sec. 42-25. Exceptions and defenses.

(a) *Religious, spiritual, or cultural ceremonies or practices.* Nothing in this article prevents the provision of tobacco or tobacco-related devices to any person as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice.

(b) *Reasonable reliance.* It is an affirmative defense to a violation of this article for a person to have reasonably relied on proof of age as described by state law. (Code 2004, § 42-36; Ord. No. 23-2522, 2-22-2023)

Sec. 42-26. Prohibited sales.

- (a) *In general.* No person shall sell or offer to sell any licensed product:
 - (1) By means of any type of vending machine.
 - (2) By means of loosies.
 - (3) Containing opium, morphine, jimson weed, belladonna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances

except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other products subject to this article.

- (4) By means of self-service display. All licensed products must be stored behind the sales counter, in a locked case, in a storage unit, or in another area not freely accessible to the general public. Any retailer selling licensed products at the time the ordinance from which this article is derived is adopted must comply with this section within 90 days of the effective date of the ordinance from which this article is derived.
- (5) By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, article provision, or other regulation.

(b) *Legal age.* No person shall sell any licensed product to any person under the age of 21 years.

- (1) *Age verification.* Licensees must verify, by means of government-issued photographic identification containing the bearer's date of birth, that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30 years. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.
- (2) *Signage.* Notice of the legal sales age, age verification requirement, and possible penalties for underage sales must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the city, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

(c) *Cigars.* No person shall sell or offer to sell:

- (1) Any cigar unless it is within a package containing a minimum of five cigars; and
- (2) Any package of cigars for a sales price of less than \$15.00 per package, after any discounts are applied and before sales taxes are imposed.

This provision does not prohibit the sale of a single cigar with a sales price of at least \$4.00, after any discounts are applied and before sales taxes are imposed.

(d) *Imitation tobacco products.* No person shall sell, offer to sell, or otherwise distribute any imitation tobacco products within the city.

(e) *Liquid packaging.* No person shall sell or offer to sell any liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, in packaging that is not child-resistant. Upon request by the city, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.
(Code 2004, § 42-37; Ord. No. 23-2522, 2-22-2023)

Sec. 42-27. Responsibility.

All licensees are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the licensee.
(Code 2004, § 42-38; Ord. No. 23-2522, 2-22-2023)

Sec. 42-28. Compliance checks and inspections.

All licensed premises must be open to inspection by law enforcement or other authorized city officials during regular business hours. From time to time, but at least once per year, the city will conduct compliance checks. In accordance with state law, the city will conduct a compliance check that involves the participation of a person, at least 17 years of age, but under the age of 21 years, to enter the licensed premises to attempt to purchase licensed products. Prior written consent from a parent or guardian is required for any person under the age of 18 years to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel.
(Code 2004, § 42-39; Ord. No. 23-2522, 2-22-2023)

Sec. 42-29. Other prohibited acts.

(a) *Prohibited furnishing or procurement.* It is a violation of this article for any person 21 years of age or older to purchase or otherwise obtain any licensed product on behalf of a person under the age of 21 years. It is also a violation for any person 21 years of age and older to coerce or attempt to coerce a person under the age of 21 years to purchase or attempt to purchase any licensed product.

(b) *Use of false identification.* It is a violation of this article for any person to use any form of false identification, whether the identification is that of another person or has been modified or tampered with to represent an age older than the actual age of the person using that identification.
(Code 2004, § 42-40; Ord. No. 23-2522, 2-22-2023)

Secs. 42-30—42-46. Reserved.

DIVISION 2. LICENSE

Sec. 42-47. General provisions.

(a) *License required.* No person shall sell or offer to sell any licensed product without first having obtained a license to do so from the city.

(b) *Application.* An application for a license to sell licensed products must be made on a form provided by the city. The application must 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 will forward the application to the city council for action at its next regularly scheduled meeting. If the city clerk determines that an application is incomplete, it will be returned to the applicant with notice of the information necessary to make the application complete.

(c) *Number of licenses.*

- (1) The number of tobacco licenses issued in conjunction with a grocery store, convenience store, liquor store, or gasoline service shall not exceed 50. Existing licenses shall remain in effect until, through attrition, the maximum number of licenses is met.
- (2) The number of tobacco licenses issued to a tobacco products store shall not exceed 12. Existing licenses shall remain in effect until, through attrition, the maximum number of licenses is met.
- (3) The number of tobacco licenses issued to a tobacco products store immediately adjacent to a restaurant of the same owner whose primary retail product is cigars shall not exceed three.
- (4) The city council is not required to issue the full number of tobacco licenses it has available for any license type.

(d) *Action.* The city council may approve or deny the application for a license, or it may delay action for a reasonable period of time to complete any investigation of the application or the applicant deemed necessary. If the city council approves the application, the city clerk will issue the license to the applicant. If the city council denies the application, notice of the denial will be given to the applicant along with notice of the applicant's right to appeal the decision.

(e) *Term.* All licenses issued are valid for one calendar year from the date of issue.

(f) *Revocation or suspension.* Any license issued may be suspended or revoked following the procedures set forth in section 42-24.

(g) *Transfers.* All licenses issued are valid only on the premises for which the license was issued and only for the person to whom the license was issued. The transfer of any license to another location or person is prohibited.

(h) *Display*. All licenses must be posted and displayed at all times in plain view of the general public in the retail establishment.

(i) *Renewals*. The renewal of a license issued under this article will be handled in the same manner as the original application. The request for a renewal must be made at least 30 days, but no more than 60 days, before the expiration of the current license.

(j) *Issuance as privilege and not a right*. The issuance of a license is a privilege and does not entitle the license holder to an automatic renewal of the license.

(k) *Instructional program*. Licensees must complete and ensure that all employees complete a training program on the legal requirements related to the sale of licensed products and the possible consequences of license violations. Any training program must be pre-approved by the city. Licensees must maintain documentation demonstrating their compliance and must provide this documentation to the city at the time of renewal, or whenever requested to do so during the license term.

(l) *Smoking prohibited*. Smoking, including smoking for the purpose of the sampling of licensed products, is prohibited within the indoor area of any retail establishment licensed under this article, except in a tobacco products store.

(m) *Samples prohibited*. No person shall distribute samples of any licensed product free of charge or at a nominal cost. The distribution of licensed products as a free donation is prohibited.

(Code 2004, § 42-61; Ord. No. 23-2522, 2-22-2023; Ord. No. 24-2563, 9-16-2024)

Sec. 42-48. Basis for denial.

(a) Grounds for denying the issuance or renewal of a license include, but are not limited to, the following:

- (1) The applicant is under 21 years of age.
- (2) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, article provision, or other regulation relating to licensed products.
- (3) The applicant has had a license to sell licensed products suspended or revoked within the preceding 12 months of the date of application.
- (4) The applicant fails to provide any of the information required on the licensing application or provides false or misleading information.
- (5) The applicant is prohibited by federal, state, or other local law, article, or other regulation from holding a license.
- (6) The business for which the license is requested is a moveable place of business. Only fixed-location retail establishments are eligible to be licensed.

(b) If a license is mistakenly issued or renewed to a person, the city will revoke the license upon the discovery that the person was ineligible for the license under this article. The city will provide the license holder with notice of the revocation, along with information on the right to appeal.

(Code 2004, § 42-62; Ord. No. 23-2522, 2-22-2023)

Sec. 42-49. Fees.

No license will be issued under this article until the appropriate license fees are paid in full. The fees will be established by the city's fee schedule and may be amended from time to time.

(Code 2004, § 42-63; Ord. No. 23-2522, 2-22-2023)

Secs. 42-50—42-71. Reserved.

ARTICLE III. CLANDESTINE DRUG LAB SITES AND CHEMICAL DUMPSITES

Sec. 42-72. General provisions.

(a) *Purpose and intent.* The purpose of this article is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine drug lab site or associated dumpsite may exist. The city council finds that such sites may contain suspected chemicals and residues that place people, particularly children or adults of child-bearing age, at risk when exposed through inhabiting or visiting the site, now and in the future.

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Chemical dumpsite means any place or area where chemicals or other waste materials used in a clandestine drug lab have been located.

Child means any person less than 18 years of age.

Clandestine drug lab means the unlawful manufacture or attempt to manufacture controlled substances.

Clandestine drug lab site means any place or area where law enforcement has determined that conditions associated with the operation of an unlawful clandestine drug lab exist. The term "clandestine drug lab site" includes any dwellings, accessory structures, a chemical dumpsite or any land.

Controlled substance means a drug, substance or immediate precursor in Schedules I through V or M.S.A. § 152.02. The term "controlled substance" shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

Household hazardous wastes means waste generated from a clandestine drug lab. Such wastes shall be treated, stored, transported or disposed of in a manner consistent with state department of health, state pollution control, and county health department rules and regulations.

Manufacture, in places other than a pharmacy, means and includes the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

Owner means any person or entity who owns, in whole or in part, the land, buildings, or structures associated with a clandestine drug lab site or chemical dumpsite.

Public health nuisance means all dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site which are potentially unsafe due to health hazards and are considered a public health nuisance.

(Code 2004, § 42-91; Ord. No. 04-2014, 5-20-2004)

Sec. 42-73. Administration.

(a) *Law enforcement notice to other authorities.* Law enforcement authorities that identify conditions associated with a clandestine drug lab site or chemical dumpsite that places neighbors, visiting public or present and future occupants of the dwelling at risk for exposure to harmful contaminants and other associated conditions must promptly notify the appropriate municipal, child protection, and public health authorities of the property location, property owner, if known, and conditions found.

(b) *Declaration of property as a public health nuisance.* If law enforcement determines the existence of a clandestine drug lab site or chemical dumpsite, the property shall be declared a public health nuisance.

(c) *Notice of public health nuisance to concerned parties.* Upon notification by law enforcement authorities, the city shall promptly issue a declaration of public health notice for the affected property and post a copy of the declaration at the probable entrance to the dwelling or property. The city shall also notify the owner of the property by mail and notify the following parties:

- (1) Occupants of the property;
- (2) Neighbors at probable risk; and
- (3) Other state and local authorities, such as Minnesota Pollution Control Agency (MPCA) and Minnesota Department of Health (MDH), which are known to have public and environmental protection responsibilities that are applicable to the situation.

(d) *Issuance of order.* The city shall also issue an order to abate the public health nuisance, including the following:

- (1) A description of the sites and all portions that are determined contaminated.
- (2) That all portions of the site that are determined to be contaminated be vacated.
- (3) That the owner commence and complete all testing and clean-up procedures and other remedial action by the dates specified in the order or such other dates agreed to by the city.
- (4) That the site may not be reoccupied or used in any manner until it has been completely cleaned in accordance with the guidelines established by the state department of health.

- (5) That if the owner does not commence testing and complete the clean-up procedures by the dates established in the order, the city will enter the property and provide the testing and clean-up services at the owner's expense.
- (6) That the owner is responsible for all associated costs and, if not paid, will be assessed against the property.

(e) *Responsibilities of owner.*

- (1) Upon receipt of the notice and order, the owner will be responsible for the following:
 - a. Ensure that the site and all surrounding areas determined to be at risk are properly vacated.
 - b. Engage an appropriate environmental testing firm to assess the extent of the contamination, monitor the clean-up process, provide follow up testing after the completion of the clean-up process, and certify that the risks of contamination have been sufficiently reduced to allow safe occupancy of the site.
 - c. Engage an appropriate contractor to properly clean the site in accordance with the guidelines of the state department of health.
 - d. Provide the city with copies of all testing results and the clean-up plan.
 - e. Keep the city regularly advised through the process of testing and clean-up.
 - f. Upon completion of the clean-up process, provide the city with a copy of the final certification from the testing firm that the site is fit for human habitation and a written, signed statement that the clean-up met all state department of health guidelines.
- (2) If the owner, after due diligence, cannot be located or has not commenced appropriate action toward the clean-up of the site on or before the date established by the order, the city is authorized to enter the property for the purpose of abating the public nuisance through vacating, testing and cleaning the site. When appropriate, the abatement process may include the demolition and removal of a hazardous building or structure.

(f) *Property owner's responsibility for costs.* The property owner shall be responsible for all costs of vacation or clean-up of the site, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dumpsite clean-up. Public costs may include, but are not limited to:

- (1) Emergency response;
- (2) Posting on the site;
- (3) Notification of affected parties;

- (4) Expenses related to the recovery of costs, including the assessment process;
 - (5) Laboratory fees;
 - (6) Clean-up services;
 - (7) Administrative fees; and
 - (8) Other associated costs.
 - (g) *Recovery of public costs.*
 - (1) Within 30 days after receipt of an invoice from the city, the owner will submit payment in full for all costs associated with the clean-up project.
 - (2) If the city is unable to locate the owner or if the owner fails to submit payment, the city shall be entitled to recover all costs, plus an additional 25 percent of the costs for administration. The city may recover costs by civil action against the persons who own the property or by assessing such costs as a special tax against the property in the manner as taxes and special assessments are certified and collected in accordance with applicable law.
- (Code 2004, § 42-92; Ord. No. 04-2014, 5-20-2004)

Sec. 42-74. Violations and penalties.

Any person violating any provision of this article is guilty of a misdemeanor.
(Code 2004, § 42-93; Ord. No. 04-2014, 5-20-2004)

Chapters 43—45

RESERVED

Chapter 46

MANUFACTURED HOMES*

Article I. In General

- Sec. 46-1. Definitions.
- Sec. 46-2. Intent.
- Sec. 46-3. Temporary parking on street.
- Sec. 46-4. Parking outside of parks.
- Sec. 46-5. Recreational camping area permit.
- Secs. 46-6—46-30. Reserved.

Article II. Administration, Enforcement, and Ongoing Requirements

- Sec. 46-31. Officer designated.
- Sec. 46-32. Correction of violations.
- Sec. 46-33. Variances.
- Sec. 46-34. Inspection fee.
- Sec. 46-35. Water system flushing.
- Secs. 46-36—46-54. Reserved.

Article III. Traffic in Manufactured Home Parks

- Sec. 46-55. Speed limit.
- Sec. 46-56. Stop signs and crosswalks.
- Sec. 46-57. Purpose.
- Sec. 46-58. Right of entry.
- Sec. 46-59. Regulatory provisions and stopping of motor vehicles.
- Sec. 46-60. Misdemeanor traffic violations.
- Sec. 46-61. Petty misdemeanor traffic violations.

***State law references**—Manufactured homes and recreational camping areas, M.S.A. § 327.15 et seq.; manufactured home sales, M.S.A. ch. 327B; manufactured home park rentals, M.S.A. ch. 327C.

ARTICLE I. IN GENERAL**Sec. 46-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Camping trailer means a folding structure, mounted on wheels and designed for travel, recreation and vacation use.

Lot means a parcel of ground in a manufactured home park of not less than 4,500 square feet of unoccupied space in an area designated as the location for one manufactured home, off-street parking space for two automobiles, and other uses considered pertinent to the establishment and use of a manufactured home.

Manufactured home means a structure, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term "manufactured home" includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development or the head of any successor agency with responsibility for enforcement of federal laws relating to manufactured homes and complies with the standards established under M.S.A. ch. 327.

State law reference—Similar provisions, M.S.A. § 327.31, subd. 6.

Manufactured home park means any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

State law reference—Similar provisions, M.S.A. § 327.14, subd. 3.

Motor-home means a portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.

Recreational camping area means any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of one or more units, consisting of tents, travel trailers, pickup coaches, motor-homes, or camping trailers, and whether use of such accommodation is granted free of charge or for compensation.

Recreational camping vehicle means any of the following:

- (1) *Generally.* Any tent or vehicle named in the definition of the term "recreational camping area."
 - (2) *Travel trailer.* A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified as a travel trailer by the manufacturer of the trailer.
 - (3) *Pickup coach.* A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
- (Code 1963, § 57.01; Code 1980, § 12-1; Code 2004, § 46-1; Ord. No. 413, 2-6-1975)

Sec. 46-2. Intent.

The intent of this chapter is to promote health, safety, order, convenience, and general welfare by enforcing minimum standards for manufactured homes, manufactured home parks, recreational camping vehicles, recreational camping areas, the location and use, and arrangements of manufactured homes and recreational camping vehicles on manufactured home lots or in recreational camping areas, and by authorizing the inspection of manufactured homes and manufactured home parks and recreational camping areas and fixing penalties for violations.

(Code 1963, § 57.01; Code 1980, § 12-2; Code 2004, § 46-2; Ord. No. 413, 2-6-1975)

Sec. 46-3. Temporary parking on street.

Emergency or temporary stopping or parking of manufactured homes or recreational camping vehicles is permitted on any street, alley, or highway for not longer than three hours, subject to any other and further prohibitions, regulations, or limitations imposed by the traffic and parking regulations or ordinances for that street, alley, or highway.

(Code 1963, §§ 37.75, 57.02(B); Code 1980, § 12-6; Code 2004, § 46-3; Ord. No. 413, 2-6-1975)

Sec. 46-4. Parking outside of parks.

(a) *Manufactured homes.* No person shall park any manufactured home on the premises of any occupied dwelling or any lot which is not part of the premises of any occupied dwelling, either of which is situated outside of an approved manufactured home park; except, the parking of only one manufactured home unoccupied in an accessory private garage building is permitted, provided that no living quarters shall be maintained or any businesses practiced in such manufactured home while such manufactured home is so parked or stored and the temporary use of a manufactured home for specified purposes in subsection (c) of this section. Occupied

manufactured homes installed in accordance with applicable codes are permitted in all locations where single-family homes are permitted subject to the standards of the applicable zoning district.

(b) *Recreational camping vehicles.* No person shall occupy any recreational camping vehicle on the premises of any lot which is not part of an approved manufactured home park or recreational camping area, except as provided in subsection (c) of this section. However, the parking of an unoccupied recreational camping vehicle is permitted on any occupied lot which has a permanent structure.

(c) *Permit for temporary use of manufactured home or recreational camping vehicle.* Temporary permits may be issued for:

- (1) *Temporary sales office.* Temporary permits may be issued by the building official for the temporary use of a manufactured home as a sales office for a residential subdivision following the standards listed in section 74-109(c) or for a multifamily development (apartments) with an active building permit for a period not to exceed 90 days. Sales offices shall meet the requirements of the state accessibility code.
- (2) *Temporary construction office.* The use of a manufactured home as a temporary construction office may be permitted as part of a building permit for residential or commercial construction. The location and size of the office shall be specified on the approved plan set. Temporary construction offices shall be removed within 30 days of issuance of a certificate of occupancy.
- (3) *Temporary office.* Temporary permits may be issued by the city manager, or designee, for the temporary use of a manufactured home as an office when such manufactured home is located outside of an authorized manufactured home park. Such temporary permits shall be limited to periods of not more than 90 days with renewal beyond 90 days requiring approval of the city council.
- (4) *Temporary dwelling due to disaster.* Temporary permits may be issued by the city manager, or designee, to park a manufactured home or recreational vehicle on any lot in the city, if the principal structure has been damaged by fire, winds, flood, or in the case of a declared disaster. Such permit shall have a duration of not more than 90 days. Renewal beyond 90 days shall be by action of the city council. Use of a recreational camping vehicle for this purpose shall only be permitted when adequate sanitary facilities are available in the principal structure on such lot.
- (5) *Temporary recreational vehicle use.* Temporary permits may be issued by the city manager, or designee, to occupy a recreational camping vehicle on any

occupied residential lot for a period of not more than seven days in a calendar year, provided that adequate sanitary facilities are available in the principal structure on such lot.

(Code 1963, §§ 37.75, 37.76, 57.02(C), (D), (E), (F); Code 1980, §§ 12-7, 12-8, 12-9, 12-10; Code 2004, § 46-4; Ord. No. 413, 2-6-1975; Ord. No. 98-1695, § 6, 2-5-1998; Ord. No. 22-2514, 12-19-2022)

State law reference—Sanitary and water facilities required if parked outside of manufactured home park, M.S.A. § 327.28.

Sec. 46-5. Recreational camping area permit.

The permit fee for the establishment of a recreational camping area shall be an amount established by action of the council per site and found on the city fee schedule. This permit fee is to be paid before any work of any kind is started on the proposed recreational camping vehicle area.

(Code 1963, § 57.02(H); Code 1980, § 12-11; Code 2004, § 46-5; Ord. No. 413, 2-6-1975; Ord. No. 98-1695, § 6, 2-5-1998; Ord. No. 98-1738, 8-20-1998)

Secs. 46-6—46-30. Reserved.

ARTICLE II. ADMINISTRATION, ENFORCEMENT, AND ONGOING REQUIREMENTS

Sec. 46-31. Officer designated.

This chapter shall be administered and enforced by the building official, who is designated as enforcing officer. The building official may institute, under the name of the city, any appropriate actions or proceedings against a violator as provided by law.

(Code 1963, § 57.06(A); Code 1980, § 12-3; Code 2004, § 46-41; Ord. No. 413, 2-6-1975)

Sec. 46-32. Correction of violations.

(a) Whenever the enforcing officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, such officer shall give notice of such alleged violation to the owner of the manufactured home park or recreational camping area, or agent, as provided in this article. Such notice shall be in writing; shall include a statement of the reasons for its issuance; shall allow 30 days for the performance of any act it requires, and shall be served upon the owner or agent as the case may require, provided that such notice shall be deemed to have been properly served upon such owner or agent when a copy has been sent by certified or registered mail to such person's last known address, or when the

owner has been served by any other method authorized by the laws of the state. If work cannot be completed within the 30-day period, extensions may be granted if reasons for hardship do prevail and can be verified.

(b) This procedure shall not relieve the offender from liability to punishment as for any other violation of this Code.

(Code 1963, §§ 57.06(B), 57.06(C); Code 1980, § 12-4; Code 2004, § 46-42; Ord. No. 413, 2-6-1975)

Sec. 46-33. Variances.

The council shall have the right 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 strict application.

(Code 1963, § 57.07; Code 1980, § 12-5; Code 2004, § 46-43; Ord. No. 413, 2-6-1975)

Sec. 46-34. Inspection fee.

The building official shall inspect the installation of all manufactured homes. The inspection fee shall be established by action of the council for each manufactured home and found on the city fee schedule.

(Code 1963, § 57.02(I); Code 1980, § 12-13; Ord. No. 615, 3-1-1979; Ord. No. 98-1695, § 6, 2-5-1998; Ord. No. 98-1738, 8-20-1998)

Sec. 46-35. Water system flushing.

To promote the public health, safety and general welfare of persons within manufactured home parks, all water systems within manufactured home parks shall be flushed twice once each year. The annual period shall commence on January 1, 1980. The owner of each manufactured home park, or representative, shall contact the public utilities department to schedule the times such park will be flushing the water system.

Secs. 46-36—46-54. Reserved.

ARTICLE III. TRAFFIC IN MANUFACTURED HOME PARKS

Sec. 46-55. Speed limit.

No person shall drive, operate or be in physical control of a motor vehicle at a speed in excess of ten miles per hour within the limits of a manufactured home park or a recreational camping area. Such speed limits shall be clearly posted by the

owners of a manufactured home park or recreational camping area. The signs shall be posted throughout a manufactured home park or recreational camping area as directed by the city manager or designee.

(Ord. No. 691, 5-15-1980; Code 1980, § 12-36; Code 2004, § 46-73; Ord. No. 85-899, 8-15-1985)

Sec. 46-56. Stop signs and crosswalks.

To promote the public health, safety and general welfare of persons within manufactured home parks, the owners of manufactured home parks are required to establish and maintain appropriate stop signs and crosswalks on streets within the manufactured home park. The city manager, or authorized representative, shall determine and approve the location of the stop signs and crosswalks.

Sec. 46-57. Purpose.

This article is adopted for the safety and protection of persons and property, pursuant to M.S.A. § 327.26, subd. 2.

(Code 1980, § 12-50; Code 2004, § 46-151; Ord. No. 99-1767, 2-4-1999)

Sec. 46-58. Right of entry.

Authorized law enforcement personnel shall be permitted in manufactured home parks at any time, for the safety and protection of persons and property or for the enforcement of state statutes or this article.

(Code 1980, § 12-51; Code 2004, § 46-152; Ord. No. 99-1767, 2-4-1999)

Sec. 46-59. Regulatory provisions and stopping of motor vehicles.

The operation of motor vehicles on private roads within a manufactured home park shall be subject to the highway traffic regulatory provisions of M.S.A. ch. 169, notwithstanding M.S.A. § 169.02, subd. 1. Authorized law enforcement personnel shall have the same authority to stop a motor vehicle driving within a manufactured home park as authorized law enforcement personnel have to stop motor vehicles on public streets or highways.

(Code 1980, § 12-52; Code 2004, § 46-153; Ord. No. 99-1767, 2-4-1999)

Sec. 46-60. Misdemeanor traffic violations.

Any person who drives, operates, or allows the driving or operation of a motor vehicle, within a manufactured home park in violation of any of the following subsections is guilty of a misdemeanor, punishable by fine of up to \$1,000.00 or 90 days in jail:

- (1) Driving after suspension of driver's license, as set forth in M.S.A. § 171.24, subd. 1.

- (2) Driving after revocation of driver's license, as set forth in M.S.A. § 171.24, subd. 2.
 - (3) Driving after cancellation of driver's license, as set forth in M.S.A. § 171.24, subd. 3.
 - (4) Violating a restricted driver's license, as set forth in M.S.A. § 171.09.
 - (5) Failure to provide proof of insurance, as set forth in M.S.A. § 169.791, subd. 2.
 - (6) Driving with improper license plates, as set forth in M.S.A. § 168.36.
 - (7) Leaving the scene of an accident, as set forth in M.S.A. § 169.09.
 - (8) Open bottle, as set forth in M.S.A. § 169A.35.
 - (9) Disabled parking, as set forth in M.S.A. § 169.346.
- (Code 1980, § 12-53; Code 2004, § 46-154; Ord. No. 99-1767, 2-4-1999)
- State law reference**—Penalty for ordinance violations, M.S.A. §§ 410.33, 412.231, 609.0332, 609.034.

Sec. 46-61. Petty misdemeanor traffic violations.

Any person who drives, operates, or allows the driving or operation of a motor vehicle, within a manufactured home park, in violation of any of the following subsections is guilty of a petty misdemeanor, punishable by fine of up to \$300.00:

- (1) Driving with an expired driver's license, as set forth in M.S.A. § 171.27.
 - (2) Driving without a driver's license in possession, as set forth in M.S.A. § 171.08.
 - (3) Failing to change address on driver's license, as set forth in M.S.A. § 171.11.
 - (4) Driving a motorcycle without a motorcycle endorsement, as set forth in M.S.A. § 171.02, subd. 3.
 - (5) Failure to transfer title, as set forth in M.S.A. § 168A.10.
 - (6) Sign or signal violations, as set forth in M.S.A. § 169.06.
 - (7) Failure to yield violations, as set forth in M.S.A. §§ 169.20 and 169.201.
 - (8) Equipment violations (license plates), as set forth in M.S.A. § 169.50, subd. 2.
 - (9) Obstructed license plate violations, as set forth in M.S.A. § 169.50, subd. 2.
 - (10) Obstructed view violations, as set forth in M.S.A. § 169.37.
 - (11) Seatbelt violations, as set forth in M.S.A. § 169.686.
- (Code 1980, § 12-54; Code 2004, § 46-155; Ord. No. 99-1767, 2-4-1999)
- State law reference**—Penalty for ordinance violations, M.S.A. §§ 410.33, 412.231, 609.0332, 609.034.

Chapters 47—49

RESERVED

Chapter 50

OFFENSES

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OFFENSES

Sec. 50-328. Enforcement.

Sec. 50-329. Prohibited acts.

ARTICLE I. IN GENERAL**Sec. 50-1. State criminal statutes; adoption by reference.**

The state criminal statutes, M.S.A. ch. 609, are adopted as the law of the city and incorporated in and made a part of this Code as if set out completely in this section, except those portions of M.S.A. ch. 609 which deal with gross misdemeanors and felonies.

(Code 1963, § 108.01; Code 1980, § 13-1; Code 2004, § 50-1; Ord. No. 244, 8-20-1970)

State law reference—Adoption by reference, M.S.A. § 471.62.

Sec. 50-2. Consuming intoxicating beverage in public.

Any person consuming an intoxicating beverage on any street or public place within the city is guilty of a misdemeanor.

(Code 1963, § 83.05; Code 1980, § 13-2; Code 2004, § 50-2; Ord. No. 417, 12-19-1974)

Sec. 50-3. Drug paraphernalia.

(a) It is unlawful for any person knowingly or intentionally to use or possess drug paraphernalia.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Drug paraphernalia.

- (1) The term "drug paraphernalia" means all equipment, products, and materials of any kind, except those used in conjunction with permitted uses of controlled substances pursuant to state law, which are knowingly or intentionally used primarily in:
 - a. Manufacturing a controlled substance;
 - b. Injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance; or
 - c. Enhancing the effect of a controlled substance.
 - (2) The term "drug paraphernalia" does not include the possession, manufacture, delivery, or sale of:
 - a. Hypodermic syringes or needles or any instrument or implement which can be adapted for subcutaneous injections;
 - b. Products that detect the presence of fentanyl or a fentanyl analog in a controlled substance; or
 - c. Cannabis paraphernalia as defined by M.S.A. § 342.01, subd. 18.
- (Code 2004, § 50-3; Ord. No. 23-2536, 12-4-2023)

Secs. 50-4—50-24. Reserved.

ARTICLE II. OFFENSES INVOLVING PROPERTY RIGHTS*

DIVISION 1. GENERALLY

Secs. 50-25—50-51. Reserved.

DIVISION 2. GRAFFITI†

Sec. 50-52. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Graffiti means defacing of public or private property by any means, including painting, drawing, writing, etching, inscription, burning, or carving with paint, spray paint, ink, knife, or any other method without written permission of the owner of the property.

Owner means any person owning, leasing, occupying or having control or possession of any property in the city.

Owner of record means any person who is specified as the owner of the property by the records of the county assessor's office.

(Code 1980, § 11-104; Code 2004, § 50-51; Ord. No. 99-1818, 10-21-1999)

Sec. 50-53. Intent.

The intent of this division is to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property. Graffiti is a public nuisance and is destructive to the rights and values of property owners as well as the entire community.

(Code 1980, § 11-103; Code 2004, § 50-53; Ord. No. 99-1818, 10-21-1999)

Sec. 50-54. Abatement of defaced property.

(a) All property which is defaced by graffiti is declared to be a public nuisance and, in the interest of public health, safety, morals, and general welfare, shall be abated as set forth by ordinance or state law.

***State law reference**—Offenses involving property rights, M.S.A. § 609.52 et seq.

†**State law reference**—Criminal damage to property, M.S.A. § 609.595.

(b) Whenever any graffiti is found on a property, the city manager may cause a written order to be sent to the owner of the property upon which the graffiti exists. The written order shall direct the owner to:

- (1) Remove the graffiti within ten calendar days or such longer periods as determined for good cause by the city manager at the owner's expense; or
- (2) Provide written consent and agreement for the city to enter upon the property to remove the graffiti within ten calendar days or such longer period as determined for good cause by the city manager at the expense of the owner.

(c) The owner shall be advised in the written order of the owner's right to a hearing before the city administrative municipal court hearing officer. If a hearing is requested and the hearing officer determines that the graffiti must be removed by the owner and the owner fails to comply with the order of the hearing officer, the city may cause the graffiti to be removed or corrected at the expense of the owner, in addition to an administrative fine set forth by the city administrative municipal court fine schedule. Collection of the expenses associated with the removal of the graffiti and the administrative fine shall be according to the provisions of the city administrative municipal court procedures.

(d) If the owner fails to remove the graffiti or request a hearing before the city administrative municipal court within ten calendar days or such longer period as determined for good cause by the city manager after written notice is given, the city will remove the graffiti at the expense of the owner, in addition to an administrative fee determined by the city.

(Code 1980, § 11-107; Code 2004, § 50-54; Ord. No. 99-1818, 10-21-1999)

Sec. 50-55. Prohibited acts.

(a) It is unlawful for any person to deface public or private property through the use of graffiti.

(b) It is unlawful for any person to possess, while on public or private property without the consent of the owner of such property, any paint, spray paint, broad-tipped marker, etching equipment, or other substance or article adapted, designed, or commonly used for committing or facilitating the commission of the offense of graffiti with the intent to use the substance or article, or with the knowledge that some person intends to use the substance or article, in the commission of such offense as set forth in subsection (a) of this section.

(c) It is unlawful for any person or entity owning property, acting as manager or agent for the owner of the property, or in possession or control of property to permit graffiti to remain on such property.

(Code 1980, § 11-105; Code 2004, § 50-55; Ord. No. 99-1818, 10-21-1999)

Secs. 50-56—50-83. Reserved.

DIVISION 3. RESIDENTIAL PICKETING

Sec. 50-84. Findings and purpose.

The city has an interest in the protection of residential privacy, the well-being and tranquility of the home, and protecting citizens from unwanted speech when they are a captive audience within their homes. The city council finds that, without resorting to targeted residential picketing, ample opportunities exist for those otherwise engaged in targeted residential picketing to exercise constitutionally protected freedoms of speech and expression.

(Code 2004, § 50-71; Ord. No. 21-2469, 4-19-2021)

Sec. 50-85. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Targeted residential picketing means:

- (1) Marching, standing, or patrolling by one or more persons directed solely at a particular residential building or occupant of a building identified by name, occupation, photograph, or other means in a manner that adversely affects the safety, security, or privacy of an occupant of the building; or
- (2) Marching, standing, or patrolling by one or more persons which prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located; or
- (3) Standing, marching, patrolling, or picketing by one or more persons focused in front of or adjacent to a particular residential dwelling without the consent of that dwelling's occupants.

(Code 2004, § 50-72; Ord. No. 21-2469, 4-19-2021)

Sec. 50-86. Prohibition.

No person shall engage in targeted residential picketing within the city.

(Code 2004, § 50-73; Ord. No. 21-2469, 4-19-2021)

Sec. 50-87. Violation constitutes misdemeanor.

Any person who engages in targeted residential picketing within the city is guilty of a misdemeanor.

(Code 2004, § 50-74; Ord. No. 21-2469, 4-19-2021)

Secs. 50-88—50-117. Reserved.

ARTICLE III. OFFENSES INVOLVING PUBLIC SAFETY**DIVISION 1. GENERALLY****Sec. 50-118. Ultimate fighting.**

(a) *Definition and purpose.* Ultimate fighting is any activity, regardless of how named or described, or any form of entertainment, where the primary practice involves individuals engaged in physical contact by striking an opponent with hands, head, feet or body. Ultimate fighting shall include, but not is limited to, any contest where kicking, punching, martial arts, or submission holds are permitted. The city council finds that the practice of ultimate fighting is dangerous and puts individuals and the public health, safety and welfare at great risk.

(b) *Prohibited conduct.* It is unlawful in any public or private building or place to organize, permit, be present at, or to participate in the practice of ultimate fighting. Officially sanctioned and regulated boxing, martial arts, wrestling and team sports in which physical contact is incidental to the primary purpose of the game, such as hockey, basketball, volleyball, soccer, baseball and softball, are not included among activities prohibited by this section.

(Code 2004, § 50-155; Ord. No. 07-2142, 8-2-2007)

Secs. 50-119—50-149. Reserved.**DIVISION 2. WEAPONS*****Sec. 50-150. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Deadly weapons means the following:

- (1) All firearms;
- (2) Bows and arrows when arrows are point tipped;
- (3) All instruments used to expel at high velocity any pellets of any kind, including, but not limited to, BB guns and air rifles;
- (4) Slingshots;

***State law references**—Municipalities prohibited from regulating firearms, ammunition, or their respective components, other than ordinances identical to state law and ordinances prohibiting discharge of firearms, M.S.A. § 471.633; weapons generally, M.S.A. § 609.66 et seq.; gun control, M.S.A. § 624.71 et seq.; local regulation of pistols preempted, M.S.A. § 624.717.

- (5) Sand clubs;
 - (6) Metal knuckles; and
 - (7) Daggers, dirks and knives.
- (Code 1963, § 101.01; Code 1980, § 13-40; Code 2004, § 50-111)

Sec. 50-151. Violations.

Any person violating this division is guilty of a misdemeanor, and, in addition thereto, any weapons used or carried shall be seized and impounded and destroyed on order of any court of competent jurisdiction.

(Code 1963, § 101.11; Code 1980, § 13-45; Code 2004, § 50-112; Ord. No. 204, 8-7-1969)

Sec. 50-152. Exemptions from division prohibitions.

Nothing in this division shall be construed to prohibit the discharge and use of deadly weapons or use of other weapons in the following situations:

- (1) By a person not a law enforcement officer if authorized by the city manager, or in the lawful defense of persons, property, or family; or
 - (2) By a law enforcement officer in the lawful execution of any duties imposed upon such officer by law.
- (Code 1963, § 101.07; Code 1980, § 13-44; Code 2004, § 50-113; Ord. No. 232, 8-15-1974; Ord. No. 04-2016, 5-20-2004)

Sec. 50-153. Possession of deadly weapons, concealed or in public park.

Except as provided in M.S.A. § 624.714, the possession by any person other than a law enforcement officer of any deadly weapon concealed or furtively carried on the person or carried openly or concealed in a public park is prohibited.

(Code 1963, § 101.05; Code 1980, § 13-41; Code 2004, § 50-114; Ord. No. 392, 8-15-1974; Ord. No. 597, 12-21-1978; Ord. No. 04-2016, 5-20-2004)

Sec. 50-154. Discharge of deadly weapon limited; archery permit; special permit at funerals; hunting with firearm.

- (a) Except as specifically authorized in this division and in section 22-1, all discharging and use of deadly weapons within the city are prohibited.
- (b) The police department may issue special permits to persons firing salutes over the graves of deceased persons. Any permits issued under this section shall be in writing and in the possession of the person using the permit.
- (c) The city manager or designee is authorized to issue temporary hunting permits for muzzle loaders only for hunting deer in the city, provided that such permits shall be issued only for the deer season in Zone 3 as authorized by the state

department of natural resources, and provided that all applicable state laws and regulations are observed, and provided that such deer hunters shall have in their possession written permission of the property owner on whose property they intend to hunt. The city manager may establish hunting area limits to protect the public safety and welfare and such hunting areas shall be approved by the city council.

(d) All rules and regulations, as established by the state department of natural resources, regarding hours, limits, zones and so forth shall be adhered to.

(Code 1963, §§ 63.01, 101.06; Code 1980, § 13-42; Code 2004, § 50-115; Ord. No. 326, 8-1-1974; Ord. No. 392, 8-15-1974; Ord. No. 663, 9-19-1979; Ord. No. 742, 10-1-1981; Ord. No. 762, 8-19-1982; Ord. No. 22-2496, 2-23-2022)

Sec. 50-155. Hunting with bow and arrow.

(a) The city manager may establish hunting area limits to protect the public safety and welfare. The city manager, or designee, is authorized to issue temporary bow and arrow deer hunting authorization for certain designated properties within the city; provided, however, that such authorization shall be issued only during the deer hunting season for bow and arrow, as authorized by the state and the state department of natural resources. All other rules and regulations established by the state department of natural resources regarding hours, limits, zones, and so forth, shall be adhered to.

(b) The city manager, or designee, may establish boundaries and restrictions for bow and arrow hunting within the city on an annual basis. Such boundaries and restrictions shall be on file with the city clerk and available at city hall for public inspection. Such boundaries and restrictions shall be designed to further public safety.

(c) Any person hunting on designated property shall have the written permission of the property owner allowing them to hunt on the designated property in their immediate possession.

(d) Any violation of this section or the bow and arrow hunting restrictions on file with the city shall be a misdemeanor.

(Code 1963, § 101.12; Code 1980, § 13-43; Code 2004, § 50-116; Ord. No. 602, 10-5-1978; Ord. No. 653, 8-16-1979; Ord. No. 706, 9-4-1980; Ord. No. 731, 8-6-1981; Ord. No. 763, 8-19-1982; Ord. No. 89-1160, 9-7-1989; Ord. No. 96-1596, 5-16-1996; Ord. No. 06-2098, 7-13-2006)

Secs. 50-156—50-178. Reserved.

DIVISION 3. DISORDERLY HOUSES*

Sec. 50-179. Defined.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Disorderly house means any building, dwelling, place, establishment or premises in which actions or conduct occur in violation of any law or ordinance relating to the following:

(1) Sale or regulation of an intoxicating liquor or 3.2 percent malt liquor.

(2) Gambling.

State law reference—Gambling, M.S.A. § 609.75 et seq.

(3) Prostitution, acts relating to prostitution, solicitation to vice, or lewd and indecent behavior.

State law reference—Prostitution and related offenses, M.S.A. § 609.321 et seq.

(4) The sale, possession or use of drugs or controlled substances as defined by state law.

State law reference—Controlled substances, M.S.A. ch. 152.

(5) Disorderly conduct as defined by state law.

State law reference—Disorderly conduct, M.S.A. § 609.72.

(6) Assault as defined by state law.

State law reference—Assault, M.S.A. § 609.221 et seq.

(7) Public nuisance as defined by state law.

(8) Any other unlawful conduct or pattern of unlawful conduct pursuant to city ordinance or state law.

(Code 1980, § 13-60; Code 2004, § 50-141; Ord. No. 98-1752, 11-5-1998)

Sec. 50-180. Violation constitutes misdemeanor; continuing violations.

Any violation of this division shall constitute a misdemeanor. Each violation and every day in which a violation occurs or continues, shall constitute a separate offense.

(Code 1980, § 13-64; Code 2004, § 50-142; Ord. No. 98-1752, 11-5-1998)

Sec. 50-181. Evidence.

Evidence of unlawful sales or free distribution of intoxicating liquor or 3.2 percent malt liquor or of gambling shall be prima facie evidence of the existence of a

***State law reference**—Disorderly houses, M.S.A. § 609.33.

disorderly house. Evidence or possession, sales or use of drugs or controlled substances shall be prima facie evidence of the existence of disorderly house. Evidence or possession, sales or use of drugs or controlled substances may include, but is not limited to, the presence in the house of devices for smoking cocaine or marijuana, scales, sieves or sifters or any other drug paraphernalia, shall be prima facie evidence of the existence of a disorderly house. Evidence of the occurrence of any incident of disorderly conduct, assault, or public nuisance shall be prima facie evidence of the existence of a disorderly house. Evidence of a violation of this Code or the state building code shall be prima facie evidence of the existence of a disorderly house. Evidence of any weapon violation shall be prima facie evidence of the existence of a disorderly house. Evidence of a pattern of vandalism or theft by the occupants of a disorderly house shall constitute prima facie evidence that such occupants reside in a disorderly house.

(Code 1980, § 13-63; Code 2004, § 50-143; Ord. No. 98-1752, 11-5-1998)

Sec. 50-182. Operation.

No person shall own, lease, operate, manage, reside in, maintain or conduct a disorderly house, or invite or attempt to invite others to visit or remain in such disorderly house.

(Code 1980, § 13-61; Code 2004, § 50-144; Ord. No. 98-1752, 11-5-1998)

Sec. 50-183. Presence in or visiting.

No person shall be present in, visit or remain in a disorderly house.

(Code 1980, § 13-62; Code 2004, § 50-145; Ord. No. 98-1752, 11-5-1998)

Secs. 50-184—50-204. Reserved.

ARTICLE IV. OFFENSES INVOLVING PUBLIC PEACE AND ORDER

DIVISION 1. GENERALLY

Sec. 50-205. Harassing telephone call.

(a) It is unlawful and constitutes a misdemeanor for any person, by means of a telephone, to:

- (1) Make any comment, request, suggestion or proposal which is obscene, lewd, or lascivious,
- (2) With the intent to harass or intimidate another person, repeatedly make telephone calls, whether or not conversation ensues, and thereby place the other person in reasonable fear of substantial bodily harm; place the person

in reasonable fear that the person's family or household members will be subject to substantial bodily harm; or cause or would reasonably be expected to cause substantial emotional distress to the other person; or

- (3) With the intent to harass or intimidate any person at the called or notified number, make or cause the telephone of another to repeatedly or continuously ring or receive electronic notifications and thereby place the other person in reasonable fear of substantial bodily harm; place the person in reasonable fear that the person's family or household members will be subject to substantial bodily harm; or cause or would reasonably be expected to cause substantial emotional distress as defined in M.S.A. § 609.749, subd. 2(a)(4), to the other person.

(b) It is unlawful and constitutes a misdemeanor for any person having control of a telephone, to knowingly permit it to be used for any purpose prohibited by this section.

(c) The acts prohibited in subsections (a) and (b) of this section are violations of this section whether the call is made from or received in the city.

(Code 1963, § 99.05; Code 1980, § 13-3; Code 2004, § 50-181; Ord. No. 141, 6-1-1967)

State law reference—Obscene or harassing telephone calls, M.S.A. § 609.79.

Secs. 50-206—50-233. Reserved.

DIVISION 2. NOISE

Sec. 50-234. Intent.

The purpose of this division is to protect and promote the public health, safety and general welfare by restricting activities which emit noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any persons, or precludes their enjoyment of property, or adversely affects their property's value.

(Code 1980, § 11-80; Code 2004, § 50-201; Ord. No. 97-1645, 3-6-1997)

Sec. 50-235. 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 persons, or precludes their enjoyment of property, or adversely affects their property's value. This general prohibition is not limited by the specific prohibitions contained in section 50-236.

(Code 1980, § 11-81; Code 2004, § 50-202; Ord. No. 97-1645, 3-6-1997)

Sec. 50-236. Prohibited noises and acts.

The noises and acts set forth in the following subsections are declared to be prohibited noises in violation of this division, but such enumeration shall not be deemed to be exclusive:

- (1) *Horns and signaling devices.* No person shall sound any horn or signaling device on any vehicle, except as a warning of danger, as required by M.S.A. § 169.68, except emergency vehicles as provided in this section;
- (2) *Radios, phonographs, paging systems, and similar devices.* No person shall use or operate, or permit the use or operation of, any electronic sound system or audio equipment or other devices of any nature designed for the production or reproduction of sound, in a distinctly and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby;
 - a. It shall be presumed that a violation of this section has occurred when any electronic sound system or audio equipment or other sound-producing device is operated in a manner in which it is plainly audible, at a distance of 50 feet or more, between the hours of 10:00 p.m. and 7:00 a.m. It shall be presumed that a violation of this section has occurred when any electronic sound system, audio equipment, or other sound-producing device is operated in a manner in which it is plainly audible, at a distance of 100 feet or more, between the hours of 7:00 a.m. and 10:00 p.m.;
 - b. When noise violating this section is produced by an electronic sound system or audio equipment that is located in or on a vehicle, the driver of the vehicle and the person who owns, or is in control of, the vehicle may be guilty of the violation;
 - c. This section shall not apply to sound produced by the following:
 1. Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the city, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity;
 2. Church bells, chimes or carillons, school bells, or emergency civil defense warning signals;
 3. Antitheft devices;
 4. Machines or devices for the production of sound on or in authorized emergency vehicles;
- (3) *Loudspeakers, amplifiers for advertising.* No person shall operate or permit the use of operation of any electronic sound system, audio equipment, loudspeaker, sound amplifier, or any other device for the production or

reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle;

- (4) *Exhausts.* No person shall discharge or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motorboat, motor vehicle, or snowmobile except through a muffler or other device which effectively prevents loud or explosive noises which complies with all applicable state laws and regulations;
- (5) *Construction-related activities.* No person shall engage in the following activities between the hours of 10:00 p.m. and 7:00 a.m. daily:
 - a. Construction, installation and maintenance of utility and street projects;
 - b. Operation of tools and domestic maintenance equipment powered by external air compressors or internal combustion engines, including, but not limited to, use of lawn mowers, hedge clippers, chain saws, mulchers, garden tillers, edgers, or other similar domestic power maintenance equipment. Snow removal and street sweeping equipment are exempt from this subsection;
 - c. Repair and servicing of vehicles or other equipment where the noise from that activity is audible beyond the property lines on which the repair or servicing is being conducted;
 - d. Exterior construction, remodeling, repair or maintenance of structures;
 - e. Exceptions: The performance of city or state authorized, sponsored, or licensed work to preserve the public health, safety or welfare, or in the performance of work necessary to restore public service or eliminate a public hazard shall be exempt from the restrictions of this section. Any person responsible for such work shall take all reasonable actions to minimize the amount of noise;
- (6) *Noisy parties and gatherings.*
 - a. *Generally.* No person shall permit or participate in any party or other gathering of people, on public or private property giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. It shall be presumed that a violation of this section has occurred when any noise from a gathering is plainly audible, at a distance of 50 feet or more, between the hours of 10:00 p.m. and 7:00 a.m., When a police officer has probable cause that a violation of this section has occurred, the officer may order all persons present, other than the owner or tenant of the premises, to disperse and leave the premises immediately. It shall be a violation of this section for any person to refuse to leave after being so ordered by the police officer;

b. *Exceptions.* The following are exempt from violation of this subsection (6):

1. Activities which are duly authorized, sponsored or licensed by the city, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity;
2. Persons who have gone to a party for the sole purpose of abating the violation.

(Code 1980, § 11-82; Code 2004, § 50-203; Ord. No. 97-1645, 3-6-1997)

Secs. 50-237—50-265. Reserved.

ARTICLE V. OFFENSES INVOLVING PUBLIC MORALS

Sec. 50-266. Obscene motion pictures at drive-in theaters.

The provisions of M.S.A. §§ 617.298 and 617.299 are adopted as the law of the city and incorporated in and made a part of this Code as if set out completely in this section, except those portions thereof which deal with gross misdemeanors.

(Code 1963, § 109B.01; Code 1980, § 13-4; Code 2004, § 50-231; Ord. No. 293, 11-16-1972)

State law references—Obscenity, M.S.A. § 617.23 et seq.; adoption by reference, M.S.A. § 471.62.

Secs. 50-267—50-295. Reserved.

ARTICLE VI. OFFENSES INVOLVING UNDERAGE PERSONS

DIVISION 1. GENERALLY

Secs. 50-296—50-323. Reserved.

DIVISION 2. CURFEW*

Sec. 50-324. Purpose.

The purpose of this division is to regulate the conduct of minors in public places during nighttime hours, for the protection of juveniles and the general public and for the furtherance of the public good, safety, and welfare.

(Code 1963, § 93.01; Code 1980, § 13-5(a); Code 2004, § 50-281; Ord. No. 96-1604, 6-6-1996)

***State law reference**—Municipal curfew to be consistent with county curfew, M.S.A. § 145A.05, subds. 7a, 9.

Sec. 50-325. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized adult means any person who is at least 18 years of age and authorized by a parent or guardian to have custody and control of a juvenile.

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term "emergency" includes, but is not limited to, a fire, a natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Juvenile means a person under the age of 18 years. The term "juvenile" does not include persons under 18 years of age who are married or have been legally emancipated.

Parent means any person having legal custody of a juvenile as a:

- (1) Natural, adoptive parent, or stepparent;
- (2) Legal guardian; or
- (3) Person to whom legal custody has been given by order of the court.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, roadways, parks, public recreation, entertainment or civic facilities, schools, and the common areas of hospitals, apartment houses, office buildings, transport facilities, and shops.

Serious bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(Code 1963, § 93.01; Code 1980, § 13-5(b); Code 2004, § 50-282; Ord. No. 96-1604, 6-6-1996)

Sec. 50-326. Penalties.

Violation of section 50-329(a), (b), and (c) will be prosecuted pursuant to M.S.A. ch. 260B and will be subject to the penalties therein. Violation of section 50-329(d) and (e) shall be a misdemeanor.

(Code 1963, § 93.05; Code 1980, § 13-9; Code 2004, § 50-283; Code 2004, § 50-283; Ord. No. 96-1604, 6-6-1996)

Sec. 50-327. Exceptions.

(a) The following shall constitute valid exceptions to the operation of the curfew:

- (1) At any time, if a juvenile is accompanied by the juvenile's parent or any authorized adult;
- (2) At any time, if a juvenile is involved in, or attempting to remedy, alleviate, or respond to an emergency;
- (3) If the juvenile is engaged in a lawful employment activity, or is going to or returning home from the juvenile's place of employment;
- (4) If the juvenile is attending an official school, religious, or other social or recreational activity supervised by adults or sponsored by a city or the county, a civic organization, or other similar entity that takes responsibility for the juvenile;
- (5) If the juvenile is going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by a city or the county, a civic organization, or another similar entity that takes responsibility for the juvenile;
- (6) If the juvenile is on an errand as directed by the juvenile's parent, without any detour or stop;
- (7) If the juvenile is engaged in interstate travel;
- (8) If the juvenile is on the public right-of-way boulevard or sidewalk abutting the juvenile's residence or abutting the neighboring property, structure, or residence;
- (9) If the juvenile is exercising first amendment rights protected by the United States Constitution (or those similar rights protected by article I of the state constitution), such as free exercise of religion, freedom of speech, and the rights of assembly; or
- (10) If the juvenile is homeless or uses a public or semipublic place as the juvenile's usual place of abode.

(b) It is an affirmative defense to prosecute under this article that the owner, operator or employee of an establishment promptly notified the police department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave. The owner, operator or employee reasonably and in good faith relied upon a juvenile's representations of proof of age. Proof of age may be established pursuant to M.S.A. § 340A.503, subd. 6, or other verifiable means including, but not limited to, school identification cards and birth certificates.

(Code 1963, § 93.03; Code 1980, § 13-7; Code 2004, § 50-284; Ord. No. 96-1604, 6-6-1996)

Sec. 50-328. Enforcement.

Before taking any enforcement action under this division, a police officer shall ask the apparent offender's age and reason for being in a public place. The officer shall not issue a citation or make an arrest under this division unless the officer reasonably believes that an offense has occurred and that no exception set forth in this division is applicable.

(Code 1963, § 93.04; Code 1980, § 13-8; Code 2004, § 50-285; Ord. No. 96-1604, 6-6-1996)

Sec. 50-329. Prohibited acts.

(a) It is unlawful for a juvenile under the age of 12 years to be present in any public place within the city any time between 9:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, and 5:00 a.m. of the following day; and any time between 10:00 p.m. on any Friday or Saturday and 5:00 a.m. the following day.

(b) It is unlawful for any juvenile age 12 to 14 years to be present in any public place within the city any time between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, and 5:00 a.m. of the following day; and any time between 11:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

(c) It is unlawful for any juvenile age 15 to 17 years to be in any public place within the city any time between 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, and 5:00 a.m. of the following day; and any time between 12:01 a.m. and 5:00 a.m. on any Saturday or Sunday.

(d) It is unlawful for a parent or authorized adult of a juvenile to knowingly, or through negligent supervision, habitually permit such juvenile to be in any public place within the city during the hours prohibited by subsections (a), (b), and (c) of this section, under circumstances not constituting an exception to this section as set forth in section 50-327. The term "knowingly" includes knowledge which a parent or authorized adult shall reasonably be expected to have concerning the whereabouts of a juvenile under such person's care.

(e) It is unlawful for any person operating or in charge of any place of amusement or refreshment which is open to the public to knowingly and habitually permit any juvenile to be in such place during the hours prohibited by subsections (a), (b), and (c) of this section, under circumstances not constituting an exception to this section as set forth in section 50-327. The term "person operating" shall mean any individual, firm, association, partnership or corporation operating, managing or conducting any such establishment. The term "person operating" includes the members or partner of an association or partnership and the officers of a corporation.

(Code 1963, § 93.02; Code 1980, § 13-6; Code 2004, § 50-286; Ord. No. 96-1604, 6-6-1996)

Chapters 51—53

RESERVED

Chapter 54

PARKS AND RECREATION*

Article I. In General

Sec. 54-1. Designation of park and open space land.
Secs. 54-2—54-20. Reserved.

Article II. Park Board

Sec. 54-21. Established; members; organization.
Sec. 54-22. Purpose.
Sec. 54-23. Functions.
Sec. 54-24. Submission of park and recreational proposals.
Secs. 54-25—54-51. Reserved.

Article III. Conduct in Public Parks

Sec. 54-52. Hours public parks open.
Sec. 54-53. Use of motorboats on waterways within city limits.
Sec. 54-54. Alcoholic beverages.
Sec. 54-55. Dogs to be kept under restraint.
Sec. 54-56. Merchandising, advertising and signs.
Sec. 54-57. Authority to establish additional regulations.
Sec. 54-58. General conduct.
Sec. 54-59. Enforcement.
Secs. 54-60—54-76. Reserved.

Article IV. City Swimming Beaches

Sec. 54-77. Purpose.
Sec. 54-78. Definitions.
Sec. 54-79. Beach season.
Sec. 54-80. Hours.
Sec. 54-81. Use regulations.
Sec. 54-82. Enforcement.

***State law reference**—Parks generally, M.S.A. ch. 448.

ARTICLE I. IN GENERAL**Sec. 54-1. Designation of park and open space land.**

(a) The following land shall be designated as park and open space land pursuant to the Charter of the city, section 12.05, sales of real property:

Property Designated as Parkland

<i>Property Identification Numbers</i>	<i>Property—Address / Location / Description</i>
323123210006	Aquatore Park—9191 Lincoln Street
293123330005	
323123210008	
323123210016	
323123210013	
313123210104	Aurelia Park—382 91st Avenue
313123210029	
313123210030	
313123210031	
313123210032	
313123210033	
313123210001	
353123440069	Austin Park—4041 85th Lane
083123320017	Baseball Complex—1150 Paul Parkway
083123230002	
053123440094	Broken Oaks—12726 Fergus Street
053123110102	Carrara East Park—13129 Eldorado Street
053123120043	Carrara West Park—1495 132nd Avenue
263123120030	Centennial Green Park—4041 Austin Street
263123110136	
263123120029	
263123120002	
263123110135	
243123410007	Centennial Park—10450 Rockney Street
303123130080	Cloverleaf Park—650 99th Avenue
303123420101	
293123220144	Colony Preserve Park—10030 Fillmore Street
163123320006	Deacons Park—11200 Arnold Palmer Drive
103123140065	East Lake Park—3550 Lakes Parkway
243123120027	Eastside Park—4715 107th Avenue
243123120009	
243123210001	

<i>Property Identification Numbers</i>	<i>Property—Address / Location / Description</i>
243123210004	
203123230077	Fillmore Park—10634 Fillmore Street
183123330051	Fort Lion Park—10905 5th Street
183123330050	
073123320002	Happy Acres Park—11900 7th Avenue
073123320001	
073123320003	
073123330072	
073123330071	
073123330065	
073123330085	
073123330086	
073123330066	
073123330067	
073123230145	
033123130027	Harpers Park—3013 129th Lane
173123230025	Hidden Ponds Park—11465 Polk Street
093123230047	Ivy Hills Park—12197 Fergus Street
083123140100	
073123410090	Jaycee Park—12100 Oak Park Boulevard
063123420072	Jefferson Park—12833 Jefferson Street
093123120014	Jim Peterson Athletic Complex—12302 Cloud Drive
093123130049	
343123240060	Kane Meadows Park—2946 Rice Creek Parkway
323123320022	Laddie Lake Park—1051 87th Avenue
323123320003	
323123320041	
323123320043	
323123320027	
323123320052	
323123320010	
323123320011	
323123320005	
323123320009	
323123320008	
323123320006	
323123320007	
323123320012	
103123240097	Lakeside Commons Park—3020 Lakes Parkway

PARKS AND RECREATION

§ 54-1

<i>Property Identification Numbers</i>	<i>Property—Address / Location / Description</i>
103123130027	
103123130060	
173123120062	Lakeside Park—1556 116th Avenue
173123110094	
023123320011	Legacy Creek Park—12714 Legacy Creek Parkway
123123320001	Lexington Athletic Complex—4286 121st Avenue
313123440042	Little Bit Park—8616 Polk Street
183123420078	Little League Park—730 113th Avenue
183123420088	
133123230003	Lochness Park—11121 Lexington Avenue
133123310001	
133123420009	
133123240001	
093123310013	London Park—11913 London Street
093123310039	
323123440023	Mary Elizabeth Park—8630 Eldorado Street
323123440022	
323123440003	
323123440005	
323123440021	
323123440006	
323123440020	
063123430042	Meadowbrook Park—12650 Madison Street
063123430004	
153123130023	North Oaks West Park—3092 Rodeo Drive
153123420015	
073123410094	Northwood Park—12047 Oak Park Boulevard
073123140064	
073123140065	
073123140062	Oak Creek Park—854 Paul Parkway
293123230065	Olympia Park—1047 98th Avenue
053123230107	Ostmans Park—1201 130th Lane
053123230045	
053123230008	
053123240065	
163123210002	Palmer Park—11700 Arnold Palmer Drive
073123130011	Pine Grove Gardens Park—11501 Club West Parkway
043123440001	Pioneer Park—2491 125th Avenue
043123410001	

<i>Property Identification Numbers</i>	<i>Property—Address / Location / Description</i>
043123420022	
193123330114	President Park—10214 President Drive
043123240032	Quail Creek Park—2205 Quail Creek Parkway
043123210048	
043123210088	
193123130095	Quincy Park—10601 Quincy Boulevard
193123130093	
193123130094	
163123440049	Radisson Woods Park—2576 Radisson Woods Drive
223123210005	Sanctuary North Park—10713 Sanctuary Drive
143123420051	Sanctuary Preserve
213123410022	Sanctuary South Park—10435 Vermillion Circle
033123410015	Savanna Grove Park—12733 Midway Street
103123430102	South Lake Park—3150 117th Avenue
303123430069	Sunnyside Park—750 Cloverleaf Parkway
303123440147	
013123220031	Sunrise Ponds
203123210052	Suzanna Park—1347 108th Avenue
203123210021	
303123230084	Swan Park—9790 5th Street
193123310090	Territorial Park—10410 Jefferson Street
193123310091	
193123340083	
173123410077	The Commons Park—1623 113th Avenue
173123420022	The Green Park—11347 Club West Parkway
213123110017	Town Square Park—10802 Town Square Drive
173123140053	Trees Edge Park—1731 113th Lane
303123410099	Van Buren Park—828 95th Lane
103123320004	West Lake Park—11903 South Lake Boulevard
313123410063	Westwood Park—8819 Able Street
313123410080	
313123410064	
313123410079	
313123410078	
313123410065	
313123410066	
343123230043	Xylite Park—9033 Xylite Street
343123230091	
343123230089	

<i>Property Identification Numbers</i>	<i>Property—Address / Location / Description</i>
323123210009	9191 Lincoln Street (Aquatore Park) except for Parcel B as described below:

Parcel B. That part of Lot 2, Block 1, Cloverleaf Commerce Center 2nd Addition, according to the recorded plat thereof, and situated in Anoka County, Minnesota lying southerly and southwesterly of the following described line:

Commencing at the most northwesterly corner of said Lot 2; thence on an assumed bearing of North 89 degrees 50 minutes 28 seconds East, along the most northerly line of said Lot 2, a distance of 100.91 feet to the point of beginning of the line to be described; thence South 60 degrees 16 minutes 10 seconds East a distance of 1444.62 feet; thence southerly and southeasterly 124.08 feet along a tangential curve concave to the northeast, said curve having a radius of 5516.05 feet and a central angle of one degree 17 minutes 20 seconds; thence South 69 degrees 13 minutes 19 seconds East, not tangent to last described curve, a distance of 228.03 feet; thence North 89 degrees 50 minutes 28 seconds East a distance of 742.94 feet to the east line of said Lot 2 and said line there terminating; except that part shown as Parcel 211 on Minnesota Department of Transportation Right-of-Way Plat No. 02-15

(b) The following land shall be designated as open space land pursuant to the city Charter, section 12.05:

<i>Property Identification Numbers</i>	<i>Property Location</i>
293123340003	Cloverleaf Commerce Center
293123330009	Cloverleaf Commerce Center 4th Addition
343123330020	Coral Sea Crossing Addition
083123330083	Eagle Creek Addition
083123330082	
173123230029	Kersten Gardens Addition
183123440055	Knoll Creek North
183123410014	
193123110003	Knoll Creek South
193123110005	
193123140046	
193123140048	
193123140049	
193123410029	
103123440005	The Lakes Addition
113123230002	The Lakes Addition
113123320003	The Lakes Addition

<i>Property Identification Numbers</i>	<i>Property Location</i>
01-31-23-24-0004 (Parcel A)	Land locked parcel between Lexington Avenue and Lever Street and $\frac{3}{4}$ mile north of 125th Avenue
11-31-23-41-0005 (Parcel B)	11980 Lexington Avenue
023123230005	131st Avenue
173123230027	Parkos Addition
173123230050	Pine Island Estates
113123430002	Open Space, Blaine Wetland Complex
113123340002	Open Space, Blaine Wetland Complex
153123140027	Open Space, Blaine Wetland Complex
153123440006	Open Space, Blaine Wetland Complex
143123130012	Open Space, Blaine Wetland Complex
143123320006	Open Space, Blaine Wetland Complex
143123140013	Open Space, Blaine Wetland Complex
303123210035	Open Space, Pleasure Creek
303123210053	Open Space, Pleasure Creek
193123340081	Open Space, Pleasure Creek
343123420007	Rice Creek
343123420024	Rice Creek Park Fourth Addition
343123310038	Rice Creek Park Fourth Addition
343123320002	Rice Creek Park Fourth Addition
343123320004	Rice Creek Park Third Addition
343123130011	Rice Creek Parkway
353123430129	Trail Corridor, West of Austin Park, Rice Creek Park 2nd Addition
143123130010	Trail Corridor, Blaine Wetland Complex
143123320007	Trail Corridor, Blaine Wetland Complex
083123220038	Trail Corridor-Heatherwood 2nd Addition (OLB)
343123120051	Trail Corridor, Meadows of Rice Creek
083123110096	Trail Corridor, S. of 124th Lane, East of Goodhue St.
093123220057	Trail Corridor, to Ivy Hills Park, South of 123rd Lane
303123210032	Trail Corridor, Pleasure Creek
193123420009	Trail Corridor, Pleasure Creek
043123240045	Trail Corridor to Quail Creek Park

(Code 1980, § 14-30; Code 2004, § 54-1; Ord. No. 00-1864, 10-5-2000; Ord. No. 04-2012, 4-15-2004; Ord. No. 04-2027, 11-18-2004; Ord. No. 04-2029, 11-18-2004; Ord. No. 06-2080, 4-6-2006; Ord. No. 06-2112, 12-21-2006; Ord. No. 07-2129, 5-17-2007; Ord. No. 09-2186, 8-6-2009; Ord. No. 09-2187, 8-6-2009; Ord. No.

09-2190, 9-3-2009; Ord. No. 10-2200, 3-18-2010; Ord. No. 10-2207, 5-20-2010; Ord. No. 13-2258, 2-21-2013; Ord. No. 13-2259, 2-21-2013; Ord. No. 14-2294, 10-16-2014; Ord. No. 16-2337, 1-21-2016)

Secs. 54-2—54-20. Reserved.

ARTICLE II. PARK BOARD

Sec. 54-21. Established; members; organization.

(a) *Established.* The city council has established for the city a park board.

(b) *Compensation of members; expenses.* The members of the park board shall receive as compensation such remuneration as set by council action, and the board may, with the consent of the council, incur expenses that are deemed necessary. (Code 1963, §§ 72.01, 72.05—72.09; Code 1980, § 14-1; Code 2004, § 54-31; Ord. No. 277, 6-18-1972; Ord. No. 489, 12-18-1975; Ord. No. 88-1113, 1-5-1989; Ord. No. 95-1558, 5-18-1995; Ord. No. 96-1629, 1-2-1997; Ord. No. 15-2319, 7-9-2015; Ord. No. 19-2442, 1-6-2020; Ord. No. 25-2569, § 54-31, 1-6-2025)

Sec. 54-22. Purpose.

The purpose of the park board is to provide a high quality of life for the city's residents through protection of its natural resources, its scenic, historical and aesthetic values, and by development of compatible facilities for public enjoyment. (Code 1963, § 72.02; Code 1980, § 14-2; Code 2004, § 54-32; Ord. No. 277, 6-18-1972)

Sec. 54-23. Functions.

The functions of the park board shall be as follows:

- (1) To promote cooperation among all units of city government for the betterment of the residents of the city through the park systems.
- (2) To encourage participation of individuals and civic groups in development and maintenance of city recreational areas.
- (3) To make recommendations regarding development and maintenance of all city parks.
- (4) To review and make recommendations to the council of each new proposed plat or subdivision for future development of park and recreational purposes.
- (5) To make recommendations to the council for general use categories of all parks and recreational areas.
- (6) To develop and continuously review a comprehensive plan, both long range and short range, for the park system.

- (7) To review requests for special use of any park and make recommendations to the council regarding such requests.
 - (8) To maintain cognizance of a city land fund comprised of monies received in lieu of park land and all donations made to the city for purchasing of park properties.
 - (9) To submit a proposed annual park board budget to the city manager.
 - (10) To maintain surveillance of all current and pending expenditures for park purposes.
- (Code 1963, § 72.03; Code 1980, § 14-3; Code 2004, § 54-33; Ord. No. 277, 6-18-1972)

Sec. 54-24. Submission of park and recreational proposals.

Park and recreational proposals shall be submitted to the park board in the preliminary stage to facilitate acceptance of the proposal.
(Code 1963, § 72.04; Code 1980, § 14-4; Code 2004, § 54-34; Ord. No. 277, 6-18-1972)

Secs. 54-25—54-51. Reserved.

ARTICLE III. CONDUCT IN PUBLIC PARKS

Sec. 54-52. Hours public parks open.

No person, except authorized personnel, or persons participating in events conducted under a special events license issued by the city shall be in or remain in a public park in the city between the hours of 10:00 p.m. and 5:00 a.m. of the day following.
(Code 1963, § 74.01; Code 1980, § 14-5; Code 2004, § 54-71; Ord. No. 596, 12-21-1978)

Sec. 54-53. Use of motorboats on waterways within city limits.

(a) *Motorboat defined.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Motorboat means any watercraft propelled in any respect by machinery, including watercraft temporarily equipped with detachable motors and does not include a boat which is operated solely by an electric trolling device.

(b) *Prohibited generally; exception.* No person, except fish and game management, fire/rescue personnel and law enforcement personnel acting in the performance of their assigned duties and training exercises, shall operate a motorboat on any water ways within city limits.
(Code 1963, § 73.02; Code 1980, §§ 14-6, 14-7; Code 2004, § 54-72; Ord. No. 391, 11-7-1974; Ord. No. 16-2346, 4-7-2016)

Sec. 54-54. Alcoholic beverages.

No person shall drink, consume or have in their possession any alcoholic beverages in any city park. No person shall drink, consume or have in their possession an open bottle or container of alcoholic beverages in any motor vehicle when such vehicle is within the boundaries of a city park, including parking and other areas connected with the park. The prohibition relating to the possession or consumption of intoxicating or 3.2 percent malt liquor within a city park shall not apply to an event for which a temporary intoxicating or 3.2 percent malt liquor license has been issued pursuant to section 6-29(3) and M.S.A. § 340A.404 or relating to the possession or consumption of intoxicating malt liquor or intoxicating liquor within a city park authorized by the police chief after proof of a state issued caterer's permit and appropriate liquor liability insurance as part of a city approved event. Licensing and sale of intoxicating liquor will only be allowed in community city parks, including, but not limited to, Aquatore Park, the Blaine Baseball Complex, the Lexington Athletic Complex, and Tom Ryan Park and will not be allowed in neighborhood parks or Lakeside Commons.

(Code 1980, § 14-8; Code 2004, § 54-73; Ord. No. 88-104, 6-2-1988; Ord. No. 16-2346, 4-7-2016)

Sec. 54-55. Dogs to be kept under restraint.

All dogs, while on designated city park land or open space, shall be under control and on a leash. Dogs shall only be allowed without a physical restraint in city-designated off-leash areas.

(Code 2004, § 54-74; Ord. No. 15-2328, 12-3-2015)

Sec. 54-56. Merchandising, advertising and signs.

No person in a park shall:

- (1) Expose or offer for sale any article or thing, nor shall they station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing unless a special event license has been issued.
- (2) Announce, advertise, or call the public attention in any way to any article or service for sale or hire.
- (3) Paste, glue, tack or otherwise post any sign whatever on any public lands or highways or roads adjacent to a park.
- (4) Exception is here made as to anyone acting by and under the authority and regulation of the city manager or designee for a city sponsored event.

(Code 2004, § 54-75; Ord. No. 16-2346, 4-7-2016)

Sec. 54-57. Authority to establish additional regulations.

The city council shall authorize the city manager or designee to establish such other regulations as deemed appropriate for the use of parks and shall cause such regulations to be posted or otherwise published in the policy for usage of public parks, recreational facilities and equipment, so as to make the terms known to the affected users of the parks. A violation by any person of any such park advisory board regulations shall be deemed to be a violation of this article.

(Code 2004, § 54-76; Ord. No. 16-2346, 4-7-2016)

Sec. 54-58. General conduct.

It is unlawful for any person in a public park or beach to:

- (1) Use threatening, abusive, obscene or indecent language; or to act in an indecent, lascivious or improper manner; commit any nuisance; appear nude; or do any act that constitutes a breach of the public peace;
 - (2) Engage in fighting or brawling;
 - (3) Misuse park property in one or more of the following ways: in a manner for which it was not designed or intended; in a manner that would likely cause damage or injury to the person using the property, the property itself or others on or near the property; or in a manner that is disruptive or offensive to other park users or persons;
 - (4) Prevent or hinder usage of park equipment by children and chaperones;
 - (5) Disturb, harass or interfere with any park visitor or park visitor's property.
- (Code 2004, § 54-77; Ord. No. 22-2508, 7-6-2022)

Sec. 54-59. Enforcement.

(a) Police department and department of parks and recreation employees may diligently enforce the provisions of this chapter and eject park or beach visitors acting in violation of this article from any park or beach.

(b) A person may be expelled from a park or beach for a period of 24 hours or longer if there is reasonable cause to believe that person violated the following rules of general conduct by intentionally disrupting the orderly operation of a park, beach, or any program or event occurring within a park or beach. A person may also be expelled for an extended period (in no case longer than six months) and be reinstated when there is evidence that the person's presence will no longer threaten the orderly operation of the park or beach.

(c) In addition, the city manager or designee may declare any park facility or beach or any portion thereof closed to the public at any time and for any interval of time, as the city manager or their designee may find reasonably necessary to preserve the health, safety and welfare of a park visitor or the park facility.

(Code 2004, § 54-89; Ord. No. 22-2508, 7-6-2022)

Secs. 54-60—54-76. Reserved.

ARTICLE IV. CITY SWIMMING BEACHES

Sec. 54-77. Purpose.

The purpose of this article is to provide for the safety, enjoyment, health, and welfare of all persons using public beaches and its facilities in the city and further provide a means of operation and protection of the public beaches and its facilities and to provide a family-oriented atmosphere at an environmentally friendly and enjoyable public beach.

(Code 2004, § 54-90; Ord. No. 10-2206, 5-20-2010)

Sec. 54-78. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Designated swimming area means an area that is identified by buoys and rope and used for swimming and wading.

Public swimming beach means any public land adjoining public water and which has been so designated and posted by the city.

Unguarded swimming beach means no qualified lifeguard will be on duty to supervise the public while participating in swimming activities in the designated swimming area as established by the city. The public shall be responsible for their own safety and understand there are risks while in the designated swimming water. (Code 2004, § 54-91; Ord. No. 10-2206, 5-20-2010)

Sec. 54-79. Beach season.

The date of the season opening and closing of the city swimming beaches, generally June 1 to September 1, shall be at the discretion of the park and recreation director each calendar year.

(Code 2004, § 54-92; Ord. No. 10-2206, 5-20-2010)

Sec. 54-80. Hours.

(a) The city swimming beaches shall be open at hours and times designated by the park and recreation director.

(b) Exceptions to open hours may be made at the discretion of the city when special events have been authorized or for other reasons the city may determine necessary or desirable.

(c) The city park and recreation director or designated staff member may close the swimming beaches whenever, in that person's judgment, the water is unsafe or too cold for swimming. The swimming beaches may close for periods of severe weather or the presence of lightning. No persons shall be permitted in the water during the periods when the beaches are declared closed.
(Code 2004, § 54-93; Ord. No. 10-2206, 5-20-2010)

Sec. 54-81. Use regulations.

(a) No person shall violate any park rule or regulation.

(b) No person shall engage in any indecent, profane or vulgar language or loud noise that would be offensive to any reasonable person or engage in any disorderly conduct or behavior tending to breach the public peace.

(c) No person shall throw, cast, deposit, damage, lay, place carry or scatter in the water or upon any swimming beach any lit or unlit cigars or cigarettes; or any glass, bottles, nails, tacks, wire, crockery, cans or other sharp or cutting substance; or any refuse matter or article or thing of any kind. If any glass is broken, the person responsible for the breakage shall immediately pick up the pieces and place them in a trash container.

(d) No person shall conduct behavior upon any swimming beach or in water in such a manner as to jeopardize the safety and health of themselves or others.

(e) Children under 12 years of age must be accompanied and supervised by a competent person 16 years of age or older.

(f) All children requiring diapers shall not be allowed to swim in diapers except for those exclusively made for swimming. All children who require diapers and do not have the proper swim diapers are required to wear rubber water-proof pants that will contain all human waste.

(g) No person shall enter or remain in the water other than in designated swimming areas, nor enter or remain in the water when an area is posted "no swimming" or "beach closed," nor enter or remain in the water during times when swimming is not permitted. No person shall swim outside of markers in a designated swimming area. For purposes of this prohibition, swimming shall include wading.

(h) No person shall enter the water while having, or apparently having, an infectious or contagious disease.

(i) No person shall swim in the water fronting any swimming beach outside established hours or outside the designated swimming area at any city beach.

(j) No person shall bring into or use at the swimming beach or designated swimming area, any inner tube, life raft, or other inflatable or buoyant object intended to support a person except U.S. Coast Guard approved life jackets or vests when properly attached.

(k) No swimmer shall enter the water or onto any swimming beach unless clothed in an appropriate swim wear which is socially acceptable. Revealing swimwear is not allowed.

(l) No person shall appear in a state of nudity, nor shall any person make any indecent exposure of their person in any park or upon any swimming beach.

(m) No person shall change clothes on the beach or in vehicles parked at the beach or park. Changing is allowed in the designated beach house.

(n) No person, except children, their parents, custodians or guardians, shall be permitted in any play area on swimming beaches designated for children.

(o) No person shall operate any watercraft within an area that has been designated as a swimming area.

(p) No person shall fish in designated swimming areas.

(q) No pets or animals allowed on the swimming beach premises, except for the use of Seeing-Eye or disability assistance animals.

(r) No person shall use soap, shampoo, or other cleaning agents in or outside the designated swimming area.

(s) No person shall bring or carry any bicycle upon any swimming beach or in the water in such manner as to jeopardize the safety and health of themselves or others.

(t) No person shall light or make use of any fire on any city swimming beach.

(u) No person shall use the swimming beach area for purposes of picnicking.

(v) No person shall use tents or any enclosed structure on any city swimming beach.

(Code 2004, § 54-94; Ord. No. 10-2206, 5-20-2010)

Sec. 54-82. Enforcement.

This article may be enforced in accordance with section 54-59.

(Code 2004, § 54-95; Ord. No. 10-2206, 5-20-2010; Ord. No. 22-2508, 7-6-2022)

Chapters 55—57

RESERVED

Chapter 58

PERSONNEL

(RESERVED)

Chapters 59—61

RESERVED

Chapter 62

SOLID WASTE*

Article I. In General

Secs. 62-1—62-18. Reserved.

Article II. Collection and Disposal

Sec. 62-19. Definitions.

Sec. 62-20. General items.

Sec. 62-21. Obligations of the refuse generators.

Sec. 62-22. Obligations of the haulers.

Secs. 62-23—62-49. Reserved.

Article III. Solid Waste Disposal Facilities

Division 1. Generally

Sec. 62-50. Dangerous substances.

Secs. 62-51—62-73. Reserved.

Division 2. License

Sec. 62-74. Required.

Sec. 62-75. Conditions to granting.

Sec. 62-76. Filing notice of granting.

Sec. 62-77. Suspension or revocation.

Secs. 62-78—62-97. Reserved.

Division 3. Landfills

Sec. 62-98. Sanitary method; description.

Sec. 62-99. Prohibited areas for fill and trench method.

Sec. 62-100. Maintenance and operation practices.

***State law references**—Waste Management Act, M.S.A. ch. 115A; littering, M.S.A. §§ 115A.99, 169.42, 609.671, subd. 13.

ARTICLE I. IN GENERAL

Secs. 62-1—62-18. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL***Sec. 62-19. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apartment building means three or more dwelling units or apartments grouped in one building with a common entryway.

Dwelling unit means a residential accommodation, including complete kitchen facilities, permanently installed, which is arranged, designed, used or intended for use exclusively as living quarters for one family and not more than an aggregate of two roomers or boarders.

Hauler means a public or private operation engaged in the collection and transportation of refuse, recyclables and yard waste.

Hazardous waste means any hazardous waste as defined in M.S.A. § 116.06, subd. 11, and any substance identified as a hazardous waste pursuant to rules adopted by the state pollution control agency under M.S.A. § 116.07; and any hazardous waste as defined in the Resource Conservation and Recovery Act, under 42 USC 6903, which is listed or has the characteristics identified under 42 USC 6921, not including any hazardous waste, the regulation of which has been suspended by an act of Congress.

Manufactured home means any dwelling unit, as defined in the Minn. R. 1350.0100, subpt. 38.

Place of business means any social, commercial, fraternal, religious, educational, medical or industrial establishment, or apartment buildings.

Recyclable materials means materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

State law reference—Similar provisions, M.S.A. § 115A.03, subd. 25a.

***State law references**—Mandatory that the city provides for solid waste collection, M.S.A. § 115A.941; rubbish removal, M.S.A. ch. 443.

Recycling collection service means the collection of all recyclable materials accumulated in recycling containers set out for the purpose of recycling at any residences in the city receiving garbage and refuse collection.

Refuse means all waste which normally results from the operation of a dwelling unit, except body waste, including, but not limited to, paper waste, metal cans, cardboard, glass, wood, ashes, fabric, food waste, tree and shrub trimmings, furniture and plastic. The term "refuse" does not include yard waste, construction debris resulting from work of independent contractors, whole trees or parts of trees which are in excess of six inches in diameter, major appliances as defined in M.S.A. § 115A.03, subd. 17a, street sweepings, sludges, agricultural waste, tires, lead acid batteries, used oil, and other materials collected, processed and disposed of as separate waste streams.

Set out for collection means the placing of materials designated as refuse, yard waste, or recyclables by the residents and businesses in the city for collection by the hauler.

Unauthorized collection (scavenging) means the collection by any person, other than the hauler, of recyclable materials set out by the residents for collection.

Yard waste means garden waste; leaves; lawn cuttings; weed, shrub and tree waste and prunings.

(Code 1980, § 10-1; Code 2004, § 62-31; Ord. No. 91-1273, 1-9-1992)

State law reference—Similar provisions, M.S.A. § 115A.03, subd. 38.

Sec. 62-20. General items.

(a) *Promulgation of rules and regulations.* The city manager may make such administrative regulations and rules as may be necessary and proper to regulate, enforce and implement the provisions of this article.

(b) *Sanitation fund.* All income from the operation of refuse, recyclable and yard waste collection systems and the record of expenses and operation shall be kept and maintained in a separate fund designated as the sanitation fund. The sanitation fund shall be used exclusively for sanitation activities. Sanitation activities are all activities relating to the collection, transportation, storage or disposal of refuse, yard waste, hazardous waste, and recyclable materials generated within the city.

(c) *Littering.* No person shall deposit or cause to be deposited any of the refuse, yard waste and/or recyclable materials described in this section upon any street, alley, other public ground, vacant lot or upon any ground appurtenant to any building in the city, except in the manner provided by this article.

(d) *Interference with containers or contents thereof.*

(1) *Generally.* No person, except as provided in this section, shall disturb, collect, or in any manner interfere with refuse, recyclables and yard waste placed in

containers for collection or interfere in any manner with containers for refuse, recyclables and yard waste. Furthermore, no person shall deposit or cause to be deposited any of the materials described in this section into containers for refuse, recyclables and yard waste on private property of others unless authorization from the property owner has been obtained.

(2) *Prohibition of unauthorized collection of materials set out for the curbside recycling program.*

- a. Recyclable materials shall be the sole property of the city from the time of set out for collection by the residents until collection by the hauler. At the time of collection, items designated as recyclables shall become the sole property of the hauler contracted to provide collection service.
- b. It shall be unlawful for any persons, other than licensed haulers contracted to provide collection service, to collect any recyclables set out for collection. The first violation of this section shall constitute a petty misdemeanor. The second and subsequent violations shall constitute misdemeanors.

(Code 1980, § 10-2; Code 2004, § 62-32; Ord. No. 91-1273, 1-9-1992)

Sec. 62-21. Obligations of the refuse generators.

(a) *Providing collection at households or businesses.* Pursuant to M.S.A. § 115A.941, every dwelling unit and place of business in the city must contract for solid waste collection service, which must be provided at least once a week. All dwelling units except apartment buildings and manufactured homes will be provided service under a city contract.

(b) *Cleanliness of premises; placing garbage and refuse in containers.* Every property owner, occupant, or owner of any dwelling unit or place of business shall control the refuse on the premises so as to keep the premises in a clean and sanitary condition. All refuse accumulating between the times of collection shall be placed in containers as described. Containers shall not be left at the curbside for more than 24 hours.

(c) *Container placement for collection.*

- (1) *Dwelling units, except apartment buildings and manufactured homes not contracting for curbside service.* On the designated pickup day, refuse, recyclables and yard waste shall be set out for collection immediately behind and within two feet of the curb. Containers shall not be placed in the street.
- (2) *Businesses.* Every property owner, occupant or owner of a place of business shall place containers used for the storage of refuse, recyclables and yard waste in conformance with the city zoning provisions of chapter 105. Such containers shall be accessible to the haulers at all reasonable times.

(d) *Containers; specifications; cleaning and disinfecting.*

- (1) Every property owner or occupant or any place of business that accumulates refuse shall provide one or more rust resistant, watertight, nonabsorbent and easily washable containers, which are equipped with a bail or handle and covered with close-fitting lid. Containers shall have a capacity of not less than ten nor more than 32 gallons and shall be of sufficient number to store all refuse accumulating between collections. Places of business having accumulations in excess of three 32-gallon containers per week shall provide dumpsters for storage. Dumpsters shall be no less than one cubic yard capacity and be covered with a lid that keeps precipitation and animals from getting in.
- (2) Every property owner and occupant of any dwelling unit except manufactured homes and apartment buildings shall provide a sufficient number of containers, described in this subsection (d), which do not exceed 32 gallons capacity. Residents on the city one-can program may also use plastic bags to put out excess garbage.
- (3) All containers shall be washed and treated with disinfectant as often as necessary to prevent a nuisance.

(e) *Service charges; as established; periods, delinquency.*

- (1) There is hereby imposed upon each dwelling unit except manufactured homes and apartment buildings for the collection of refuse and recyclables, a monthly charge for such services billed in accordance with schedules established from time to time by action of the council.
- (2) If such charge is not paid within 25 days after the last day of the billing period, there shall be a late charge of an amount as provided in the city's fee schedule.
- (3) Such delinquent charge, plus penalty, as heretofore provided, shall be entered, shown and placed on the tax assessment rolls for the city for each dwelling unit within the city.

(f) *Reduced rate for disabled citizens and senior citizens with a hardship.*

- (1) The refuse and recycling collection service charges shall be reduced by one-half for any dwelling unit (excluding manufactured homes and apartment buildings) which is principally occupied by:
 - a. Persons who are 65 years of age or older who meet the hardship conditions.
 - b. Disabled citizens having received an award letter from the Social Security Administration indicating that the individual is 100 percent disabled and who meet the hardship conditions.

- (2) A hardship shall be deemed to exist when all the following apply:
- a. The annual gross income of the household according to its most recent federal income tax return does not exceed the federal poverty income guidelines for a family of four, plus \$3,000.00. If no such return was filed, the clerk shall require the applicant to submit other documentation to show that this qualification is met.
 - b. The total assets of the household, exclusive of the homestead, do not exceed \$20,000.00.
- (g) *Burning of refuse; adoption of state regulations by reference.*
- (1) It is unlawful to kindle or authorize the kindling or maintenance of open fires which are fueled in part by refuse or yard wastes. This includes, but is not limited to, chemically treated lumber and other burnable building materials. Air pollution control regulations of the state pollution control agency and any amendments thereto are hereby adopted by reference by the city.
- State law reference**—Adoption by reference, M.S.A. § 471.62.
- (2) One copy of the standards and regulations shall be marked as an official copy and filed for use and examination by the public in the office of the city clerk. (Code 1980, § 10-3; Code 2004, § 62-33; Ord. No. 91-1273, 1-9-1992; Ord. No. 03-1967, 3-6-2003; Ord. No. 17-2393, 12-21-2017)

Sec. 62-22. Obligations of the haulers.

- (a) *Transporting of refuse, recyclables and yard waste; persons authorized.* Except as provided in this section, no person shall transport refuse, recyclables, or yard waste over any street or alley in the city.
- (b) *Private hauler's license; authorized; term; contractor with city excepted.*
- (1) The city council may, as deemed necessary, license a person to collect, remove and haul refuse, recyclables and yard waste from premises within the city.
 - (2) If the city council issues private licenses to any person, in conjunction with the provisions of this article, such licenses shall terminate on January 1 of each year. The renewal of such licenses shall be at the discretion of the city council.
 - (3) If the city contracts with any person for the collection of refuse, recyclables and yard waste from dwelling units within the city (excluding manufactured homes and apartment buildings), such hauler shall not be required to secure a license for the performance of such contract. If such hauler also collects refuse, recyclables or yard waste from places of business, a license shall be obtained from the city council.
 - (4) All haulers licensed to haul in the city shall offer the collection and disposition of recyclables from each of their customers.

- (5) Recycling collection shall consist of an opportunity to recycle at least three broad types of recyclables as listed in M.S.A. § 115A.151.
- (6) All haulers shall provide to the city by the 15th day of each month a full accounting, in tons, of all refuse, recyclables and yard waste that has been collected in the city during the previous month.
- (7) The hauler shall convey all refuse collected to a properly permitted solid waste disposal facility in accordance with all laws and provisions of all governing political jurisdictions and subdivisions.
- (8) The hauler shall maintain all appropriate records pertaining to any business conducted within the borders of the city for a period of at least five years.
- (9) The hauler shall convey all collected recyclables to be recycled in a manner that is consistent with industry norms and standards. Licensee shall specifically not dispose of any collected recyclables in or on a solid waste disposal facility or site. Exemptions may be granted on a case-by-case basis.
- (10) As a condition of licensing, licensed solid waste collectors must, upon request, permit the city manager or designees to inspect the licensee's city customer list in order to ensure compliance with collection requirements in M.S.A. § 115A.941.

(c) *Application; bond, insurance, fee for licensed haulers.*

- (1) Any person desiring a private license as a hauler shall file an application in writing with the city clerk, which application shall state the applicant's name, age, and residence, the type of equipment to be used in collecting, hauling and removing such refuse, recyclables and yard waste and a schedule of rates to be charged for such service.
- (2) The city manager shall require such applicant, as a condition to the issuance of such license, to furnish a bond in an amount to be determined by the city manager for the performance of such service in accordance with the ordinances of the city and the rules and regulations of the health officer of the county and shall also require such haulers to have on file with the city clerk public liability and property damage insurance in such sums as the city manager shall determine. All haulers, as a condition of licensing, shall defend, indemnify, and hold the city harmless from and against all liabilities, losses, damages, and claims of damages (including all reasonable attorney's fees, and other expenses incident thereto) suffered or incurred by the city that may arise by reason of any act or omission on the part of the licensee, its agents, or independent contractors, while engaged in the collection and transportation of refuse, recyclables or yard waste.
- (3) A license fee shall be set by action of the council and paid prior to issuance of a license.

(d) *Vehicle and equipment requirements for haulers.*

- (1) The hauler's name or firm name, together with the hauler's phone number, shall be printed or painted in legible letters, not less than five inches in height, on both sides and, when practical, rear of all trucks and conveyances used in the city. Brooms and shovels in good usable condition shall be placed and maintained on each truck.
- (2) All haulers shall use vehicles that are specifically designed or adapted for the collection and transportation of refuse, recyclables and yard waste. The hauler shall make all collections of refuse and yard waste in watertight metal receptacles or vehicles with closed tops so constructed that their contents will not leak or spill therefrom. Such receptacles and vehicles shall be kept clean and as free from all offensive odors as possible and shall not be allowed to stand in any street, alley or other place longer than is reasonably necessary to collect garbage, refuse, recyclables and yard waste.

(e) *Privacy.* All information collected by the city under this section is subject to the Data Privacy Act.

(Code 1980, § 10-4; Code 2004, § 62-34; Ord. No. 91-1273, 1-9-1992)

Secs. 62-23—62-49. Reserved.

ARTICLE III. SOLID WASTE DISPOSAL FACILITIES*

DIVISION 1. GENERALLY

Sec. 62-50. Dangerous substances.

No solid waste shall be deposited at the facility which is hazardous waste, as defined in section 62-19.

(Code 1963, § 13A.03(E); Code 1980, § 10-44; Code 2004, § 62-71; Ord. No. 310, 3-1-1973; Ord. No. 91-1273, 1-9-1992)

Secs. 62-51—62-73. Reserved.

DIVISION 2. LICENSE

Sec. 62-74. Required.

No person shall establish, maintain, conduct or operate a solid waste disposal facility without first obtaining a license to do so from the council.

(Code 1963, § 13A.02; Code 1980, § 10-40; Code 2004, § 62-91; Ord. No. 310, 3-1-1973; Ord. No. 91-1273, 1-9-1992)

***State law reference**—Certification of need for new solid waste disposal facilities, M.S.A. § 115A.917.

Sec. 62-75. Conditions to granting.

The council may not grant a license except upon full compliance with this article and unless the following conditions have been fulfilled:

- (1) *Application.* Application for license shall be made to the city clerk upon such form as the clerk shall provide. The application shall set forth the name and address of the applicant, the legal description of the land to be used as a solid waste disposal area, the name and address of the owner of the land, a description of the type of solid waste material to be placed upon the premises, and a statement that the applicant will comply with all conditions prescribed by the city or its officers or agents and the regulations promulgated by the state pollution control agency for the disposal of solid wastes. The application shall be referred to the planning commission for its recommendation. A public hearing may be held by the planning commission pursuant to notice as provided in subpart B of this Code.
 - (2) *Fee.* The license fee shall be an amount established by council action per year, or any fraction thereof, payable to city clerk at the time the application is made. The license period shall be from January 1 to December 31.
 - (3) *State permit.* A license shall not be granted unless the applicant has already obtained the required permit from the state pollution control agency. A certified copy of such permit shall be filed with the city clerk at the time of application. The applicant shall notify in writing the city clerk within ten days of any revocation or suspension of a permit issued by the state pollution control agency.
 - (4) *Control with other ordinances.* Prior to the granting of a license, all other applicable city ordinances shall be complied with.
- (Code 1963, § 13A.03(A)—(D); Code 1980, § 10-41; Code 2004, § 62-92; Ord. No. 310, 3-1-1973; Ord. No. 98-1695, § 5, 2-5-1998)

Sec. 62-76. Filing notice of granting.

If a license is granted, the city clerk shall prepare a notice setting forth the legal description and the location of the solid waste disposal facility. The clerk shall file such notice in the office of the register of deeds or registrar of titles of the county. (Code 1963, § 13A.05; Code 1980, § 10-42; Code 2004, § 62-93; Ord. No. 310, 3-1-1973; Ord. No. 91-1273, 1-9-1992)

Sec. 62-77. Suspension or revocation.

Noncompliance with any provision of this article shall be grounds for suspension or revocation of the license and the discontinuance of the operation of the solid waste disposal site. (Code 1963, § 13A.04; Code 1980, § 10-43; Code 2004, § 62-94; Ord. No. 310, 3-1-1973)

Secs. 62-78—62-97. Reserved.

DIVISION 3. LANDFILLS

Sec. 62-98. Sanitary method; description.

Sanitary landfill is a method of disposing of solid waste on land, without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical areas, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be required by the city.

(Code 1963, § 13A.03(F); Code 1980, § 10-45; Code 2004, § 62-121; Ord. No. 310, 3-1-1973; Ord. No. 91-1273, 1-9-1992)

Sec. 62-99. Prohibited areas for fill and trench method.

The fill and trench areas of sanitary landfill sites are prohibited within the following areas:

- (1) Within shoreland as defined in M.S.A. § 103F.205, subd. 4.
- (2) Within 1,000 feet, at the time of commencement of construction of the sanitary landfill, of the nearest edge of the right-of-way of any state, federal or interstate highway or of the boundary of a public park or of an occupied dwelling. Permission may be granted under this subsection, without these distance requirements, for a site which is screened by natural objects, plantings, fences or other appropriate means so as not to be readily visible from the highway or park.
- (3) Within one mile of a municipal well or one mile of a water intake.

(Code 1963, § 13A.03(F)(1); Code 1980, § 10-46; Code 2004, § 62-122; Ord. No. 310, 3-1-1973)

Sec. 62-100. Maintenance and operation practices.

Any person who maintains or operates a sanitary landfill site or permits the use of property for such shall maintain and operate the site in conformance with the following practices:

- (1) Open burning is prohibited.
- (2) Solid waste shall not be deposited in such a manner that material or leachings therefrom may cause pollution of groundwater or surface water.
- (3) Dumping of solid waste shall be confined to as small an area as practicable and surrounded with appropriate facilities to confine possible wind-blown

material within the area. At the conclusion of each day of operation, all wind-blown material resulting from the operation shall be collected and returned to the area by the owner or operator.

- (4) Solid waste shall be compacted as densely as practicable and covered after each day of operation, with a compacted layer of at least six inches of suitable cover.
- (5) Surface water drainage shall be diverted around the landfill operating area.
- (6) A minimum separating distance of 20 feet shall be maintained between the disposal operation and the adjacent property line.
- (7) Effective means shall be taken to control flies, rodents and other insects or vermin.
- (8) The approach road to the disposal site shall be of all-weather construction and maintained in good condition.
- (9) Equipment shall be provided to control accidental fires, and arrangements made with the local fire protection agency to immediately acquire its services when needed.
- (10) Adequate communication facilities shall be provided for emergency purposes.
- (11) Sanitary facilities and shelter shall be available for site personnel.
- (12) Salvaging is prohibited.
- (13) An attendant shall be on duty at the site at all times while it is open for public use.
- (14) The site shall be fenced and a gate shall be provided at the entrance to the site and kept locked when an attendant is not on duty.
- (15) A permanent sign, identifying the operation and showing the permit number of the site, and indicating the hours and days the site is open for public use, the penalty for nonconforming dumping, and other pertinent information shall be posted at the site entrance.
- (16) Within one month after final termination of a site, or a major part thereof, the area shall be covered with at least two feet of compacted earth material adequately graded to allow surface water runoff.
- (17) The finished surface of the filled area shall be covered with adequate topsoil and seeded with native grasses or other suitable vegetation immediately upon completion, or immediately in the spring on areas terminated during winter conditions. If necessary, seeded slopes shall be covered with straw or similar material to prevent erosion.

- (18) Prior to completion of a sanitary landfill site, the city shall be notified in order that a site investigation may be conducted by the city before earth-moving equipment is removed from the property.

(Code 1963, § 13A.03; Code 1980, § 10-47; Code 2004, § 62-123; Ord. No. 310, 3-1-1973; Ord. No. 767, 10-21-1982)

Chapters 63—65

RESERVED

Chapter 66

SPECIAL ASSESSMENTS*

Sec. 66-1. Providing for partial prepayment.

***State law reference**—Special assessments, M.S.A. ch. 429.

Sec. 66-1. Providing for partial prepayment.

(a) The owner of any property within the city upon which a special assessment has been levied pursuant to M.S.A. ch. 429 may make a partial prepayment of the special assessment any time within 30 days following the adoption of the special assessment by the city council. The partial prepayment shall be at least ten percent of the special assessment. No interest shall be charged on the partial prepayment.

(b) The remaining unpaid balance shall be payable in annual installments, including principal and interest, each in the amount annually required to pay the principal over the period of the special assessment with interest at the rate stated in the assessment resolution.

(Code 1980, § 8-31; Code 2004, § 66-1; Ord. No. 97-1665, 7-17-1997)

State law reference—Partial prepayment of special assessments, M.S.A. § 429.061, subd. 3.

Chapters 67—69

RESERVED

Chapter 70

STREETS, SIDEWALKS, SPECIAL EVENTS*

Article I. In General

- Sec. 70-1. Permit required for work in right-of-way.
- Sec. 70-2. Sidewalk snow removal.
- Sec. 70-3. City street or public right-of-way obstruction.
- Sec. 70-4. Use of bridges.
- Secs. 70-5—70-26. Reserved.

Article II. Special Events

- Sec. 70-27. Defined.
- Sec. 70-28. License.
- Sec. 70-29. Fees for usage and maintenance of public property.
- Sec. 70-30. Exceptions.
- Sec. 70-31. Requirements for a special event license.
- Sec. 70-32. Issuance of license; conditions.
- Sec. 70-33. Trash management and recycling required.
- Sec. 70-34. Violation; penalty.
- Sec. 70-35. Duties of special event coordinator.
- Sec. 70-36. Notice to abutting property owners.
- Secs. 70-37—70-60. Reserved.

Article III. Public Right-of-Way Management

- Sec. 70-61. Findings, purpose, and intent.
- Sec. 70-62. Election to manage the public rights-of-way.
- Sec. 70-63. Definitions.
- Sec. 70-64. Administration.
- Sec. 70-65. Registration and right-of-way occupancy.
- Sec. 70-66. Right to occupy rights-of-way.
- Sec. 70-67. Franchise; supremacy.
- Sec. 70-68. Registration information.
- Sec. 70-69. Reporting obligations.
- Sec. 70-70. Permit requirement.
- Sec. 70-71. Permit applications.
- Sec. 70-72. Issuance of permit; conditions.
- Sec. 70-73. Action on small wireless facility permit applications.
- Sec. 70-74. Permit fees.
- Sec. 70-75. Right-of-way patching and restoration.

***State law reference**—Roads generally, M.S.A. ch. 160.

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- Sec. 70-76. Joint applications.
- Sec. 70-77. Supplementary applications.
- Sec. 70-78. Other obligations.
- Sec. 70-79. Denial of permit.
- Sec. 70-80. Installation requirements.
- Sec. 70-81. Inspection.
- Sec. 70-82. Work done without a permit.
- Sec. 70-83. Supplementary notification.
- Sec. 70-84. Revocation of permits.
- Sec. 70-85. Mapping data.
- Sec. 70-86. Location and relocation of facilities.
- Sec. 70-87. Pre-excavation facilities location.
- Sec. 70-88. Damage to other facilities.
- Sec. 70-89. Right-of-way vacation; reservation of rights.
- Sec. 70-90. Indemnification and liability.
- Sec. 70-91. Abandoned and unusable facilities.
- Sec. 70-92. Appealing denial, revocation, or fees.
- Sec. 70-93. Reservation of regulatory and police powers.
- Sec. 70-94. Transit amenities.
- Sec. 70-95. Newspaper vending machines.

ARTICLE I. IN GENERAL**Sec. 70-1. Permit required for work in right-of-way.**

A permit shall be required for any work, such as sidewalk construction, curb, or gutter construction, driveways, tree planting, boulevards, drainage, etc., which is proposed to be done within the public right-of-way. These permits shall be issued by the city after the application for the work has been approved by the city engineer. The city engineer shall approve the work upon a showing that there will be compliance with all applicable laws and ordinances. The council may by action establish a permit fee.

(Code 1963, § 37.55; Code 1980, § 17-1; Code 2004, § 70-1; Ord. No. 13-2264, 6-6-2013)

Sec. 70-2. Sidewalk snow removal.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Owner means any person having a property interest in the land that abuts the street right-of-way.

Sidewalk means that portion of street or highway right-of-way which is improved for pedestrian use, and which is adjacent to the side yard or front yard of the property.

(b) *Duty of owner or occupant of abutting property.*

- (1) No owner or occupant of any property, in front of which or adjacent to which, a sidewalk has been constructed for use of the public, shall allow snow to remain upon the sidewalk longer than 48 hours after the snow has ceased to fall thereon.
- (2) Certain sidewalk areas may be exempted from this requirement by the decision of the city manager where circumstances, such as size of the boulevard or plowing of adjacent streets by state or local units of government, make it difficult for the adjacent property owner to keep the sidewalk free from snow.

(c) *Removal by city at property owner's or occupant's expense.* Any snow which is not removed in accordance with this section shall be removed by the city at the expense of the owner or occupant of the abutting property. The public works director shall keep a record of the costs and time of such work done.

(d) *Recovery of city's expenses.* The cost of removal of snow by the city shall be billed to the property owner. Failure to pay such bill, when due, will result in the costs, plus a delinquency charge of 15 percent, being certified to the county auditor with taxes against the property abutting for collection as other taxes are collected.

(e) *Nonliability of city.* No claim shall be made against the city because of failure of the owner to comply with this section.

(Code 1980, § 17-2; Code 2004, § 70-2; Ord. No. 83-783, 2-3-1983; Ord. No. 13-2264, 6-6-2013)

Sec. 70-3. City street or public right-of-way obstruction.

(a) No person shall create an obstruction on any public street through the placement or storage of items not otherwise authorized for use on the public street. This shall include, but is not limited to, refuse, refuse/recycling/yard waste containers, basketball hoops, fencing, landscape materials, sports nets/goals, or any other tangible object that may hinder free and open passage over that or any part of the public street.

(b) No person shall deposit or permit to be deposited and leave on any public street in the city leaves, grass, sand or similar materials, nor shall any person plow, shovel, or blow or permit the blowing, shoveling or plowing of snow onto a public street in the city and leaving it. This provision shall not apply to any person who is in the process of constructing or maintaining a yard or drive, provided that the materials are immediately removed from the street.

(c) Any person violating any provision of this section shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not to exceed \$1,000.00, or by imprisonment not to exceed 90 days, or both, or any different amounts adopted by statute. Enforcement of this chapter may also be pursued through the city administrative municipal court for adult offenders.

(Code 1980, §§ 17-4, 17-5; Code 2004, § 70-3; Ord. No. 99-1829, 1-6-2000; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2393, 12-21-2017)

State law reference—Penalty for ordinance violations, M.S.A. §§ 410.33, 412.231, 609.0332, 609.034.

Sec. 70-4. Use of bridges.

(a) No person shall be upon nor use any public or private vehicular, pedestrian, or railroad bridge, for the purpose of fishing, diving, jumping, entering into water, or swimming therefrom.

(b) Any person violating any provision of this section shall be guilty of a misdemeanor. Enforcement of this section may also be pursued through the city administrative municipal court for adult offenders.

(Code 2004, § 70-4; Ord. No. 06-2110, 11-16-2006; Ord. No. 13-2264, 6-6-2013)

Secs. 70-5—70-26. Reserved.

ARTICLE II. SPECIAL EVENTS

Sec. 70-27. Defined.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Special event means an activity planned and constructed by a person, corporation, or organization on public, commercial, regional recreational or industrial zoning or land uses property. The term "special event" includes, but is not limited to:

- (1) Snowmobile races;
 - (2) Athletic tournaments or events where it is estimated that 1,000 or more people will be in attendance;
 - (3) Parades/races;
 - (4) Picnics, weddings, gatherings, or civic celebrations where it is estimated that 150 or more people will be in attendance;
 - (5) Carnivals;
 - (6) Musical festivals;
 - (7) Outdoor concerts;
 - (8) Convoys or processions, excluding funeral processions, of more than 200 vehicles, 25 commercial vehicles, or 100 people;
 - (9) Gathering in a city park of more than 150 people;
 - (10) Events outside the customary use of the property;
 - (11) Events where there are six or more food trucks present.
- (Code 1963, § 69.01; Code 1980, § 4-20; Code 2004, § 70-41; Ord. No. 435, 4-3-1975; Ord. No. 13-2264, 6-6-2013; Ord. No. 16-2350, 5-19-2016; Ord. No. 25-2575, § 70-41, 3-17-2025)

Sec. 70-28. License.

- (a) *Required; application; health regulation compliance.*
- (1) No person shall promote or conduct a special event as defined in this article without first obtaining a license therefor from the city. Event promotion, including, but not limited to, advertising, marketing, publicizing and registration, of any special event prior to first obtaining a license from the city may be a consideration in the determination of whether to grant a license.

- (2) Application for a special event license shall be submitted to the city clerk for approval by the city manager or designee 45 days in advance on forms prescribed by the city clerk. Application for a special event license shall set forth the following information:
- a. If the special event is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.
 - b. The name, address and telephone numbers, daytime and nighttime, of the person who will be the special event coordinator and who will be responsible for its conduct.
 - c. The date when the special event is to be conducted.
 - d. The approximate number of persons, animals and vehicles which will constitute such special event; the type of animals, and description of the vehicles.
 - e. The hours when such desired special event will assemble, start and terminate.
 - f. A statement as to whether the special event would occupy all or only a portion of the width of the streets proposed to be traversed.
 - g. The desired location by streets of any assembly areas for such special event.
 - h. The time at which units of the special event will begin to assemble at any such assembly area or areas.
 - i. The maximum interval of space to be maintained between units if a parade/race.
 - j. If the special event is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such license shall file with the city clerk written communication from the person proposing to hold the special event, authorizing the applicant to apply for the license on behalf of the person proposing to hold the special event.
 - k. Whether any intoxicating liquor or 3.2 percent malt liquor will be consumed in conjunction with the special event at the staging area prior to the special event or at the terminus of the special event; and if any intoxicating liquor or 3.2 percent malt liquor will be served, that all necessary licenses have been obtained from the appropriate authorities.
 - l. The estimated number of participants.
 - m. Notice of who will provide traffic control, security and police supervision.
 - n. Disclosure of previous denials or violations of special event permits/licenses within the city or another jurisdiction.

- o. Such other information as the city clerk shall find necessary to the enforcement of this article.
- (3) If food is to be prepared, sold, or dispensed at the special event, the applicant shall provide proof of compliance with the regulations of the county health department.

(b) *Fee.* For each special event license, a fee shall be established by action of the council. License fees shall be submitted with the application. No event can be held without full payment of license fee or any associated fees. If the application for a special event license is denied, the license fee shall be returned to the applicant. In addition to the application fee for processing the license, applicants for a license hereunder shall be required to submit, before the license is issued, a traffic-control and security plan and fee in an amount established by the police chief or designee. The traffic-control and security plan fee shall cover the cost to the city of providing sufficient officers to regulate traffic and maintain public order. The fee for reimbursable police services are established annually by the city council. The number of sufficient officers under any special event license shall be determined by the police chief or designees, based on consideration of the following information, which the applicant is required to submit, and which shall serve as standards to guide the applicant's discretion:

- (1) The proposed location for the special event;
- (2) Details of proposed route if parade/race/convoy/procession requested, the starting point and the termination point;
- (3) The time of day that the event is to take place;
- (4) The date and day of the week proposed;
- (5) The general traffic conditions in the area requested, both vehicular and pedestrian, with special attention being given to the rerouting of vehicles or pedestrians normally using the requested area;
- (6) The number of marked and unmarked intersections along the route requested, together with the traffic control devices present;
- (7) If traffic must be completely rerouted from the area, then the number of marked and unmarked intersections and the traffic control devices are taken into consideration;
- (8) The estimated number of participants and vehicles;
- (9) The estimated number of viewers;
- (10) The nature, composition, format and configuration of the special event;
- (11) The estimated time or duration of the special event;
- (12) The plan of the applicant for emergency medical services for participants in the special event; and

(13) Provisions arranged for and made by the applicant for handicapped parking. (Code 1963, §§ 69.02, 69.03; Code 1980, §§ 4-21, 4-22; Code 2004, § 70-42; Ord. No. 435, 4-3-1975; Ord. No. 84-854, 12-6-1984; Ord. No. 98-1695, § 2, 2-5-1998; Ord. No. 13-2264, 6-6-2013; Ord. No. 16-2350, 5-19-2016; Ord. No. 17-2381, 9-21-2017)

Sec. 70-29. Fees for usage and maintenance of public property.

If the applicant uses city facilities or equipment in connection with a licensed special event, as defined in this article, on public property, the following usage and maintenance fees shall be paid to the city:

- (1) Deposit fee: An amount established by council resolution per special event to be deposited with the city to cover any justifiable expenses incurred in excess of the fees prescribed by this section.
- (2) Maintenance responsibilities: Maintenance of fields and grounds shall be the responsibility of the applicant as set forth in the maintenance compliance agreement with the city. If the applicant chooses to have the city perform the maintenance of fields and grounds, the applicant will be charged for the actual costs incurred by the city, including labor, materials and supplies.
- (3) Park lighting fee: A per hour minimum charge established by council action per field for the use of outdoor lighting equipment on ball fields and a per hour minimum lighting charge established by council action for the use of hockey rinks and skating rinks. The total charge for such lighting may be deducted from any deposit refund due to the applicant.
- (4) Park usage fee: An amount established by council action per day for the private or exclusive use of public parks or certain portions thereof, including ball fields, hockey rinks, and skating rinks, excepting that civic nonprofit organizations shall be charged an amount established by council action per day. The city manager may waive the park usage fee for civic nonprofit organizations upon receipt of a written request for such waiver.
- (5) Building usage fee: An amount established by council action per day for the use of a city building or concession stand when used in conjunction with a licensed special event.
- (6) Picnic shelter usage fee: An amount established by council action per day for the exclusive use of a city picnic shelter.
- (7) Equipment usage fee: Fees for rental use of city equipment shall be established by council action. The equipment usage fee shall be collected pursuant to administrative procedure. Applicants shall be advised in writing of their responsibility to repair or replace lost or damaged equipment.
- (8) Temporary intersection lighting: If determined by the police chief or designee, rental of temporary intersection lighting may be required and paid for by applicant.

(9) Any fees for additional portable restrooms, garbage and recycling receptacles to be arranged and paid for by applicant.
(Code 1963, § 69.04; Code 1980, § 4-23; Code 2004, § 70-43; Ord. No. 435, 4-3-1975; Ord. No. 684, 3-6-1980; Ord. No. 84-854, 12-6-1984; Ord. No. 98-1695, § 2, 2-5-1998; Ord. No. 13-2264, 6-6-2013; Ord. No. 16-2350, 5-19-2016)

Sec. 70-30. Exceptions.

The following events are exceptions to the provisions of this article:

- (1) Activity sponsored by a school district or place of worship.
 - (2) Any other city-sponsored special event or other event at city manager's discretion or their designee.
 - (3) Events sponsored by a business such as a customer appreciation or employee event, grand opening, etc., where a food truck is present and is the only attraction.
- (Code 2004, § 70-44; Ord. No. 16-2350, 5-19-2016; Ord. No. 19-2436, 10-7-2019; Ord. No. 21-2485, 11-15-2021; Ord. No. 25-2575, § 70-44, 3-17-2025)

Sec. 70-31. Requirements for a special event license.

(a) *Application; time limit.* Application for a special event license shall be submitted to the city clerk at least 45 calendar days prior to the event. The time limit may be waived by the police chief or designee upon submission of proof of extreme hardship on the part of the applicant.

(b) *Consent.* All applications shall be accompanied by the written consent of 60 percent of property owners or tenants (if the property is not owner-occupied) of property adjacent to the portion of the public street, sidewalk, alley, or property sought to be used for the special event. If it is not practicable to obtain the written consent of 60 percent of property owners or tenants for special events larger than three city blocks in length, the city council may waive the consent requirement upon a written petition submitted to the police chief, which petition sets forth why the written consent of 60 percent of property owners or tenants is not practicable. The police chief shall then forward the petition to the city council for its consideration. No license shall be granted without such consent being filed with the police department unless waived by the city council as provided above.

(c) *Insurance.* All applications shall be accompanied by evidence in the form of a properly executed certificate of insurance that the city is protected as an additional insured under a comprehensive public liability insurance policy against all liability or claims which might arise out of the holding the special event, the insurance coverage to be in the amounts not less than \$100,000.00 for bodily injury for each person and \$300,000.00 for each occurrence, \$50,000.00 with respect to property damage. Said licensee shall obtain and keep in full force and effect proper insurance

coverage against any liability for injury sustained by any persons operating said licensed activities, as required under the provisions of the Workers' Compensation Act of the state.

(d) *Indemnity agreement.* Applications shall be accompanied by either:

- (1) A written agreement by the person or persons seeking the license that he, she or they will defend, hold harmless and indemnify the city, its employees, agents and officers against all claims, demands, actions or causes of action of whatsoever nature or character arising out of or by the special event, which by agreement shall also provide for the repair of or payment for damages to public property; or
- (2) Evidence in the form of a properly executed certificate of casualty and property damage insurance which will insure all public or city property within the area of the special event loss. This certificate shall be accompanied by a written agreement that the person will indemnify the city up to the amount of any deductible applicable to such casualty and property damage insurance.

(e) *Review and recommendation.* Each application for a license shall be routed to or referred to a committee consisting of representatives from the departments of fire, police, community standards, parks and recreation, planning and public works for its review and recommendation as to whether the requested use will unnecessarily interfere with public travel on the street or alley proposed to be used and if there are other health and safety issues which need to be addressed. Such committee may also recommend terms and conditions necessary in its judgment to protect the public peace, health and safety, including limiting the portion of the street or alley that may be used for the event, the hours thereof, and the type and number of blockades or warning devices that are to be provided for the safety of motorists and the protection of those persons participating in the special event.

(f) *Police chief recommendation required.* Every application shall include the recommendation of the police chief or designee. The police chief or designee shall promptly report the recommendation to the city clerk and any grounds for denial or revocation shall be in writing. Notice shall be sent by the city clerk by regular mail to the applicant upon a denial informing the applicant of the right to appeal to the city council within 20 days. If an appeal to the city council is timely received by the city clerk, the hearing before a hearing officer shall take place within a reasonable period of receipt of the appeal by the city clerk.

(g) *Notification.* The committee shall have discretion to require the applicant to give notice to any property owner or organization which may be affected by such special event or to any neighborhood or community-based organization through or in whose organizational area the special event may take place.

(h) *Conditional use permit process not prohibited.* Nothing shall prohibit the requirement of the conditional use permit process should the scope of the special event go beyond the customary use of the property as determined by the committee.

(i) *License issuance and approval.* The city clerk shall be so informed once the committee review is complete, and, if the recommendation is satisfactory and all conditions are met, the city manager or designee shall issue the license. If the special event is to be located in a regional recreational zoned district the license request shall be forwarded to the city council for approval.

(Code 2004, § 70-45; Ord. No. 16-2350, 5-19-2016)

Sec. 70-32. Issuance of license; conditions.

(a) The committee shall have the power to recommend and the council, upon notice and hearing, shall have the power to impose reasonable conditions upon any license issued under this chapter in response to multiple resident complaints about the orderliness, safe operation and impact on the surrounding neighborhood of any special event. Such conditions may include, but are not limited to, time, manner and place restrictions on the sale of alcoholic beverages, the furnishing by the applicant of security services for the event and restrictions on the location and use of loudspeakers. In deciding whether or not to impose conditions, the council may consider the hardship to the special event organizers in meeting the conditions before the event. Nothing herein shall be construed to allow noncompliance with section 50-236

(b) The city shall reserve the right to modify the conditions of the special event license as in response to complaints or as traffic, security, or other needs change.

(Code 2004, § 70-46; Ord. No. 16-2350, 5-19-2016)

Sec. 70-33. Trash management and recycling required.

The purpose of this section is to ensure proper trash management and have recycling options that are proportional to trash collection services.

- (1) Any person or organization holding a special event must provide and pay for the collection and proper disposal of recyclable material separate from non-recyclable materials through the city's provider. Recyclable materials may include, but are not limited to: metal, glass or plastic food and beverage containers, corrugated cardboard, boxboard, plastic film or other packaging, or miscellaneous paper.
- (2) Arrangements must be made for the delivery of all recyclable material to a valid recyclable materials processing facility, transfer station or drop off center promptly after completion of the special event. Where applicable, arrangements must be made for the delivery of all organic materials to an appropriate organic materials processing facility or transfer station.

(Code 2004, § 70-47; Ord. No. 16-2350, 5-19-2016)

Sec. 70-34. Violation; penalty.

(a) Any person who violates any provision of this chapter or who violates any condition or requirement of a license issued pursuant to this chapter shall be guilty of a misdemeanor.

(b) Licenses issued under false pretenses shall be immediately revoked.

(c) Ability to reapply. Any applicant who has violated any of the provisions of this chapter shall not be eligible to apply for a new license for a period of two years following the expiration or termination of the applicant's last previous license or from the date of any event that did not have a license.

(Code 2004, § 70-48; Ord. No. 16-2350, 5-19-2016; Ord. No. 17-2381, 9-21-2017)

Sec. 70-35. Duties of special event coordinator.

(a) *Generally.* The licensee hereunder shall comply with all license directions and conditions and with all applicable laws and ordinances and shall designate a special event coordinator for the event. The special event coordinator or any other person designated as heading or leading such activity shall carry the special event license upon their person during the entire special event.

(b) *Clean-up required.* Within the two-hour period immediately following the end of the special event, the special event coordinator will ensure clean-up, removal and disposal of all litter or material of any kind which is placed or left on public, commercial, regional recreational or industrial zoning or land uses property due to such special event. Should the special event coordinator fail to do so, the city will bill the special event coordinator for all costs related to the clean-up, removal and disposal of litter left on the public, commercial, regional recreational or industrial zoning or land uses property due to such special event. If the special event coordinator fails to satisfy this obligation within the time specified in the invoice, the city will commence all appropriate legal action to collect all debts owed the city. In addition, no future applications will be considered until all obligations are satisfied.

(c) *No parking sign posting fee.* If the posting of temporary no parking signs along a parade or race route is required, applicants seeking a parade/race license for a parade or race must additionally pay fees that shall be set time to time by resolution of the city council.

(d) *Required undertakings.* In addition to information required, the applicant will, without expense to the city, undertake the following:

- (1) The applicant will provide either authorized civilian personnel, if applicable, or police personnel through the city police department reimbursable police services at all intersections requiring traffic-control personnel.

- (2) The applicant will provide volunteers to monitor the barricades at all intersections not requiring traffic-control personnel, as determined by the department of public works and the police department.
 - (3) The applicant will provide, install and remove the barricades, signs and delineation equipment as directed by either the public works director or the police chief or their designees.
 - (4) The applicant will defend and hold the city harmless from all claims, demands, actions or causes of action, of whatsoever nature or character, arising out of or by reason of the conduct of the activity authorized by such license, including attorney fees and expenses.
- (Code 2004, § 70-49; Ord. No. 16-2350, 5-19-2016)

Sec. 70-36. Notice to abutting property owners.

(a) This section shall apply only to special events involving bicycle racing, foot racing, race walking, wheelchair racing, rollerblading, marathons and jogging events.

(b) Upon issuance of a special event license for an event described in section 70-27, the special event coordinator shall notify all occupants and building managers of property abutting the parade/race route by leaflet at least 48 hours, but not more than seven days, before the parade/race.

(c) In the case of a residential building containing three units or less, a leaflet shall be distributed to each unit. In the case of a residential building or facility containing more than three units, a leaflet shall be prominently posted in the lobby or common entryway. Leaflets shall also be distributed to nonresidential abutting properties.

(d) The leaflet shall briefly describe the nature of the parade/race, shall identify the name and telephone number of the special event coordinator and the date and time of the parade/race, shall contain a map of the route, and shall describe all restrictions upon traffic and parking on or crossing the parade/race route.

(e) Prior to distribution of the leaflet, the applicant shall file a copy of the leaflet with the city clerk.

(Code 2004, § 70-50; Ord. No. 16-2350, 5-19-2016)

Secs. 70-37—70-60. Reserved.

ARTICLE III. PUBLIC RIGHT-OF-WAY MANAGEMENT

Sec. 70-61. Findings, purpose, and intent.

(a) The purpose of this article is to provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

(b) This chapter imposes reasonable regulations on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this article, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

(c) This article shall be interpreted consistently with state statutes governing applicable rights of the city and users of the right-of-way. This article shall also be interpreted consistent with Minn. R. 7819.0050—7819.9950 and Minn. R., ch. 7560 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the state administrative rules, then the interpretation most consistent with state law and rules and other applicable case law is intended. This article shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

(Code 2004, § 70-60; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-62. Election to manage the public rights-of-way.

Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city elects, pursuant M.S.A. § 237.163, subd. 2(b), to manage rights-of-way within its jurisdiction.

(Code 2004, § 70-61; Ord. No. 13-2264, 6-6-2013)

Sec. 70-63. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned facility means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility that is in use or still carries service.

Applicant means any person requesting permission to excavate or obstruct a right-of-way.

Collocate or *collocation* means to install, mount, maintain, operate, or replace a small wireless facility on, under, or adjacent to an existing wireless support structure or utility pole that is owned privately or by the city or other governmental unit.

Commission means the state public utilities commission.

Congested right-of-way means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing

underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with M.S.A. § 216D.04, subd. 3, over a continuous length in excess of 500 feet.

Construction performance bond means any of the following forms of security provided at permittee's option:

- (1) Individual project bond;
- (2) Cash deposit;
- (3) Security of a form listed or approved under M.S.A. § 15.73, subd. 3;
- (4) Letter of credit, in a form acceptable to the city;
- (5) Self-insurance, in a form acceptable to the city;
- (6) A blanket bond for projects within the city, or other form of construction bond, for a time specified by and in a form acceptable to the city.

Degradation means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

Degradation cost subject to Minn. R. 7819.1100 means the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates one to 13, set forth in Minn. R. 7819.9900 to 7819.9950.

Degradation fee means the estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

Delay penalty means the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

Department means the public services department of the city.

Department inspector means any person authorized by the city to carry out inspections related to the provisions of this section.

Director means the public services manager or public works director of the city, or the city's designee.

Emergency means a condition that poses a danger to life or health; or of a significant loss of property; or requires immediate repair or replacement of facilities in order to restore service to a customer.

Equipment means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

Excavate means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way except horticultural practices of penetrating the boulevard area to a depth of 12 inches or less.

Excavation permit means the permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit. Overhead facilities, including setting utility service poles, do not require an excavation permit.

Excavation permit fee means money paid to the city by an applicant to cover the costs as provided in section 70-74.

Facilities means any tangible asset, including equipment, that is located in the right-of-way, including facilities placed underground (underground facilities) and facilities installed above the ground, which may include, but are not limited to poles, utility cabinets, towers, wires, and related attachments, including anchors and foundations, transit amenities and gas district regulator stations (overhead facilities).

High-density corridor means a designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

Hole means an excavation in the pavement, with the excavation having a length less than the width of the pavement.

Local representative means a local person, or designee of such person, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

Management costs means the actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, chapter 123; M.S.A. §§ 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to section 70-92.

Micro wireless facility means a small wireless facility that is no longer than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

Newspaper vending machine means any device designed for and used to hold and dispense newspapers or other printed publications.

Obstruct means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

Obstruction permit means the permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein. Obstruction permits are required to install overhead facilities.

Obstruction permit fee means money paid to the city by a permittee to cover the costs as provided in section 70-74.

Patch or patching means a method of pavement replacement that is temporary in nature. A patch consists of the compaction of the subbase and aggregate base, and the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the city's five-year project plan.

Pavement means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

Permit has the meaning given the term "right-of-way permit" in M.S.A. § 237.162.

Permittee means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

Probation means the status of a person that has not complied with the conditions of this article.

Probationary period means one year from the date that a person has been notified in writing that they have been put on probation.

Public right-of-way or right-of-way means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. The term "right-of-way" does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service. Public grounds and property are also considered public right-of-way for purposes of this article with respect to telecommunications right-of-way users.

Registrant means any person who has or seeks to have equipment or facilities located in any right-of-way or in any way occupy or uses or seeks to occupy or use the right-of-way or place facilities or equipment in the right-of-way.

Restoration cost means the amount of money paid to the city by a permittee to achieve the level of restoration according to Plates 1 to 13 of state public utilities commission rules.

Restore or restoration means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

Right-of-way permit means the excavation permit, obstruction permit, small wireless facility permit, or conditional/special use permit, or any combination thereof, depending on the context, required by this article.

Right-of-way user means:

- (1) A telecommunications right-of-way user as defined by M.S.A. § 237.162, subd. 4.
- (2) A person or entity owning or controlling a facility in the right-of-way that is used or intended to be used for providing a service and who has a right under law, franchise, or ordinance to use the public right-of-way, including persons or entities who have installation and maintenance responsibilities by contract, lease, sublease, or assignment.
- (3) A person or entity owning or controlling a facility in the right-of-way that is used or intended for something other than providing utility service, including persons who have installation and maintenance responsibilities by contract, lease, sublease, or assignment.

Service includes:

- (1) Those services provided by a public utility as defined in M.S.A. § 216B.02, subds. 4 and 6;
- (2) Services of a telecommunications right-of-way user, including transporting of voice or data information;
- (3) Services of a cable communications systems as defined in M.S.A. ch. 238;
- (4) Natural gas or electric energy or telecommunications services provided by the city;
- (5) Services provided by a cooperative electric association organized under M.S.A. ch. 308A; and
- (6) Water and sewer, including service laterals, steam, cooling or heating services.

Service lateral means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

Small wireless facility means a wireless facility that meets both of the following qualifications:

- (1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and
- (2) All other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

Small wireless facility permit means the permit which, pursuant to this article, must be obtained before a person may install, place, maintain, or operate a small wireless facility in a public right-of-way to provide wireless service. A small wireless facility permit allows the holder to conduct such activities in that part of the right-of-way described in such permit. A small wireless facility permit does not authorize:

- (1) Providing any service other than a wireless service; or
- (2) Installation, placement, maintenance, or operation of a wireline backhaul facility in the right-of-way.

Small wireless facility permit fee means money paid to the city by a permittee to cover the costs as provided in section 70-73.

Supplementary application means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend or supply additional information to, a permit that had already been submitted or issued.

Telecommunication right-of-way user means a person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. Telecommunications right-of-way users must obtain an obstruction permit before a person may install, operate, or maintain facilities in the right-of-way. A cable communication system, defined and regulated under M.S.A. ch. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility, as defined in M.S.A. § 16B.02, a municipality, a municipal gas or power agency organized under M.S.A.

chs. 453 and 453A, or a cooperative electric association organized under M.S.A. ch. 308A are not telecommunications right-of-way users, except to the extent such entity is offering wireless service.

Temporary surface means the compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city's two-year plan, in which case it is considered full restoration.

Transit amenity means a bus shelter or bench, with or without advertising, constructed and maintained at a designated transit stop along a public street, located on a public boulevard, for the convenience and comfort of persons waiting for buses or other transit vehicles.

Trench means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

Two-year project plan shows projects adopted by the city for construction within the next two years.

Utility originated projects means planned projects for replacement of existing facilities as a result of obsolescence or deterioration or to increase capacity or new projects to improve service or capacity. Projects to provide direct service within new developments are not included.

Utility pole means a pole that is used in whole or in part to facilitate telecommunications or electric service.

Wireless facility means equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, that are not otherwise immediately adjacent to and directly associated with a specific antenna.

Wireless service means any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. The term "wireless service" does not include services regulated under title VI of the Communications Act of 1934, as amended, including cable service.

Wireless support structure means a new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

Wireline backhaul facility means a facility used to transport communications data by wire from a wireless facility to a communications network.

Work in right-of-way permit means a permit, on a form issued by the city, for minor work in the right-of-way typically done by private property owners or their contractors. This includes such work as mailbox banks, driveways or sewer and water utility service repairs and installations.

(Code 2004, § 70-62; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017; Ord. No. 18-2421, 12-20-2018)

Sec. 70-64. Administration.

The city may designate a principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The city may delegate any or all of the duties hereunder.

(Code 2004, § 70-63; Ord. No. 13-2264, 6-6-2013)

Sec. 70-65. Registration and right-of-way occupancy.

(a) *Registration.* Each person who occupies or uses, or seeks to occupy or use, the right-of-way or any facilities located in the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the city. Registration will consist of providing application information to and as required by the city, and paying a registration fee. If the work is to be performed by agent, contractor or subcontractor on behalf of a registrant, such application shall also be signed or preauthorized by the registrant.

(b) *Registration prior to work.* No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the city.

(c) *Exceptions.*

- (1) Persons engaged in the following activities in the right-of-way are not deemed to use or occupy the right-of-way and are not governed by this section but may be governed by other Code sections or permit requirements such as a work in right-of-way permit.
 - a. Planting or maintaining boulevard plantings in the right-of-way between their property and the street curb, subject to section 82-9(b).
 - b. Installing non-vegetative landscaping items, such as blocks, bricks, timber or rocks to a height of 12 inches or less above the existing ground.
 - c. Installing, modifying or replacing private driveways. These activities may require a separate work in the right-of-way permit and are subject to the conditions of that permit.
 - d. Installing, modifying, repairing or replacing private sewer and water services. These activities do require a separate work in the right-of-way permit and are subject to the conditions of that permit.

- e. Installing private irrigation systems or pet containment systems.
 - f. Installing mailboxes or newspaper delivery boxes on a stand consisting of a post no larger than four inches by four inches.
 - g. Federal, state county and city agencies.
 - h. Persons installing newspaper vending machines must comply with section 70-95.
- (2) However, nothing herein relieves a person from complying with the provisions of the M.S.A. ch. 216D, Gopher One Call Law.
- (3) If, for any reason, the city or its agents needs to perform work in the right-of-way, the owner may be required, at their expense, to remove any structures, landscaping or boulevard plantings and visibly mark any private irrigation or pet containment systems located within the right-of-way within seven days of being notified. Any expenses or damages arising from the work and subsequent removal and replacement of any structures, landscaping or boulevard plantings, or damages to unmarked irrigation and pet containment systems within the right-of-way is the sole responsibility of the owner.

(d) *Franchise agreement.* Any service or utility provided by a person under a franchise with the city shall register pursuant to this section, but need not provide the registration information required by subsection (a) of this section if such information has been received by the city in the administration of the franchise agreement.

(Code 2004, § 70-64; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-66. Right to occupy rights-of-way.

(a) *Payment of fees.* Any person required to register under section 70-65 which occupies, uses or places equipment in the right-of-way is granted a right to do so if and only so long as they timely pay all fees as provided herein and complies with all other requirements of law, to be determined in the sole opinion of the city.

(b) *Conditions.* The grant of such right is expressly conditioned on and is subject to the police powers of the city, continuing compliance with all provisions of law now or hereinafter enacted, including this chapter as it may be amended from time to time and, further, is specifically subjected to the obligation to obtain any and all additional required authorizations whether from the city or other body or authority.

(Code 2004, § 70-65; Ord. No. 13-2264, 6-6-2013)

Sec. 70-67. Franchise; supremacy.

The city may, in addition to the requirements of this article, require any person which has or seeks to have facilities located in any right-of-way to obtain a franchise to the full extent permitted by law now or hereinafter enacted. The terms of any franchise which are in direct conflict with any provision of this article whether

granted prior or subsequent to enactment of the ordinance from which this article is derived shall control and supersede the conflicting terms of this article. All other terms of this article shall be fully applicable to all persons, whether franchised or not.

(Code 2004, § 70-66; Ord. No. 13-2264, 6-6-2013)

Sec. 70-68. Registration information.

(a) *Information required.* The information provided to the city at the time of registration shall include, but not be limited to:

- (1) Each registrant's name, Gopher One Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.
- (2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be accessible for consultation at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
- (3) A certificate of insurance or self-insurance:
 - a. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self-insurance acceptable to the city;
 - b. Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:
 1. Use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees; and
 2. Placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;
 - c. Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;
 - d. Requiring that the city be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and
 - e. Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this article.

- (4) The city may require a copy of the actual insurance policies.
- (5) If the person is a corporation, a copy of the certificate is required to be filed under M.S.A. § 47.14 et seq. as recorded and certified to by the secretary of state.
- (6) A copy of the person's order granting a certificate of authority from the state public utilities commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.
- (7) Such other information as the city may require.

(b) *Notice of changes.* The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within 15 days following the date on which the registrant has knowledge of any change.

(Code 2004, § 70-67; Ord. No. 13-2264, 6-6-2013)

Sec. 70-69. Reporting obligations.

(a) *Operations.*

- (1) Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for service originated projects with the city. Registrants must use commercially reasonable efforts to anticipate and plan for all upcoming projects and include all such projects in a construction or major maintenance plan. Such plan shall be submitted using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.
- (2) The plan shall include, but not be limited to, the following information:
 - a. The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, referred to as a "next-year project"); and
 - b. To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, referred to as a "five-year project").
 - c. The term "project" in this section shall include both next-year projects and five-year projects.
- (3) By January 1 of each year, the city will have available for inspection in the city's office a composite list of all projects, including city projects of which the city has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

- (4) Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the city and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

(b) *Additional next-year projects.* Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

(Code 2004, § 70-68; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-70. Permit requirement.

(a) *Permit required.* Except as otherwise provided in this Code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the city to do so.

- (1) *Excavation permit.* An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit or to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein. Excavation permits are not required for overhead facilities, including installation of poles for utility services.

- (2) *Obstruction permit.*

- a. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment, facilities, vehicles or other obstructions described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.
 - b. An obstruction permit may not be required for obstructions of eight hours or less for the purpose of repairing or maintaining previously installed facilities. An obstruction permit is required by a registrant to install overhead or above-ground facilities in a public right-of-way, including excavation of holes for the installation of supporting poles and structures.
- (3) *Small wireless facility permit.* A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion or the right-of-way, to the extent specified therein, provided

that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked. No small wireless facility permit is required to solely conduct:

- a. Routine maintenance of a small wireless facility;
- b. Replacement of a small wireless facility with a new facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced; or
- c. Installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes; however, a service provider is required to make written notice of such activities to the city if the work will obstruct a public right-of-way.

(4) *Special/conditional use permit.* A special or conditional use permit is required to install a new wireless support structure for the siting of a small wireless facility in a right-of-way in a district or area that is zoned for single-family residential use or within a historic district established by federal or state law or city ordinance as of the date of application for a small wireless facility permit.

(b) *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the dates specified in the permit unless:

- (1) Such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and
- (2) A new permit or permit extension is granted.

(c) *Delay penalty.* In accordance with Minn. R. 7819.1000 subp. 3, and notwithstanding subsection (b) of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by city council ordinance. A delay penalty shall not be imposed if the delay in project completion is due to force majeure, including inclement weather, labor disputes, acts of God or other circumstances beyond the control of the registrant, and recognizing registrant's need to respond to emergencies in other communities.

(d) *Permit display.* Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

(Code 2004, § 70-69; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-71. Permit applications.

Application for a permit is made to the city. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

- (1) Registration with the city pursuant to this chapter;
- (2) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and defined area of the proposed project and the location of all known existing and proposed facilities, as determinable from existing records, within the defined project area.
- (3) Payment of money due the city for:
 - a. Permit fees, estimated restoration costs and other management costs;
 - b. Prior obstructions or excavations;
 - c. Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;
 - d. Franchise fees or other charges, if applicable.
- (4) Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110 percent of the amount owing.
- (5) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

(Code 2004, § 70-70; Ord. No. 13-2264, 6-6-2013)

Sec. 70-72. Issuance of permit; conditions.

(a) *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the city shall either issue a permit or provide reasons in writing for denial of the application.

(b) *Conditions.* The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or, when necessary, to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state, and federal laws, including, but not limited to, M.S.A. §§ 216D.01—216D.09 (Gopher One Call Excavation Notice System) and Minn. R., ch. 7560.

(c) *Small wireless facility conditions.* In addition to subsection (b) of this section, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:

- (1) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
- (2) No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
- (3) No wireless facility may extend more than ten feet above its wireless support structure.
- (4) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and existing wireless support structure or other facilities in and around the right-of-way.
- (5) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
- (6) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement or relocation requirements on the replacement of such structure.

(d) *Small wireless facility agreement.* A small wireless facility shall only be issued after the applicant has executed a standard small wireless facility collocation and lease agreement with the city. The standard collocation agreement may require payment of the following:

- (1) Up to \$150.00 per year per site for rent to collocate on the city structure;
- (2) \$25.00 per year per site for maintenance associated with the collocation;
- (3) If the provider obtains electrical service through the city, a monthly fee for electrical service as follows:
 - a. \$73.00 per radio node less than or equal to 100 maximum watts;
 - b. \$182.00 per radio node over 100 maximum watts; or

- c. The actual costs of electricity, if the actual cost exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit; provided, however, the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter, or affect any then-existing agreement between the city and applicant.

(Code 2004, § 70-71; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017; Ord. No. 18-2421, 12-20-2018)

Sec. 70-73. Action on small wireless facility permit applications.

(a) *Deadline for action.* The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application. The small wireless facility permit and any associated building permit application shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

(b) *Consolidated applications.*

- (1) An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to five small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:
 - a. Are located within a two-mile radius;
 - b. Consist of substantially similar equipment; and
 - c. Are to be placed on similar types of wireless support structures.
- (2) In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

(c) *Tolling of deadline.* The 90-day deadline for action on a small wireless facility permit application may be tolled if:

- (1) The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such cases, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.
- (2) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness, with specificity as to the missing information, to the applicant within 30 days of receipt of the

application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.

- (3) The city and small wireless facility applicant agree in writing to toll the review period.

(Code 2004, § 70-72; Ord. No. 17-2390, 12-7-2017; Ord. No. 18-2421, 12-20-2018)

Sec. 70-74. Permit fees.

(a) *Excavation permit fee.* The city shall establish an excavation permit fee in an amount sufficient to recover the following costs:

- (1) The city management costs.
- (2) Degradation costs, if applicable.
- (3) Restoration, if done or caused to be done by the city.

(b) *Obstruction permit fee.* The city shall establish the obstruction permit fee and shall be in an amount sufficient to recover the city costs allocated to obstruction permits.

(c) *Small wireless facility permit fee.* The city shall impose a small wireless facility permit fee in an amount sufficient to recover:

- (1) Management costs; and
- (2) City engineering, make-ready, and construction costs associated with collocation of small wireless facilities; and
- (3) Conditional/special use permit fee.

(d) *Delay penalty.* The city may, at its discretion, establish and impose by ordinance of the city council a delay penalty for unreasonable delays in excavations or obstructions in the right-of-way. A delay penalty will not be imposed for delays due to force majeure, including inclement weather, labor disputes, acts of God, or other circumstances beyond the control of the applicant. Before imposing a delay penalty, the city will recognize and take into consideration the applicant's need to respond to emergencies in other communities or areas.

(e) *Payment of permit fees.* No excavation permit, obstruction permit, small wireless facility permit, or conditional use permit shall be issued without payment of corresponding permit fees. Permittees that typically obtain large numbers of permits each year may request that permit fees be billed to the permittee quarterly rather than at the time of each individual permit application. Approval of any such request will be at the sole discretion of the city and subject to a billing agreement between the city and the permittee.

(f) *Nonrefundable.* Permit fees that were paid for a permit that the city has revoked for a breach as stated in section 70-84 are not refundable. Any refunded permit fees shall be reduced by all city costs up to and including the date of refund.

(g) *Application to franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(Code 2004, § 70-73; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-75. Right-of-way patching and restoration.

(a) *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under section 70-78. The permittee must inspect the area of the work and use reasonable care to maintain the same condition for 12 months thereafter.

(b) *Patch and restoration.* The permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

- (1) *City restoration.* If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with correcting the defective work.
- (2) *Permittee restoration.* If the permittee restores the right-of-way itself, it shall, at the time of application for an excavation permit, post a construction performance bond in accordance with the provisions of Minn. R. 7819.3000. If, 12 months after completion of the restoration of the right-of-way, the city determines that the right-of-way has been properly restored, the surety on the performance bond shall be released.
- (3) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee to cover city costs associated with a decrease in the useful life of a public right-of-way caused by excavation. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

(c) *Standards.* The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. R. 7819.1100.

(d) *Duty to correct defects.* The permittee shall correct defects in patching or restoration performed by the permittee or its agents and shall maintain it for 12 months following its completion. During this 12-month period it shall, upon notification from the city, correct all restoration work to the extent necessary using the method required by the city. When corrective work is necessary to restore service or to ensure safety, work shall be completed within five days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under section 70-78. Where corrective work is required, but is not necessary to restore service or to ensure safety, work shall be done promptly upon receipt of notice.

(e) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city shall notify the permittee in writing of the specific alleged failure, and shall allow the permittee ten days from the receipt of said written notice to cure said failure, or to respond with a plan to cure. In the event the permittee fails to cure or fails to respond hereunder, the city, at its option, may perform the necessary work, and the permittee shall pay to the city, within 30 days of billing, the actual cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

(Code 2004, § 70-74; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-76. Joint applications.

(a) *Permits to excavate or obstruct may be applied jointly.* Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

(b) *Shared fees.* Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

(c) *With city projects.* Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

(Code 2004, § 70-75; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-77. Supplementary applications.

(a) *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines

that an area greater than that specified in the permit must be obstructed or excavated must, before working in that greater area, make application for a permit extension and pay any additional fees required thereby and be granted a new permit or permit extension.

(b) *Limitation on dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

(Code 2004, § 70-76; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-78. Other obligations.

(a) *Compliance with other laws.* Obtaining a right-of-way permit does not relieve a permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including, but not limited to, M.S.A. §§ 216D.01—216D.09 (Gopher One Call Excavation Notice System) and Minn. R. ch. 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(b) *Prohibited work.* Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

(c) *Interference with right-of-way.* A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

(d) *Trenchless excavation.* As a condition of all applicable permits, permittees employing trenchless excavation methods, including, but not limited to, horizontal directional drilling shall follow all requirements set forth in M.S.A. ch. 216D and Minn. R. ch. 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the director.

(e) *Traffic control.* The permittee shall take appropriate measures to ensure that during the performance of the work, traffic conditions as nearly normal and as practical shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public. The city may permit the closing of streets to all traffic for a period of time prescribed by the city if, in the sole opinion of the city, such closure is necessary. The permittee shall implement traffic control measures and use traffic control procedures in accordance with the most recent manuals on uniform traffic control, traffic control devices and traffic zone layouts published by the state department of transportation. The following steps shall be taken before any roadway may be closed or restricted to traffic:

- (1) The permittee must receive the approval of the city.
- (2) The permittee must notify the chiefs of the police and fire departments, the school district transportation coordinator, the ambulance service serving the city, the metropolitan council transit operations, county traveler transportation coordinator and the U.S. Post Office of any streets so closed or restricted.
- (3) Upon completion of construction work the permittee shall notify the chiefs of the police and fire departments, the school district transportation coordinator, the ambulance service serving the city, the metropolitan council transit operations, county traveler transportation coordinator and the U.S. Post Office before traffic is moved back to its normal flow so that any necessary adjustments may be made.

(f) *Access to fire stations and fire hydrants.* The work shall be performed and conducted so as not to unreasonably interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fire hydrants or plugs, and passageways leading to fire escapes or firefighting equipment shall be kept free of piles of material or other obstructions.

(g) *Vehicular and pedestrian crossings.* The permittee shall erect and maintain suitable barriers to confine dirt from trenches or other excavations in order to prevent such dirt from encroaching upon roadways as much as possible. When necessary, the permittee shall construct and maintain adequate and safe crossings over excavations and across roadways under improvement to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular and pedestrian crossings shall be constructed and maintained of adequate size and strength to safely accommodate vehicular and pedestrian traffic.

(h) *Interference with utilities.* The permittee shall not unreasonably interfere with any existing utility without the written consent of the city and the utility company or person owning the utility. If it becomes necessary to remove an existing utility, it shall be done by its owner. No utility owned by the city shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee.

(i) *Pedestrian facilities.*

- (1) When pedestrian facilities, such as sidewalks or trails, are impacted due to the work, pedestrian accommodations must be provided to the maximum extent feasible. These accommodations must have accessibility features up to the level of the disturbed route. Signage and devices, as necessary, must be provided to direct pedestrians safely through the work zone.
- (2) If an existing pedestrian route is impacted by a short-term or short-duration work zone that is attended with project personnel, establishing an alternate pedestrian route may not be necessary if the work can be stopped and pedestrians can navigate the work zone safely. Pedestrians may be delayed for a short period of time for project personnel to move equipment and material to facilitate passage. Project personnel may also assist pedestrians with disabilities.

(j) *Protection of the public.* The permittee shall erect such barriers and provide such warning devices about the site of the excavation work as shall prevent danger to persons using the city street or sidewalks, and such protective barriers shall be maintained until the work shall be completed or the danger removed.

(k) *Excavated material.* All material excavated from trenches and piled adjacent to the trench or any street shall be piled and maintained in such a manner as not to endanger those working in the trench, pedestrians, or users of the streets and so that as little inconvenience as possible is caused to those using streets and adjoining property. Appropriate protections must be utilized to prevent the migration of excavated materials caused by wind, water or other erosion means.

(l) *Damage to existing improvements.* All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials for such repairs shall conform to the requirements of this Code.

(m) *Clean-up operations.* As the excavation work progresses, all streets and private property shall be thoroughly cleaned of all rubbish, excess earth, rocks, and other debris resulting from such work. All clean-up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the city.

(n) *Private irrigation systems, invisible dog fences and landscaping.* Any damage done to existing private irrigation systems, invisible dog fences and landscaping during the progress of the project shall be repaired by the permittee at their expense and shall be completed to the satisfaction of the city. The permittee shall protect the root growth of significant trees both in and adjacent to the right-of-way.

(o) *Property corners and monuments.* The permittee shall replace, with the services of a state-licensed land surveyor, any property corners or monuments disturbed as a result of the project.

(p) *Notification.* The permittee must provide 48-hour written notice to abutting property owners before commencement of any project work that may disrupt the use of and access to the abutting property.

(Code 2004, § 70-77; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-79. Denial of permit.

(a) *Reasons for denial.* The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use. The city may deny a permit if the utility has failed to comply with previous permit conditions. The city may withhold issuance of a permit until the applicant is in compliance with the conditions of a previous permit.

(b) *Procedural requirements.* The denial of a right-of-way permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny a permit. If an application is denied, the right-of-way user may cure the deficiencies identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after submission.

(Code 2004, § 70-78; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-80. Installation requirements.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. R. 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the M.S.A. §§ 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minn. R. ch. 7560 and this article. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits, city specifications, city design standards or agreements referenced in section 70-85(b).

(Code 2004, § 70-79; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-81. Inspection.

(a) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minn. R. 7819.1300.

(b) *Site inspection.* The permittee shall make the work-site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work. The permittee shall schedule, with the city, all inspections in a timely manner as indicated on the permit.

(c) *Authority of director.*

- (1) At the time of inspection, the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.
- (2) The director may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes so long as the nonconformance constitutes a substantial breach, as set forth in M.S.A. § 237.163, subd. 4(c)(1)—(5). The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit pursuant to section 70-84.
- (3) The cost of any action taken by the city shall be paid by the permittee.
- (4) The director may require that the permittee immediately cease work if the permittee has recently performed work without regard for public safety. Such work without regard for public safety may include, but not be limited to, causing by means of work within the right-of-way, damage to two or more utility facilities within 48 hours or damage to three or more utility facilities within one week. Should such work without regard for public safety occur, the director reserves the right to require:
 - a. That the permittee cease work immediately;
 - b. That the permittee prepare a new safety plan to prevent future occurrences;
 - c. That the permittee present said safety plan to the director or the director's staff for approval 24 hours after the order to cease work;
 - d. That the permittee not return to work until the safety plan satisfies the director; and
 - e. That the director instruct the permittee that it is okay to return to work by form of a written letter.

(Code 2004, § 70-80; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-82. Work done without a permit.

(a) *Emergency situations.*

- (1) Each registrant shall immediately notify the director or designee of any event regarding its facilities that it considers to be an emergency. The

registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this article for the actions it took in response to the emergency.

- (2) If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

(b) *Non-emergency situations.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by this Code, deposit with the city the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this article.

(Code 2004, § 70-81; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-83. Supplementary notification.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the city of the accurate information as soon as this information is known.

(Code 2004, § 70-82; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-84. Revocation of permits.

(a) *Substantial breach.* The city reserves its right, as provided herein and in accordance with M.S.A. § 237.163, subd. 4, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;

- (4) The failure to maintain the required bonds or insurance;
- (5) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
- (6) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to section 70-81.

(b) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the city shall follow the procedural requirements of section 70-79(b). In addition, the demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(c) *Response to notice of breach.* Within a time period established in a written notification of breach received from the city, permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city or failure to timely submit an acceptable plan, or failure to reasonably implement the approved plan shall be cause for immediate revocation of the permit.

(d) *Cause for probation.* From time to time, the city may establish a list of conditions of the permit, which, if breached, will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside the permit authorization.

(e) *Automatic revocation.* If a permittee, while on probation, commits a breach as outlined above, the permittee's permit will automatically be revoked, and the permittee will not be allowed further permits for one full year, except for emergency repairs.

(f) *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

(Code 2004, § 70-83; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-85. Mapping data.

(a) *Information required.* Each registrant and permittee shall provide mapping information required by the city in accordance with Minn. R. 7819.4000 and 7819.4100. Within 90 days following completion of any work pursuant to a permit, the permittee shall provide the director accurate maps and drawings certifying the as-built location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all

facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as imposed by the director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.

(b) *Service laterals.* All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. R. 7560.0150, subpt. 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the director reasonably requires it. Permittees or their subcontractors shall submit to the director evidence satisfactory to the director of the installed service lateral locations. Compliance with this subsection (b) and with applicable Gopher State One Call Law and Minnesota Rules governing service laterals install after December 31, 2005, shall be a condition of any city approval necessary for:

- (1) Payments to contractors working on a public improvement project, including those under M.S.A. ch. 429; and
- (2) City approval of performance under development agreements, or other subdivision or site plan approval under M.S.A. ch. 462.

The director shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

(Code 2004, § 70-84; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-86. Location and relocation of facilities.

(a) *Placement, location, and relocation of facilities.* Pursuant to M.S.A. § 237.163, subd. 8, the placement, location and relocation of facilities must comply with Minn. R. 7819.3100, 7819.5000 and 7819.5100 and other applicable law to the extent the such law and rules do not limit authority otherwise available to cities under M.S.A. § 237.163.

(b) *Corridors.*

- (1) The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.
- (2) Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way,

unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

(c) *Nuisance.* One year after the passage of the ordinance from which this article is derived, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

(d) *Limitation of space.* To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

(e) *Joint trenching.* All facilities must be placed in appropriate portions of the right-of-way so as to cause minimum conflict with other underground facilities. When technically appropriate and no safety hazards are created, all utilities must be installed, constructed or placed within the same trench. Notwithstanding the foregoing, gas and electric lines must be placed in conformance with state rules governing safety standards.

(Code 2004, § 70-85; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-87. Pre-excavation facilities location.

In addition to complying with the requirements of M.S.A. §§ 216D.01—216D.09 (One Call Excavation Notice System) before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than 20 inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

(Code 2004, § 70-86; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-88. Damage to other facilities.

When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of

billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's facilities.

(Code 2004, § 70-87; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-89. Right-of-way vacation; reservation of rights.

If the city vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. R. 7819.3200. (Code 2004, § 70-88; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-90. Indemnification and liability.

(a) Issuance of a permit does not impose any liability on the city for:

- (1) Injuries to persons, damage to property or loss of service claims by parties other than the permittee or the city; or
- (2) Claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by registrants or permittees or activities of registrants or permittees.

(b) By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend, indemnify and hold harmless the city, its officials, officers, employees and agents in accordance with the provisions of Minn. R. 7819.1250.

(Code 2004, § 70-89; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-91. Abandoned and unusable facilities.

(a) *Discontinued operations.* A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this article have been lawfully assumed by another registrant.

(b) *Removal.* Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

(Code 2004, § 70-90; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-92. Appealing denial, revocation, or fees.

A person that has been denied registration, has been denied a right-of-way permit, has had its right-of-way permit revoked, or believes that the fees imposed on the user by the city are not in conformity with M.S.A. § 237.163, subd. 6, or disputes

a determination of the director regarding subsection 70-85(b) may have the denial, revocation or fee imposition reviewed, upon written request by the city council. The city council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the city council affirming the denial, revocation, or fee imposition must be in writing and supported by written findings establishing the reasonableness of the decision.

(Code 2004, § 70-91; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-93. Reservation of regulatory and police powers.

(a) The city by the granting of a right-of-way permit, or by registering a person under this article, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or which may be hereafter vested in the city under the constitution and statutes of the state or the Charter of the city to regulate the use of the right-of-way by the permittee; and the permittee by its acceptance of a right-of-way permit or by registration under those ordinances agrees that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same maybe from time to time vested in or reserved to the city, shall be in full force and effect and subject to the exercise thereof by the city at any time. A permittee or registrant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws and ordinances enacted by the city pursuant to such powers.

(b) Any permit issued pursuant to this section is subject to the future exercise of the police power by the city and the issuance or termination of such will not entitle the permittee to any compensation from the city by virtue of the exercise of such police power.

(c) Any conflict between the provisions of a registration or of a right-of-way permit and any other present or future lawful exercise of the city's regulatory or police powers shall be resolved in favor of the latter.

(Code 2004, § 70-92; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-94. Transit amenities.

No person shall place or maintain any transit amenity on public right-of-way in the city unless they shall have obtained a permit and have complied with the provisions of this chapter.

- (1) *Procedure for issuance of permits.* The city will take into account such things as comments or complaints from adjacent property owners, ridership numbers at the proposed location, and the locations of other transit amenities along a transit route when considering the issuance of a permit. A permit to install

and maintain a transit amenity on or along any public sidewalk or right-of-way may be issued by the city to a person complying with the following requirements:

- a. The person or entity desiring such a permit shall make application to the city pursuant with section 70-71 and include the requested location and detailed plans and specifications of each proposed transit amenity and any other such information as may be deemed necessary by the city.
 - b. The location of each transit amenity shall be placed at an active, designated pickup location for the public transit system.
 - c. If the transit amenity placement is proposed to be located within county or state department of transportation right-of-way, written permission must be secured from the county or the state department of transportation and filed with the city.
 - d. All permits shall expire as of December 31 next following the date of issuance thereof, unless renewed. At least 30 days prior to the expiration of any permit, the holder may make written application for renewal thereof, accompanied by the permit fee in an amount as set forth by city council ordinance. Renewal of permits shall not be automatic. Some factors used in considering permit renewal will be the level of demonstrated demand by the public for the transit amenity and comments or complaints from adjacent property owners.
 - e. If plans and specifications of the transit amenity or location of the transit amenity are not to be changed, the application for renewal shall be sufficient if the applicant gives their name and address and the location and number of the transit amenity for which a renewal permit is desired. Whenever a transit amenity for which a permit has been issued is sold or title or control thereof transferred or assigned, a new permit shall be required and obtained for its maintenance.
 - f. If the application is for permits for more than one transit amenity at the same or different locations, a separate number and permit shall, when issued, be assigned and granted for each transit amenity authorized to be installed, but each such permit issued shall be valid only for the particular location designated therein.
- (2) *Locations where transit amenities are prohibited.* No permit shall be issued for the installation of any such transit amenity:
- a. Without the approval of the city.
 - b. In any locations, districts or zones as established by the city council.
 - c. At any location where the distance from the face of curb to the inside sidewalk line is less than six feet.

- d. At any location more than 50 feet from the nearest point of intersection within a street unless the designated bus stop is in such other location.
- e. At any location within 500 feet of another transit amenity in the same direction of travel, unless multiple amenities are permitted at a single location. Multiple amenity locations must be approved by resolution of the city council. For the purposes of this section, the term "multiple amenity locations" means locations with more than one bus bench or shelter; bus shelters with interior benches will constitute a single amenity site.
- f. At any location that is in conflict with public or private infrastructure or poses a health or safety concern to the public, as solely determined by the city.
- g. Bus shelters may not be located within the AG, FR, RE, R-1, R-1A, R-1AA, R-1B, or R-2 zoning districts unless located along a collector or arterial street or at a public facility.

(3) *Revocation.*

- a. The application for installation and maintenance of any transit amenity shall be denied if the city shall find that the maintenance of the transit amenity at the proposed location would tend to unduly obstruct passage along any public sidewalk or public way or to create a hazard, or otherwise be detrimental to the public safety, convenience or welfare.
- b. Any permit may be revoked, or the application for renewal thereof denied, for failure to comply with the provisions of this chapter, or for misrepresentation of any material facts in the application, or for any reason which would have been grounds for denial of the original application, or where in the judgment of the city, maintenance has become inappropriate. No revocation or denial shall be made arbitrarily or inequitably as between different applicants.
- c. Appeal. Denials, suspension, non-renewal, or revocation of licensure by a designated city official acting on behalf of the city council on grounds specifically set forth in this article are mandatory and not subject to appeal. For all other license denials, the applicant may appeal the final determination of the city designated city official to the city council within ten days of the denial by filing written application therefor with the city clerk. The city council, or a hearing officer appointed to act on its behalf, shall conduct a review and a hearing. The determination of the city council or the hearing officer shall be final.

(4) *Standards and maintenance.*

- a. Each permitted transit amenity shall be installed parallel with the curb and set back not less than 30 inches from the face of the curb.

- b. No bench shall be more than 42 inches high nor more than 30 inches wide or seven feet long.
 - c. Bus shelters are limited to a maximum dimension of 120 square feet and ten feet in height, unless a specific site as determined by the city requires a larger shelter due to the special nature of the transit stop.
 - d. Each transit amenity shall have the permit number displayed in a conspicuous place.
 - e. Benches and shelters shall be installed on a level and stable base on a concrete slab, with an extension to a sidewalk or curbline in compliance with current Americans with Disabilities Act (ADA) standards as applicable or required unless otherwise authorized by the city.
 - f. At no time may a transit amenity be installed on or otherwise encroach upon any sidewalk, trail, or other walkway or conveyance.
 - g. It shall be the duty of the permittee to maintain, at the permittee's cost, each transit amenity at all times in a safe condition at its proper location and to inspect each bench periodically in order that it may be properly maintained. Transit amenities shall be kept at all times in a clean and useable condition. Ice and snow shall be removed from the transit amenities and the vicinity in such a manner that each transit amenity shall be accessible within 72 hours of a snowfall or other weather event. Trash and debris shall be removed weekly. Weeds and grass shall be maintained at less than six inches in length. Any graffiti shall be removed and any damage to the transit amenity shall be repaired within two days of discovery or receipt of notice from the city.
 - h. When directed by the city as necessary to address refuse and litter issues, transit amenity sites shall be equipped with an architecturally complementary trash receptacle. The permittee, at their cost, shall maintain and empty the trash receptacle weekly.
- (5) *Advertisements.* Advertising may be allowed upon a transit amenity in accordance with the following standards:
- a. No advertising matter or sign shall be displayed upon any bench except only upon the front surface of the backrest and may not be lighted, flashing or moving.
 - b. Advertising matter or signs on shelters must be located on the far end wall of the shelter away from the direction of travel for the transit route serving the stop.
 - c. Advertising panels on a bus shelter are limited to two panels measuring a maximum of 24 square feet per panel.

- d. No advertising matter or sign shall display the words "stop," "look," "drive in," "danger," or any other word, phrase or symbol which might interfere with, mislead or distract traffic.

(6) *Removal of transit amenities.*

- a. Upon the revocation or expiration of any permit without renewal, if the permittee fails to promptly remove a transit amenity, the city may do so within ten days after written notice given by mail directed to the address of the permittee on file, and if the permittee shall fail to pay the cost of removal and storage thereof within a period of 60 days after the giving of such notice, the permittee's rights in said transit amenity shall be forfeited, but such forfeiture shall not excuse the permittee from the payment of the cost of removal and storage of said transit amenity.
- b. The permittee shall move benches or shelters immediately upon request of the city, at the permittee's expense, should temporary or permanent removal be made necessary by construction or repair work in the vicinity of the transit amenity or if the transit amenity poses a safety hazard or interferes with pedestrian or vehicular travel within the right-of-way.
- c. The permittee shall remove, at the permittee's expense, benches or shelters within 30 days if a transit stop is no longer active at the location of the transit amenity.

(7) *Insurance and bonding.*

- a. Applicants for permits shall maintain insurance in accordance with section 70-68(a)(3).
- b. The insurance shall be maintained in its original amount by the permittee at the permittee's expense at all times during the period for which the permit is in effect.
- c. In the event that two or more permits are issued to one permittee, one such insurance policy may be furnished to cover two or more benches or shelters and the insurance policy shall be of a type in which coverage shall automatically be restored immediately after the occurrence of any accident or loss from which liability may thereafter accrue. Such policy shall not be terminated without 30 days' prior written notice to the city.
- d. Before a permit is issued, the applicant shall post a performance bond, in an amount determined to be sufficient by the city and in a form approved by the city, conditioned on the applicant removing and disposing of the transit amenity and foundation, restoring the site to its previous grade, and restoring and maintaining vegetative cover as appropriate.

(Code 2004, § 70-93; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Sec. 70-95. Newspaper vending machines.

No person shall place or maintain any newspaper vending machines on public right-of-way in the city unless they have notified the city in writing, on a form provided by the city, of the location of the vending machine.

(1) *Placement conditions.* Placement of newspaper vending machines shall comply with the following conditions:

- a. Newspaper vending machines shall be placed no closer than four feet from the roadway curb or edge of the roadway where no curb exists.
- b. Newspaper vending machines shall not obstruct or block any portion of a sidewalk or trail.
- c. No more than one newspaper vending machine per publisher may be placed within 800 feet of any other newspaper vending machine of that same publisher.
- d. No newspaper vending machine may be attached to a public or private facility within the public right-of-way such as utility poles, transit amenities, roadway signs or fire hydrants.
- e. No newspaper vending machine may be placed in a public right-of-way adjacent to a property zoned residential and containing four residential units or less.

(2) *Removal.* The permittee shall remove a newspaper vending machine immediately upon request of the city, at the permittee's expense, should temporary or permanent removal be made necessary by construction or repair work in the vicinity of the newspaper vending machine or if the newspaper vending machine poses a safety hazard or interferes with pedestrian or vehicular travel within the right-of-way.

(Code 2004, § 70-94; Ord. No. 13-2264, 6-6-2013; Ord. No. 17-2390, 12-7-2017)

Chapters 71—73

RESERVED

Chapter 74

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ARTICLE I. IN GENERAL**Sec. 74-1. Intent and purpose.**

The intent of this chapter is to protect and provide for the public health, safety, morals, and general welfare of the city and its people, and specifically to achieve the following purposes:

- (1) To encourage well planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction;
- (2) To provide for the health, safety, and welfare of residents by ensuring public infrastructure, facilities and services are available concurrent with development;
- (3) To implement the comprehensive plan;
- (4) To ensure that subdivisions are consistent with all applicable provisions of all applicable plans, laws and regulations;
- (5) To establish standard requirements, conditions, and procedures for the design and review of subdivisions;
- (6) To provide for the orderly subdivision of land, and to ensure proper legal descriptions and monumentation of subdivided land;
- (7) To require subdividers to dedicate land, install infrastructure, pay fees, and establish mitigative measures to ensure that development provides its fair share of capital facilities;
- (8) To encourage a beneficial relationship between the uses of land and circulation of traffic throughout the city, and to provide for the proper location and design of streets; and
- (9) To prevent problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision, or scattered subdivision.

(Code 2004, § 75-1; Ord. No. 22-2515, att.(75-1), 12-19-2022)

Sec. 74-2. Relationship to comprehensive plan.

The enforcement, amendment, and administration of this chapter shall be accomplished consistent with the city's comprehensive plan, as may be amended from time to time. The council recognizes the comprehensive plan as the official policy for the regulation of land use and development in accordance with the policies and purpose herein set forth. In accordance with M.S.A. ch. 473, the city will not approve any changes in these regulations that are not consistent with the city's comprehensive plan.

(Code 2004, § 75-2; Ord. No. 22-2515, att.(75-2), 12-19-2022)

Sec. 74-3. More restrictive provision to apply.

Where the regulations imposed by any provisions of this chapter are either more or less restrictive than comparable regulations imposed by this chapter, or any other law, ordinance, rule, or regulation of the city, state, or federal government, the law, ordinance, rule, or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.

(Code 2004, § 75-3; Ord. No. 22-2515, att.(75-3), 12-19-2022)

Sec. 74-4. Conformity with this chapter required.

No land shall be divided, subdivided, or re-subdivided in a manner that does not comply with the provisions of this chapter.

(Code 2004, § 75-4; Ord. No. 22-2515, att.(75-4), 12-19-2022)

Sec. 74-5. Authority.

This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S.A. §§ 462.351 to 462.365.

(Code 2004, § 75-6; Ord. No. 22-2515, att.(75-6), 12-19-2022)

Sec. 74-6. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Block means an area of land within a subdivision that is entirely bounded by streets, or by a combination of streets, public lands, railroad rights-of-way, water bodies, or the exterior boundary lines of the subdivision.

Boulevard means the portion of the street right-of-way between the curbline (or in the absence of a curb, the improved roadway) and a lot line.

Building includes the term "structure."

Comprehensive plan and *comprehensive municipal plan* mean a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both public and private, of the municipality and its environs, as defined in M.S.A. § 462.352, subd. 5, and include any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Cul-de-sac means a local street with only one vehicular outlet, having an appropriate turn-around area at its terminus for the safe and convenient reversal of traffic.

Drainage channel means the open manmade portion of a drainage system.

Drainage system means either an open or enclosed system and all laterals or parts thereof. The term "drainage system" includes the improvement of any natural waterway included in or utilized in the construction of any drainage system.

Easement means a grant of one or more property rights by a property owner for use by the public, a corporation, or another person or entity.

Engineering guidelines/standard detail specifications means standards amended from time to time provide information and establish standards, specifications and details for the construction of public and private improvements, as on file with the city engineer.

Fair market value means a price that a willing buyer would pay and a willing seller would accept for the unimproved land or influences as determined by the city manager but excluding any buildings or structures located thereon, when used in the context of parkland dedication.

Flood, regional, means a flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one percent chance or 100-year recurrence interval. The term "regional flood" is synonymous with the term "base flood," as used in the flood insurance study.

Floodprone area means any land within the 100-year floodplain susceptible of being inundated by water from any source.

Frontage means that boundary of a lot which abuts an existing or dedicated public street, or private street when approved under section 74-102(k).

Lot means a tract, plot, or portion of a subdivision or other parcel of land intended as an individual unit for the purpose, either immediate or future, of transfer of ownership, or possession, or for building development.

Lot division means dividing a lot of record by placing new lot lines within its boundary, resulting in the creation of additional lots.

Lot of record means a parcel of land whose existence, location and dimensions have been legally recorded or registered in a deed or on a plat and recorded prior to the adoption of subdivision regulations by the city on March 2, 1962, or a parcel of land approved by the city as a lot and recorded subsequent to such date.

Lot rearrangement means adjusting the lot lines between two or more lots of record, resulting in the same number of lots.

Lot, base, means a lot meeting all specifications in the zoning district prior to being subdivided into a two-family dwelling, townhouse, or manor home subdivision.

Lot, corner, means a lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

Lot, double frontage, means a lot which has a front line abutting on one street and a back or rear line abutting on another street.

Lot, reverse frontage, means a lot extending between and having frontage on a major traffic street and a minor street, with vehicular access solely from the latter.

Lot, unit, means a lot created from the subdivision of a base lot for two-family dwelling, townhouse, or manor home dwelling having different minimum lot size requirements than the conventional base lots within the zoning district.

Metes and bounds means a description of real property which is not described by reference to a lot or block shown on a map but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

Model home (with or without sales office) means a dwelling constructed prior to completion of paved roads, water, or sewer. A model home that has been modified to serve as a sales office shall also be regulated as a sales office.

Natural waterway means a natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area.

Official map means a map duly adopted by the council pursuant to the provisions of M.S.A. §§ 462.351 to 462.365 showing existing streets, proposed future streets, and the area needed for widening of existing streets of the city. An official map may also show the location of existing and future land and facilities within the city. An official map may cover the entire city or any portion of the city.

Outlot means a parcel of land required to be platted as a lot prior to development, or a parcel of land which is designated for public or private open space, right-of-way, utilities or other similar purpose.

Parcel means an individual lot or tract of land.

Pedestrian way means a public right-of-way across or within a block to provide access for pedestrians.

Planning commission means the planning commission of this city.

Plat means the drawing or map of a subdivision prepared pursuant to M.S.A. ch. 505 and containing all elements or requirements of this chapter.

Plat, final, means a plat to be presented to the council for approval and which, if found to be consistent with the approved preliminary plat, may be duly filed with the county registrar of deeds.

Plat, preliminary, means a plat submitted to the city for preliminary consideration and approval.

Public improvement means any sewer pipe, water pipe, drainage ditch, roadway, street, parkway, sidewalk, trail, tree, lawn, off-street parking area, lot improvement or other facility for which the city may ultimately assume the responsibility for maintenance and operation.

Record plans means a final set of engineering plans that provide accurate and complete information pertaining to the location, construction, and materials used in the construction of streets, utilities, and other improvements. The plans shall incorporate and include all changes and revisions to the final set of approved construction plans that are made during construction as well as other pertinent information.

Replat means the platting of an area that was previously platted.

Right-of-way means land acquired by reservation or dedication intended for public use, and intended to be occupied or which is occupied by a street, trail, railroad, utility lines, oil or gas pipeline, water line, sanitary sewer, storm sewer or other similar uses.

Sales office means a home modified to serve as a real estate office for sales within the subdivision in which the sales office is located.

Sales office, portable, means a manufactured home or temporary structure used as a real estate office for sales within the subdivision in which the portable sales office is located.

Street means a public right-of-way for vehicular traffic, whether designated as a highway, thoroughfare, arterial, parkway, collector, through way, road, avenue, boulevard, lane, place, drive, court or otherwise designated, which has been dedicated or deeded to the public for public use and which affords principal means of access to abutting property.

Street, arterial, means a street or highway with access restrictions designed to carry large volumes of traffic between various sectors of the county and beyond.

Street, collector, means a street which carries traffic from local streets to arterials.

Street, improved, means a public roadway that has a paved surface, or a gravel surface constructed prior to adoption of this chapter.

Street, local, means a street of limited continuity used primarily for access to the abutting properties and the local need of a neighborhood.

Subdivider means any person commencing an application proceeding under this chapter to effect a division, consolidation, rearrangement, subdivision or re-subdivision of land. A subdivider is the owner of the land or an individual representing the landowner who has express written authority to act on behalf of the owner.

Subdivision means the separation of an area, parcel, or tract of land under single ownership into two or more lots, parcels, or tracts, including lot rearrangements, except for those separations:

- (1) Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses or is otherwise exempt under M.S.A. § 462.358, subd. 4b.
- (2) Creating cemetery lots.

Tract means a unit of land described by letter in a registered land survey.

Tree, significant, means any live healthy tree measuring eight inches in diameter or greater, measured at 4½ feet above the ground.

Used for includes the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."

Zoning administrator means the officer charged with the administration and enforcement of this chapter. For the purposes of this chapter, the zoning administrator shall be considered the director of community development or designee when referenced in this Code.

(Code 2004, § 75-8; Ord. No. 22-2515, att.(75-8), 12-19-2022)

Sec. 74-7. Administration.

This chapter shall be administered and enforced by the zoning administrator. The zoning administrator's duties shall include, but not be limited to, the following:

- (1) Periodically inspect property to determine compliance with the terms of this chapter.
- (2) 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.
- (3) Order discontinuance of illegal work being done or take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions, including cooperation with the city attorney in the prosecution of complaints.
- (4) Maintain permanent and current records of the subdivision regulations.
- (5) Maintain current files of all subdivision approvals and copies of notices of violations thereto and, upon request, provide complaint and violation information to any person having a proprietary or tenancy interest in any specific property.
- (6) Provide clerical and technical assistance to the planning commission and city council.

(7) Receive, file and forward as applicable to the planning commission or city council all applications for subdivision as required herein.
(Code 2004, § 75-9; Ord. No. 22-2515, att.(75-9), 12-19-2022)

Sec. 74-8. Civil enforcement.

(a) Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this subsection shall forfeit and pay to the city a penalty of not less than \$100.00 for each lot or parcel so conveyed.

(b) The city may enjoin such conveyance or may recover such penalty by a civil action in any court of competent jurisdiction.
(Code 2004, § 75-10; Ord. No. 22-2515, att.(75-10), 12-19-2022)

Sec. 74-9. Criminal penalties.

Any person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined or penalized not more than the maximum levels established by the state for misdemeanor offenses. A misdemeanor charge may be brought in place of or in addition to any civil enforcement.
(Code 2004, § 75-11; Ord. No. 22-2515, att.(75-11), 12-19-2022)

Sec. 74-10. Requirements.

(a) *Subdivision approval.* Subdivision approval in compliance with the provisions of this chapter shall be required.

(b) *Platting.* All subdivisions, as defined in this chapter, shall require platting as set forth in this chapter.

(c) *Registered land surveys.* All registered land surveys shall be filed subject to the same procedures as required for the filing of a preliminary plat for platting purposes. The standards and requirements set forth in this chapter shall apply to all registered land surveys. A registered land survey shall not be used to divide a parcel of land into lots for the purpose of transfer of ownership or building development if any of the tracts would not have the required frontage on a dedicated and improved public street.

(d) *Building permits.* No building permits shall be issued for construction or alteration of any building or structure on any parcel of land which is conveyed in violation of this chapter. No building permits will be issued for construction of any building or structure on any lot in a subdivision which has been approved for platting until all requirements of this chapter have been fully complied with.
(Code 2004, § 75-12; Ord. No. 22-2515, att.(75-12), 12-19-2022)

Sec. 74-11. Premature subdivision prohibited.

Any proposed subdivision deemed premature for development shall not be approved by the council. A subdivision shall be deemed premature if the council determines that any of the following conditions exist. The burden of proof shall be upon the subdivider to show that the proposed subdivision is not premature.

- (1) *Inconsistent with the comprehensive plan.* A proposed subdivision may be deemed premature if it is inconsistent with the purposes, objectives, development staging plan, or recommendations of the city's comprehensive plan, as may be amended. Application for reguiding or rezoning may be made simultaneously with an application for subdivision approval; however, a subdivision application will not be considered for approval by the council until and unless any necessary reguiding or rezoning application is approved by the council.
- (2) *Inconsistent with the capital improvements program.* A proposed subdivision may be deemed premature if it is inconsistent with the capital improvements program because public improvements, facilities, or services necessary to accommodate the proposed subdivision would not be completed within two years of the date of approval of final plat.
- (3) *Lack of adequate water supply.* A proposed subdivision may be deemed premature if public water is not available to serve the proposed subdivision. All new lots shall be served by public water except for lots over ten acres in size and zoned agriculture, farm residential, or residential estate. New lots over ten acres in size and zoned development flex may be created without connection to public water if approved by the city council as part of the conditional use permit establishing the development flex standards for the district. Existing structures served by private wells may remain as part of a subdivision when meeting the standards of section 74-106(c).
- (4) *Lack of adequate waste disposal systems.* A proposed subdivision may be deemed premature if:
 - a. Sanitary sewer is neither available nor proposed, except for lots over ten acres in size and zoned agriculture, farm residential, or residential estate. New lots over ten acres in size and zoned development flex may be created without connection to public sanitary sewer if approved by the city council as part of the conditional use permit establishing the development flex standards for the district; or
 - b. Available or proposed sanitary sewer is inadequate to support the subdivision if developed to its maximum permissible density after reasonable sewer capacity is reserved for schools, public facilities, and other developments planned within five years of the date of application.

- (5) *Lack of adequate streets to serve the subdivision.* A proposed subdivision may be deemed premature if:
- a. Streets which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance or surface condition that the traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or would seriously aggravate an existing hazardous condition; or
 - b. The traffic volume generated by the proposed subdivision would create congestion or unsafe conditions on existing or proposed streets.
- (6) *Lack of adequate drainage.* A proposed subdivision may be deemed premature if:
- a. Surface or subsurface water retention and runoff is such that it constitutes a hazard to the stability of proposed or existing structures; or
 - b. The proposed subdivision would cause pollution of water sources or would cause damage from erosion or siltation on downstream property; or
 - c. Factors including, but not limited to, the presence of floodplain, poor soils or subsoils, or steep slopes exist in such a manner as to preclude adequate site drainage or treatment of runoff.
- (7) *Inconsistent with environmental requirements.* A proposed subdivision may be deemed premature if the proposed development requires completion of environmental review under M.S.A. ch. 4410 and the appropriate responsible government unit has not issued a negative declaration on the need for an environmental impact statement or determined that an environmental impact statement is adequate.
- (Code 2004, § 75-13; Ord. No. 22-2515, att.(75-13), 12-19-2022)

Sec. 74-12. Variances.

(a) *Purpose.* The purpose of this section is to provide for variations from the literal provisions of this chapter in instances where an unusual hardship exists upon the land.

(b) *Board of adjustments and appeals.* The planning commission shall act as the board of adjustments and appeals.

(c) *Review criteria.* The council shall not approve a variance unless they find failure to grant the variance will result in unusual hardship. The term "unusual hardship" means that the property owner proposes to use the property in a reasonable manner not permitted by this title. Economic considerations alone do not

constitute unusual hardship. Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. The following criteria for a variance must also be met:

- (1) That the variance would be consistent with the comprehensive plan.
- (2) That the variance would be in harmony with the general purposes and intent of this chapter.
- (3) That the plight of the landowner is due to circumstances unique to the property not created by the landowner.
- (4) That the purpose of the variance is not exclusively economic considerations.
- (5) That the requested variance is the minimum action required to eliminate the unusual hardship.

(d) *Procedures.*

- (1) The subdivider shall file the completed application form together with a written description of the request for a variance, including an explanation of compliance with the variance criteria in this section and any supporting materials requested by the zoning administrator with the zoning administrator and shall pay a filing fee as established by the city council.
- (2) Upon receipt of a complete application, the zoning administrator shall transmit the application to the planning commission and shall notify all property owners of record within 350 feet of the exterior boundaries of the property in question and within 350 feet of all contiguous property under common ownership.
- (3) The planning commission shall hold the public hearing and determine possible adverse effects of the variance and determine what additional requirements may be necessary to reduce such adverse effects and recommend to the city council one of three actions:
 - a. Approval;
 - b. Denial; or
 - c. Conditional approval.
- (4) The city council shall take appropriate action on the request for a variance after receiving the recommendations by the planning commission. City council action shall be in the form of a resolution.
- (5) Whenever an application for a variance has been considered and denied by the council, a similar application for a variance affecting substantially the same property shall not be considered again by the planning commission or council for at least six months from the date of its denial.

(e) *Appeal of council ruling.* Any person, any private or public board, or taxpayer of the city aggrieved by any decision of the council shall have the right to seek review of the decision with a court of record in the manner provided by the laws of the state, and particularly M.S.A. § 462.361, as such statutes may be from time to time amended, supplemented or replaced.

(f) *Expiration.* A variance approved under this section shall expire without further action by the planning commission or the council, at such time as the related subdivision approval expires.

(Code 2004, § 75-14; Ord. No. 22-2515, att.(75-14), 12-19-2022)

Sec. 74-13. Appeals.

(a) *Applicability.* An appeal shall only be applicable to an interpretation of legislative intent of provisions of this chapter. Opinions and evaluations as they pertain to the impact or result of a request are not subject to the appeal procedure.

(b) *Filing.* An appeal from the ruling of an administrative officer of the city shall be filed by the property owner or their agent with the zoning administrator within 30 days after the making of the order being appealed.

(c) *Stay of proceedings.* An appeal stays all proceedings and the furtherance of the action being appealed unless it is certified to the council, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would cause imminent peril to life and property. In such case, the proceedings shall not be stayed other than by a restraining order which may be granted by a court of record on application, and upon subsequent notice to the city.

(d) *Procedure.* The procedure for making such an appeal shall be as follows:

- (1) The property owner or their agent shall file with the zoning administrator a notice of appeal stating the specific grounds upon which the appeal is made.
- (2) The zoning administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate and shall provide general assistance in preparing a recommendation on the action to the planning commission.
- (3) The planning commission shall make its decision by resolution within 60 days from the date on which a completed application is filed, unless extended or waived pursuant to M.S.A. § 15.99.

(e) *Appeals from the commission.* Any person, any private or public board, or taxpayer of the city aggrieved by any decision of the planning commission shall have the right to seek review of the decision with a court of record in the manner provided by the laws of the state, and particularly M.S.A. § 462.361, as such statutes may be from time to time amended, supplemented, or replaced.

(Code 2004, § 75-15; Ord. No. 22-2515, att.(75-15), 12-19-2022)

Secs. 74-14—74-44. Reserved.

ARTICLE II. PLATS

Sec. 74-45. Concept plan.

(a) *Generally.* In order to ensure that all subdividers are informed of the procedural requirements and minimum standards of this title, and the requirements or limitations imposed by other city ordinances, plans or policies, prior to the preparation of a preliminary plat, all subdividers shall present a concept plan to the zoning administrator prior to filing a preliminary plat. The zoning administrator shall have the authority to refer the concept plan to the planning commission or city council for review at a regular meeting or workshop and comment. Concept plans for subdivisions proposing 50 or more residential units and utilizing development flex zoning shall be referred to the city council for review. Concept plans being referred to the city council for review shall be reviewed by the city council within 60 days of submission of a concept plan meeting the submission requirements of subsection (c) of this section. The subdivision concept review and feedback provided by staff, the planning commission or the city council is advisory in nature does not constitute any form of approval of the project. The planning commission and city council reserve the right for additional comment and review during the formal preliminary plat application process.

(b) *Filing.* A concept plan application shall be filed with the zoning administrator on an official application form. The application shall be accompanied by a fee as established by the fee schedule.

(c) *Submission requirements.* The concept plan submission shall include the following:

- (1) Draft site plan with lot sizes and dimensions labeled and areas for stormwater ponding indicated.
- (2) Draft tree preservation plan.
- (3) If requesting development flex zoning, the concept plan submittal should include setbacks, proposed home styles, and example elevations.
- (4) Residential density exhibits for all plats, including residential uses.
 - a. Exhibits shall depict areas according to the following uses and specify total acreages for each:
 1. Wetlands and water bodies (not including stormwater ponds).
 2. Rare threatened and endangered species preservation areas.
 3. Arterial roads.
 4. Future development.

5. Commercial uses.

6. Public parks.

- b. Exhibits shall include a calculation of the net density of the subdivision excluding the areas listed in subsections (c)(4)a.1 through 5 of this section from the net acreage.

(5) Other materials as requested by the zoning administrator.

(d) *Review required.* Concept plan review by the city council shall be completed prior to submission of a preliminary plat application for any subdivisions larger than 50 lots are requesting development flex zoning. Failure to submit a concept plan prior to submission of a preliminary plat application shall result in the preliminary plat application being deemed incomplete until concept plan review by the city council has been completed. Concept review of subdivisions not meeting these criteria shall be reviewed by the city council only when referred by staff.

(Code 2004, § 75-31; Ord. No. 22-2515, att.(75-31), 12-19-2022)

Sec. 74-46. Preliminary plat.

(a) *Procedure.*

- (1) *Authority.* Pursuant to M.S.A. § 462.358, an application for a preliminary plat shall be approved or denied within 120 days from the date of its official and complete submission unless extended pursuant to statute or a time waiver is granted by the subdivider.
- (2) *Filing.* A preliminary plat application shall be filed with the zoning administrator on an official application form. The application shall be accompanied by a fee as established by the fee schedule. The application shall be considered as being officially submitted and complete when the subdivider has complied with all the specified submittal requirements, as described in this section. If the subdivision requires any variances from the provisions of this chapter, an application pursuant to section 74-12 shall also be submitted before the preliminary plat application shall be deemed complete.
- (3) *Staff analysis.* Upon receiving a complete application, as determined by staff review, the zoning administrator shall refer copies of the preliminary plat to city staff and other applicable public agencies as needed in order to receive written comments. Preliminary plats, including land abutting an existing or proposed trunk highway or highway under county jurisdiction shall also be submitted to the state commissioner of transportation or the Anoka or Ramsey County Transportation Planning Division as required by state law, at least 30 days prior to city action on the preliminary plat. Preliminary plats abutting public waters shall be referred to the state department of natural

resources for comment at least 30 days prior to city action on the preliminary plat. The zoning administrator shall instruct the appropriate staff person to:

- a. Coordinate an analysis of the application;
 - b. Prepare technical reports; and
 - c. Assist in preparing a recommendation to the planning commission and council.
- (4) *Public hearing notice.* Upon completion of staff's analysis of the application, the zoning administrator, when appropriate, shall set a public hearing date for an upcoming planning commission meeting. Notice of the hearing, including a description of the request and the legal description of the property, shall be published in the city's official newspaper at least ten days prior to the hearing. Written notification of the hearing shall also be mailed to all property owners located within 350 feet of the site at least ten days prior to the hearing. Failure of a property owner to receive mailed notice or defects in the notice shall not invalidate the proceedings.
- (5) *Planning commission consideration.* The planning commission shall consider a preliminary plat application, as follows:
- a. The planning commission shall review the preliminary plat and conduct the official public hearing.
 - b. The subdivider or representatives thereof may appear before the planning commission to present information and answer questions concerning the proposal.
 - c. The planning commission and staff shall have the authority to request additional information from the subdivider concerning the proposal, as deemed necessary to formulate a recommendation on the proposal.
 - d. The planning commission shall make a recommendation on the preliminary plat considering conformance with the city's comprehensive plan, zoning ordinance, this chapter and all chapters of this Code. The commission shall recommend denial of the preliminary plat if it makes any of the following findings:
 1. That the proposed subdivision conflicts with the city's comprehensive plan, zoning ordinance, capital improvements program, or other policy or regulation. Lot line adjustments between two parcels of record resulting in a lot that does not meet the minimum requirements of the zoning district may be approved if such subdivision adds area from an existing abutting lot in an effort to bring the lot receiving additional area further towards compliance with the minimum lot size, lot depth, lot width, or road frontage.
 2. That the proposed subdivision conflicts with the purpose and intent of this chapter.

3. That the physical characteristics of the site, including, but not limited to, topography, vegetation, susceptibility to erosion and siltation, susceptibility to flooding, water storage, and retention, are such that the site is not suitable for the type of development or use contemplated.
 4. That the design of the subdivision or the type of improvements will be detrimental to the health, safety, or general welfare of the public.
 5. That the design of the subdivision or the type of improvement will conflict with easements on record or with easements established by judgment of a court.
 6. That the subdivision is premature as determined by the standards of section 74-11.
- (6) *Council consideration.* The council shall consider a preliminary plat application, as follows:
- a. The city council shall take appropriate action on the request for preliminary plat after receiving the recommendations by the planning commission.
 - b. The council shall have the option of receiving additional testimony on the matter if they so choose.
 - c. The council shall either approve or deny the application prior to the action deadline as specified in subsection (a)(1) of this section.
 - d. Approval of a preliminary plat shall require passage by a majority vote of the entire council. Such approval shall constitute general acceptance of the layout, but shall not constitute final acceptance of the subdivision. Subsequent approval of a final plat will be required before recording of the plat. The council may require plan revisions and may impose conditions upon approval, as deemed necessary to protect the health, safety, and general welfare of the city.
 - e. If a preliminary plat is denied by the council, the reasons for such action shall be recorded in the council proceedings and transmitted to the subdivider.
- (7) *Effect of approval.* For one year following preliminary plat approval, unless the subdivider and city agree otherwise, no amendment to the comprehensive plan or other official controls shall apply to or affect the use, development density, lot size, or lot layout that was approved.
- (8) *Effect of denial.* If a preliminary plat application is denied by the council, a substantially similar application for a preliminary plat affecting the same property or significant part of the same property shall not be considered again by the planning commission or council for at least six months from the date of its denial.

(9) *Expiration of preliminary plat approval.*

- a. Unless the council specifically approves a different time period, the approval of a preliminary plat shall expire one year from the date it was approved, unless the subdivider has filed a complete application for approval of a final plat; or, unless before expiration of the one-year period, the subdivider submits a written request for an extension thereof. Such request for an extension shall include the following:
 1. An explanation for why a final plat has not been applied for;
 2. What, if any, good faith efforts have been made to complete the platting process;
 3. The anticipated completion date; and
 4. The signature of the subdivider and property owner.
- b. The city council may approve one such extension of a term to be established in the resolution approving the extension. The city council, at their discretion, may require the subdivider to reapply for a preliminary plat approval and deny the extension. Reasons for denial shall be recorded in the council proceedings and transmitted to the subdivider.

(b) *Application requirements.* The materials, information, and drawings required for submission of a preliminary plat application are listed in this section. In order for a preliminary plat application to be deemed complete, it shall include all materials, information, and drawings listed in this section.

- (1) *Form.* The subdivider shall submit an official application form, as provided by the city, including the following information:
 - a. Location, address (if assigned), legal description, and county property identification number (P.I.N.) of all parcels included within the proposed plat.
 - b. Name, address, telephone number, and signature of the subdivider and all persons currently having an ownership interest in the parcels comprising the proposed plat.
 - c. Written description that provides information about the proposed plat, including, but not limited to, number of lots, development type, and anticipated completion date.
- (2) *Drawings, general requirements.* Drawings must meet all following specifications:
 - a. Be at a standard engineer's scale not to exceed 1:100.
 - b. Include a title, and north point indication, the name and address of the subdivider, and the name and address of the designer of the drawing.

- c. Include the signature of the person who prepared the drawing, together with any registration number or other professional certification number or title.
 - d. Provide the date of preparation and any revisions thereto.
- (3) *Drawings, existing conditions.* The application form shall be accompanied by drawings and information indicating the following:
- a. An accurate certified survey of the proposed plat, current within one year, showing existing conditions and providing the current legal descriptions of all parcels within the proposed plat.
 - b. Floodplain boundaries within the proposed plat.
 - c. Gross acreage and net acreage of the proposed plat, computed to one-tenth of an acre. Gross acreage means the total site area, and net acreage means gross acreage minus all wetland, floodplain, and rare, threatened, and endangered species preservation areas.
 - d. Location, width, and name of all existing streets, public ways, parks, and other public lands (including permanent structures), railroads, utility rights-of-way, corporate lines, and easements within the proposed plat, and to a distance of 100 feet beyond the boundary lines of such plat.
 - e. Location and size of all existing buildings, as well as all sewers, watermains, culverts and other underground facilities (public and private) within the proposed plat, and to a distance of 100 feet beyond the boundary lines of such plat. Data such as grades, rim and invert elevations, locations of catchbasins and utility holes, and fire hydrants shall also be provided.
 - f. Topography in two-foot contour intervals within the proposed plat, and to a distance of 100 feet beyond the boundary lines of such plat.
 - g. Watercourses, wetlands, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features within the proposed plat, and to a distance of 100 feet beyond the boundary lines of such plat.
 - h. Boundary lines and ownership of all adjoining land within 100 feet.
 - i. Existing guiding and zoning classifications for land within, and abutting, the proposed plat.
 - j. Tree survey or other depiction of tree locations. Drawing may indicate the location of individual trees, general wooded areas covered by tree canopy, or a combination thereof.
 - k. Soil borings and percolation tests, as may be required by the building official or city engineer.

- (4) *Drawings, preliminary plans.* The application form shall be accompanied by drawings and information indicating the following:
- a. Preliminary plat, including the following:
 1. Name of the proposed plat.
 2. Layout of all proposed lot lines, together with the number, size (square footage), and preliminary dimensions, including the width of the lots at the front setback line.
 3. Layout of all proposed streets, including those required in accordance with the city's comprehensive plan, showing right-of-way widths, pavement widths, centerline gradients, typical cross sections, and street drainage systems.
 4. Location and width of all proposed sidewalks, trails, pedestrian ways, and fire lanes.
 5. Location, dimensions, and purpose of all easements.
 6. Minimum building setback lines.
 7. Areas other than streets, sidewalks, trails, pedestrian ways, and utility easements intended to be dedicated or reserved for private or public use, including the size of such areas.
 8. Proposed guiding and zoning classifications if the plat application includes a reguiding or rezoning request.
 - b. Preliminary grading and erosion control plan for the proposed plat, including the following:
 1. Lot and block numbers, building pad locations, building style and proposed building pad elevations at the lowest floor and garage slab for each lot.
 2. Topography in two-foot contour intervals, with existing contours shown as dashed lines and proposed contours shown as solid lines. Existing topography shall extend 100 feet beyond the borders of the proposed plat.
 3. Location of all existing natural features on the tract, including, but not limited to, tree lines, wetlands, ponds, lakes, streams, drainage channels, bluffs, steep slopes, etc.
 4. Location of all existing and proposed storm sewer facilities, including pipes, utility holes, catchbasins, ponds, swales, and drainage channels within 100 feet of the proposed plat. Pipe type and size, pipe grades, rim and invert elevations, and normal high water elevations shall be included.
 5. Location of any floodplain regulated under chapter 125, article II.

6. Spot elevations at drainage break points and directional arrows indicating site and swale drainage.
 7. Locations, grades, and rim invert elevations of all storm sewer facilities, including ponds, proposed to serve the plat.
 8. Locations and elevations of all street high and low points.
 9. Street grades.
 10. Phasing of grading.
 11. Location of all easements, including oversize or non-typical easements.
 12. An erosion control plan, pursuant to section 101-12.
- c. Preliminary utility plan for the proposed plat, including the following:
 1. Location, dimensions, and purpose of all easements.
 2. Location, type, size, grades, and rim and invert elevations of existing and proposed sanitary sewer, storm sewer, water mains, culverts, catchbasins, utility holes, hydrants, and other similar facilities within the proposed plat and to a distance of 100 feet beyond the plat.
 3. Schematic storm sewer, sanitary sewer, and water layouts, illustrating invert and top rim elevations, proposed gradients, direction of flow, hydrant locations, and drainage areas.
 - d. Landscape plan for the proposed plat, including the following:
 1. Locations and details for proposed berms and walls.
 2. Required planting material on each individual lot.
 3. Common area landscaping.
 - e. A ghost plat, or concept plan, for all area intended for future re-subdivision and for adjacent areas guided in the city's comprehensive plan for low density, medium density, or high density residential that have not yet been subdivided to the fullest extent or that may be further subdivided in the future to achieve the density in the comprehensive plan.
 - f. Tree impact exhibit showing areas with tree cover being removed and preserved. Exhibit shall also include demonstration of all efforts to preserve trees with special attention to high quality trees and highly visible trees and a calculation of the number of replacement trees required by section 129-9.
 - g. A phasing diagram if the proposed development is anticipated to be presented for final plat approval in multiple phases.
 - h. A CAD file of the proposed preliminary plat.

- i. Residential density exhibits for all plats, including residential uses.
 1. Exhibits shall depict areas according to the following uses and specify total acreages for each:
 - (i) Wetlands and water bodies (not including stormwater ponds).
 - (ii) Rare threatened and endangered species preservation areas.
 - (iii) Arterial roads.
 - (iv) Future development.
 - (v) Commercial uses.
 - (vi) Public parks.
 2. Exhibits shall include a calculation of the net density of the subdivision excluding the areas listed in subsections (b)(4)i.1 of this section from the net acreage.

(Code 2004, § 75-32; Ord. No. 22-2515, att.(75-32), 12-19-2022)

Sec. 74-47. Final plat.

(a) *Procedure.*

- (1) *Timeline of approval or denial.* Pursuant to M.S.A. § 462.358, an application for a final plat shall be approved or denied within 60 days from the date of its official and complete submission unless extended pursuant to statute or a time waiver is granted by the subdivider.
- (2) *Compliance with preliminary plat.* A final plat application shall be in substantial compliance with the approved preliminary plat, including any required modifications thereto.
- (3) *Filing.* A final plat application shall be filed with the zoning administrator on an official application form. The application shall be accompanied by a fee as specified in the fee schedule. The application shall also be accompanied by detailed written and graphic materials, the number, size, and format as prescribed by the zoning administrator, that describe the final plat. The application shall be considered as being officially submitted and complete when the subdivider has complied with all the specified submittal requirements, as described in this section.
- (4) *Staff analysis.* Upon receiving a complete application, as determined by staff review, the zoning administrator shall refer copies of the final plat to city staff and other applicable public agencies as needed in order to receive written comments. The zoning administrator shall instruct the appropriate staff person to:
 - a. Coordinate an analysis of the application;
 - b. Prepare technical reports and coordinate preparation of the development contract; and

- c. Assist in preparing a recommendation to the council.
- (5) *City council consideration.* The city council shall consider a final plat as follows:
- a. Upon receiving the reports and recommendations of the staff, the city manager shall schedule the application for council consideration. The council shall have the option of receiving additional testimony on the matter if they so choose.
 - b. The council shall either approve or deny the application.
 - c. Approval of a final plat shall require passage by a majority vote of the entire council. The council may require such revisions in the final plat as it deems necessary for the health, safety, general welfare and convenience of the city.
 - d. If a final plat is denied by the council, the reasons for such action shall be recorded in the council proceedings and transmitted to the subdivider.
- (6) *Recording of final plat.* If the final plat is approved and signed by the mayor and city officials, the subdivider shall record the final plat with the county recorder or the registrar of titles. No changes, erasures, modifications or revisions shall be made in any final plat after approval has been given by the council and endorsed in writing on the plat.
- (7) *Effect of approval.* For two years following final plat approval, unless the subdivider and city agree otherwise, no amendment to the comprehensive plan or other official controls shall apply to or affect the use, development density, lot size, or lot layout that was approved.
- (8) *Expiration of final plat approval.* Unless the council specifically approves a different time period, the approval of a final plat shall expire one year from the date it was approved, unless the subdivider has recorded the final plat with Anoka or Ramsey County; or, unless before expiration of the one year period, the subdivider submits a written request for an extension thereof. Such request for an extension shall include the following:
- a. An explanation for why a final plat has not been filed;
 - b. What, if any, good faith efforts have been made to complete the platting process;
 - c. The anticipated completion date; and
 - d. The signature of the subdivider and property owner.

The city council may approve one such extension for a term established in the resolution approving the extension. No more than one extension shall be granted.

(b) *Application.*

- (1) *Requirements.* The materials, information, and drawings required for submission of a final plat application are listed in this section. In order for a final plat application to be deemed complete, it shall include or have attached thereto all materials, information, and drawings listed in this section.
- (2) *Form.* The subdivider shall submit an official application form, as provided by the city, including the following information:
 - a. Location, address (if assigned), legal description, and property identification number (P.I.N.) of all parcels included within the proposed plat.
 - b. Name, address, telephone number, and signature of the subdivider and all persons currently having an ownership interest in the parcels comprising the proposed plat.
- (3) *Other written materials.* The application form shall be accompanied by, or address, the following written materials:
 - a. One specification book for construction of public improvements.
 - b. Cost estimates for grading and all public improvements.
 - c. Lot sizes for all lots and outlots in tabular form.
 - d. Drainage calculations for stormwater runoff.
- (4) *Drawings, general requirements.* Drawings must meet all following specifications:
 - a. Be at an engineer's scale.
 - b. Include a title, and north point indication, the name and address of the subdivider, and the name and address of the designer of the drawing.
 - c. Include the signature of the person who prepared the drawing, together with any registration number or other professional certification number or title.
 - d. Provide the date of preparation and any revisions thereto.
- (5) *Drawings, existing conditions.* The application form shall be accompanied by drawings and information indicating the following:
 - a. An accurate certified survey of the proposed plat, current within one year, showing existing conditions and providing the current legal descriptions of all parcels within the proposed plat.
 - b. Floodplain and shoreland district boundaries within the proposed plat.
 - c. Gross acreage and net acreage of the proposed plat, computed to one-tenth of an acre. Gross acreage means the total site area, and net acreage means gross acreage minus all wetland areas and areas below the 100-year ordinary high water level.

- d. Location, width, and name of all existing streets, public ways, parks, and other public lands (including permanent structures), railroads, utility rights-of-way, corporate lines, and easements within the proposed plat, and to a distance of 100 feet beyond the boundary lines of such plat.
- (6) *Drawings, final plans.* The application form shall be accompanied by drawings and information indicating the following:
- a. Final plat, including the following:
 - 1. Name of the proposed plat.
 - 2. Layout of all proposed lot lines with dimensions, and lot and block numbers.
 - 3. Layout of all proposed streets, showing right-of-way widths and street names pursuant to the city's street naming system.
 - 4. Location, dimensions, and purpose of all easements.
 - 5. Areas other than streets, sidewalks, trails, pedestrian ways, and utility easements intended to be dedicated or reserved for private or public use, including the size of such areas.
 - 6. Certification by a registered surveyor, as required by M.S.A. § 505.03.
 - 7. Space for signatures of all owners of any interest in the land, in the format prescribed by Anoka or Ramsey County.
 - 8. Space for the signatures of the mayor and city clerk to certify approval of the plat.
 - 9. Space for certificates of approval and review, in the format prescribed by Anoka or Ramsey County.
 - b. Final grading and drainage plan for the proposed plat, including the following:
 - 1. Lot and block numbers, building pad locations, building style, proposed building pad elevations at the lowest floor and garage slab for each lot and low opening elevations for proposed walk out or look out lots.
 - 2. Topography in two-foot contour intervals, with existing contours shown as dashed lines and proposed contours shown as solid lines. Existing topography shall extend 100 feet beyond the borders of the proposed plat.
 - 3. Location of all existing natural features on the tract, including, but not limited to, tree lines, wetlands, ponds, lakes, streams, drainage channels, bluffs, steep slopes, etc.
 - 4. Location of all existing and proposed storm sewer facilities, including pipes, utility holes, catchbasins, ponds, swales, and drainage

- channels within 100 feet of the proposed plat. Pipe type and size, pipe grades, rim and invert elevations, and normal and high water elevations shall be included.
5. The regulatory flood protection elevation and the required elevation of all access roads.
 6. Location of any floodprone area.
 7. Spot elevations at drainage break points and directional arrows indicating site and swale drainage, and emergency overflow locations, elevations and routes.
 8. Locations, grades, and rim invert elevations of all storm sewer facilities, including ponds and rain gardens, proposed to serve the plat.
 9. Locations and elevations of all street high and low points.
 10. Street grades.
 11. Phasing of grading.
 12. Benchmark elevations.
 13. Location and elevation of all retaining walls.
 14. Location of all easements, including oversize or non-typical easements.
 15. Locations of custom grading for tree preservation.
 16. An erosion control plan, pursuant to section 74-46(b)(4)b.
- c. Final utility plan for the proposed plat, including the following:
1. Location, dimensions, and purpose of all easements.
 2. Location, size, grades, and rim and invert elevations of existing and proposed sanitary sewer, storm sewer, water mains, culverts, catchbasins, utility holes, hydrants, and other similar facilities within the proposed plat and to a distance of 100 feet beyond the plat.
 3. Storm sewer, sanitary sewer, and water layouts, including top rim and invert elevations, proposed gradients, direction of flow, hydrant locations, drainage areas and benchmark elevations.
 4. Profiles for all proposed utilities.
- d. Landscape plan for the proposed plat, including the following:
1. Locations and details for proposed berms and walls.
 2. Required planting material on each individual lot.
 3. Common area landscaping.
- e. Tree impact exhibit showing areas with tree cover being removed and preserved. Exhibit shall also include demonstration of all efforts to

preserve trees with special attention to high quality trees and highly visible trees and a calculation of the number of replacement trees required by section 129-9.

- f. Final street plan for the proposed plat, including the following:
 - 1. Plan view of proposed and existing streets, including location, dimensions, and purpose of all rights-of-way and easements, location of existing or proposed utilities.
 - 2. Street profiles, including existing and proposed elevations extended to show how they tie into the adjacent properties.
 - 3. Street cross-section and design information based on the soil R value.
 - 4. Location and detail of proposed streetlights.
- g. CAD file of final plat.
- h. Residential density exhibit for all plats, including residential uses.
 - 1. Exhibit shall depict areas according to the following uses and specify total acreages for each:
 - (i) Wetlands and water bodies (not including stormwater ponds).
 - (ii) Rare threatened and endangered species preservation areas.
 - (iii) Arterial roads.
 - (iv) Future development.
 - (v) Commercial uses.
 - (vi) Public parks.
 - 2. Exhibit shall include a calculation of the net density of the subdivision, excluding the areas listed in subsection (b)(6)h.1 of this section from the net acreage.

(Code 2004, § 75-33; Ord. No. 22-2515, att.(75-33), 12-19-2022)

Sec. 74-48. Administrative subdivision.

(a) *Application; applicability.* The provisions of this section shall apply only to those subdivisions defined as administrative subdivisions, where the intent is to adjust a lot line or divide an existing platted lot into two lots. While the administrative subdivision is an abbreviated review process; standards and requirements of this chapter shall apply to the proposed subdivision.

(b) *Criteria and platting processes of administrative subdivisions.* The following may be considered an administrative subdivision. In the event circumstances warrant platting of the following, the zoning administrator or designated representa-

tive shall require that subdivision to be processed through the preliminary and final plat processes as identified within this chapter. The zoning administrator or designee may authorize approval of the administrative subdivision upon finding:

- (1) The parcel of land has not previously been the subject of division by the administrative subdivision procedure prior to the adoption of subdivision regulations by the city on March 2, 1962.
- (2) If the parcels are residential, the subdivision will not result in more than two lots, either through the subdivision of a single parcel into two parcels or the adjustment of a common lot line of two existing parcels.
- (3) If the parcels are commercial, administrative subdivisions shall only include the adjustment of the common lot line of two existing parcels.
- (4) All newly created lots meet the minimum requirements of the zoning district in which they are located. Lot line adjustments between two parcels of record resulting in a lot that does not meet the minimum requirements of the zoning district may be approved if such subdivision adds area from an existing abutting lot in an effort to bring the lot receiving additional area further towards compliance with the minimum lot size, lot depth, lot width, or road frontage.
- (5) The subdivision will not cause any structure on the land to be in violation of the zoning or subdivision ordinance.
- (6) Any drainage, utility, trail, right-of-way or access easements required by the city shall be granted.
- (7) Lots shall have the minimum required frontage upon a public roadway.
- (8) Lots that will not be receiving urban services shall provide evidence that septic system and water supply systems meet requirements. The building official shall review such information and may require further documentation.
- (9) Lot has been previously platted as a lot and block. Outlots may not be subdivided through an administrative subdivision.
- (10) Any park dedication due per article V of this chapter is paid.

(c) *Filing.* An administrative subdivision application shall be filed with the zoning administrator on an official application form. The application shall be accompanied by a fee as established by the fee schedule. The application shall be considered as being officially submitted and complete when the subdivider has complied with all the specified submittal requirements, as described in this section.

(d) *Application requirements.* Whenever any subdivision of land as outlined within this section is proposed, and before any contract is made for sale of any part of the parcel, and before any building permit has been issued for the erection of a

structure on such proposed subdivision shall be granted, the subdividing owner or authorized agent, shall file an application and associated fee and secure approval of an administrative subdivision. Such application shall be considered to be officially filed and complete when the zoning administrator has received all of the following items:

- (1) Complete application form.
- (2) Application fee.
- (3) Acreage calculations for proposed lots.
- (4) A certificate of survey prepared by a licensed land surveyor identifying the following:
 - a. A graphic scale not less than one inch to 100 feet.
 - b. Name and address of legal owner or agent of the property.
 - c. North arrow.
 - d. Boundaries, dimensions, and area of existing lots being subdivided and new lots to be created.
 - e. Legal descriptions of existing lots and legal description of proposed new lots.
 - f. Easements of record.
 - g. Watercourses and water bodies, including delineated wetlands.
 - h. All encroachments, easements, and right-of-way encumbering the property.
 - i. Existing buildings, structure, and improvements within the parcels to be platted.
 - j. Locations, widths, and names of all public streets or other rights-of-way showing type, width, and condition of the improvements.
 - k. Proposed driveway locations and locations of existing driveways.
 - l. Location of any abandoned or existing private wells and septic systems.
 - m. Additional data requirements as determined appropriate by the zoning administrator to ensure compliance with city requirements.
 - n. Drainage and utility easements, along all lot lines.
 - o. Any required right-of-way dedication.

(e) *Procedure.*

- (1) Upon submittal of a complete administrative subdivision application, the zoning administrator or designee shall request input from the city's planning, engineering, and legal staff, as appropriate.
- (2) The administrative subdivision of land abutting upon any existing or proposed trunk highway, county road or highway or county state-aid highway

shall be subject to review by the state department of transportation the county highway department. Written notice and a copy of the proposed administrative subdivision shall be filed with either or both entities, as deemed appropriate.

- (3) The administrative subdivision of land located within a floodplain district shall be subject to the review of the state department of natural resources or watershed district. Written notice and a copy of the proposed subdivision shall be filed with either or both entities, as deemed appropriate.
- (4) The zoning administrator or designee shall have the authority to request additional information pertinent to the administrative subdivision. Failure to provide the necessary supportive information may be grounds for denial of the request.
- (5) The zoning administrator or designee shall reach a decision on the requested administrative subdivision within 60 days upon receipt of a complete application unless the subdivider agrees to an extension of the review period.
- (6) The zoning administrator or designee may approve the administrative subdivision with conditions that must be met to ensure that the subdivision is compliant with the regulations of the zoning and subdivision ordinances, as amended, and any other applicable requirements.
- (7) The zoning administrator or designee may deny the administrative subdivision and prepare findings that the subdivision is found to be premature or fails to comply with the regulations of the zoning and subdivision ordinances, as amended, and any other applicable requirements. The subdivider may appeal an administrative subdivision denial following the procedures as outlined within city zoning regulations.
- (8) Prior to certification by the city, approving the administrative subdivision, the subdivider shall supply the deeds or other necessary documents, which grant to the city the easements or right-of-way required by this chapter.
- (9) The zoning administrator may refer the administrative subdivision to the city council at their sole discretion. No public hearing shall be required.

(f) *Recording.* Upon approval of an administrative subdivision, and satisfaction of any conditions of approval, the subdivider shall record the deed and the accompanying survey with the county office of the recorder for Anoka or Ramsey County within one year after the date of approval; otherwise, the approval of the administrative subdivision will be considered void. Verification of such recording shall be provided to the city by the subdivider prior to issuance of building permits on the proposed lots.

(Code 2004, § 75-34; Ord. No. 22-2515, att.(75-34), 12-19-2022)

Secs. 74-49—74-69. Reserved.

ARTICLE III. DEVELOPMENT CONTRACT AND REQUIRED IMPROVEMENTS

Sec. 74-70. Required improvements.

(a) *Improvements required.* Required improvements are necessary to avoid findings of premature subdivision as outlined in section 74-11. Prior to the awarding of a public construction contract or the authorization of private construction, the subdivider shall agree via a development agreement to install, in conformity with approved construction plans and in conformity with all applicable standards and ordinances, all required improvements including, but not limited to, the following:

- (1) Streets.
- (2) Sanitary sewer.
- (3) Water main.
- (4) Surface water management facilities.
- (5) Grading and erosion control.
- (6) Sidewalks and trails.
- (7) Street lighting.
- (8) Street signs and traffic control.
- (9) Landscaping.
- (10) Public and private utility infrastructure.
- (11) Miscellaneous facilities.

(b) *Payment for installation.* The required improvements to be installed by the subdivider shall be installed and financed as identified in the development agreement.

(c) *Required agreement providing for installation.* Prior to installation of any required improvements and prior to awarding of a public construction contract or authorization of private construction, the subdivider shall enter into a development agreement in writing with the city requiring the subdivider to furnish and construct the improvements in accordance with plans and specifications and usual contract conditions, which shall include provision for supervision of details of construction by the city engineer and grant to the city engineer authority to correlate the work to be done under said development agreement by any subcontractors authorized to proceed thereunder and with any other work being done or contracted by the city in the vicinity. The developer is responsible for recording of the development agreement.

(Code 2004, § 75-61; Ord. No. 22-2515, att.(75-61), 12-19-2022)

Sec. 74-71. Construction plans.

Construction plans for the required improvements conforming in all respects with the standards of the city engineer and the ordinances of the city shall be prepared at the subdivider's expense by a professional engineer who is registered in the state. The plans shall contain the engineer's seal. Such plans together with the quantities of construction items shall be submitted to the city engineer for approval and for the engineer's estimate of the total cost of the required improvements. Upon approval the construction plans shall become a part of the required development agreement. (Code 2004, § 75-62; Ord. No. 22-2515, att.(75-62), 12-19-2022)

Sec. 74-72. Inspection.

All required improvements on the site that are to be installed under the provisions of this chapter shall be inspected during the course of construction by the city engineer or designee at the subdivider's expense. (Code 2004, § 75-63; Ord. No. 22-2515, att.(75-63), 12-19-2022)

Sec. 74-73. Trunk facilities.

Where a water main, sanitary sewer, storm sewer or similar facility should be constructed at a larger size to serve areas outside the subdivision, the ultimate facility required must be constructed unless waived by the city engineer. Potential credits for increased expenses may be allocated in the development agreement. (Code 2004, § 75-64; Ord. No. 22-2515, att.(75-64), 12-19-2022)

Sec. 74-74. Financial guarantees.

Prior to the release of a signed final plat mylar for recording and commencement of construction of improvements, the subdivider shall provide the city with a financial guarantee in the form of a letter of credit from a bank, cash escrow, or a combination of a letter of credit and a cash deposit with the city. A combination of letter of credit and cash escrow or cash escrow shall be provided in an amount equal to 125 percent of the estimated cost of completion of the specified public improvements and other improvements as specified in the development agreement. The issuer of the letter of credit or the escrow agent, as applicable, shall be acceptable to the city.

- (1) *Letter of credit.* If the subdivider posts a letter of credit as a guarantee, the credit shall:
 - a. Be irrevocable;
 - b. Be from a bank approved by the city;
 - c. Be in a form approved by the city;
 - d. Be for a term sufficient to cover the completion, maintenance and warranty periods identified in this section and which contain such

provision for expiration or termination shall contain the following statement requiring notice to the city: "It is a condition of this financial guarantee that it shall be deemed automatically extended without change for one year from the present or any future expiration dates unless 60 days prior to the expiration dates we shall notify the city in writing by certified mail that we elect not to consider this financial guarantee renewed for an additional period"; and

- e. Require only that the city present the credit with a sight draft and an affidavit signed by the city manager attesting to the city's right to draw funds under the credit.

(2) *Cash escrow.*

- a. If the subdivider posts a cash escrow with the finance division as a guarantee, the subdivider will have no right to a return of any of the funds except as provided in section 74-75.
- b. A minimum of ten percent of the total required financial guarantee shall be provided in cash escrow. The cash escrow shall be used to pay for the costs of administering the development contract. Administrative costs include, but are not limited to, preparation of the contract, monitoring of construction observation, consultation with the developer and their engineer on the status or problems regarding the project, plan review, coordination for testing, final inspection and acceptance, project monitoring during warranty periods, and processing requests for reduction or release of security, for all public improvements covered by the development contract. Any balance remaining in the cash escrow account upon completion of the development contract administration process shall be returned to the developer after all claims and charges thereto have been deducted.

(3) *Cash.* A cash deposit may be used as part of the required financial guarantee in those instances where the city elects to have the city install some or all of the public improvements.

(4) *Subdivider installed improvements.* For public improvements to be installed by the subdivider, the required financial guarantee shall include all the following fixed or estimated costs:

- a. Costs of the public improvements identified in section 74-70.
- b. Engineering, to include subdivider's design, surveying, and inspection.

(5) *City-installed improvements.* For public improvements to be installed by the city, the required cash deposit and financial guarantee shall be the sum of the fixed or estimated costs and shall be provided in a method specified in the development agreement.

(Code 2004, § 75-65; Ord. No. 22-2515, att.(75-65), 12-19-2022)

Sec. 74-75. Release and expiration of financial guarantees.

(a) The financial guarantee shall be held by the city until, upon written notice by the subdivider and certification from a professional engineer that part or all of the required improvements have been completed and upon verification of such by city staff, a portion or all of the financial guarantee is released by the city. No financial guarantee shall be released in full until the city engineer has received:

- (1) Certified, reproducible record plans of all required improvements installed by the subdivider; and
- (2) Any outlots agreed to be deeded to the city in the development agreement have been deeded to the city.

(b) It shall be the responsibility of the subdivider to ensure that a submitted financial guarantee shall continue in full force and effect until the city has approved and accepted all of the required improvements, and thereby is authorized to release the guarantee as provided in subsection (a) of this section.

(c) The financial guarantee shall be deemed automatically extended without change for successive one-year terms from the original expiration date unless, at least 60 days prior to the expiration date or next annual renewal date, the financial institution notifies the city in writing by certified mail that it does not elect to renew the financial guarantee for an additional period. If the instrument is not to be renewed and has not been released by the city, another acceptable financial guarantee in the appropriate amount shall be submitted at least 60 days prior to the expiration. Upon receipt of an acceptable substitute financial guarantee, the city may release the original guarantee.

(Code 2004, § 75-66; Ord. No. 22-2515, att.(75-66), 12-19-2022)

Sec. 74-76. Warranty/maintenance guarantee.

(a) The subdivider shall submit or maintain a letter of credit, warranty bond, or cash escrow for 25 percent of the original amount of the costs and for the duration specified, for the following improvements:

- (1) The required warranty period for materials and workmanship related to installation of public sanitary sewer, storm sewer, and water mains shall be two years from the date of final written city acceptance of the work.
- (2) The required warranty period for all work related to street construction, including concrete curb and gutter, sidewalks and trails, materials, and equipment shall be one year from the date of final written city acceptance of the work.
- (3) The required warranty period for sod, trees, and landscaping shall be one growing season/winter cycle following installation.

(b) The required warranty and warranty period for all work and materials related to wetland mitigation shall be pursuant to, and in accordance with, Minn. R. ch. 8420.

(Code 2004, § 75-67; Ord. No. 22-2515, att.(75-67), 12-19-2022)

Sec. 74-77. Release of development agreement.

Upon completion of all improvements listed in a development agreement, the subdivider may request release of a development agreement in writing with a fee set by the city council.

(Code 2004, § 75-68; Ord. No. 22-2515, att.(75-68), 12-19-2022)

Sec. 74-78. Private improvements.

(a) Subdivisions utilizing private roads and utilities shall enter into a development agreement or site improvement performance agreement, as specified in the final plat resolution. Such agreement shall outline the financial guarantees required for improvements, including:

- (1) Streets.
- (2) Sanitary sewer.
- (3) Water main.
- (4) Surface water management facilities.
- (5) Grading and erosion control.
- (6) Sidewalks and trails.
- (7) Street lighting.
- (8) Street signs and traffic control.
- (9) Landscaping.
- (10) Public and private utility infrastructure.
- (11) Miscellaneous facilities.

(b) The financial guarantees shall not exceed what is required under section 74-74 for projects utilizing public roads and utilities.

(Code 2004, § 75-69; Ord. No. 22-2515, att.(75-69), 12-19-2022)

Secs. 74-79—74-99. Reserved.

ARTICLE IV. DESIGN STANDARDS**Sec. 74-100. General standards.**

(a) *Contiguous land.* A preliminary plat shall include all of the owner's contiguous land, unless subdivision of property contiguous to the subdivision would be premature as defined by this chapter. If subdivision of the contiguous property owned by the subdivider would be premature, the subdivider shall submit a ghost plat with enough detail to demonstrate how that property can be subdivided in the future in a manner consistent with the comprehensive plan and this chapter. Final platting may be accomplished in phases.

(b) *Subdivisions crossing municipal boundaries.* Whenever access to the subdivision is required across land in another city, the city shall request assurance from the affected city that access is legally established and that the access road is adequately improved or that a guarantee has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines.

(c) *Monuments.*

- (1) Official permanent monuments shall be placed as required by M.S.A. § 505.021 (as may be amended).
- (2) All monument markers shall be correctly in place upon final grading and installation of utilities.
- (3) The city will not issue building permits for a lot within a plat until monuments have been placed for that lot.
- (4) All United States, state, county or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

(d) *Subdivision names.* The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the city. The city shall have final authority to designate the name of the subdivision.

(e) *Engineering guidelines/standard detail specifications.* Public and private improvements shall comply with standards set forth in the city's engineering guidelines/standard detail specifications, which are herein adopted by reference. (Code 2004, § 75-91; Ord. No. 22-2515, att.(75-91), 12-19-2022)

Sec. 74-101. Lot improvements.

(a) *Lot arrangement.* The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with city zoning regulations.

(b) *Minimum lot dimensions.* All lot dimensions shall comply with the minimum standards of city zoning regulations. Depth and width of properties reserved or laid out for commercial, office or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use contemplated, as established in city zoning regulations.

(c) *Side lot lines.* Side lines of lots shall be substantially at right angles to street lines and substantially radial to curved street lines, unless an alternative layout will result in a better street or lot plan.

(d) *Corner lots.* Corner lots shall be of sufficient width and depth to comply with the minimum building setback requirement from both streets and to comply with the minimum driveway setback from the intersection, as established in city zoning regulations.

(e) *Double frontage lots and access to lots.*

(1) *Double frontage lots.* Double frontage lots shall not be permitted except where lots back on an arterial or collector roadway as designated in the comprehensive plan or where specific disadvantages of topography or other conditions render subdividing otherwise unreasonable.

(2) *Access from minor arterials and major collectors, as specified in the most recently adopted comprehensive plan.* Lots shall not, in general, derive access exclusively from a minor arterial or major collector roadway. No lot parallel to a minor arterial or major collector roadway and having a width of less than 200 feet should front on these roadways unless:

- a. Access is limited to streets other than a minor arterial or major collector;
- b. Access is provided jointly with other lots; or
- c. Access is ultimately to be provided from a planned frontage road.

Where possible, driveways shall be designed and arranged to avoid requiring vehicles to back into traffic on minor arterial or major collector roadways.

(f) *Lots abutting water.* Lots abutting a water body, wetland, drainageway, channel, stream or pond shall be of sufficient width and depth and at the elevation needed to assure that building sites are not subject to flooding. The platting of lots within the floodplain is subject to city zoning regulations provisions relating thereto.

(g) *Flag lots prohibited.* The frontage of all lots shall be a minimum of 75 percent of the width of the average width of all interior lots within the same block, as measured at the front setback line. Unit lots are exempt from this requirement.

(h) *Landlocked parcels.* As a general rule, the city shall not permit landlocked parcels or parcels that are only served by private easements. However, the city may permit the following:

- (1) Landlocked parcels in a multiple-dwelling or commercial complexes provided said parcels have access to a public street by an easement over another parcel within the same multiple-dwelling or commercial complex. Said landlocked parcel is permitted in this instance only for the purpose of establishing separate taxable parcels within a complex.
- (2) Landlocked parcels which are unbuildable (outlots or parcels) reserved as permanent public open spaces such as ponding areas may be permitted.

(i) *Provisions for resubdivision of large lots and parcels.* When a tract is subdivided into larger than normal building lots or parcels, the lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for the resubdivision.

(j) *Lot remnants.* All remnants of land which are below the minimum lot size or which are otherwise unbuildable must be added to adjacent lots and shall not be platted as an unusable outlot or parcel.

(k) *Soil preservation, grading and sodding/seeding.*

- (1) *Lot drainage.* Lots shall be laid out to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Where possible, drainage shall be designed to avoid concentration of stormwater drainage from each lot to adjacent lots.
- (2) *Sodding/seeding.* Sodding and seeding shall be done in conformance with city zoning regulations and the engineering guidelines/standard detail specifications.

(l) *Debris and waste.* No cut trees, diseased trees, timber, debris, earth, rocks, stones, soil, junk, rubbish or other waste materials of any kind shall be buried in any land or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of those items and materials shall be required prior to issuance of any certificate of occupancy in a subdivision.

(m) *Subdivision of land within floodplain overlay districts.*

- (1) No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. All such proposals shall minimize flood damage and ensure that all utilities, water supply or sewage treatment facilities are adequately located and protected.

- (2) All lots within the floodplain overlay districts shall contain a building site outside of the floodplain overlay district that is at or above the regulatory flood protection elevation.
 - (3) All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation.
 - (4) Subdivision of floodprone areas. If a subdivision proposal is in a floodprone area, any such proposal must be reviewed to assure that:
 - a. All such proposals are consistent with the need to minimize flood damage within the floodprone area.
 - b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.
 - c. Adequate drainage is provided to reduce exposure of flood hazard.
- (Code 2004, § 75-92; Ord. No. 22-2515, att.(75-92), 12-19-2022)

Sec. 74-102. Streets—General requirements.

(a) *Street arrangement and location.*

- (1) The arrangement, character, extent, width, and location of all streets shall be considered in relation to existing and planned streets, shall provide for reasonable traffic circulation and traffic calming, and shall be appropriately located in relation to topography, run-off of stormwater, convenience and safety, and proposed uses of the land to be served. Wherever possible, the arrangement of streets in new subdivisions shall provide for the continuation of existing and planned streets within and outside the proposed plat. Where adjoining lands are not subdivided, the arrangement of streets shall make provision for the proper projection of streets into adjoining lands by carrying the streets to the boundaries of the plat. The arrangement of streets shall not cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.
- (2) Local streets shall be designed and aligned to discourage their use by non-local traffic, to permit efficient drainage and utility systems and to require the minimum number of streets necessary to provide convenient and safe access to property.
- (3) Neighborhoods shall be interconnected where possible to provide for emergency access, convenience, dispersal and circulation of traffic, and to foster community cohesiveness.
- (4) In commercial and industrial developments, the streets and other accessways shall be planned in connection with the location of buildings, truck loading

and maneuvering areas, and sidewalks and parking areas to minimize conflict of movement between the various types of traffic, including pedestrian traffic.

(b) *Grading and improvement plan.* The full width of the street right-of-way shall be graded and improved in conformance with the city's engineering guidelines/standard detail specifications and the construction plans submitted as part of the final plat application.

(c) *Blocks.*

- (1) A block shall normally be so designed as to provide two tiers of lots, unless it adjoins an arterial or collector street, lake, wetland, park, stream, or other natural feature, where it may have a single tier of lots.
- (2) Block length and width or acreage within bounding streets shall be sufficient to accommodate the size of lots required by city zoning regulations and to provide for convenient access, circulation control and safety of street traffic. Block lengths shall not exceed 1,500 feet, except where topography or other conditions justify a departure from that standard.

(d) *Access.*

- (1) Vehicle access shall be prohibited from a stub street to adjoining lots until such time as the stub street is extended into an adjoining tract, or unless a temporary cul-de-sac is provided. The city engineer may grant an exception to this provision if:
 - a. The terminus of the dead-end stub street and related signage required under subsection (j) of this section is visible from the nearest intersection; and
 - b. Snowplows, garbage trucks, and other vehicles servicing the homes accessing the stub street would not need to back into a collector or arterial roadway in order to exit the stub street.
- (2) When a proposed plat contains or borders on the right-of-way of an existing or planned principal or minor arterial roadway as described in the comprehensive plan, the council may require dedication and installation of a street approximately parallel to and on each side of such right-of-way for adequate protection of properties and to afford a separation of local and through traffic. Such streets shall be located at a distance from the major roadway suitable for the appropriate use of any intervening land. Such distance shall also be determined with due regard for the requirements of approach connections, future grade separations, and lot depths.

- (3) Access to minor arterial and major collector streets shall be at intervals complying with the access management standards of the applicable road authority for county and state roads. For city owned major collectors, access shall be limited with intervals at the discretion of the city engineer.
 - (4) When a residential lot has frontage on multiple streets, access to such lot shall be prohibited from higher-order streets (e.g., a lot that fronts on a minor arterial street and a collector street shall be prohibited from having access on the minor arterial street, and a lot that fronts on a collector street and a local street shall be prohibited from having access on the collector street).
- (e) *Street names.* Street names shall be designated by the county grid, as administered by the city engineer. The city engineer shall have discretion to alter the city street naming system, when appropriate, in order to avoid confusion to the traveling public. A petition to rename a street shall require action by the council.
- (f) *Street regulatory signs.*
- (1) *Street signs of standard design.* Street signs of standard design approved by the city shall be installed at each street intersection or at such other locations within the subdivision as designated by the city engineer.
 - (2) *Traffic control signs.* Traffic control signs, pursuant to M.S.A. § 169.06, shall be installed at locations within the subdivision as designated by the city engineer.
- (g) *Turn lanes and traffic lights.* Turn lanes and traffic lights shall be installed at the expense of the subdivider when required as a result of the proposed subdivision.
- (h) *Streetlights.* Streetlights shall be installed at all intersections and at other locations, as required by the city engineer. Location, pole and fixture to be approved by the city engineer and electrical provider.
- (i) *Sidewalks and trails.* Required sidewalks and trails shall be installed at the time a street is constructed.
- (j) *Dead-end streets, stub streets and cul-de-sac streets (permanent and temporary).*
- (1) *Dead-end streets.* Dead-end streets shall be prohibited, except as stub streets.
 - (2) *Stub streets.* Stub streets shall be installed to permit future street extensions into adjoining tracts, where appropriate. Signage shall be provided indicating a future street connection. Stub streets shall not exceed 150 feet in length.
 - (3) *Cul-de-sac streets (permanent).* Cul-de-sac streets may be installed where necessary due to topography, configuration of land, existing road layouts or other special circumstances.
 - (4) *Cul-de-sac streets (temporary).* In those instances where a street is terminated pending future extension in conjunction with future platting and its terminus

is located 150 feet or more from the nearest intersection, a temporary cul-de-sac with a pavement width of 60 feet in diameter shall be provided at the closed end. Signage shall be provided indicating a future street connection.

(k) *Alleys and private streets.*

- (1) *Alleys.* No new public alleys are allowed. Private streets functioning as alleys may be permitted under the same criteria for private streets in general.
- (2) *Private streets.* Private streets are permitted within residential developments utilizing DF zoning, subject to the following standards:
 - a. The city council finds that any such private street is deemed necessary to allow reasonable development of a particular site, and that such private street is not allowed or intended to be a substitute for the public street system.
 - b. Any such private street shall not exceed 300 feet in length unless it forms a continuous connection or loops back to a public street. Any such private drive over 150 feet in length that does not form a continuous connection or loop back to a public street shall provide a turn-around at or near its terminus, in accordance with city specifications.
 - c. Private streets shall not gain access from an arterial roadway, as identified by the city's comprehensive plan.
 - d. Any such private street shall gain access from the public street via a 22- to 27-foot-wide concrete driveway apron with cross gutter, or other material as may be approved by the city council. The remaining portion of the private street shall be designed, constructed, and surfaced in such a manner, as approved by the city council, to distinguish it from a public street.
 - e. Any such private street shall be a minimum of 22 feet wide and a maximum of 27 feet wide. No parking shall be allowed on the 22-foot private street, parking shall be allowed on one side on the 24-foot private street, and parking shall be allowed on both sides on a 27-foot private street.
 - f. Individual unit driveways that gain access from any such private street shall be a minimum of 22 feet in length.
 - g. A street name sign with white lettering on a brown background shall be located near each intersection to any such private street. Such sign shall be constructed and installed in accordance with city specifications.
 - h. Signage stating "No Parking—Fire Lane" shall be placed along the private street in locations as approved by the city fire marshal.

- i. Developer shall create a homeowners' association to be responsible for street maintenance, repair, and replacement.
(Code 2004, § 75-93; Ord. No. 22-2515, att.(75-93), 12-19-2022)

Sec. 74-103. Streets—Design principles and improvements.

(a) *Generally.* In order to provide for streets of suitable location, width and general improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, snow removal, sanitation and road maintenance equipment, and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for streets are required.

(b) *Street surfacing and improvements.* After the subdivider has installed sewer and water, the subdivider shall construct poured-in-place concrete curbs and gutters and shall surface streets to the width prescribed in this chapter. Types of pavement shall be as prescribed in the city's engineering guidelines/standard detail specifications. Adequate provision shall be made for culverts, drains and bridges. The portion of the right-of-way outside the area surfaced shall have turf established. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds and sidewalks shall conform to all construction standards and specifications in the city's engineering guidelines/standard detail specifications and shall be incorporated into the construction plans required to be submitted by the subdivider for final plat approval.

(c) *Right-of-way width.*

- (1) Minimum right-of-way width for minor arterial and collector streets shall be as shown in the comprehensive plan. When not provided in the comprehensive plan, the minimum right-of-way shall be as follows:

<i>Street Type</i>	<i>Right-of-Way Width</i>
Principal arterial	120 feet, or as recommended by road authority
Minor arterial	80 feet, or as recommended by road authority
Commercial road	80 feet
Collector	70 feet (more as required)
Local street	60 feet
Culs-de-sac	60-foot radius

- (2) In order to ensure safety and accommodate existing and future street intersections, bridge overpasses, railway crossings, interchanges, topography and the like, the city may require dedication of a greater right-of-way width than specified above.
- (3) A subdivider may be required to install landscaped medians for certain collector roadways platted within the subdivision, in accordance with roadway standards established by the city engineer.

(d) *Principal arterials.* Principal arterials, where so located as to affect the subdivision of adjoining lands, shall be treated as follows:

- (1) In residential districts, lots abutting principal arterials shall have sufficient lot depth required to accommodate any additional structure setbacks provided by city zoning regulations.
- (2) In districts zoned for business, commercial or industrial uses, the nearest street extending parallel or approximately parallel to the railroad right-of-way shall, wherever practicable, be at a sufficient distance from the railroad right-of-way to ensure suitable depth for commercial or industrial sites.
- (3) When streets parallel to the railroad right-of-way intersect a street that crosses the railroad right-of-way at grade, they shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

(e) *Pavement width.*

- (1) Minimum pavement width for minor arterial and collector streets, as measured from back of curb to back of curb, shall be determined by the city engineer based on anticipated traffic volume.
- (2) Minimum pavement width for local streets, shall be as follows:

<i>Local Street Type</i>	<i>Pavement Width</i>
Standard urban two-lane, allowing parking on both sides, unless otherwise specified	29 feet, back to back
Single land with center median	17 feet, face to face
Standard rural two lane	24 feet edge to edge
Other street types	As specified in the final plat resolution

(f) *Cul-de-sac street turnarounds and length.*

- (1) *Turnarounds.* Culs-de-sac shall provide a turnaround with a minimum right-of-way diameter of 120 feet and a minimum pavement diameter of 91 feet (back of curb to back of curb).
- (2) *Length.* The length of a permanent cul-de-sac shall be as follows:
 - a. Up to 600 feet, except where topography or other conditions justify a departure from the standard as approved by the city engineer as measured from the centerline of the intersection of origin to the end of the cul-de-sac right-of-way. Under no circumstances shall a cul-de-sac exceed 1,000 feet in length.

- b. Between 600 and 1,000 feet, the following requirements shall be met:
 - 1. Fire flows meet city requirements and looping of the water system will be provided or is planned for;
 - 2. There is a secondary access unless waived by the council; and
 - 3. The street design incorporates features such as curves, signage or additional turnarounds sufficient to minimize traffic backtracking, limit speeding and provide turning for emergency and service vehicles.

(3) *Temporary turnarounds:*

- a. Temporary turnarounds are required for stubbed street dead ends over 150 feet in length.
- b. Temporary turnarounds may be a 60-foot diameter cul-de-sac or alternative turnaround as allowed in the fire code.

(g) *Street grades.* The minimum grade for all streets shall be 0.5 percent. Grades within 30 feet of intersections with arterial and collector streets and grades for the turnaround portion of a cul-de-sac street shall not exceed three percent. Otherwise, the maximum grades shall be as follows:

<i>Street Type</i>	<i>Maximum Grade</i>
Arterial and collector	4 percent
Local	6 percent

(h) *Intersections.*

- (1) Streets shall be laid out to intersect at right (90-degree) angles with a 50-foot minimum tangent from the radius return. The angle of an intersection may be varied in cases where topography or other factors justify a variation, but in no case shall a street intersect with another street at an angle of less than 60 degrees. Intersections having more than four corners shall be prohibited.
- (2) Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs shall have a centerline offset of at least 125 feet for local streets and 150 feet for minor arterial and major and minor collector streets.
- (3) Minimum curb radius at the intersection of two local streets shall be at least 20 feet, and minimum curb radius at an intersection involving a collector street shall be at least 25 feet.

(i) *Street alignment.*

- (1) *Deflections (horizontal alignment).* When connecting street lines of the same street deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius adequate to ensure a sight

distance of not less than 200 feet for local streets, and of such greater distance as necessary to meet the state department of transportation road design manual, latest revision, for minor arterial and collector streets. The city council may require greater or lesser sight distances at the recommendation of the city engineer.

- (2) *Reverse curves (horizontal alignment).* A tangent of at least 50 feet shall be provided between reverse curves on local streets, and of at least 100 feet on minor arterial and collector streets.
- (3) *Differing street gradients (vertical alignment).* Differing connecting street gradients for minor arterial and collector streets shall be connected with vertical parabolic curves. The minimum length of such curves shall be in accordance with the state department of transportation road design manual, latest revision.

(j) *Street dedication and reservations.*

- (1) All streets within a subdivision shall be dedicated as public streets on the plat, except for private streets as approved in section 74-102(k)(2).
- (2) Streets in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The city council may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within the subdivision boundaries.
- (3) Where a subdivision borders an existing substandard street or street needing improvement, the subdivider shall be required to improve and dedicate at its expense those areas for widening or improvement. Such streets shall be improved and dedicated to the full width as required by these subdivision regulations when the subdivider's activities contribute to the need for the street expansion.

(Code 2004, § 75-94; Ord. No. 22-2515, att.(75-94), 12-19-2022)

Sec. 74-104. Sidewalks and trails.

(a) *Required improvements.*

- (1) *Generally.* Installation of a sidewalk on one side of all arterial and collector roads and a trail on the other side is required, unless determined by the city engineer that an alternative configuration would be more beneficial. The location of the sidewalk and trail to be determined by the city engineer. A sidewalk shall be required on one side of all local streets unless specifically waived by the city council. Sidewalks shall extend to the turnaround portion

of a cul-de-sac street, on culs-de-sac greater than 300 feet in length. Construction of both sidewalks and trails shall be as specified in the city's engineering guidelines/standard detail specifications.

- (2) *Width.* Sidewalks along local streets shall be a minimum of six feet wide. Trails shall be eight to ten feet in width, as designated by the city council.
- (3) *Grade.* Sidewalks and trails shall have a two percent cross slope, unless otherwise authorized by the city engineer. In all cases, sidewalks and trails shall be sloped in such a manner to prevent pooling of stormwater runoff and to drain away from any nearby buildings.
- (4) *Accessibility.* Sidewalks and trails shall conform to current Americans with Disabilities Act guidance issued by the state department of transportation.

(b) *Location.* Sidewalks shall be included within the dedicated street right-of-way. Trails may be located within the street right-of-way, an easement or an outlot, depending on whether there is sufficient right-of-way to accommodate the trail and meet other city requirements, including snow storage.

(Code 2004, § 75-95; Ord. No. 22-2515, att.(75-95), 12-19-2022)

Sec. 74-105. Drainage and water quality, general requirements.

(a) *Stormwater management.* Compliance with the stormwater requirements listed in chapter 34, article IX shall be demonstrated by the subdivider.

(b) *Stormwater facility maintenance.* All stormwater best management practices (BMPs) accepting street water shall be dedicated to the city and will be maintained by the city. BMPs not accepting street water shall be maintained privately. The developer shall establish a homeowners' association for maintenance of any privately maintained BMPs that span property boundaries. BMPs shall be specified as publicly or privately maintained in the development contract.

(v) *Floodplain areas.* Compliance with the floodplain overlay district standards shall be demonstrated by the subdivider.

(Code 2004, § 75-96; Ord. No. 22-2515, att.(75-96), 12-19-2022)

Sec. 74-106. Sewer and water facilities, general requirements.

(a) The subdivider shall install adequate sewer and water facilities (including fire hydrants) subject to the specifications in the city's engineering guidelines/standard detail specifications.

(b) The subdivider shall install sewer and water mains and service connections, which are stubbed to the property line, to serve all lots in the subdivision. New lots zoned agriculture or farm residential may be created with provision of water and sewer through private well and septic. New lots over ten acres and size and zoned

development flex may be created without connection to public water if approved by the city council as part of the conditional use permit establishing the development flex standards for the district.

(c) Any existing homes proposed to remain on well and septic at the time of subdivision shall connect to sewer and water when the current well or septic system fails. Existing homes proposed to remain on lots smaller than one acre must connect at the time of the subdivision and shall appropriately abandon well and septic. Connections shall be stubbed with services installed for existing homes not connecting at the time of development.

(d) The subdivider shall extend sewer and water lines to the lot lines of abutting sites that do not have public water service.

(Code 2004, § 75-97; Ord. No. 22-2515, att.(75-97), 12-19-2022)

Sec. 74-107. Other utilities.

(a) *Location.* All utility facilities, including, but not limited to, telephone, CATV, natural gas and electric power, shall be located underground. Such utilities shall be placed within a joint trench unless otherwise approved by the city engineer. Whenever existing utility facilities are located above ground, except when existing on public roads and right-of-way, they shall be removed and placed underground. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the city, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

(b) *Dedication.* Easements shall be dedicated on the plat instrument for the required use.

(Code 2004, § 75-98; Ord. No. 22-2515, att.(75-98), 12-19-2022)

Sec. 74-108. Drainage and utility easements.

(a) *General requirements.* Where a watercourse, drainageway, channel or stream traverses a subdivision, the subdivider shall provide a stormwater easement, drainage right-of-way or park dedication, whichever the city may deem more appropriate. This easement, right-of-way or dedication shall conform substantially with the lines of such watercourses, together with such further width or construction, or both, as will be adequate for the stormwater drainage of the area. The city engineer shall determine the width of such easements, etc.

(b) *Easement locations.*

- (1) *Design facilities within road rights-of-way.* Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, the subdivider shall provide perpetual, unobstructed

easements at least 20 feet in width for drainage facilities across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall extend from the road to a natural watercourse or to other drainage facilities.

- (2) *Drainage outside subdivisions.* When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.
- (3) *Standard easements.* Drainage and utility easements shall be required within the perimeter of each lot, measured from the lot lines. Such easements shall be at least ten feet wide adjacent to the front and rear lot lines and five feet wide adjacent to side lot lines. Such easements shall have continuity for alignment from block to block. Greater easements may be required to provide access to specific utilities. Drainage and utility easements are required over all stormwater treatment infrastructure.
- (4) *Easements for wetlands.* The subdivider shall dedicate by a drainage easement, land lying within a delineated wetland and required wetland buffer strip, and land on each side of the centerline of any body of water, watercourse or drainage channel, whether or not shown on the city's comprehensive plan, to a sufficient width to:
 - a. Provide proper protection for water quality;
 - b. Provide retention of stormwater runoff; and
 - c. Provide for the installation and maintenance of storm sewers.
- (5) *Easements for county or judicial ditches.* The subdivider shall dedicate by drainage easement land lying adjacent to county or judicial ditches as deemed necessary by the ditch authority for maintenance of the ditch. The width and location of the easement shall be specified in the plat resolution adopted by the city council.
- (6) *Easement for stormwater management practices.* Drainage and utility easements shall be required over all privately owned stormwater management practices.
- (7) *Easements for other utilities.* Easements shall be provided to allow for maintenance of stormwater, drinking water, and sanitary sewer lines as deemed necessary by the city engineer and specified in the plat resolution adopted by the city council.

(Code 2004, § 75-99; Ord. No. 22-2515, att.(75-99), 12-19-2022)

Sec. 74-109. Model homes and sales offices.

(a) *Model homes.* Model homes may be constructed prior to construction of final roads and utilities, upon determination by the city engineer that the following conditions are met:

- (1) Model homes may not be constructed prior to recording of the final plat.

- (2) Model homes may be constructed prior to the availability of public utilities, but not occupied as residential living units until public utilities are connected to the dwellings.
 - (3) All model homes shall be adjacent to a paved road.
 - (b) *Sales offices.* Homes modified to serve as sales offices may be constructed, upon determination by the building official that the following conditions are met:
 - (1) The model home area shall exist for a time period specified in the development contract or until the project is sold out or rented out, whichever shall be sooner. At the end of said time period, the subdivider shall be required to restore the area to a normal residential character, unless a time extension is granted by the council, so that the model home may serve to advertise another area.
 - (2) The city may require a bond, in an amount determined by the council, to assure restoration of a model home area.
 - (3) The home shall not be utilized as a sales office until written permission has been granted by the building official.
 - (4) The home shall be fully restored prior to issuance of a permanent certificate of occupancy.
 - (5) Other conditions as determined by the building official to meet the standards of the state residential code.
 - (c) *Temporary sales offices.* Temporary sales offices may be utilized under the following conditions:
 - (1) The operator of the temporary sales office shall have an active building permit for a residential structure under construction.
 - (2) Temporary sales office permits shall expire no later than one year after issuance or upon issuance of a certificate of occupancy or authorization for use as a sales office by the building official for a residential permit issued to the operator of the temporary sales office.
 - (3) Temporary sales office shall comply with all applicable building, fire, and accessibility code requirements.
- (Code 2004, § 75-100; Ord. No. 22-2515, att.(75-100), 12-19-2022)

Secs. 74-110—74-131. Reserved.

ARTICLE V. PARK DEDICATION

Sec. 74-132. General policy; requirements.

- (a) The city requires an applicant for a new subdivision where new lots or units are created to dedicate to the public a reasonable portion of the land or preserve for public use as parks, recreational facilities, playgrounds, trails, wetlands, open space

or to contribute an equivalent amount of cash in accordance with this section. The city shall, in its sole discretion, determine whether a cash payment in lieu of land is appropriate pursuant to section 75-133.

(b) Previously subdivided property which was subject to a park dedication fee or dedication of land computed on the basis of a use that is not constructed, being resubdivided or platted with the same number of lots is exempt from park dedication requirements. If, as a result of resubdividing the property, the number of lots is increased, then park dedication requirements must apply to the net increase of lots or units.

(c) Upon the request of the applicant, the city may either increase or decrease such dedication or payment upon a determination by the city that such dedication or payment is unreasonable or insufficient given the specific characteristics of the proposed subdivision and its intended use.

(Code 2004, § 75-130; Ord. No. 22-2515, att.(75-130), 12-19-2022; Ord. No. 24-2568, § 75-130, 11-18-2024)

Sec. 74-133. Determination of land to be dedicated or fees to be paid.

(a) *Suitability of land.* The city may determine, in its sole discretion, the location and configuration of any land to be dedicated pursuant to the park and recreation segment of the city's comprehensive plan, taking into consideration the suitability of the land for its intended purpose and future needs of the community for park, playground, trail, or open space.

(b) *Land amount.* The amount of land required to be dedicated by the applicant shall be based on a rough proportionality to the need created by the proposed subdivision or development represented by the by the following formula:

- (1) *Residential.* The park dedication requirement for a residential subdivision shall be based on the national standard of providing ten acres of parks and open spaces per 1,000 residents.
- (2) *Industrial.* The park dedication requirement for an industrial subdivision shall be four percent of the gross area.
- (3) *Commercial.* The park dedication requirement for a commercial subdivision shall be four percent of the gross area.

(c) *Exclusions.* The following areas shall be excluded when calculating the gross area of a subdivision for the purposes of park dedication:

- (1) Right-of-way exceeding 80 feet in width.
- (2) The water surface area of required holding ponds, filtration basins, and infiltration basins over 5,000 square feet in size.
- (3) Any preserved wetland areas.

(d) *Determination of fees to be paid.* At the city's option, the applicant shall contribute a cash payment in lieu of all or a portion of the land required under this section.

(e) *Fee amount.* The park dedication fees to be paid by an applicant shall be based on the average market value of the land that would otherwise be required to be dedicated and as set forth in the city's fee schedule.

(1) *Residential.* The city council shall determine by action the park dedication fee for each type of residential unit permitted within the city based on the number of new lots or units created.

(2) *Industrial, commercial, mixed use.* The city council shall determine by action the park dedication fee for industrial, commercial, and that portion of mixed-use development not dedicated to residential development. This fee shall be computed on a per-acre basis and shall not exceed three times the park dedication fee for a single-family residential unit.

(Code 2004, § 75-131; Ord. No. 22-2515, att.(75-131), 12-19-2022; Ord. No. 24-2568, § 75-131, 11-18-2024)

Sec. 74-134. Procedure.

(a) If the city council determines that specific land within the subdivision is desired for park purposes, the subdivider shall convey marketable title by warranty deed, free and clear of all encumbrances.

(1) If the amount of land is less than the percentage required to be dedicated, the subdivider shall pay, in addition, an amount determined by multiplying the park dedication fee otherwise payable by the total number of units approved for development, less the fair market value of the unimproved land dedicated.

(2) If the amount of land is greater than the percentage required to be dedicated, the city shall pay to the subdivider the fair market value of the unimproved land in excess of the percentage required to be dedicated, which value shall be determined at the time of final plat approval.

(3) If the city elects to require cash in lieu of land, the applicant shall pay to the city the amount of the fee as determined by action of the city council.

(4) The amount shall be determined prior to the city granting final approval of the subdivision or plat. The amount of any cash in lieu of land shall be based on the average fair market value of the land that would otherwise be required to be dedicated and as set forth in the city's fee schedule.

(5) Cash contributions for residential development will be due and payable at the time of final plat approval.

- (6) Cash contributions for commercial, industrial and that portion of mixed-use development not dedicated to residential development will be due and payable at the time of building permit issuance and shall be not greater than eight percent of the fair market value of the unimproved land.
- (7) Park dedication fees shall be deposited in the special park fund and used solely for the purchase of parks or improvement of parks, playgrounds, community centers, or other recreational facilities in accordance with the park and recreational segment of the city's comprehensive plan. The park advisory board shall make a recommendation to the city council as to the location of any sites or facilities to be purchased with such funds.

(b) Park dedication fees shall be established annually in the fee schedule. Park dedication fees paid for residential uses shall be split between park development and open space development as specified in the fee schedule. Park dedication fees for commercial and industrial uses shall be allocated entirely to park development.

(c) If an applicant disputes the amount of the proposed cash in lieu of land or is unable to negotiate an alternative amount with the city, the applicant may, at the applicant's expense, obtain an independent appraisal of the property to determine fair market value. The appraisal must be made by a certified real property appraiser who is licensed in the state and holds a MAI membership designation from the Appraisal Institute, or equivalent certification. Review of said appraisal and associated park dedication fee shall be considered by the city council prior to the approval of the final plat.

(d) Appeals regarding the proposed fee or dedication will be subject to the provisions established in M.S.A. § 462.358, subd. 2c.
(Code 2004, § 75-132; Ord. No. 22-2515, att.(75-132), 12-19-2022; Ord. No. 24-2568, § 75-133, 11-18-2024)

Secs. 74-135—74-151. Reserved.

ARTICLE VI. OFFICIAL MAPS

Sec. 74-152. Purpose.

Land that is needed for future street purposes and as sites for other necessary public facilities and services is frequently diverted to non-public uses which could have been located on other lands without hardship or inconvenience to the owners. When this happens, public uses of land may be denied or may be obtained only at prohibitive cost or at the expense of dislocating the owners and occupants of the land. Identification on an official map of land needed for future public uses permits both the public and private property owners to adjust their building plans equitably and conveniently before investments are made which will make such adjustments

difficult to accomplish. It is the purpose of this article to provide a uniform procedure for the proper use of official maps as authorized by the Minnesota Municipal Planning Act, M.S.A. §§ 462.351 to 462.36.

(Code 2004, § 75-150; Ord. No. 22-2515, att.(75-150), 12-19-2022)

Sec. 74-153. Initiation of proceedings.

Proceedings for adoption, amendment, or repeal of an official map or any part thereof may be initiated by:

- (1) The city's planning division;
- (2) A recommendation of the planning commission; or
- (3) Action by the council.

(Code 2004, § 75-151; Ord. No. 22-2515, att.(75-151), 12-19-2022)

Sec. 74-154. Reference to planning commission.

Every proposed official map or change in a map shall be referred to the planning commission for advice and recommendation thereon, and such recommendation shall be submitted to the council within 45 days after reference to the planning commission, along with the report of the commission on the effect of the proposal on the comprehensive plan of the city. If no recommendation is received by the council from the planning commission within 45 days after reference of the proposal to the commission by the council, the council may take such action as it may deem proper upon the proposal without further action by the planning commission.

(Code 2004, § 75-152; Ord. No. 22-2515, att.(75-152), 12-19-2022)

Sec. 74-155. Notice and hearing.

(a) *Notice.* Upon receiving the recommendation of the planning commission or after 45 days from the submission of the proposal to the planning commission without a recommendation from the commission, the council may call a public hearing on the proposal. A notice of the time, place, and purpose of the hearing and a description of property to be included in the mapped streets and public grounds shall be published in the official newspaper at least ten days prior to the date of the hearing. At least ten days prior to the hearing, the city clerk shall also mail a copy of the notice to each owner of land situated within or abutting any street or other public ground shown on the official map. For purposes of this notice, the owners

shall be determined by the records of the county auditor and the notice shall be addressed to the last known address as shown by the auditor's records. Failure to serve any such notice shall not invalidate the proceedings.

(b) *Hearing.* At the time and place specified in the notice, the council shall hear evidence and arguments concerning the proposal. The hearing may be continued from time to time without further notice. The council may direct the planning commission to conduct a hearing and following the hearing to report its recommendation to the council.

(Code 2004, § 75-153; Ord. No. 22-2515, att.(75-153), 12-19-2022)

Sec. 74-156. Preparation and filing of maps.

(a) The official map or maps shall be prepared in sufficient detail to permit the establishment of future acquisition lines on the ground.

(b) In unplatted areas, a minimum of a centerline survey shall be made prior to the preparation of the final draft of the official map. The accuracy of the future acquisition lines shown on the official map shall be attested to by a licensed land surveyor. After enactment of any ordinance adopting an official map or amending or repealing a previous official map ordinance, a certified copy of the official map or section to which the ordinance relates, together with an attached copy of the ordinance shall be filed with the county recorder.

(Code 2004, § 75-154; Ord. No. 22-2515, att.(75-154), 12-19-2022)

Sec. 74-157. Effect.

After an official map has been adopted and filed, the issuance of building permits by the city shall be subject to the provisions of this article. The city shall deny every application for a permit to construct a new building or structure or expand an existing building or structure within any area designated on the official map for street or other public purposes. Whenever any street or highway is widened or improved or any new street is opened, or any interest in lands for other public purposes is acquired by the city, the city is not required in such proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit within the limits of the mapped street or outside of any building line that may have been established upon the existing street or within any area thus identified for public purposes. The adoption of an official map does not give the city any right, title, or interest in areas identified for public purposes thereon, but the adoption of the map does authorize the city to acquire such interest without paying compensation for buildings or structures erected in such areas without a permit or in violation of the conditions of a permit.

(Code 2004, § 75-155; Ord. No. 22-2515, att.(75-155), 12-19-2022)

Sec. 74-158. Appeals.

(a) Whenever a building permit is denied pursuant to this article, the board of adjustments and appeals shall, upon appeal filed by the owner of the land, grant a permit for building in an area designated on the official map for a street or other public purpose in any case in which the board of adjustments and appeals finds, upon the evidence and the arguments presented to it:

- (1) That the entire property of the appellant of which the area designated for public purposes forms a part cannot yield a reasonable return to the owner unless such a permit is granted; or
- (2) That balancing the interest of the city in preserving the integrity of the official map and of the comprehensive city plan and the interest of the property owner in the use of said owner's property and in the benefits of ownership, the grant of such permit is required by considerations of justice and equity.

(b) The board of adjustments and appeals shall hold a public hearing upon the appeal after notice of the hearing has been published in the official newspaper once at least ten days before the hearing.

(c) If the board of adjustments and appeals authorizes the issuance of a permit, it shall specify the exact location, ground area, height, and other details as to the extent and character of the building for which the permit is granted.

(d) If the board of adjustments and appeals authorizes issuance of a permit, the council or other board or commission having jurisdiction shall have six months from the date of the decision of the board of adjustments and appeals to institute proceedings to acquire such land or interest therein, and if no such proceedings are started within that time, the city shall issue the permit if the application otherwise conforms to local ordinances.

(Code 2004, § 75-156; Ord. No. 22-2515, att.(75-156), 12-19-2022)

Chapters 75—77

RESERVED

Chapter 78

TAXATION*

Article I. In General

Secs. 78-1—78-18. Reserved.

Article II. Lodging Tax

- Sec. 78-19. Definitions.
- Sec. 78-20. Purpose.
- Sec. 78-21. Imposition; rate.
- Sec. 78-22. Collections.
- Sec. 78-23. Refunds.
- Sec. 78-24. Penalties; deficiency.
- Sec. 78-25. Tax determined by the city council.
- Sec. 78-26. Administration.
- Sec. 78-27. Violations.
- Sec. 78-28. Deposit in special purpose fund.
- Sec. 78-29. Distribution.

***State law reference**—Property taxes, M.S.A. chs. 272—287.

ARTICLE I. IN GENERAL

Secs. 78-1—78-18. Reserved.

ARTICLE II. LODGING TAX*

Sec. 78-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City finance director means the individual designated by the city manager to fulfill the duties of city treasurer as specified in the city Charter.

Hotel means the furnishing, for consideration, of lodging by a hotel, tourist court, or motel, and the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more. The furnishing of rooms by any legally constituted religious, educational or nonprofit organization shall not constitute lodging for the purposes of this article.

Operator means the person who is the proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, licensee, or any officer, agent, or employee of such person.

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

(Code 1980, § 8-11; Code 2004, § 78-31; Ord. No. 96-1592, 3-7-1996)

Sec. 78-20. Purpose.

The city council has created a tax upon lodging at hotels, motels, roominghouses, tourist courts, or resorts. The purpose of the tax is to provide funding for a convention and visitors bureau to promote tourism and conventions.

(Code 1980, § 8-10; Code 2004, § 78-32; Ord. No. 96-1592, 3-7-1996)

***State law reference**—Local lodging tax, M.S.A. § 469.190.

Sec. 78-21. Imposition; rate.

On or after April 15, 1996, the following tax, as authorized by M.S.A. § 469.190, shall apply:

- (1) For the privilege of occupation of any hotel, each person shall pay a tax in the amount of three percent of the charge made by the operator.
- (2) Those persons qualifying under subsection (1) of this section shall pay the tax to the operator of the hotel at the time the charge is paid. Such tax constitutes a debt owed to the city by the operator and is extinguished only by payment to the city.

(Code 1980, § 8-12; Code 2004, § 78-33; Ord. No. 96-1592, 3-7-1996)

Sec. 78-22. Collections.

(a) *Operator's duties.* Each operator shall collect the tax imposed by this article at the time the rent is paid. The amount of tax shall be separately stated from the rent charged. Those persons paying the tax shall receive a receipt of payment from the operator.

(b) *Reports.* Each operator collecting such tax shall make a report upon forms distributed to the operator by the city finance director. Such reports shall contain, at a minimum:

- (1) The amount of room rentals collected.
- (2) The amount of tax required to be collected and due for the period.
- (3) The signature of the operator or that of the agent if the operator has not made the report.
- (4) The period the return covers.
- (5) The amount of room rental uncollectible.
- (6) Such additional information as the city council, in its discretion, from time to time requires.

(c) *Payment to the city.* Payment of the tax shall be submitted by the operator to the city along with the required reports. Payment shall cover the tax due for the preceding calendar month, or any alternative four-week accounting period, whichever shall be, and such payment shall be made no later than 25 days after the end of such calendar or alternative accounting month.

(d) *Uncollectible charges.* The operator may offset against the tax due with respect to any reporting period the amount of the taxes imposed by section 78-21 previously paid as a result of any transaction which becomes uncollectible during such reporting period, but only in proportion to the portion of such amount which becomes uncollectible.

(e) *Examination of return.* After a return is filed, the city finance director may make any examination of the records and accounts of the person making the return which the director deems necessary for determining its correctness. The tax computed on the basis of such examination shall be the tax to be paid. If the tax due is found to be greater than that paid, such excess shall be paid within ten days after receipt of such notice. Such notice shall be given either personally or sent by registered mail to the address listed on the return. If the tax paid is greater than the tax found to be due, the excess paid shall be refunded to the operator at the address listed on the return.

(Code 1980, § 8-13; Code 2004, § 78-34; Ord. No. 96-1592, 3-7-1996)

Sec. 78-23. Refunds.

(a) Any operator may file for a refund for taxes paid in excess of the amount equally due for that period, provided that no such claim shall be entertained unless filed within one year after such tax paid.

(b) Upon application, the city finance director shall determine the correctness of the claim and return any excess paid. If no excess is found, the city shall so inform the operator. The operator may make written application for city council hearing within five days after receipt of notice that the claim has been denied. The operator shall be informed at least five days in advance of the scheduled council hearing.

(Code 1980, § 8-14; Code 2004, § 78-35; Ord. No. 96-1592, 3-7-1996)

Sec. 78-24. Penalties; deficiency.

Any operator failing to make payment within the 25-day period specified in section 78-22 shall be required to pay a penalty of ten percent. If the delinquency continues beyond 30 days after the tax is due as specified in section 78-22, such delinquent taxes, plus penalty, as heretofore provided, shall be entered, shown and placed on the tax assessment rolls of the city for the hotel generating the delinquency, or the city attorney may commence such action necessary to collect the tax and penalties due, including all costs of collection, including, but not limited to, attorney's fees.

(Code 1980, § 8-15; Code 2004, § 78-36; Ord. No. 96-1592, 3-7-1996)

Sec. 78-25. Tax determined by the city council.

(a) If the operator refuses to collect the tax imposed or fails to make the required reports, the city finance director shall obtain facts and information and make an estimate of the amount of tax due and shall give the operator a statement of the tax due according to the operator's estimate and give notice personally or through registered mail to such operator of the amount due. Depending upon the time periods as specified in section 78-22, the amount of tax estimated shall include the applicable penalties and interest. Payments shall be made within ten days after

receipt of the notice. For the purpose of carrying out the provisions of this section, the city finance director shall have the right of access to the books and records of the operator.

(b) The operator shall have ten days after receipt of notice to make a written application for a hearing on the amount estimated to the city finance director. If no request is made during this ten-day period, the amount specified in the statement of the city finance director, including penalties, becomes final and payable within ten days.

(c) If a hearing is properly requested, the running of the time periods described in section 78-24 are automatically stayed. Notice of the hearing shall be given to the operator at least ten days in advance. All hearings are to be held before the city council. The council may determine the amount due, when it shall be paid, and whether or not the penalty time period under section 78-24 shall resume running until payment.

(d) Once the amount due becomes fixed under either subsection (a), (b), or (c) of this section, any further steps necessary to ensure collection as described in section 78-24 for the collection of deficiencies shall be taken.

(Code 1980, § 8-16; Code 2004, § 78-37; Ord. No. 96-1592, 3-7-1996)

Sec. 78-26. Administration.

The city finance director shall be charged with the responsibility for enforcement and administration of this article.

(Code 1980, § 8-17; Code 2004, § 78-38; Ord. No. 96-1592, 3-7-1996)

Sec. 78-27. Violations.

Any willful violations of any provision of this article, or tendering a false report required pursuant to this article, shall be a misdemeanor.

(Code 1980, § 8-18; Code 2004, § 78-39; Ord. No. 96-1592, 3-7-1996)

Sec. 78-28. Deposit in special purpose fund.

All revenues collected by the city pursuant to this article shall be deposited in a special purpose fund established to be known as the hotel/motel tax fund.

(Code 1980, § 8-19; Code 2004, § 78-40; Ord. No. 96-1592, 3-7-1996)

Sec. 78-29. Distribution.

Distribution of all revenues relating to three percent of the charge made by the operator and collected pursuant to this article shall be used for the purpose of the

advancement of the city as a tourist and convention center. The city may retain a sum not to exceed five percent of the gross proceeds from the tax authorized in section 78-21.

(Code 1980, § 8-20; Code 2004, § 78-41; Ord. No. 96-1592, 3-7-1996)

Chapters 79—81

RESERVED

Chapter 82

TRAFFIC AND VEHICLES

Article I. In General

- Sec. 82-1. Purpose.
- Sec. 82-2. State law adopted.
- Sec. 82-3. Location of stop and yield signs.
- Sec. 82-4. Sales of vehicles on public and private property.
- Sec. 82-5. Exhibition driving and street racing prohibited.
- Sec. 82-6. Operating vehicles in designated places only.
- Sec. 82-7. Damage to barricades.
- Sec. 82-8. Destruction of signs; illegally posting.
- Sec. 82-9. Sight distance triangle.
- Secs. 82-10—82-37. Reserved.

Article II. Administration and Enforcement

- Sec. 82-38. Impounding vehicles.
- Secs. 82-39—82-64. Reserved.

Article III. Stopping, Standing and Parking

- Sec. 82-65. Time limitation on leaving vehicle in public right-of-way.
- Sec. 82-66. Parking during snowfall.
- Sec. 82-67. Truck parking in residential zones.
- Sec. 82-68. Leaving vehicles on public park land at night.
- Sec. 82-69. Parking restrictions.
- Sec. 82-70. Parking violations; penalty for owner or lessee.
- Sec. 82-71. Median safety.
- Secs. 82-72—82-98. Reserved.

Article IV. Snowmobiles and Other Recreational Vehicles

- Sec. 82-99. Operation of recreational motor vehicle generally; permission of landowner.
- Sec. 82-100. Motorboats and certain vehicles prohibited on lakes and waterways.

ARTICLE I. IN GENERAL**Sec. 82-1. Purpose.**

In order to preserve civic beauty, to ensure public health, safety, and welfare by preventing congestion and traffic hazards, to prevent unauthorized use and trespass on vacant property, and to prevent damage and erosion problems associated with off-road vehicle travel on unimproved surfaces, it is necessary to regulate traffic and vehicles within the city.

(Code 2004, § 82-1; Ord. No. 19-2433, 8-19-2019)

Sec. 82-2. State law adopted.

(a) *Violation of statutes adopted by reference.* Any violation of the statutes adopted by reference in this chapter is a violation of this Code when the violation occurs within the city. Any person violating any provision of such statutes shall be guilty of a petty misdemeanor unless where otherwise referenced as a misdemeanor and shall be subject to the sanctions set forth in the applicable statutes adopted in this chapter by reference.

(b) *Adoption of state law by reference.* The provisions of the following state statute chapters, as they may be amended from time to time, with reference to the definition of terms and all other matters pertaining to traffic regulations and the Highway Traffic Regulation Act are adopted by reference pursuant to M.S.A. § 471.62 and are made a part of this article as if set out in full in this section:

- (1) M.S.A. ch. 84 (Department of Natural Resources);
 - (2) M.S.A. ch. 168 (Vehicle Registration, Taxation, Sale);
 - (3) M.S.A. ch. 169 (Traffic Regulations);
 - (4) M.S.A. ch. 169A (Driving While Impaired); and
 - (5) M.S.A. ch. 171 (Driver's Licenses and Training Schools).
- (Code 2004, §§ 82-2, 82-3; Ord. No. 19-2433, 8-19-2019)

Sec. 82-3. Location of stop and yield signs.

Stop and yield signs shall be placed and maintained at locations specified by ordinances and resolutions of the council, which ordinances and resolutions are on file in the office of the city clerk.

(Code 2004, § 82-4; Ord. No. 19-2433, 8-19-2019)

Sec. 82-4. Sales of vehicles on public and private property.

No person, business, association or corporation shall store, display or park, or allow the storage, display or parking of an individual vehicle which has displayed on

or near it a sign indicating a phone number, address, or other identifying information, or a sign indicating that the vehicle is for sale, consignment, lease, trade or exchange:

- (1) Upon any public property, including public rights-of-way and easements; or
 - (2) Upon any private property, unless the vehicle is stored, displayed, or parked on an improved hard surface designed and improved for vehicle travel and only if the vehicle is registered to the property upon which it is stored, displayed, or parked.
- (Code 2004, § 82-5; Ord. No. 19-2433, 8-19-2019)

Sec. 82-5. Exhibition driving and street racing prohibited.

(a) *Purpose.* Exhibition driving and street racing events have been occurring with greater frequency in the city and throughout the Twin Cities metropolitan region since 2020. Such events are organized online, swiftly and anonymously, through various social media applications. The events frequently draw large crowds, and various other criminal activity has occurred at organized exhibition driving and street racing events. The city council recognizes exhibition driving and street racing pose a grave public health and safety risk to the person who engages in the unlawful activity and the persons who assemble to view or witness the unlawful activity. These events are a public nuisance. The purpose of this section is to proscribe exhibition driving, street racing, and unlicensed car shows in the city by declaring it unlawful to engage in or be a spectator at such events.

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Exhibition driving means turning, accelerating, decelerating or otherwise operating a motor vehicle in a manner that causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, throwing of sand, gravel, dirt or other material, or in a manner simulating a race. Unreasonable squealing or screeching sounds emitted by tires, or the unreasonable throwing of sand, gravel, dirt or other material by the tires is prima facie evidence of a violation of this section. The term "unnecessary," for the purposes of this definition, means that the activity would not be caused by the normal course of operating a motor vehicle. The term "unreasonable," for the purposes of this definition, means that the conduct would be considered unreasonable or inappropriate by people of ordinary sensibilities on any highway, street, roadway, or off-street parking facility.

Exhibiting driving event occurs when one or more vehicles engages in exhibition driving and at least one spectator is present.

Off-street parking facility means any public or private off-street parking area in the city that is held open for use by the general public for parking vehicles and parking areas intended for the use of businesses, employees and their customers.

Spectator means any person who is present at an exhibition driving event, street racing event, or unlicensed car show to view, witness, organize, or otherwise participate in the event.

Street racing means comparing or contesting relative speeds by operating one or more vehicles, regardless of whether the speed contested or compared exceeds the maximum speed prescribed by law, on any highway, street, or off-street parking facility.

Street racing event occurs when one or more vehicles engages in street racing and at least one spectator is present.

Unlicensed car show occurs when two or more motor vehicles are parked in any off-street parking facility without the permission of the owner of the off-street parking facility and without having obtained a special event permit from the city for the purpose of displaying the motor vehicles to spectators.

(c) *Exhibition driving and street racing prohibited.* Any person who drives or operates a motor vehicle engaged in exhibition driving or street racing in the city is guilty of a misdemeanor.

(d) *Spectators prohibited at exhibition driving and street racing events.* Any person who is a spectator at an exhibition driving event or a street racing event in the city is guilty of a misdemeanor.

(e) *Unlawful assembly declared.* For the purpose of M.S.A. §§ 609.705 and 609.715, exhibition driving events, street racing events, and unlicensed car shows constitute unlawful assemblies.

(Code 2004, § 82-91; Ord. No. 19-2433, 8-19-2019; Ord. No. 22-2509, 8-15-2022)

Sec. 82-6. Operating vehicles in designated places only.

It is unlawful for any person to drive, park, or operate a motor vehicle upon any city property which has not been expressly designated for motor vehicle traffic is not licensed for such use, or not permitted by ordinance unless part of a city-sponsored special event or other event/activity at city manager's discretion or their designee. (Code 2004, § 82-111; Ord. No. 19-2433, 8-19-2019)

Sec. 82-7. Damage to barricades.

It is unlawful for any person to remove, deface, or damage any such barricade, fence or obstruction erected for preventing motor vehicle traffic from passing over city roadways, city property, including city park property, or state property. (Code 2004, § 82-112; Ord. No. 19-2433, 8-19-2019)

Sec. 82-8. Destruction of signs; illegally posting.

It is unlawful for a person to post, mutilate or remove any notice or sign as provided in this chapter upon or from any lands or waters over which such person has no right, title, interest or license.

(Code 2004, § 82-192; Ord. No. 19-2433, 8-19-2019)

Sec. 82-9. Sight distance triangle.

(a) *Declaration of a nuisance.* Structures, objects, fences that are not at least 75 percent transparent, or plantings in excess of 30 inches above the abutting curblane within the intersection sight distance triangle (SDT) may be declared a public safety hazard (public nuisance) by the city. The declared public nuisance shall be corrected by the property owner within ten days of notice. If the correction is not made the city or its agent will abate the nuisance by trimming, altering or removing any declared nuisance. Costs associated with the nuisance abatement will be billed to the property owner.

(b) *Intersection sight distance triangle.* On all corner lots in all districts, the SDT shall remain free of plantings, structures or objects exceeding 30 inches in height which create a public safety hazard to traffic and pedestrians. Chain link or decorative fencing that is 75 percent transparent or greater, may be permitted within the SDT based on review and approval by the building and engineering departments. The city reserves the right to allow certain plantings, structures or objects exceeding 30 inches in height which do not present an immediate public safety hazard (visual impairments) near the SDT. The SDT area is defined as follows: The intersection SDT, in the case of 90 degree intersecting streets, shall be described as the area within a triangle formed by connecting the following three points: the point of intersection of the curb lanes adjacent to the lot of the intersecting streets, a point 60 feet from such point of intersection along one curblane, and a point 60 feet from such point of intersection along the other curblane. In the case of all other intersecting streets, the SDT shall be determined by the city engineer.

(Code 2004, §§ 82-231, 82-232; Ord. No. 19-2433, 8-19-2019; Ord. No. 22-2502, 5-16-2022)

Secs. 82-10—82-37. Reserved.**ARTICLE II. ADMINISTRATION AND ENFORCEMENT****Sec. 82-38. Impounding vehicles.**

(a) *Towing of illegally parked vehicles.* Any vehicle parked in violation of the city ordinances or in violation of the state law may be removed by towing at the direction of the city police to a suitable place for storage until claimed by the owner or agent of the owner. The owner or other person responsible for such parking of the vehicle

shall be liable for the reasonable cost of such towing and storage upon conviction for such illegal parking. The city shall in no way be liable for any damage to any vehicle which has been ordered towed away.

(b) *Release of motor vehicles from impoundment.* If a motor vehicle is impounded by a peace officer following the arrest or taking into custody of a driver, the impounded vehicle shall only be released from impoundment:

- (1) To the registered owner, a person authorized by the registered owner, a lien owner of record, or a person who has purchased the vehicle from the registered owner, who provides proof of ownership of the vehicle, proof of valid state driving privileges, and proof of insurance required by law to cover the vehicle;
- (2) If the vehicle is subject to a rental or lease agreement, to a renter or lessee with valid state driving privileges who provides a copy of the rental or lease agreement and proof of insurance required by law to cover the vehicle; or
- (3) To an agent of a towing company authorized by the registered owner if the owner provides proof of ownership of the vehicle, and proof of insurance required by law to cover the vehicle.

(Code 2004, §§ 82-61, 82-62; Ord. No. 19-2433, 8-19-2019)

Secs. 82-39—82-64. Reserved.

ARTICLE III. STOPPING, STANDING AND PARKING

Sec. 82-65. Time limitation on leaving vehicle in public right-of-way.

(a) No owner of any vehicle or person in charge of any vehicle shall park or permit such vehicle to stand upon any highway, street, or alley in the city for more than 48 consecutive hours at any time. Any vehicle moved a distance of not more than three-tenths of a mile during this period shall be deemed to have remained stationary.

(b) From November 1 to April 1, no person shall park or permit to be parked any vehicle on any highway, street, or alley between the hours of 2:00 a.m. and 7:00 a.m. without an emergency parking permit issued by the city police department. Any vehicle parked in violation of this section may be removed as provided by section 82-38. The term "highway, street, or alley" shall be construed to mean the entire width of the right-of-way.

(Code 2004, § 82-151; Ord. No. 19-2433, 8-19-2019)

Sec. 82-66. Parking during snowfall.

It is unlawful to park or permit to be parked, or to continue to park or permit to stand, any vehicle upon any street after two inches or more of snowfall, until such time as the snow has been plowed from the street, curb to curb.

(Code 2004, § 82-152; Ord. No. 19-2433, 8-19-2019)

Sec. 82-67. Truck parking in residential zones.

(a) For the purposes of this article, definitions in M.S.A. § 168.002 shall be adopted by reference.

(b) No trucks, farm trucks, semitrailers, special mobile equipment, truck tractors, farm implements or tractors, or trucks carrying or designed to carry explosive or flammable materials, buses, or vehicles exceeding gross vehicle capacity of 12,000 pounds shall be parked on public or private property in any residential district, except the farm residential and agriculturally zoned districts. Pickup trucks and vans rated under 12,000 gross vehicle capacity are exempt from this subsection.

(c) This shall not prohibit recreational motor vehicles from parking, provided that the recreational motor vehicle is not used to display advertising or service.

(d) This shall not prohibit vehicles, as described in subsection (b) of this section, from short-term parking (two hours or less), actively loading, unloading or performing a service.

(e) No auxiliary motors or engines on any vehicle shall be allowed to operate except when actively loading, unloading or performing a service.

(f) No person shall allow a semitrailer to be parked unattached from a tractor unit for any length of time on any city street in the city except in an emergency in order to change tractors.

(g) Any person violating this provision shall be guilty of a misdemeanor and shall be subject to the sanctions set forth in the applicable statutes adopted in this chapter by reference.

(Code 2004, § 82-153; Ord. No. 19-2433, 8-19-2019)

Sec. 82-68. Leaving vehicles on public park land at night.

No person shall park or leave standing any vehicle, as defined in M.S.A. § 169.011, subd. 92, or any snowmobile or recreational motor vehicle, as defined in this Code, in or upon any public park between the hours of 10:00 p.m. and 5:00 a.m. of the day following, excluding parking with special event licenses.

(Code 2004, § 82-154; Ord. No. 19-2433, 8-19-2019)

Sec. 82-69. Parking restrictions.

(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within ten feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 20 feet of a crosswalk at an intersection;
- (7) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;
- (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- (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 said entrance when properly signposted;
- (11) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;
- (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel, except as otherwise provided by ordinance;
- (14) Within a bicycle lane, except when posted signs permit parking; or
- (15) At any place where official signs prohibit stopping or parking.
- (16) In a sign-posted fire lane;
- (17) In an alley;
- (18) On any boulevard or berm which has been curbed;
- (19) In front of a mailbox during the hours of 9:00 a.m. and 6:00 p.m., Monday through Saturday, in a manner which would prevent the distribution of mail by the United States Postal Service. Postal carriers must be able to drive into and out of the delivery area without backing up;

- (20) More than 12 inches from the curb, or from the edge of the street traveled portion of the right-of-way;
- (21) Where parking may cause a hazard;
- (22) To interfere with emergency vehicles;
- (23) On private property unless on a paved surface as specified in section 129-13.

(b) No person shall move a vehicle not owned by such person into any prohibited area or away from a curb such distance as is unlawful.

(c) No person shall, for camping purposes, leave or park a travel trailer on or within the limits of any highway or on any highway right-of-way, except where signs are erected designating the place as a campsite.

(d) No person shall stop or park a vehicle on a street or highway when directed or ordered to proceed by any peace officer invested by law with authority to direct, control, or regulate traffic.

(Code 2004, § 82-155; Ord. No. 19-2433, 8-19-2019)

Sec. 82-70. Parking violations; penalty for owner or lessee.

(a) If a motor vehicle is stopped, standing, or parked in violation of section 82-69, the owner of the vehicle, or for a leased motor vehicle the lessee of the vehicle, is guilty of a petty misdemeanor.

(b) The owner or lessee may not be fined under subsection (a) of this section if:

- (1) Another person is convicted for, or pleads guilty to, that violation; or
- (2) The motor vehicle was stolen at the time of the violation.

(c) Subsection (a) of this section does not apply to a lessor of a motor vehicle if the lessor keeps a record of the name and address of the lessee.

(d) Subsection (a) of this section does not prohibit or limit the prosecution of a motor vehicle operator for violating section 82-69(a).

(e) A violation under subsection (a) of this section does not constitute grounds for revocation or suspension of the owner's or lessee's driver's license.

(Code 2004, § 82-156; Ord. No. 19-2433, 8-19-2019)

Sec. 82-71. Median safety.

(a) *Findings and purpose.*

- (1) The city has high-capacity arterial roadways that are heavily traveled thruways. Traffic counts include on County Road 10 of 19,100 to 34,400 vehicles per day, on University Avenue of 15,000 to 46,600 vehicles per day, on Highway 65 of 41,000 to 51,000 vehicles per day, and on Lexington Avenue of 28,700 to 41,000 vehicles per day. These arterial roadways have posted

speed limits that range from 35 miles per hour to 60 miles per hour, contain numerous high-traffic intersections, and have relatively narrow or obstructed medians.

- (2) The medians on these roadways are traffic separation structures that were not designed, and are not maintained, to accommodate either any pedestrians or only those who are temporarily crossing through the designated crosswalk. Most of the medians also contain landscaping, traffic control devices, and other obstructions which are inconsistent with use by pedestrians.
- (3) The city has experienced an increase in the number of pedestrians remaining on medians at high-traffic intersections for extended periods. This creates a public safety risk for both pedestrians as well as drivers. Due to the large volume of traffic traveling through these intersections at high speeds, pedestrians remaining on the median are put at risk of being struck. Additionally, pedestrian presence on the medians distracts drivers whose focus becomes fragmented between not striking the pedestrians so close to the roadway and navigating through these high-traffic intersections.
- (4) The purpose of this section is to establish a narrowly tailored regulation intended to protect public safety, health, and welfare related to pedestrians in roadways and drivers passing through high-traffic intersections. This section and the prohibitions herein are specific to identified arterial roadways within the city. This section is designed to decrease safety hazards by restricting unsanctioned activity in the medians.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Arterial roadway and *high-traffic intersection* mean any arterial, relievers, and expanders at intersections within the city.

Median means a paved or unpaved area dividing a street or highway that separates lanes of traffic traveling in opposite directions, or, in the case of separated turn lanes, vehicles traveling in the same direction.

Roadway means both the traveled portion and median of a street or highway.

(c) *Prohibition.*

- (1) No person shall be on a median within 300 feet of a high-traffic intersection unless the person is in the process of legally crossing the roadway through a safety zone or crosswalk. This prohibition applies to both the median on the arterial roadway and the median on the intersecting roadway. A person shall not be considered in the process of legally crossing a roadway, and it shall be prima facie evidence of a violation of this section, if a person stays on a

median through two consecutive opportunities to cross the roadway in accordance with the crossing signal and state law. This may include a change in the traffic control signal or lack of traffic, as applicable.

- (2) No operator of a motor vehicle shall park, stop, or leave standing a vehicle at any high-traffic intersection where prohibited or suddenly decrease the speed of said vehicle or deviate from a traffic lane for the purpose of responding to a person violating subsection (c)(1) of this section.

(d) *Exceptions.* The prohibitions in subsection (c) of this section shall not apply to any of the following:

- (1) Any person engaged in law enforcement or rescue activities, including aiding an injured or disabled vehicle or person;
- (2) Any person engaged in the emergency repair of their vehicle;
- (3) Any public works staff or public contractor engaged in the maintenance, repair or improvement of a roadway or related to public facilities, or public utility workers installing, maintaining, repairing, or removing public utilities; or
- (4) Streets or portions thereof that have been closed pursuant to a street use permit or other express authorization from the city.

(e) *Penalty.* Any person who fails to comply with the provisions of this section shall be guilty of a misdemeanor.

(Code 2004, § 82-157; Ord. No. 24-2556, § 82-157, 9-16-2024)

Secs. 82-72—82-98. Reserved.

ARTICLE IV. SNOWMOBILES AND OTHER RECREATIONAL VEHICLES**Sec. 82-99. Operation of recreational motor vehicle generally; permission of landowner.**

(a) It is unlawful for any person to enter, operate, or stop a recreational motor vehicle:

- (1) On publicly owned land and easements, including park property, playgrounds, and recreational areas and all bodies of water, except where such areas are posted permitting recreational motor vehicles to operate on such property along, on or upon a city roadway;
- (2) Carelessly or heedlessly in disregard of the rights or the safety of others, or in a manner so as to endanger any person or property.

(b) No person shall enter, operate, or stop a recreational motor vehicle on lands not owned by such person, except where otherwise allowed by law, without written permission of the owner, occupant, or lessee of such lands. Written permission may be given by a posted notice of any kind or description that the owner, occupant, or lessee prefers, so long as it specifies the kind of vehicles allowed, such as by saying "recreational motor vehicles allowed," "trailbikes allowed," or words substantially similar. Written permission other than posted notice shall be carried on the person of the operator of the recreational motor vehicle.

(c) Any person violating this provision shall be guilty of a misdemeanor and shall be subject to the sanctions set forth in the applicable statutes adopted in this chapter by reference.

(Code 2004, § 82-191; Ord. No. 19-2433, 8-19-2019)

Sec. 82-100. Motorboats and certain vehicles prohibited on lakes and waterways.

(a) In the interests of public health, safety and the general welfare, the following regulations are imposed upon all motorboats, snowmobiles, recreational motor vehicles and motor vehicles operated, placed or maintained in or upon any lake or waterway within the city:

- (1) No person shall operate any motorboat, or motor vehicle, including snowmobiles, on any lake or bodies of water within the city. For purposes of this subsection, the term "motorboat" does not include a boat which is operated solely by an electric trolling device.
- (2) Motorboats, motor vehicles, recreational motor vehicles and snowmobiles utilized by city, county or state officers for law enforcement, rescue or resource management shall be exempt from the provisions of this section.
- (3) Between the hours of 10:00 p.m. and 7:00 a.m.

(b) Any person violating this provision shall be guilty of a misdemeanor and shall be subject to the sanctions set forth in the applicable statutes adopted in this chapter by reference.

(Code 2004, § 82-193; Ord. No. 19-2433, 8-19-2019)

Chapters 83—85

RESERVED

Chapter 86

UTILITIES*

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- Sec. 86-2. Designation of superintendent; duties.
- Sec. 86-3. Nonliability of city.
- Sec. 86-4. Voluntary discontinuance of service.
- Sec. 86-5. Discontinuing service.
- Sec. 86-6. Nonessential water usage upon critical water deficiency.
- Sec. 86-7. Operation of municipal stormwater system.
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Sec. 86-302. Adoption of contracts regulating sewer use.

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Sec. 86-323. Sewer connection permit; work quality on service lines.

Secs. 86-324—86-347. Reserved.

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Sec. 86-363. Compliance.

Sec. 86-364. Penalties and assessments for FOG program noncompliance.

ARTICLE I. IN GENERAL**Sec. 86-1. Utilities division designated; superintendent in charge.**

The utilities division shall be a unit of the department of public works and is under the direct supervision of the superintendent of utilities who shall be directly responsible to the public works director.

(Code 1963, § 49.01; Code 1980, § 21-1; Code 2004, § 86-2; Ord. No. 543, 5-19-1977)

Sec. 86-2. Designation of superintendent; duties.

The city manager shall designate a superintendent of utilities and it shall be such superintendent's duty to see that all rules and regulations pertaining to the public utilities system, the tapping of water mains by licensed plumbers, and the use of city water be complied with in all respects, and to see that no person shall open any hydrant for any purpose whatsoever without such superintendent's permission, except members of the fire department.

(Code 1963, § 49.02; Code 1980, § 21-2; Code 2004, § 86-3; Ord. No. 543, 5-19-1977)

Sec. 86-3. Nonliability of city.

No claim shall be made against the city because of the breaking of any water main, sewer main or service pipe or fixture or for any other interruption of the supply, by reason of the breaking of machinery or stoppage for necessary repair.

(Code 1963, § 51.03; Code 1980, § 21-5; Code 2004, § 86-4; Ord. No. 543, 5-19-1977)

Sec. 86-4. Voluntary discontinuance of service.

(a) Any consumer desiring to discontinue the water or sewer service, or both, for reason of moving, shall notify the city of the moving date and forwarding address. Sufficient notification shall be given so that the water meter can be read during normal working hours. Notice of the amount owing for utilities shall be mailed to the forwarding address. If the bill is not paid after sufficient notice, it shall be charged against the premises as stated in this chapter.

(b) Any property owner desiring to disconnect from the city water or sewer system, or both, for redevelopment shall notify the city to that effect. The water or sewer service, or both, shall be disconnected at the main and capped at the expense of the property owner.

(Code 1963, § 50.12; Code 1980, § 21-21; Code 2004, § 86-6; Ord. No. 543, 5-19-1977)

Sec. 86-5. Discontinuing service.

(a) The city reserves the right to discontinue service to any customer of the water and sanitary sewer system without notice when necessary for repairs, additional connections or reconnections, or when, in the judgment of the public works director

or designee, such action is necessary to protect the purity of the municipal water supply or the safety of the water system or the life, health, and safety of its customers.

(b) The city reserves the right to discontinue service to any customer of the water and sanitary sewer system for disregard of any rules or regulations in connection with the use or operation of the system.

(c) The city reserves the right to discontinue water and sanitary sewer service to any vacant property or premises without heat.

(d) The city reserves the right to discontinue service to any customer of the water and sanitary sewer system for nonpayment of charges or bills.

(e) The service of water or sanitary sewer shall not be shut off for nonpayment of charges or bills until notice and an opportunity for a hearing have first been given to the occupant and owner of the premises involved. The notice shall be personally served or delivered by certified mail and shall state that, if payment is not made before the date stated in the notice, but not less than ten days after the date upon which the notice is given, the water supply to the premises will be shut off. The notice shall also state that the occupant may, before such date, demand a hearing before the city council, in which case the supply will not be shut off until after the hearing is held. If, as a result of the hearing, the city council finds that the amount claimed owing is actually due and unpaid and that there is no legal reason why the water supply of the delinquent customer may not be shut off in accordance with this article, the city may then shut off the supply.

(f) Whenever any service has been discontinued for nonpayment of charges or bills or for disregard of any rules or regulations in accordance with the procedures set forth above, it shall not be resumed except upon payment of the charges or bills accrued together with interest thereon, at a rate to be determined by city council or compliance with the rules and regulations previously violated and payment to the city of a disconnect fee in the amount established by city council.

(Code 2004, § 86-12; Ord. No. 18-2404, 4-19-2018)

Sec. 86-6. Nonessential water usage upon critical water deficiency.

This section establishes water conservation restrictions that will be in effect at any time the governor declares by executive order a critical water deficiency, pursuant to M.S.A. § 103G.291.

- (1) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Department means the city water department.

Emergency means the declaration of a critical water deficiency by the governor.

Irrigation means the watering of shrubs, trees, sod, seeded areas, gardens, lawns, or any other outdoor vegetation, except outdoor vegetation utilized for agricultural purposes.

Notification to public means notification through local media, including interviews and issuance of news releases.

Public water supplier means the city or other entity that owns, manages, or operates a public water supply, as defined in M.S.A. § 144.382, subd. 4.

Reclaimed water means water collected from rooftops, paved surfaces, or other collection devices and all water utilized more than once before re-entering the natural water cycle.

Water recirculation system means any system which enables a user to reuse water at least once prior to returning the water to the natural water cycle.

(2) *Application.*

- a. This section applies to all customers of public water suppliers who own or control water use on any premises.
- b. No person shall make, cause, use, or permit the use of water received from a public water supply for residential, commercial, industrial, governmental, or any other purpose in any manner contrary to any provision in this section and section 86-219.
- c. Mandatory emergency conservation measures shall be implemented based upon the declaration of a critical water emergency by the governor.

(3) *Declaration of critical water deficiency.* Upon the declaration of a critical water deficiency by the governor, the public water supplier shall immediately post notice of the emergency declaration at the usual meeting place of the city council, or the official city bulletin board. The city shall provide notification to the public as quickly as possible or through established water supply plans emergency response plans or procedures.

(4) *Mandatory emergency water conservation measures.* Upon declaration of a water emergency and notification to the public, the following mandatory restrictions upon nonessential water use shall be enforced:

- a. Outdoor irrigation of yards, gardens, golf courses, parklands, and other nonagricultural land, except for those areas irrigated with reclaimed water, is prohibited.

- b. Washing or spraying of sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas with water from any pressurized source, including garden hoses, except to alleviate immediate health or safety hazards, is prohibited.
- c. The outdoor use of any water-based play apparatus connected to a pressurized source is prohibited.
- d. Restaurants and other food service establishments are prohibited from serving water to their customers, unless water is specifically requested by the customer.
- e. Operation of outdoor misting systems used to cool public areas is prohibited.
- f. The filling of swimming pools, fountains, spas, or other exterior water features is prohibited.
- g. The washing of automobiles, trucks, trailers, and other types of mobile equipment is prohibited, except at facilities equipped with wash water recirculation systems, and for vehicles requiring frequent washing to protect public health, safety, and welfare.

(5) *Variances.*

- a. The city manager or designee is authorized to grant variances to this section and section 86-219 where strict application of its provisions would result in serious hardship to a customer.
- b. A variance may be granted only for reasons involving health or safety. An applicant may appeal the denial of a variance within five days of the decision by submitting a written appeal to the city manager. The city council shall hear the appeal at the next city council meeting. The decision of the city council is final.

(6) *Penalty.* The penalty provisions of section 86-10 shall apply to violations of this section.

(Code 2004, § 86-13; Ord. No. 21-2475, 7-19-2021)

Sec. 86-7. Operation of municipal stormwater system.

The municipal stormwater system shall be operated as a public utility (hereinafter called the stormwater utility), pursuant to M.S.A. § 444.075, from which revenues will be derived subject to the provisions of this chapter and Minnesota Statutes.

(Code 2004, § 86-150; Ord. No. 07-2138, 7-19-2007)

Sec. 86-8. Plumber qualifications.

Any plumber wishing to do plumbing work or perform any service in connection with city water system or sewer system must hold a plumber's license in the state.

(Code 1963, § 50.14; Code 1980, § 21-40; Code 2004, § 86-101; Ord. No. 543, 5-19-1977)

Sec. 86-9. Payment of charges; persons authorized to make; fixtures which belong to city.

(a) The charges for connecting to the water and sewer mains and the cost of a water meter herein specified shall be payable when application is made. All charges against the premises must be paid before service can be provided.

(b) No person except a master plumber licensed by the state or a duly authorized city employee will be permitted to do any work on a water service pipe within public right-of-way or install a water meter that is part of the municipal water system.

(c) The stop cock at the main and the curb stop at the property line, together with box and cover, are the property of the city, and all persons are forbidden to interfere with them.

(Code 1963, § 49.03(a), (b), (c); Code 1980, § 21-41; Code 2004, § 86-102; Ord. No. 543, 5-19-1977)

Sec. 86-10. Violations and penalties.

In addition to any other remedy provided in this chapter, any person who violates any provision of this chapter, or of any regulation adopted under this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 1-7. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. Violations shall be corrected or remedied within a reasonable time and when not otherwise specified, each day during which violations exist shall constitute a separate offense.

(Code 1963, § 52.09; Code 1980, § 21-4; Code 2004, § 86-1; Ord. No. 543, 5-19-1977)

Secs. 86-11—86-38. Reserved.**ARTICLE II. SERVICE APPLICATIONS****DIVISION 1. GENERALLY****Sec. 86-39. Form; effect.**

Applications for water and sewer service shall be made on printed forms, shall state the legal description and address and official house numbers of the premises to be supplied, the nature of the improvement to be done and the name of the licensed plumber employed to do the work. Such application shall be signed by the plumber or the plumber's authorized agent. Such application shall set forth the rules and regulations of the utilities division with respect to the rates and use of water and sewer. Each applicant by such application shall subscribe to and be obligated to be bound by such rules and regulations.

(Code 1963, § 49.03; Code 1980, § 21-6; Code 2004, § 86-41; Ord. No. 543, 5-19-1977)

Sec. 86-40. Owner's responsibility under contract.

All contracts made under the provisions of this chapter shall be made by the superintendent of utilities with the owner of the premises to be served, or the owner's duly appointed agent or attorney. The owner of the property shall be liable to the city for all rents accruing through the use of water or sewer upon such premises whether the same be personally used by such owner or by renters, lessees or other occupants of the premises.

(Code 1963, § 50.05; Code 1980, § 21-7; Code 2004, § 86-42; Ord. No. 543, 5-19-1977)

Sec. 86-41. Responsibility of consumer and agent; delinquency assessment provisions in contract.

(a) All provisions of this chapter wherein the term "consumer" is used shall be construed as including the owner of the premises served.

(b) Each premises desiring the use of city water or city sewer shall file with the utilities division the name of applicant's agent, if the applicant desires to act through an agent, or the applicant's own name and address, and shall direct in such instrument the one to whom the bill shall be sent, and notices to be given, and the same shall be binding until a further notice differing therefrom shall have been made in writing and filed with the utilities division.

(c) The contract made with the owner shall provide that any delinquencies in the payment of the water or sewer bill on such premises shall be a lien and charge against the premises so served regardless of whether or not the same be a homestead. Such lien, in case of delinquency, shall be reported to the county auditor by the city clerk at the same time and in the same manner as special assessments on real estate for street improvements, and shall be collected in the same manner as taxes against real estate; provided, however, that nothing in this article shall change the provisions of this chapter with reference to turning off water for nonpayment of charges.

(Code 1963, § 49.04; Code 1980, § 21-8; Code 2004, § 86-43; Ord. No. 543, 5-19-1977)

Sec. 86-42. Agreement to pay assessments required and payment of connection charges.

(a) It is the intent of the city that all property within the city will pay an equivalent amount for the availability of municipal water and sanitary sewer utilities, and storm sewer systems and related facilities.

(b) The special assessment records of the premises shall be examined to determine if an assessment for the full cost of furnishing water and sewer utilities and storm sewer systems and related facilities to the premises has been paid. If an assessment has not been paid, or levied against the premises for municipal water or sanitary sewer utilities, or storm sewer systems and related facilities, the city shall collect a connection charge, pursuant to M.S.A. § 444.075, prior to issuance of the

permit. If a special assessment is determined to be invalid for any reason, the connection charges referred to in this section shall become payable at the time of such determination.

(c) The city shall determine the amount of the connection charge as provided in M.S.A. § 444.075 and shall consider the costs of providing trunk services to the area and the actual cost of serving adjoining properties or properties served at approximately the same time, updated by the Engineering News Records construction index to the present.

(d) The city, at its option, may consent to the spreading of the connection charge against the applicant's property as a special assessment for a period not to exceed ten years in annual installments with interest payable at the current rate of interest used for special assessment projects per annum on the unpaid balance. In cases of proven hardship, the special assessment, at the discretion of the city manager, may be spread over a period not to exceed 20 years. If there are deferred assessments levied against the premises, then, at the option of the city, prior to issuance of a permit, the applicant shall be required to:

- (1) Pay the balance owing thereon.
 - (2) Consent to the spreading of such charge against applicant's property in the form of a special assessment for a period not to exceed ten years in annual installments with interest payable at the current rate of interest used for special assessment projects per annum on the unpaid balance. In cases of proven hardship, the special assessment, at the discretion of the city manager, may be spread over a period not to exceed 20 years.
 - (3) Unpaid connection charges shall be certified to the county auditor with taxes against the property served for collection as other taxes are collected.
- (Code 1963, § 52.02; Code 1980, § 21-9; Code 2004, § 86-44; Ord. No. 543, 5-19-1977; Ord. No. 84-822, 4-19-1984; Ord. No. 94-1524, 5-5-1994; Ord. No. 97-1664, 7-17-1997)

Secs. 86-43—86-72. Reserved.

DIVISION 2. FIRE SERVICES

Sec. 86-73. Application; installations; use; rates as established.

(a) Application for service connections which are to be used exclusively for supplying water to extinguish fires shall be made to the utilities division. Such applications shall be made by the owner of the premises to be served or such owner's legal representative and shall be accompanied by a complete and correct drawing

showing the location of the premises to be supplied, together with the location of all valves, pipes, hydrants, tanks, sprinkler heads and other appliances to be installed on the premises.

(b) If the applicant is permitted to make such connections with the water mains, such connections shall be made under the orders and direction of the superintendent. All the cost and expense thereof shall be borne by the applicant.

(c) No water shall be drawn from any fire service pipes so installed for any purpose whatever except for the extinguishing of fires, and no connection shall be made between the fire service pipe system and the regular water supply to the premises.

(d) Valves or hose outlet, drain cock, hydrants and other outlays placed on such pipe system shall be of a type approved by the city.

(e) When a connection is made for automatic sprinkler system for standby fire service only, a charge for such service shall be made on a regular basis as provided in the rate schedule. These rates shall apply in all cases where automatic sprinklers, fire gates and other sealed outlets are installed. No charge will be made for water used in extinguishing fires.

(Code 1963, § 56.06; Code 1980, § 21-10; Code 2004, § 86-71; Ord. No. 543, 5-19-1977)

State law reference—Restrictions on fire protection charges, M.S.A. § 444.25.

Sec. 86-74. Detector check valve and meter; illegal use.

(a) Detector check valve and meter shall be installed on the fire services described in this division.

(b) Should it be found that water not metered is used through a fire connection for any purpose other than the extinguishing of fire upon the premises, the owner or occupant will be notified, and if such improper conditions are not corrected within ten days, the water will be shut off until proper adjustments are made, and the owner shall be subject to a fine in the sum of not less than \$10.00 nor more than \$25.00.

(c) Water that is shut off pursuant to subsection (b) of this section shall not be turned on until the offenders give reasonable assurance to the city that the offense will not be repeated and shall pay to the superintendent a fee established by council action for again turning on the water.

(d) A second violation of the rules will be considered sufficient cause for cutting the service off at the water main and refusing to reconnect the service while the offender occupies the premises.

(Code 1963, 50.07; Code 1980, § 21-11; Code 2004, § 86-72; Ord. No. 543, 5-19-1977; Ord. No. 98-1695, § 10, 2-5-1998)

Secs. 86-75—86-108. Reserved.

ARTICLE III. RATES AND CHARGES

DIVISION 1. GENERALLY

Sec. 86-109. Schedule of rates, fees and charges.

(a) The council shall adopt a schedule of water and sanitary sewer rates, fees and all connection charges. Such action shall be published once in the official newspaper of the city. The city manager shall annually review such schedule and make recommendations to the council for adjustments in the rates and other charges. Such recommendations to the council regarding rate adjustment shall be based upon annual report of the operations of the utility, including an accounting of all monies or revenue received and disbursed, together with a working budget estimate of the needs of the utility. A certified copy of such schedule shall be on file in the office of the city clerk, where it may be examined.

(b) The rate schedule for water and sewer charges is incorporated in this section by reference.

(Code 1963, §§ 49.03(d), 52.01; Code 1980, § 21-12; Code 2004, § 86-141; Ord. No. 543, 5-19-1977)

Secs. 86-110—86-131. Reserved.

DIVISION 2. SEWER

Sec. 86-132. Reduced sewer service charges.

(a) The quarterly sewer service charges for single-family and two-family dwelling units, which are occupied only by persons who meet any of the following requirements, shall be entitled to reduced sewer service charges of one-half of the quarterly charge established as provided in section 86-109:

- (1) Persons who are 62 years of age or older, or who are members of a household in which one of the spouses is 62 years of age or older, and neither is gainfully employed;
- (2) Persons who are 62 years of age or older, or who are members of a household in which one of the spouses is 62 years of age or older, and neither is gainfully employed, who occupy the unit with not more than two other persons, who are also 62 years of age or older, or who occupy the unit with one person under 62 years of age, who is not gainfully employed;
- (3) Persons who are 62 years of age or older, or who are members of a household in which one of the spouses is 62 years of age or older, and neither is gainfully

employed, who occupy the unit with more than two other persons, one of whom is 62 years of age or older and head of the household, and the annual gross income of the household according to its most recent federal income tax return does not exceed the federal poverty income guidelines for a family of four, plus \$3,000.00, and the total assets of the household, exclusive of the homestead, do not exceed \$20,000.00. If no federal income tax return was filed, the applicant shall be required to submit other documentation to show that this qualification is met.

(b) Such reduced quarterly charge shall be effective in the first billing quarter that commences following receipt of the appropriate city application forms, completed by the individual persons over 62 years of age. Such reduced quarterly charge shall become effective in the first billing quarter after there has been a change in the conditions described in subsection (a) of this section. Persons meeting such requirements shall file with the city in January of each year an affidavit approved by the city.

(Code 1963, § 52.07; Code 1980, § 21-13; Code 2004, § 86-142; Ord. No. 543, 5-19-1977; Ord. No. 03-1964, 3-6-2003)

Sec. 86-133. Sewer unit assignments.

For purposes of this division, sewer units shall be assigned to land uses in the following manner:

- (1) *Single-family, townhouse, duplex.* Each single-family home, townhouse or duplex shall comprise one unit.
- (2) *Multiple dwellings.* Multiple dwellings shall be assigned one unit for each dwelling unit in the multiple dwelling structure.
- (3) *Manufactured home park.* Manufactured home dwellings shall be assigned one unit for each manufactured home lot within the manufactured home park. Other buildings within a manufactured home park shall be treated under subsection (4) of this section.
- (4) *Other buildings and structures.* All buildings and structures other than those set forth in this section shall be assigned one unit for each 70,000 gallons of estimated sewer discharge. The determination of the number of the units shall be to the nearest whole unit.

(Code 1963, § 52.03; Code 1980, § 21-14; Code 2004, § 86-143; Ord. No. 543, 5-19-1977)

Sec. 86-134. Industrial user sewer strength charge.

(a) *Authority.* The metropolitan waste control commission, a metropolitan commission organized and existing under the laws of the state (the commission), in order to receive and retain grants in compliance with the Federal Water Pollution

Control Act amendments of 1972 and regulations thereunder, has determined to impose an industrial user sewer strength charge upon users of the metropolitan disposal system as defined in M.S.A. § 473.121, subd. 24, to recover operation and maintenance costs of treatment works attributable to the strength of the discharge of industrial waste, such strength charge being in addition to the charge based upon the volume of discharge. In order for the city to pay such costs based upon strength of industrial discharge and allocated to it each year by the commission, it is found, determined and declared to be necessary to establish sewer strength charges and a formula for the computation thereof for all industrial users receiving waste treatment services within or served by the city. Furthermore, M.S.A. § 444.075, subd. 3, empowers the city to make such sewer charge a charge against the owner, lessee, occupant or all of them and certify unpaid charges to the county auditor as a tax lien against the property served.

(b) *Establishment of strength charges.* For the purposes of paying the costs allocated to the city each year by the commission that are based upon the strength of discharge of all industrial users receiving waste treatment services within or served by the city, there is approved, adopted and established, in addition to the sewer charge based upon the volume of discharge, a sewer charge based upon each person receiving waste treatment services within or served by the city, based upon strength of industrial waste discharged into the sewer system of the city, which charge shall be referred to in this section as the strength charge.

(c) *Establishment of strength charge formula.* For the purpose of computation of the strength charge established in this section, the city council has established, approved and adopted in compliance with the Federal Water Pollution Control Act the same strength charge formula designated in Resolution No. 76-172, adopted by the governing body of the commission on June 15, 1976, which resolution is incorporated in this section by reference and a copy of which is on file in the office of the city clerk. Such formula is based upon pollution qualities and difficulty of disposal of the sewage produced through an evaluation of pollution qualities and quantities in excess of an annual average base and the proportionate costs of operation and maintenance of waste treatment services provided by the commission.

(d) *Strength charge payment.* It is approved, adopted and established that the strength charge established in this section shall be paid by each industrial user receiving waste treatment services and subject thereto before the 20th day next succeeding the date of billing thereof to such user by or on behalf of the city, and such payment thereof shall be deemed to be delinquent if not so paid to the billing entity before such date. Furthermore, it is established, approved and adopted that if such payment is not paid before such date an industrial user shall pay interest compounded monthly at the rate of two-thirds of one percent per month on the unpaid balance due.

(e) *Establishment of tax lien.* As provided by M.S.A. § 444.075, subd. 3, it is approved, adopted and established that if payment of the strength charge established in this section is not paid before the 60th day next succeeding the date of billing thereof to the industrial user by or on behalf of the city, such delinquent sewer strength charge plus accrued interest established in this section shall be deemed to be a charged against the owner, lessee and occupant of the property served, and the city or its agent shall certify such unpaid delinquent balance to the county auditor with taxes against the property served for collection as other taxes are collected; provided, however, that such certification shall not preclude the city or its agent from recovery of such delinquent sewer strength charge and interest thereon under any other available remedy.

(Code 1963, § 51.021; Code 1980, § 21-15; Code 2004, § 86-144; Ord. No. 584, 7-6-1978)

Secs. 86-135—86-151. Reserved.

DIVISION 3. STORMWATER UTILITY

Sec. 86-152. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Quarterly stormwater utility revenue means the estimated quarterly expenditures for planning and inventories, capital expenditures, personnel and equipment and operation of the stormwater utility, in accordance with established city policy. The quarterly stormwater utility revenue and resulting stormwater utility fees shall be established for a period of time as set by council resolution.

Residential equivalency factor (REF) means the ratio of runoff volume, in inches, for a particular land use, to the runoff volume, in inches, for a one-third-acre residential lot, assuming a 2.30-inch rainfall and soil conservation service (SCS) "Type B" soil conditions.

Stormwater utility fee means the quarterly charge developed for each parcel of land.

(Code 2004, § 86-151; Ord. No. 07-2138, 7-19-2007)

Sec. 86-153. Residential equivalency factors.

The REF factors for various land uses used to determine the surface water management fees are assigned as follows:

<i>Classification</i>	<i>Land Use</i>	<i>REF</i>
1	Single-family residential	1.00
2	Medium density residential	1.49
3	High density residential	7.11
4	Institutional (churches, schools)	3.49
5	Industrial	8.44
6	Commercial	10.53
7	City of Blaine	1.00
8	County	1.00
9	Airport	1.49
10	Regional recreation	1.49
11	Parks, golf courses, cemeteries	0.76
12	Agriculture	1.26

(Code 2004, § 86-152; Ord. No. 07-2138, 7-19-2007)

Sec. 86-154. Fee.

(a) Stormwater utility fees shall be established for a period of time as set by council resolution. Such action shall be published once in the official newspaper of the city. The city manager shall annually review such schedule and make recommendations to the council for adjustments in the rates and other charges. Such recommendations to the council regarding rate adjustment shall be based upon annual report of the operations of the utility, including an accounting of all monies or revenue received and disbursed, together with a working budget estimate of the needs of the utility. A certified copy of such schedule shall be on file in the office of the city clerk, where it may be examined.

(b) The stormwater utility fee for each parcel shall be determined by multiplying the rate times the REF for the appropriate land use category for the parcel times the acreage of the parcel, except in the case of low and medium density residential parcels. Acreage is already factored for these parcels having used these land use classes in determining the base rate.

(Code 2004, § 86-153; Ord. No. 07-2138, 7-19-2007)

Sec. 86-155. Credits.

The council may adopt policies, by resolution, for adjustments of the surface water management fees. Information to justify a fee adjustment must be supplied by the property owner. Such adjustments of fees shall not be retroactive, unless provided within said resolution. Credits will be reviewed annually by a staff committee.

(Code 2004, § 86-154; Ord. No. 07-2138, 7-19-2007)

Sec. 86-156. Appeal of fee.

If a property owner or person responsible for paying the stormwater utility fee believes that a particular assigned fee is incorrect, such a person may request that

the fee be recomputed. Appeals will be heard by the council once a year in accordance with the schedule established for credit applications, in established city policy.

(Code 2004, § 86-155; Ord. No. 07-2138, 7-19-2007)

Sec. 86-157. Statement of charges.

Statements for the stormwater utility fee shall be mailed to each customer pursuant to the same procedures as listed under sections 86-185 and 86-186.

(Code 2004, § 86-156; Ord. No. 07-2138, 7-19-2007)

Sec. 86-158. Delinquent accounts.

At the end of 30 days from the date of such notice or statement, all bills not paid shall become overdue. Accounts deemed delinquent shall be handled as described in section 86-187.

(Code 2004, § 86-157; Ord. No. 07-2138, 7-19-2007)

Secs. 86-159—86-184. Reserved.

DIVISION 4. BILLING AND COLLECTION

Sec. 86-185. Monthly service charge billing; late charge.

(a) Monthly bills for utilities furnished and supplied by the city to nonresidential customers shall be payable monthly within 25 days after the first of each month. At the first of each month, the city manager shall cause to be read all such meters.

(b) The monthly billing requirement shall be at the discretion of the city, based on normal high water or sewer usage. Within ten days after the first of each month, there shall be mailed to each user of water or sewer service, a bill stating the amount due the city from such consumer during the preceding month, together with the amount due the city for repairs on meters, penalties, or other indebtedness. Such statement shall be deemed sufficient notice to the consumer and to the owner of the property against which such charges are made.

(c) In addition to the charges provided in this section, there shall be a late charge as established by council action for payments made after 25 days after the first of each month. Within ten days after such payment becomes delinquent, the utilities division shall mail a notice to each consumer of water service whose bill for the preceding month has not been paid. Such notice shall be deemed sufficient notice to the consumer and to the owner of the property against which such charges are made.
(Code 1963, § 52.05; Code 1980, § 21-16; Code 2004, § 86-145; Ord. No. 543, 5-19-1977; Ord. No. 98-1695, § 10, 2-5-1998)

Sec. 86-186. Quarterly service charge billing; late charges.

(a) Quarterly bills for utilities furnished and supplied by the city to residential customers shall be payable quarterly, within 25 days after the first of each quarter. Where service is for less than a quarterly period, this charge will be prorated on a monthly basis. At the first of each quarter, there shall be mailed a card to each consumer of water service requiring a reading of such meter by the consumer, who shall return the card to the city postmarked on or before the last day of the month in which consumer receives it. If such card is not returned to the city on time, there shall be added to the charges an additional charge as provided in the rate schedule.

(b) Within ten days after the first of each quarter, there shall be mailed to each user of water or sewer service, a bill stating the amount due the city from such consumer or customer during the preceding three months, together with the amount due the city for repairs on meters, penalties, or other indebtedness. Such statement shall be deemed sufficient notice to the consumer and to the owner of the property against which such charges are made.

(c) In addition to the charges provided in this section, there shall be a late charge as established by council action for payments made after 25 days after the first of each quarter. Within ten days after the above payment becomes delinquent, there shall be mailed a notice to each consumer of water service whose bill for the preceding quarter has not been paid. Such notice shall be deemed sufficient notice to the consumer and to the owner of the property against which such charges are made.

(Code 1963, § 52.04; Code 1980, § 21-17; Code 2004, § 86-146; Ord. No. 543, 5-19-1977; Ord. No. 98-1695, § 10, 2-5-1998)

Sec. 86-187. Service charge delinquency.

At the end of 30 days from date of such notice or statement, all bills not paid shall become overdue. There shall be mailed an overdue notice to the above accounts. At the end of 14 days from date of such overdue notice, all bills not paid shall become delinquent. Twice annually, a list of delinquent accounts shall be generated and a notice shall be mailed informing the property owner of pending certification. If the delinquent account remains unpaid after the date specified on the notice, an administrative charge as established by city council action shall be assessed on the delinquent account, and this fee along with the delinquent amount, including penalties, shall be certified by the city council to the county department of property records and taxation for collection with taxes due against such premises.

(Code 1963, § 52.06; Code 1980, § 21-18; Code 2004, § 86-147; Ord. No. 543, 5-19-1977; Ord. No. 03-1965, 3-6-2003)

Sec. 86-188. Water turn-on after turnoff for nonpayment or violation.

In all cases where water has been turned off for nonpayment of bills or for violation of any rules or regulations of the city, such water shall not be again turned

on unless and until such bill has been fully paid and a reconnection charge, as provided in the rate schedule, paid to the city for turning such water on. When arrangements are made for turning water on at a time other than normal business hours, there shall be an additional charge as provided for in the rate schedule.

(Code 1963, § 50.04; Code 1980, § 21-19; Code 2004, § 86-148; Ord. No. 543, 5-19-1977)

Sec. 86-189. Sewer disconnection for violation.

If any person violates any of the regulations contained in this chapter, or makes improper use of the sanitary sewer system contrary to any provisions of this chapter, the city may, after five days' mailed notice to such person, disconnect the sewer service to the premises of such person, and charge such owner the cost of such disconnection. The term "mailed notice," as used in this section, shall be sufficient if mailed to the address shown on such person's application for sewer service. Such charge may be collected by the city in the manner prescribed in this chapter relating to the collection of delinquent sewer charges.

(Code 1963, § 51.02(6); Code 1980, § 21-20; Code 2004, § 86-149; Ord. No. 543, 5-19-1977)

Secs. 86-190—86-216. Reserved.

ARTICLE IV. WATER REGULATIONS

DIVISION 1. GENERALLY

Sec. 86-217. Reservation of right to restrict water use; use during fires.

The city reserves the right to limit the use of water from city water supply and distribution system and to prescribe the conditions for any use. It is unlawful for any person in the city or any person owning or occupying premises connected to the municipal water system to use or allow to be used during a fire any water from such municipal water system except for the purposes of extinguishing such fire, and it shall be the duty of every person to see that all water services are tightly closed and that no water is used except for necessary household purposes during such fire.

(Code 1963, § 50.09; Code 1980, § 21-27; Code 2004, § 86-186; Ord. No. 543, 5-19-1977)

Sec. 86-218. Use of water from fire hydrants; permit required.

No person, except a member of the utilities division or a member of the city fire department, in the case of fire, shall be allowed to open any fire hydrant in the city

for any purpose whatsoever, without first securing a permit from the superintendent. Payment for such water used, except for firefighting, shall be made in accordance with the utilities division rate schedule.

(Code 1963, § 50.08; Code 1980, § 21-3; Code 2004, § 86-5; Ord. No. 543, 5-19-1977)

Sec. 86-219. Lawn sprinkler restrictions.

(a) The use of the municipal water system for lawn sprinkling shall be regulated as provided in this section. Lawn and garden sprinkling and the use of irrigation systems will be permitted for properties having odd-numbered addresses only on odd-numbered days and for properties having even-numbered addresses only on even-numbered days.

(b) From May 15 through September 15, lawn and garden sprinkling will be prohibited between the hours of 10:00 a.m. and 6:00 p.m. daily.

(c) Exceptions.

- (1) This section does not apply to private wells.
- (2) Employees and agents of the city in such instances wherein lawn, grass or turf used for athletic fields or areas owned and operated by the city require more frequent watering to prevent unreasonable damage thereto.
- (3) Limited hand watering of plants, flowers, garden areas, trees using a hose.
- (4) Watering of new landscaping, sod or seed within 30 days of installation.
- (5) Lawn and garden sprinkling and the use of irrigation systems can be further prohibited as to hours and/or days if deemed necessary by the city manager or designated employee of the utilities division in order to maintain an adequate supply of water and continuity of essential public services.

(d) Lawn sprinkler violation fees will be billed to the property owner on a 30-day billing schedule, and payment must be made to the city finance department within 30 days of the billing date. Fees not paid to the city within 30 days of the billing date will be considered delinquent, and subject to a ten percent late payment fee. Penalties and late fees not paid to the city finance department within 90 days of the billing date may be certified to the county for collection in the same manner that other taxes are collected relating to the subject property.

(Code 1963, § 50.10; Code 1980, § 21-28; Code 2004, § 86-7; Ord. No. 543, 5-19-1977; Ord. No. 546, 6-16-1977; Ord. No. 85-887, 6-20-1985; Ord. No. 97-1650, 4-3-1997; Ord. No. 05-2040, 4-7-2005; Ord. No. 16-2363, 8-18-2016; Ord. No. 21-2475, 7-19-2021; Ord. No. 24-2548, 4-15-2024)

Sec. 86-220. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Meter means the actual water meter for measurement of water usage and shall also include all other components of the metering system, including, but not limited to, the water meter register, the communications radio module, and the wiring connecting the register to the module.

(Code 2004, § 86-11; Ord. No. 18-2404, 4-19-2018)

Sec. 86-221. Waste of water; inspections to determine, correction of condition.

The city manager, or any designated employee of the utilities division, shall have free access, at all reasonable hours, to premises to ascertain the location or condition of all hose connections, pipes and plumbing fixtures which in such inspector's opinion are causing unnecessary waste of water or health hazard to the public. Such inspector shall promptly notify the owner or occupant of such necessary repairs. If any such designated repairs are not made within 24 hours after such notification, the superintendent shall make such repairs, or cause the repairs to be made, and the cost thereof shall be charged to the owner or occupant of such premises and collected in the same manner provided for the collection of other bills due the city.

(Code 1963, § 50.13; Code 1980, § 21-29; Code 2004, § 86-8)

Secs. 86-222—86-250. Reserved.**DIVISION 2. WATER METERS****Sec. 86-251. Ownership; required; payment of cost.**

The city shall exclusively own and control the water meters to be used in the city water system and each consumer is required to have a city-approved water meter. The cost of the meter shall be included in the water service permit fees.

(Code 1963, § 50.01; Code 1980, § 21-22; Code 2004, § 86-181)

Sec. 86-252. Repair and maintenance.

If any meters are damaged by freezing, hot water or other causes, either by carelessness or neglect of the owner or occupant of the premises or their agents, the owners or occupants shall pay for the repair of such meters. The cost of ordinary maintenance and repairs of all meters owned by the city shall be borne by the city.

(Code 1963, § 50.02; Code 1980, § 21-23; Code 2004, § 86-182)

Sec. 86-253. Location; obstructing.

All residential water meters will be installed in the laundry area, adjacent to a floor drain, or in the well pit if the well pit is in a heated basement. The well pit door shall have louvers to prevent the meter from freezing. Meters in breezeways or garages are not permitted. The customer is prohibited from obstructing the meter so as to prohibit the reading or repairing of the meter. Failure to grant access to the inside of a home to read, replace, or repair a water meter shall be enforced per section 86-5.

(Code 1963, § 50.03; Code 1980, § 21-24; Code 2004, § 86-183; Ord. No. 03-1966, 3-6-2003; Ord. No. 18-2404, 4-19-2018)

Sec. 86-254. Testing; adjustment of charges.

(a) At the written request of any owner or consumer the city manager will test or cause to be tested the meter supplying the premises of such owner or consumer. An additional charge as provided in the rate schedule will be required before the meter is disconnected, which will be returned to the owner or consumer if the meter is not found to be registering correctly within ten percent. Otherwise, the deposit so made shall be retained by the city to cover the cost of such test. The owner or consumer may, if such person desires, be present at the time any such test is made. The result of any such test shall be reported to such owner or consumer in every case.

(b) If the testing of a meter, as provided in subsection (a) of this section, indicated that it registers in excess of ten percent error, the charge to the consumer for water used and consumed during the quarter within which such test is made shall be based on the corresponding quarter of the previous year. If for any other reason the charge so made for such corresponding period cannot be justly applied, the charge so made for the quarter within which such test occurred shall be equitably adjusted by the superintendent. Any other adjustment of charges for water supplied through meters shall be made only by the council.

(Code 1963, §§ 50.19, 50.20; Code 1980, § 21-25; Code 2004, § 86-184; Ord. No. 543, 5-19-1977)

Sec. 86-255. On private line of sewer user.

The city reserves the right to require that any connected property owner, other than single-family and multiple-family, shall install, at the property owner's expense, a water meter on a private water supply to determine the amount of sewer usage.

(Code 1963, § 50.01(d); Code 1980, § 21-26; Code 2004, § 86-185; Ord. No. 543, 5-19-1977)

Secs. 86-256—86-273. Reserved.

DIVISION 3. CONNECTIONS

Sec. 86-274. Water connection permit; work quality on service lines.

(a) No person shall connect, either directly or indirectly, to any water main within the city without first having obtained a permit from the utilities division and having paid the charges set forth in this article. No plumber shall commence any plumbing work of any kind where a permit is necessary without first being assured that a permit has been granted.

(b) In constructing such water service line, the plumber shall adhere to standards regarding locations, size, grade, material and work quality as determined by city regulations or plumbing code. After the water service connection has been accomplished, the plumber shall notify the utilities division. It is unlawful to cover the water service line until an inspection has been completed to ensure that a proper and suitable connection has been made.

(Code 1963, § 50.14; Code 1980, § 21-42; Code 2004, § 86-103; Ord. No. 543, 5-19-1977)

Sec. 86-275. Prohibited water line tap-in.

No person having a connection with any city water main from any lot or from any building of any kind shall connect therewith from any other lot or building whatsoever, owned or controlled by such person without first having obtained a permit from the city as provided in this chapter; nor shall any person having connection with any water main allow, suffer or permit any other person to connect therewith from any lot or any building of whatsoever name or nature, owned or controlled by such other person, unless such other person shall first have obtained a permit from the city, as provided in this chapter.

(Code 1963, § 50.15; Code 1980, § 21-43; Code 2004, § 86-104; Ord. No. 543, 5-19-1977)

Sec. 86-276. Installation and maintenance of water service line.

(a) The service pipe from the building to the curb stop and the connection thereto shall be the property of the applicant and must be protected and maintained by the applicant. If the applicant or any customer shall fail to make any necessary repairs to such service connections or pipe within 24 hours after being notified to do so by the superintendent of utilities, the superintendent shall make such repairs, and the cost thereof shall be charged to the owner of such premises or the consumer and shall be collected in the same manner as other bills for utilities are collected.

(b) While installing or repairing service pipes, the street must be open at a time and in a manner which will cause the least inconvenience to the traveling public and every precaution must be taken to ensure the public safety and the safety of property. All excavations remaining open overnight shall be protected by substantial barriers, with sufficient flashing lights.

(c) While filling trenches in streets, the plumber shall carefully tamp in the material so that it will be as solid and in as good a shape in every respect as before opening the trench. The plumber shall replace or repair all curb, sidewalk, pavement, boulevard or street surface in as good a condition as when such plumber found it, and shall pay all costs of replacement or repairs.
(Code 1963, §§ 50.16—50.18; Code 1980, § 21-44; Code 2004, § 86-105; Ord. No. 543, 5-19-1977)

Secs. 86-277—86-300. Reserved.

ARTICLE V. SEWER REGULATIONS

DIVISION 1. GENERALLY

Sec. 86-301. Reservation of right to restrict waste discharges; violations; regulations.

The city reserves the right to regulate the disposal of any waste through the sanitary sewer system both in quantity and character.

- (1) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer.
- (2) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers, or to a natural outlet approved by the city manager. Industrial cooling waters or unpolluted process waters may be discharged upon approval of the city manager to a storm sewer, or natural outlet.
- (3) All of the rules and regulations adopted pursuant to M.S.A. §§ 473.501 through 473.549 are adopted by reference in this section to become a part of this Code as though completely set forth in this section. Any conflict between such statutes and the rules and regulations of such statutes, as amended, and the provisions of this Code shall be resolved in favor of the provisions of this Code.

State law reference—Adoption by reference, M.S.A. § 471.62.

- (4) Plans, specifications, and any other pertinent information relating to proposed preliminary treatments facilities shall be submitted for the approval of the council, state pollution control agency and metropolitan waste control commission. No construction of such facilities shall be commenced until such approval is obtained in writing.
- (5) The owner of any property served by a building sewer carrying industrial waste may be required to install a suitable control utility hole in the building

sewer to facilitate observation, sampling and measurement of wastes. Such utility hole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the city engineer. The utility hole shall be installed by the owner at the owner's expense and shall be maintained by the owner so as to be safe and accessible at all times.

- a. All measurements, tests, and analysis of the characteristics of waters and wastes shall be determined according to methods employed by the state department of health and metropolitan waste control commission and shall be determined at the control utility hole or from suitable samples taken at the control utility hole. If no special utility hole has been required, the control utility hole shall be considered to be the nearest downstream utility hole in the public sewer to which the building sewer is connected.
- b. No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city subject to designated restrictions or conditions.

(Code 1963, § 51.02(1)—(5); Code 1980, § 21-30; Code 2004, § 86-9; Ord. No. 543, 5-19-1977)

Sec. 86-302. Adoption of contracts regulating sewer use.

The existing contracts between the city, adjoining municipalities and the metropolitan waste control commission are made a part of this Code insofar as the same relate to the proper use of the sanitary sewer system. Any use deemed improper in such contracts shall be considered unlawful.

(Code 1963, § 51.01(c); Code 1980, § 21-31; Code 2004, § 86-10; Ord. No. 543, 5-19-1977)

Secs. 86-303—86-322. Reserved.

DIVISION 2. CONNECTIONS

Sec. 86-323. Sewer connection permit; work quality on service lines.

(a) Any property owner desiring a permit to connect a dwelling or other building to the sanitary sewer system of the city shall apply therefor on a form provided by the city.

(b) No sanitary service line between the sewer main and the plumbing system of any dwelling or other building to be served shall be constructed until a plumber, licensed by the state, shall obtain a connection permit from the city.

(c) In constructing such sanitary sewer service line, the plumber shall adhere to standards regarding location, size, grade, material and work quality as determined by the city regulations or city or state plumbing code. After the sewer service connection has been accomplished, the plumber shall notify the city. It is unlawful to cover the sanitary sewer service line until an inspection has been completed to ensure that a proper and suitable connection has been made.

(d) The cost of installing the sanitary sewer service line between the building and main service stub shall be borne wholly by the property owner. After the initial connection to the main service stub, the property owner shall thereafter be liable for all maintenance and repairs to such owner's sewer service line between the street main and the building being served, except that no excavation shall be performed in the street property without first having obtained a permit from the utilities division. (Code 1963, § 51.01(a), (b); Code 1980, § 21-45; Code 2004, § 86-106; Ord. No. 543, 5-19-1977)

Secs. 86-324—86-347. Reserved.

DIVISION 3. STANDARDS AND SPECIFICATIONS

Sec. 86-348. Purpose and objective.

(a) This division sets forth requirements to aid in the prevention of sanitary sewer blockages, obstructions, and overflows due to the contribution and accumulation of fats, oils, and grease (FOG) into the city sanitary sewer system from commercial and industrial businesses, and food service establishments (FSE). The division regulates businesses and FSEs by requiring that grease interceptors and other devices and equipment be used to control FOG, and by requiring that such devices and equipment be installed, implemented and maintained in accordance with the provisions hereof.

(b) The objective of this division is to eliminate FOG related sanitary sewer overflows and sewer line blockages to prevent residential and commercial property damage, decrease sewer maintenance costs, improve sanitary sewer pipe and lift station conditions, and to protect the environment.
(Code 2004, § 86-107(intro ¶); Ord. No. 19-2438, 11-18-2019)

Sec. 86-349. Acronym definitions.

The following acronyms, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

BMP means best management practice.

FM/P means food manufacturer/processors.

FOG means fats, oils and grease.

FSE means food service establishments.

SSO means sanitary sewer overflow.

Sec. 86-350. Fats, oils and grease control program; best management practice program.

(a) Participation in the city fats, oils and grease (FOG) control and related programs is required.

(b) This section applies to all food service establishments (FSE), food manufacturer/processors (FM/P), and commercial and industrial businesses discharging wastewater containing fats, oils and grease to the city sanitary sewer system, including, but not limited to, restaurants, grocery stores, meat markets, hotels, correctional facilities, factory and office building cafeterias, public and private schools, hospitals, multiple tenant housing, commercial day care centers, churches, and catering services.

(c) From the effective date of the ordinance from which this division is derived, no FSE or FM/P shall discharge any substance of any kind into any portion of the city's wastewater system except in accordance with a best management practice (BMP) program which has been approved by the city utility superintendent in writing.

(d) The city shall, from time to time, establish by resolution the minimum standards for the content of a BMP program.

(e) No FSE or FM/P shall discharge any substance of any kind into any portion of the wastewater collection system which is not in conformance with the BMP program for that FSE or FM/P.

(Code 2004, § 86-107(a); Ord. No. 19-2438, 11-18-2019)

Sec. 86-351. FOG prohibitions.

The following prohibitions apply to all FSE or FM/Ps:

- (1) Installation of food grinders in a plumbing or sewage system in any new construction or renovation of a structure designed to house a FSE or FM/P;
- (2) Discharge any wastewater containing FOG into a wastewater collection system except in compliance with the BMP program for that facility;
- (3) Introduction of any additives into the wastewater collection system for the purpose of emulsifying FOG or biologically or chemically treating any substance introduced into any wastewater system for purpose of treatment or pretreatment of wastewater, unless a specific written authorization by the utility superintendent is obtained;
- (4) Discharge of wastewater from dishwashers to any grease interceptor or grease trap;

- (5) Discharge of wastewater at temperatures in excess of 140 degrees Fahrenheit to any grease interceptor or grease trap;
 - (6) Operation of grease interceptors/traps if the unit has accumulated waste, both FOG and food solids, accounting for 25 percent or more of its wetted depth measured from the static water level to the interior tank bottom, with FOG and solids accumulation, exceeding 25 percent of the total operating depth of the grease interceptor/trap; or
 - (7) Discharge of any FOG or any other solid materials removed from the grease control device to the wastewater collection system.
- (Code 2004, § 86-107(b); Ord. No. 19-2438, 11-18-2019)

Sec. 86-352. Grease interceptor/grease trap installation requirements.

(a) Except as provided for in section 86-361, any structure designed for or intended to be used for an FSE or FM/P must have a grease interceptor/trap installed prior to discharging any wastewater into the wastewater collection system. Such grease interceptor/trap must comply with all conditions as set forth in the state plumbing code, Minn. R. ch. 4714.

(b) Property owners of new commercial construction structure designed to house multiple tenants on a single parcel shall be responsible to install and maintain a single grease interceptor/trap to serve each individual tenant unless a property owner demonstrates to the utilities superintendent that it is not practically possible to install and maintain a single grease interceptor/trap to serve each individual unit located in the structure in which case the utilities superintendent has the discretion to approve a plan for such structure providing for more than one grease interceptor/trap or a combination of grease interceptors and grease traps to service such property, which approval shall be in writing. Said approved plan shall include the minimum number of grease interceptors and grease traps that can reasonably serve the structure, and the BMP program shall specifically include service for all approved grease interceptors and grease traps.

(c) The owner of any structure occupied by more than one FSE or FM/P (e.g., strip malls) shall be jointly and severally liable with the owner of each FSE or FM/P served by any grease interceptor or any grease trap for the servicing and maintenance of that grease interceptor or grease trap and for any servicing and maintenance of any wastewater facility located downstream from said structure to remove any accumulations of FOG therefrom.

(d) The utilities superintendent may require existing FSE or FM/Ps and owners of structures in which such FSE or FM/Ps are located which have been identified as introducing FOG into any portion of the wastewater system, and which introduction of FOG, in whole or in combination with other FOG contributors, has been responsible for causing the need for the city to clean such portion of the wastewater system more than twice in a single calendar year to install grease interceptors or

other FOG equipment as deemed necessary to comply with this section. Such installation shall be completed and operational within 180 days of notice by the utilities superintendent.

(Code 2004, § 86-107(c); Ord. No. 19-2438, 11-18-2019)

Sec. 86-353. Maintenance and cleaning of grease interceptors/traps.

(a) In the maintaining and routine cleaning of grease interceptors and any other grease control device, the owner of the FSE or FM/P and the owner of the structure in which it is located, if different from the owner of the FSE or FM/P shall be responsible for the proper removal and disposal by appropriate means of the captured material. If not performed by personnel under the direct control and direction of any such owner/manager, such removal and haul shall be performed by currently licensed waste disposal haulers.

(b) The 25-percent rule requires that the depth of oil and grease (floating and settled) in a trap shall be less than 25 percent of the total operating depth of the trap. The operating depth of a trap is determined by measuring the internal depth from the outlet water elevation to the bottom of the trap.

(Code 2004, § 86-107(d); Ord. No. 19-2438, 11-18-2019)

Sec. 86-354. Outdoor grease interceptors.

Maintenance of outdoor grease interceptors shall be performed as frequently as necessary to protect the sanitary sewer collection system against the accumulation of FOG. Maintenance shall be performed as determined by inspection and application of the 25 percent rule. Maintenance shall be performed at least every 90 days.

(Code 2004, § 86-107(e); Ord. No. 19-2438, 11-18-2019)

Sec. 86-355. Indoor grease traps.

Maintenance of indoor grease traps shall be performed as frequently as necessary to protect the sanitary sewer collection system against the accumulation of FOG. Maintenance shall be performed as required by inspection or sampling. Maintenance shall be performed at least every 14 days.

(Code 2004, § 86-107(f); Ord. No. 19-2438, 11-18-2019)

Sec. 86-356. Maintenance process.

Maintenance process shall include the following minimum services:

- (1) Complete removal of all grease interceptor or trap contents rather than skimming the top grease layer;
- (2) Thorough cleaning of the grease interceptor or trap to remove grease and scum from inner walls and baffles;
- (3) Filling cleaned interceptor or trap with cold potable water;

- (4) Completed waste hauler's section of the grease disposal manifest form and delivery to waste disposal site along with the grease interceptor or trap waste; and
- (5) Top skimming, decanting or back flushing of the grease interceptor or trap or its contents for the purpose of reducing the volume of waste to be hauled is prohibited. Vehicles capable of separating water from grease shall not discharge separated water into the grease trap or into the wastewater collection system.

(Code 2004, § 86-107(g); Ord. No. 19-2438, 11-18-2019)

Sec. 86-357. Maintenance modifications.

Food service facilities which operate infrequently or only for special events may request a modification to the maintenance schedule specified above. The utility superintendent may authorize a maintenance frequency related to the operation of the food service facility. The user shall submit a request for a modified maintenance schedule which includes all details of operation for the utilities superintendent to review.

(Code 2004, § 86-107(h); Ord. No. 19-2438, 11-18-2019)

Sec. 86-358. Disposal.

The user shall be responsible for the proper removal and disposal of the grease interceptor or trap waste. All waste removed from each grease interceptor or trap must be disposed of properly at an appropriate facility designed to receive grease interceptor or trap waste. No grease interceptor or trap waste shall be discharged into any city sanitary or storm sewer system.

(Code 2004, § 86-107(i); Ord. No. 19-2438, 11-18-2019)

Sec. 86-359. Maintenance log.

The user shall be responsible for retaining records of the maintenance of grease interceptors and traps, including manifests, permits, permit applications, correspondence, sampling data and any other documentation that may be requested by the city. This log shall include the dates of service, volume of waste removed, waste hauler, and disposal site of waste. These records shall be kept on-site at the location of the grease interceptor or trap for a period of three years and are subject to review without prior notification.

(Code 2004, § 86-107(j); Ord. No. 19-2438, 11-18-2019)

Sec. 86-360. Inspections.

The city will perform periodic inspections of these facilities and shall notify the user of any additional required maintenance or repairs. Upon written notification by the city, the user shall be required to perform the maintenance and records of said

maintenance within 14 calendar days. Upon inspection by the city, the user may be required to install, at their expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the wastewater collection system.

(Code 2004, § 86-107(k); Ord. No. 19-2438, 11-18-2019)

Sec. 86-361. Exception from grease interceptor/trap requirements.

If the owner of any FSE or FM/P or of any structure in which an FSE or FM/P is located or is to be located demonstrates to the reasonable satisfaction of the utilities superintendent that installation of a grease interceptor/trap is not feasible, the utilities superintendent may grant an exception allowing such owner to install grease traps or other alternative treatment technology which will, in the superintendent's discretion, adequately control the release of FOG from the FSE or FM/P or the structure into the wastewater system. The FSE or FM/P bears the burden of demonstrating that the installation of a grease interceptor/trap is not feasible. The request for an exemption shall include the following information if relevant:

- (1) Evidence of a lack of available exterior space necessary to place an interceptor/trap relative to the location of sewer main and easement;
- (2) Evidence of a lack of adequate slope for gravity flow between kitchen plumbing fixtures in the FSE or FM/P and the wastewater facilities;
- (3) Description and specifications of the alternative grease control equipment that will be installed;
- (4) Evidence that the size, available seating or type of food preparation does not generate any significant volume of FOG.

(Code 2004, § 86-107(l); Ord. No. 19-2438, 11-18-2019)

Sec. 86-362. Charge for remedial maintenance or repair of the city wastewater system.

(a) If the owner of an FSE or FM/P or the owner of any structure in which an FSE or FM/P is located is found to have contributed to the partial or complete obstruction of a wastewater facility resulting from the discharge of wastewater or waste containing FOG and that the city is required to act immediately to control a public health hazard because of such blockage, such owner shall be required to reimburse the city for all costs of abating such condition.

(b) In situations where there are multiple owners identified as contributing to FOG causing such obstruction, the utilities superintendent will apportion the cost of the cleanup, maintenance or repair costs on a prorated basis, based on each owner's percentage share of the average total sanitary sewer charges for all such owners.

(c) Further, should inspection, testing or other sampling activity by the city confirm that any user is contributing excessive FOG (including other harmful ingredients) and is causing the repair or extraordinary maintenance activity to maintain the integrity of the system, the utilities superintendent may require retrofitting of the structure with grease interceptors or grease traps, including testing facilities and access thereto sufficient to resolve the problem.

(d) The costs for curing any private sewer lateral failures and sewer system overflows, including cleaning and other maintenance, caused in whole or in part by FOG introduced into the wastewater collection system by any FSE or FM/P, alone or in conjunction with any other party, are the responsibility of the owner of the FSE or FM/P and the owner of any structure in which the FSE or FM/P contributing the FOG to wastewater system is located.

(Code 2004, § 86-107(m); Ord. No. 19-2438, 11-18-2019)

Sec. 86-363. Compliance.

Compliance with the grease control program shall be evaluated based on the following criteria:

- (1) All food service establishments who are implementing and documenting BMPs, including employee training and kitchen procedures, and performing and documenting grease retention unit cleaning at the required frequency will be considered to be in full compliance with this policy.
- (2) When an obstruction or sanitary sewer overflow (SSO) occurs, the records of all FSE or FM/P that discharge to the affected sanitary sewer line may be reviewed in order to determine the responsible party. Any FSE or FM/P found to be in noncompliance with the required grease retention unit cleaning frequency shall be deemed a responsible party for cost recovery. Payment of cost recovery does not preclude further enforcement actions for noncompliance.

(Code 2004, § 86-107(n); Ord. No. 19-2438, 11-18-2019)

Sec. 86-364. Penalties and assessments for FOG program noncompliance.

If the owner of an FSE or FM/P or the owner of any structure in which an FSE or FM/P is located is found to have failed to comply with the provisions of this division, the following penalties or assessments or both may be applied:

- (1) For introduction of FOG into any wastewater collection system resulting in obstruction to said system or in an SSO:
 - a. The city may disconnect water and sewer service to the FSE or FM/P and to the structure in which the FSE or FM/P is located;

- b. City may impose a fine each month until such owner demonstrates that the subject FSE or FM/P or structure is in compliance with the requirements of this section;
 - (2) For failure to maintain records as required by the BMP program for any FSE or FM/P, or failing or refusing to timely comply with any request for records required to be provided to the utilities superintendent, a fine by the city each day until such records are provided;
 - (3) For failure to pass the FOG inspection due to lack of or ineffective FOG equipment, the utilities superintendent may:
 - a. Require the subject FSE or FM/P to install additional FOG equipment as necessary to resolve the problem; or
 - b. Impose penalties as outlined below:
 - 1. For a first violation within any two-year period, a written warning will be issued;
 - 2. For a second violation within any two-year period, a fine of \$500.00 per month;
 - 3. For a third violation within any two-year period, a fine of \$1,000.00 per month;
 - 4. For a fourth or more violation within any two-year period the city will recommend suspension/non-renewal/revocation of any county food establishment licenses and any city/state issued alcohol licensing until resolved.
- (Code 2004, § 86-107(o); Ord. No. 19-2438, 11-18-2019)

Chapters 87—89

RESERVED

Chapter 90

VEGETATION

Article I. In General

Secs. 90-1—90-18. Reserved.

Article II. Weeds and Tall Grass

- Sec. 90-19. Definitions.
- Sec. 90-20. Penalty.
- Sec. 90-21. Nonapplicability of article provisions.
- Sec. 90-22. Declaration of nuisance and illegality.
- Sec. 90-23. Notice to abate.
- Sec. 90-24. Assessment of abatement cost.
- Sec. 90-25. Exceptions.
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Article III. Shade Tree Management

- Sec. 90-54. Finding of fact; intent; coordinator.
- Sec. 90-55. City forester.
- Sec. 90-56. Designation of tree disease control areas.
- Sec. 90-57. Declaration of nuisance.
- Sec. 90-58. Nuisance prohibited; abatement authorized.
- Sec. 90-59. Inspections and investigations.
- Sec. 90-60. Interference with forester.
- Sec. 90-61. Abatement generally.
- Sec. 90-62. Abatement methods; protection of healthy trees during abatement.
- Sec. 90-63. Assessment of abatement costs.
- Sec. 90-64. Oak wilt protection.
- Sec. 90-65. Planting.
- Sec. 90-66. Public tree care.
- Sec. 90-67. Abuse or mutilation of public trees.
- Sec. 90-68. Penalty for violation of article.

ARTICLE I. IN GENERAL

Secs. 90-1—90-18. Reserved.

ARTICLE II. WEEDS AND TALL GRASS**Sec. 90-19. Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Managed natural landscape means a planned, intentional, and maintained planting of native or nonnative grasses, wildflowers, forbs, ferns, shrubs, or trees, including, but not limited to, rain gardens, meadow vegetation, and ornamental plants. The term "managed natural landscape" does not include turf grass lawns left unattended for the purpose of returning to a natural state.

Ornamental plants mean grasses, perennials, annuals, and groundcovers purposely planted for aesthetic reasons.

Turf grasses means grasses that are commonly used in regularly cut lawn areas such as blue grass, fescue, and rye grass blends.

(Code 1980, § 11-20; Code 2004, § 90-31; Ord. No. 96-1593, 3-21-1996; Ord. No. 24-2549, § 90-31, 5-6-2024)

Sec. 90-20. Penalty.

Any person who shall not abate the nuisance as directed in this article or who shall fail to comply with the provisions of any notice provided in this article, or who shall resist or obstruct the city manager or authorized representative in the abatement of a nuisance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to punishment as provided in section 1-7.

(Code 1963, § 109C.04; Code 1980, § 11-25; Code 2004, § 90-32; Ord. No. 592, 9-21-1978; Ord. No. 96-1593, 3-21-1996)

Sec. 90-21. Nonapplicability of article provisions.

The provisions of this article do not apply to noxious weeds as defined in M.S.A. § 18.87.

(Code 2004, § 90-33)

Sec. 90-22. Declaration of nuisance and illegality.

(a) All turf grasses, pollinator lawns, and weeds growing to a height greater than eight inches, measured from the base at ground level to the tip of the stalk, stem, blade, or leaf are hereby declared to be a public nuisance. All turf grasses, pollinator

lawns, and weeds which have gone or are about to seed are also declared a public nuisance as they are hereby declared to be detrimental to the health, safety and general welfare of the residents of the city.

(b) It shall be unlawful for the owner, lessee, occupant, or representative of any such owner, lessee, or occupant, of any land described in subsection (a) of this section in the city, to allow, permit, or maintain a nuisance on any such land or along the sidewalk, street, or alley adjacent thereto.

(Code 1963, § 109C.01; Code 1980, § 11-21; Code 2004, § 90-34; Ord. No. 592, 9-21-1978; Ord. No. 96-1593, 3-21-1996; Ord. No. 24-2549, § 90-34, 5-6-2024)

Sec. 90-23. Notice to abate.

(a) When the owner, lessee, or occupant of any land within the city permits a nuisance to exist in violation of this article, the city manager or authorized representative shall cause to be served a notice in writing upon the owner, lessee, or occupant if other than the owner, stating specific instructions and methods when and how the nuisance is to be controlled or eradicated. The notice shall be served personally or by U.S. mail. Service on persons living temporarily or permanently outside the city, whose property is vacant or unoccupied, may be made by sending the notice by U.S. mail to the last known address of such person, to be ascertained, if necessary, from the last tax list in the county treasurer's office. The notice shall order that the nuisance be abated within ten days after service of such notice. The notice shall also state that, in the event of failure to comply, the nuisance will be abated by the city at the expense of the owner of the property.

(b) For second and subsequent violations of this article within the same calendar year, notice shall be made by posting of the order in a clearly visible and conspicuous location at the property or structure. The notice shall order that the nuisance be abated within three days after posting of such notice. The notice shall also state that in the event of failure to comply, the nuisance will be abated by the city at the expense of the owner of the property.

(Code 1963, § 109C.02; Code 1980, § 11-22; Code 2004, § 90-35; Ord. No. 592, 9-21-1978; Ord. No. 96-1593, 3-21-1996; Ord. No. 08-2160, 5-1-2008; Ord. No. 24-2549, § 90-35, 5-6-2024)

Sec. 90-24. Assessment of abatement cost.

If such person fails to comply with the notice to abate within the time frame set forth in the notice, the city manager or authorized representative shall have the nuisance cut and removed or otherwise eradicated. A record showing the cost of such work attributable to each separate lot or parcel shall be delivered to the city clerk. Notice in writing of the work done and the costs and expenses incurred, including the administration fee to be imposed pursuant to the fee schedule adopted by the council, shall be served on the owner, lessee, or occupant of the property, in

accordance with the service requirements of this article. Such notice shall indicate that if the total amount is not paid to the city within 30 days of service of the notice, the amount of the costs and expenses incurred, along with the administration fee, shall be certified to the county auditor on or about October 1 of each year and shall be collected in the same manner as other taxes are collected.

(Code 1963, § 109C.03; Code 1980, § 11-23; Code 2004, § 90-36; Ord. No. 592, 9-21-1978; Ord. No. 96-1593, 3-21-1996; Ord. No. 08-2160, 5-1-2008; Ord. No. 12-2247, 4-5-2012; Ord. No. 24-2549, § 90-36, 5-6-2024)

Sec. 90-25. Exceptions.

The following are exceptions to the tall grass and weeds restrictions as provided for in this article:

- (1) *Managed natural landscape.* A managed natural landscape permitted under M.S.A. § 412.925, as amended from time to time. The following guidelines shall be used for review:
 - a. The managed natural landscape shall not contain any plants classified as a noxious weed.
 - b. The managed natural landscape shall not encroach upon the public right-of-way or boulevard.
 - c. The managed natural landscape may not include any plantings, which due to location and manner of growth, constitute a hazard to the public or may cause injury or damage to persons or property when such growth is in violation of clearance and sight line requirements.
 - d. A managed natural landscape plan should be submitted to the city so it may be officially recorded with the property. During the establishment of a visible managed natural landscape, a sign must be posted on the property that advises the public that a managed natural landscape is being established.

All owners of the property, including successors-in-interest, are responsible for ensuring that the managed landscape area is maintained according to current industry standards for the kind of vegetation being grown, to include seasonable cuttings as appropriate. The city reserves to inspect the premises to ensure compliance with the provisions of this section.

- (2) *Other exceptions.* Other exceptions to the tall grass and weed restrictions may include the following:
 - a. A wetland or floodplain designated on the official zoning map.
 - b. A drainage pond or ditch which stores or conveys stormwater.
 - c. An area currently being used as pastureland for domestic hoofed animals.

- d. An area on which the land and vegetation appears not to be graded, landscaped, mowed, or otherwise disturbed by human mechanical means at any time. Determination of what constitutes this type of area will be based on a reasonable judgment of the present appearance of the area. The recent history of the area may be relevant in this determination.
- e. Publicly owned property which is being maintained in its natural state. (Code 1980, § 11-24; Code 2004, § 90-37; Ord. No. 96-1593, 3-21-1996; Ord. No. 24-2549, § 90-37, 5-6-2024)

Secs. 90-26—90-53. Reserved.

ARTICLE III. SHADE TREE MANAGEMENT*

Sec. 90-54. Finding of fact; intent; coordinator.

(a) *Findings.* The council has determined that the urban forest both planted and existing woodlands are a vital component of the city infrastructure. It is further determined the urban forest within the city is threatened by fatal tree diseases, including Dutch elm and oak wilt diseases. It has further determined that the loss of trees growing upon public and private property would substantially depreciate the value of property within the city and impair the safety, good order, general welfare and quality of life of the public.

(b) *Intent.* It is the intention of the council to control the spread of epidemic diseases and insects in the urban forest and ensure that the urban forest is safeguarded from both natural and human hazards.

(c) *Coordinator.* The city forester shall act as coordinator between the commissioner of agriculture and the council in the conduct of this program. (Code 1980, § 20-20; Code 2004, § 90-72; Ord. No. 98-1701, 3-5-1998)

Sec. 90-55. City forester.

It is the duty of the city forester to coordinate and administer, under the direction and control of the city manager, all activities of the city relating to shade tree management and to the control and prevention of Dutch elm disease, oak wilt disease, and other epidemic diseases, including insect infestation of shade trees. The city forester shall recommend to the city manager the details of a program for the control of such diseases and administer the program. The city forester shall develop and maintain an informational program relating to the control and abatement of epidemic diseases and of shade tree management. (Code 1980, § 20-21; Code 2004, § 90-73; Ord. No. 98-1701, 3-5-1998)

***State law reference**—Shade tree disease control, M.S.A. § 89.62.

Sec. 90-56. Designation of tree disease control areas.

(a) The city forester under the direction of the city council will designate the shade tree disease control areas within the city in which this article must be used.

(b) The oak wilt disease control area will be the entire area within city limits. Efforts to reduce overland transmission of the oak wilt disease will occur within the entire control area. Efforts to control root graft transmission of the oak wilt disease will be mandated on unplatted land and will be voluntary on platted land.

(c) The Dutch elm disease control areas will be designated by the city forester based on incidents of disease.

(Code 1980, § 20-22; Code 2004, § 90-74; Ord. No. 98-1701, 3-5-1998)

Sec. 90-57. Declaration of nuisance.

The following things are public nuisances 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 *Hylurgopinus rufipes* (Marsh).
- (2) Any bark intact, dead or dying elm tree or part thereof, or an elm wood, including, but not limited to, logs, branches greater than two inches in diameter, stumps, roots, firewood or other elm material, which has not been stripped of its bark and burned, or sprayed with an effective elm bark beetle insecticide that poses a threat, as determined by city forester, of harboring or acting as a breeding site for the elm bark beetles, *Scolytus multistriatus* (Eichh.) or *Hylurgopinus rufipes* (Marsh).
- (3) Any living or standing oak tree or part thereof infected to any degree with the oak wilt fungus, *Ceratocystis fagacearum*, that has been determined by the city forester to pose a threat of overland transmission of the fungus to other oak trees. To reduce incidents of overland or long range spread of oak wilt fungus and to prevent oak wilt fungus from producing spores during the hazardous spring period.
- (4) Any bark intact, dead or dying oak tree or part thereof, or an oak tree wood, including, but not limited to, logs, branches greater than two inches in diameter, stumps, roots, firewood, or other oak material, which has not been stripped of its bark and burned, or sprayed with an effective fungicide that poses a threat, as determined by city forester, of harboring or acting as a breeding site for the oak wilt fungus, *Ceratocystis fagacearum*. Any tree that wilted from oak wilt in July or August of one year may be declared a nuisance for the spring of the following year as determined by the city forester. The hazardous spring period for overland or long range spread of oak wilt fungus is defined as April 15 to July 1. Dead standing wood or tree material of the

red oak group that has advanced beyond the potential for spore production is not considered a nuisance unless it constitutes a hazard to life or property. The red oak group is defined as including, but not limited to, Northern red oak, Northern pin oak, black oak, scarlet oak, Eastern pin oak, red oak, pin oak.

- (5) Other shade trees with epidemic diseases or epidemic insect infestations.
- (6) Any tree considered in the opinion of the city forester to pose eminent danger to life or property to adjoining properties. Trees of such condition will be determined hazardous.

(Code 1980, § 20-23; Code 2004, § 90-75; Ord. No. 98-1701, 3-5-1998)

Sec. 90-58. Nuisance prohibited; abatement authorized.

It is unlawful for any person to permit any public nuisance to remain on any premises owned or controlled by such person within the city. Such nuisances may be abated in the manner prescribed by this article.

(Code 1980, § 20-24; Code 2004, § 90-76; Ord. No. 98-1701, 3-5-1998)

Sec. 90-59. Inspections and investigations.

(a) *Generally.* The city forester shall inspect as often as necessary all public and private places within designated control areas of the city which might harbor plant pests, to determine whether a public nuisance exists. The city forester shall investigate all reported incidents of infection or infestation by the Dutch elm fungus, elm bark beetles, oak wilt fungus, or any other epidemic diseases or insect infestation of shade trees. The term "private place" means every place except the private home.

(b) *Right of entry.* The city forester or the city forester's duly authorized agents may enter upon all public and private places at any reasonable time for the purposes of carrying out any of the duties assigned in this section.

(c) *Disease determination.* Whenever possible, diagnosis will be based upon accepted field symptoms. The city forester or city forester's duly authorized agents may, upon finding indications of oak wilt or Dutch elm disease take such steps as may be appropriate to confirm the diagnosis. These steps may include analysis of twig and stem samples from trees, or parts thereof, suspected of being infected. Laboratory isolation and confirmation of the presence of the fungi will be done by the state department of agriculture disease diagnosis laboratory or other laboratories capable of performing such services approved by the state commissioner of agriculture. Except as provided in this section, no action to remove infected trees or wood shall be taken until there has been a positive diagnosis.

(Code 1980, § 20-25; Code 2004, § 90-77; Ord. No. 98-1701, 3-5-1998)

Sec. 90-60. Interference with forester.

It is unlawful for any person to prevent, delay or interfere with the forester or the forester's agents while they are engaged in the performance of duties set forth in this article.

(Code 1980, § 20-26; Code 2004, § 90-78; Ord. No. 98-1701, 3-5-1998)

Sec. 90-61. Abatement generally.

If the city forester finds with reasonable certainty that a public nuisance exists in any tree or wood in any public or private place in the city, the city forester shall notify the owner of the property on which the tree or wood is located. The notice shall be served personally by posting of the order in a clearly visible and conspicuous location at the property or structure or by U.S. mail. Service on persons living temporarily or permanently outside the city, whose property is vacant or unoccupied, may be made by sending the notice by U.S. mail to the last known address of such person, to be ascertained, if necessary, from the last tax list in the county treasurer's office. The notice shall also state that in the event of failure to comply the nuisance will be abated by the city at the expense of the owner of the property. After the expiration of the time set forth in the notice, the city forester may abate the nuisance.

(Code 1980, § 20-27; Code 2004, § 90-79; Ord. No. 98-1701, 3-5-1998; Ord. No. 25-2579, 6-16-2025)

Sec. 90-62. Abatement methods; protection of healthy trees during abatement.

(a) *Dutch elm disease*. All bark intact wood and tree parts thereof, determined to be a public nuisance, as defined in section 90-57(1) and (2), must be debarked, shipped for salvage, or removed to an authorized wood waste disposal site, within 21 days of receipt of official notification. Stumps of trees declared public nuisance must be either removed, or ground out, or debarked to the ground line.

(b) *Oak wilt disease*. Diseased trees will be abated as described:

- (1) The diseased tree may be used as fuel wood or be salvaged for other purposes, provided that the requirements of this article are met. The wood must be debarked, dried or completely covered with four mil or greater black plastic from April 15 to July 1, of the year following the appearance of the oak wilt symptoms. After this time, the wood or tree material will no longer be a public nuisance. Any wood or tree material declared a public nuisance and not salvaged will be disposed of by chipping, or removing to an authorized wood waste disposal site prior to April 15, of the year following the appearance of the symptoms. Recognizing the hardship of multiple tree

removals, the city will pay landowners with more than three trees marked for removal per year, a payment of amount as declared by council to landowners who comply with the initial removal deadline.

- (2) Stumps of a diseased tree declared a public nuisance, as defined in section 90-57(3) and (4), must be removed, or ground out, or debarked to ground line, or completely covered with a minimum of two inches of compacted soil, or sealed in four-mil or greater black plastic to eliminate all possibilities of spore formation and overland disease spread.
- (3) To prevent root graft transmission of the disease, a barrier must be created between diseased and healthy trees, either by cutting the root system with a 54-inch blade or longer by using a vibratory cable plow, or by digging a trench to a minimum depth of 54 inches in the soil surrounding the diseased trees or by treating the soil surrounding the diseased trees with a fumigant, sodium N-Methyldithiocarbamate (SMDM), presently sold under the trade names Vapam and VPM. Such abatement procedures will be carried out in accordance with current technical and expert opinions and plans as may be designated by the state commissioner of agriculture.

(c) *Hazard trees.* Hazard trees described in section 90-57 must be abated by removal or other prescribed corrections to the tree to eliminate eminent danger to life or property to adjoining properties.

(Code 1980, § 20-28; Code 2004, § 90-80; Ord. No. 98-1701, 3-5-1998)

Sec. 90-63. Assessment of abatement costs.

If the property owner fails to abate the nuisance, the city forester shall give notice to the property owner by certified mail of the costs and expenses involved to abate the nuisance. If the total amount is not paid to the city within 30 days of service of the notice, the amount of the costs and expenses incurred, plus a penalty of eight percent will be certified to the county auditor on or about October 1 of each year and will be collected in the same manner as other taxes are collected.

(Code 1980, § 20-29; Code 2004, § 90-81; Ord. No. 98-1701, 3-5-1998)

Sec. 90-64. Oak wilt protection.

The pruning of oaks must be avoided during the most susceptible period of infection, April 15 to July 1. If wounding is unavoidable during this period, as in the aftermath of a storm or when the tree interferes with utility lines, a tree wound dressing must be applied immediately to the wound.

(Code 1980, § 20-30; Code 2004, § 90-82; Ord. No. 98-1701, 3-5-1998)

Sec. 90-65. Planting.

All trees planted on public property will conform with location, cultivar or variety, and planting specifications approved by the city forester.

(Code 1980, § 20-31; Code 2004, § 90-83; Ord. No. 98-1701, 3-5-1998)

Sec. 90-66. Public tree care.

The city has the right to plant, prune, maintain, remove or perform any other arboricultural practices as necessary on all public property, including the street right-of-way to ensure public safety and to preserve or enhance the symmetry and beauty of such public grounds.

(Code 1980, § 20-32; Code 2004, § 90-84; Ord. No. 98-1701, 3-5-1998)

Sec. 90-67. Abuse or mutilation of public trees.

Unless specifically authorized by the city forester, no person shall intentionally damage, cut, carve, transplant, remove any tree, attach any rope, wire, nails, advertising poster, or other contrivance to any tree, allow any gaseous liquid, or solid substance which is harmful to come in contact with any tree, or set fire or permit any fire to burn when the heat could injure any portion of any tree, or top a tree by severely cutting back the tree canopy to a stub.

(Code 1980, § 20-33; Code 2004, § 90-85; Ord. No. 98-1701, 3-5-1998)

Sec. 90-68. Penalty for violation of article.

Any person in violation of any of the provisions in this article shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

(Code 1980, § 20-34; Code 2004, § 90-71; Ord. No. 98-1701, 3-5-1998)

Chapters 91—99

RESERVED

Subpart B

ZONING

Chapter 100

IN GENERAL

- Sec. 100-1. Purpose; intent.
- Sec. 100-2. Definitions.
- Sec. 100-3. Applicability.
- Sec. 100-4. Private agreements.
- Sec. 100-5. Accessory buildings, structures, uses.
- Sec. 100-6. Existing lots.
- Sec. 100-7. Nonconforming structures, uses.

Sec. 100-1. Purpose; intent.

The ordinance from which this subpart is derived is adopted for the following purposes:

- (1) To promote the health, safety, and general welfare of the inhabitants of the city.
- (2) To minimize congestion in the public rights-of-way, securing safety from fire, panic and other dangers, and provide for adequate light and air.
- (3) To facilitate the adequate provisions for transportation, water, sewage, schools, parks, and other public requirements.
- (4) To promote a more efficient and desirable utilization of land by recognizing special land features, such as slopes, topography, soils, vegetation, wetland areas, and wildlife.
- (5) To conserve and develop natural resources and maintain a high standard of environmental quality.
- (6) To conserve the natural, scenic beauty, and attractiveness of the city.
- (7) To preserve the capacity of floodplains to carry and discharge floodwaters.
- (8) To divide the city into zones or districts as to the compatible use of land and structures for residences, business, and industrial purposes.
- (9) To prohibit the use of buildings, structures, and lands that are incompatible with the intended use or development of lands within the specified zones.
- (10) To provide for the compatible and appropriate use of land throughout the city.
- (11) To promote orderly development of residential, commercial, industrial, recreational, and public areas.
- (12) To minimize pollution of all types.
- (13) To provide for the administration of this subpart and amendments thereto.
- (14) To define the powers and duties of the administrative officers and bodies.
- (15) To describe penalties for the violation of provisions of this subpart or any amendment thereto.

(Code 2004, pt. 3, § 23.01; Ord. No. 20-2447, 7-20-2020)

Sec. 100-2. Definitions.

- (a) The following rules shall apply in the interpretation of this chapter:
 - (1) Any use not expressly permitted herein is prohibited.
 - (2) All measured distances expressed in feet shall be rounded to the nearest foot.
 - (3) The word "building" includes the word "structure."

(b) The following words, terms and phrases, when used in this subpart, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words not defined shall be interpreted in accordance with definitions in any standard dictionary.

Abutting means making contact with or separated only by public thoroughfare, railroad, or public utility right-of-way.

Access drive or *driveway* means a paved or unpaved pathway upon a property and intended to provide vehicular access to and from a public street or alley.

Accessory building means a subordinate building, or a portion of the main building which is located on the same lot or parcel as the main building and the use of which is clearly incidental to that of the main building or to the use of the premises. Playhouses over 30 square feet or five feet in height, enclosed gazebos, glass greenhouses, and enclosed treehouses are considered accessory buildings.

Accessory dwelling unit (ADU) means a self-contained dwelling unit having its own kitchen and bathroom facilities, and which is designed as a second separate dwelling unit that is clearly incidental and subordinate to the principal use of a lot as a single-family detached residence.

Accessory dwelling unit, attached, means an accessory dwelling unit constructed as part of a single-family home that may be accessed from within the home or through a separate entrance of the same home.

Accessory dwelling unit, detached, means an accessory dwelling unit constructed as a separate structure on the same lot as a single-family home.

Accessory use or structure means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Addition means an extension or increase in floor area or height of a building or structure.

Administrative review committee (ARC). The administrative review committee (ARC) is a committee composed of the director of community development, city engineer, chief building official, and other appropriate city officials. The chairperson of the committee shall be the director of community development or designee.

Adult use. See section 22-23.

Agricultural building or structure means any building or structure existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.

Agricultural use means the use of land for the growing or production of field crops, livestock, and livestock products for the production of income, including, but not limited to, the following:

- (1) Field crops, including barley, soybeans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, and sod;
- (2) Livestock, including dairy and beef cattle, goats, horses, poultry;
- (3) Livestock products, including milk, butter, cheese, eggs, meat, fur and honey.

Airport or heliport means any land or structure which is used or intended for use, for the landing and takeoff of aircraft, and any appurtenant land or structure used or intended for use for port buildings or other port structures or rights-of-way.

Alley means a public right-of-way less than 16 feet, but not less than ten feet in width, which has been dedicated or deeded to the public for public use and designed to provide secondary property access.

Animals, domestic farm, means cattle, hogs, horses, bees, sheep, goats, chickens, and other commonly known farm animals.

Animal unit. The following animals constitute one animal unit equivalency: one cow or steer, one horse, donkey, or burro, one beehive consisting of one queen bee, three sheep or goats, or 100 fowl, or an equivalent thereof.

Apartment means a room or suite of rooms rented, leased, or similar tenancy, with cooking facilities available which is occupied as a residence by a single-family, or a group of individuals living together as a single-family unit. Apartments must have minimum lease terms of 30 days. This includes any unit in buildings with more than two dwelling units.

Apartment building means three or more dwelling units or apartments grouped in one building with a common entryway. The term "apartment buildings" may include one or more guest suites.

Assisted living facility means a housing with services establishment that provides sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing, for a fee, one or more regularly scheduled health-related services or two or more regularly scheduled supportive services, whether offered or provided directly by the establishment or by another entity arranged for the establishment as defined in M.S.A. § 144G.08, subd. 7.

Automobile or motor vehicle reduction yard means a lot or yard where one or more unlicensed motor vehicles or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale of scrap, storage, or abandonment. See also *Junkyard*.

Automobile repair, major, means general repair, rebuilding, or reconditioning of engines, passenger vehicles or trailers, including body work, frame work, welding and painting of entire vehicle or major portion thereof.

Automobile repair, minor, means the replacement of any part or repair of any part which may include the removal of the engine head or pan, engine, transmission or differential; incidental body and fender work, minor painting and upholstering service when said service above stated is applied to passenger vehicles.

Automobile wash or car wash means a building, or portion thereof, containing facilities for washing more than two automobiles, using production line methods, including, but not limited to, steam cleaning device or other mechanical devices.

Automobile wrecking means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, or wrecked vehicles or their parts. (See also *Junkyard*.)

Basement means a portion of a building located partly underground, but having half or more of its floor to ceiling height below the average grade of the adjoining ground.

Bay means abbreviated portion of a room which extends from the main structure or building.

Billboard. See *Sign, advertising*.

Board means the board of the planning commission.

Boarder or roomer means a person who regularly receives room or meals at another's home for pay or services.

Boardinghouse (roominghouse or lodginghouse) means a building or dwelling unit other than a motel or hotel, where, for compensation and by prearrangement, meals, or lodgings are provided for three or more persons not to exceed eight persons, where such residency is on a temporary basis as opposed to permanent residency.

Brew pub means a brewer who holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted by state statute.

Brewer taproom means an area on the premises of a brewery or on the premises adjacent to a brewery owned by the brewer in which the brewer sells or otherwise provides exclusively malt liquor produced by the brewer for consumption within the brewer taproom.

Brewery means a facility that brews malt liquor for distribution off site.

Broadcasting antenna, radio and television, means commercial, public or private broadcasting towers exceeding the district height limitations, or more than one tower of any height located on the same lot or parcel.

Buffer means the use of land, topography, difference in elevation, space, fences, or landscape planting to screen or partially screen a use or property from another use or property, and thus reduce undesirable influences, such as site, glare, noise, dust, and other external affects. When installed for the purpose of erosion or stormwater protection, the term "buffer" shall have the same definition as provided for in section 129-15(e).

Buildable area means the space remaining on a lot after the minimum setback, drainage provisions, ponding, compensatory storage, soils, open space and other site constraint requirements of this part have been met.

Building means any structure having a roof which may provide shelter, support, protection, or enclosure of persons, animals, or property of any kind, and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

Building height means the vertical distance to be measured from the grade of a building line to the top, to the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.

Building line means an imaginary line separating buildable area and the required yards as defined in this section.

Building line, shoreland, means a line measured across the width of the lot where the main structure is placed in accordance with setback provisions from the ordinary high water mark, as designated by the department of natural resources.

Building setback means the minimum horizontal distance between the building and lot line or the normal high water mark of a lake, as designated by the department of natural resources.

Building, unit group, means two or more buildings (other than dwellings) grouped upon a lot and held under one ownership, such as universities, hospitals, institutions and industrial plants.

Bulk commodity means a bulk product stored on the floor of a building that is delivered in bulk by semi or large truck and distributed in a similar fashion without being placed in small containers or packaged. Bulk commodity materials include, but are not necessarily limited to, gravel, sand, black dirt, roadway salt, organic compost or grain.

Business means any occupation, employment or enterprise, wherein merchandise is exhibited or sold, or where services are offered for compensation.

Cannabis Cultivation means a cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant. harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, and transport cannabis flower to a cannabis manufacturer located on the same premises.

Cannabis Retail Businesses means a retail location and the retail locations of a mezzobusinesses with a retail operations state license and city registration, microbusinesses with a retail operations state license and city registration, medical combination businesses operating a retail location, and excluding lower-potency hemp edible retailers.

Carport means a permanently constructed automobile shelter having one or more sides open.

Cemetery means site set apart for the burial or interment of the human dead.

Cemetery, pet, means site set apart for the burial of pets.

Clear cutting means the removal of an entire stand of vegetation.

Club or lodge means a club or lodge is a nonprofit association of persons who are bona fide members paying annual dues, with the use of premises being restricted to members and their guests. The serving of food and meals on such premises is permissible providing adequate dining room space and kitchen facilities are available. Serving of alcoholic beverages to members and their guests shall be allowed, provided such serving is secondary and incidental to the operation of the dining room for the purpose of serving food and meals and providing, further, that such serving of alcoholic beverages is in compliance with the applicable federal, state, county, and municipal laws.

Clustering / cluster housing means the development pattern and technique whereby structures are arranged in closely related groupings to make the most efficient use of natural amenities of the land.

Communication equipment facilities means essential communication service structures designed to house equipment necessary for the distribution requirements of all districts. The structures shall be less than 300 square feet in area.

Community center means a place or establishment designed as a gathering place for people from the community and surrounding communities that offers, as its primary purpose, civic, social, cultural, educational, public health, and recreational activities; provided, however, the principal use of which is not a school, place of worship or day care.

Compensatory storage means the storage volume required to be excavated within or adjacent to a floodplain equal to the area filled in a floodplain.

Comprehensive plan or policies means a computation of goals, policy statements, standards, programs and maps for guiding the physical, social, and economic development, both public and private, as defined in the Minnesota Municipal Planning Act, and includes any part of such plan separately adopted and any amendment to such plan or parts thereof.

Conditional use means a use classified as conditional which generally may be appropriate or desirable in a specific zone, but requires special approval because if not carefully located or designed, it may create special problems such as excessive height or bulk or abnormal traffic congestion.

Conditional use permits. There are certain types of land uses which are allowed in some zoning districts, provided that certain conditions or safeguards are imposed by the city council.

Condominium means a form of individual ownership within a building which may entail joint ownership and responsibility for maintenance and repairs of the land and other common property of the building.

Conservancy. The purpose of conservancy is to protect the natural resources in managed areas per section 125-28.

Cooperative means a multiunit development operated for and owned by its occupants. Individual occupants do not own their specific housing unit outright as in a condominium, but they own shares in the enterprise.

Covenant means a contract between two individuals which constitutes a restriction of a particular parcel of land.

Data center means a building or tenant space with at least 50 percent of the floor area dedicated to the housing of networked computers, storage systems and computing infrastructure and associated components.

Day care center, commercial, means a licensed commercial facility in which care is provided for children.

Density means a number expressing the relationship of the number of dwellings to an acre of land.

Domestic pets means dogs, cats, birds, and other commonly known house pets.

Donation drop-off box means a portable outdoor container intended or used for the collection and storage of unwanted textiles and household items which are removed from the container on a periodic basis or the collection of recyclable materials not generated on the site. Containers less than eight cubic feet are exempt from regulation under this Code.

Drive-through means any use where products or services are provided to the customer under conditions where the customer does not have to leave the car or where fast service to the automobile occupants is a service offered regardless of whether the service is provided within the building.

Dwelling, attached, means a dwelling which is joined to another dwelling at one or more sides by a party wall.

Dwelling, detached, means a dwelling which is entirely surrounded by open space on the same lot.

Dwelling, multiple or apartment building, or *multiple dwelling complex* means a residential building, or portion of a building, containing three or more dwelling units served by a common entrance, or a building designed for occupancy by three or more families.

Dwelling, one-family, means a residential building containing one detached dwelling unit or a building designed and occupied exclusively by one family.

Dwelling, two-family, or *duplex* means a residential building containing two dwelling units, or a building designed for occupancy by two families.

Dwelling unit means a residential building or portion thereof intended for occupancy by a single-family, but not including hotels, motels, boardinghouses or roominghouses. There are three principal types:

- (1) Single-family: a freestanding (detached) residence structure designed for or occupied by one family only;
- (2) Two-family: a residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each;
- (3) Multiple family: a residence designed for or occupied by three or more families, either wholly (attached) or partially a part of a larger structure (detached), with separate housekeeping and cooking facilities for each.

Easement means a grant by a property owner for use of a strip of land by the public or any person for any specific purpose or purposes of construction and maintaining utilities, including, but not exclusive of, the following: sanitary sewers, water mains, electric lines, telephone lines, other transmission lines, storm sewer, storm drainageways, gas lines, other service utilities, etc.

Equal degree of encroachment means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Essential services means overhead or underground electrical, gas, steam or water transmission or distribution systems, and collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or systems as are required for the protection of public health,

safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith, not including buildings except communication equipment facilities as approved by the department of community development.

Exterior storage means the storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

Extraction area means any nonagricultural, artificial, excavation of earth exceeding 50 square feet of surface area of two feet in depth, excavated or made by the removal from the natural surface of the earth, sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth.

Family.

- (1) The term "family" means any of the following:
 - a. An individual.
 - b. A group of not more than four individuals, none of whom are related by blood or marriage, adoption, or foster care, but all of whom are maintaining a common residence.
 - c. Up to two adult individuals, whether related or unrelated, and the parents and children of each, if any, residing in the same dwelling unit and maintaining a common residence.
 - d. A combination of subsections (1)a and c of this definition.
- (2) For the purposes of this definition, the term "maintaining a common residence" means sharing access by all residents to permanently installed cooking and kitchen facilities, eating areas, laundry facilities, bathroom facilities, and social areas.

Farm means any tract of land, five acres or greater, used for agricultural purposes, which is under cultivation or is fenced and utilized as pasture.

Farming means the process of operating a farm for the growing and harvesting of crops which shall include those necessary accessory buildings related to operating the farm and the keeping of common domestic animals which shall not exceed one animal unit per acre in aggregate. In addition, the term "hobby farm" means a farming activity engaged in primarily for pleasure.

Fence means any partition, structure, wall, or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard.

Flood means a temporary increase in the flow or stage of a stream or in the stage of a lake that results in the inundation of normally dry areas.

Flood frequency means the average frequency, statistically determined, at which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood fringe means that portion of the floodplain outside of the floodway. The term "flood fringe" is synonymous with the term "floodway fringe" used in the flood insurance study (reference section 125-20(b)).

Floodplain means the channel or beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood.

Floodproofing means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway means the channel of the watercourse and those portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.

Floor area means the area included within the surrounding exterior walls of a building or portion thereof, including the sum of the gross horizontal areas of several floors of a building, including interior balconies, mezzanines, basements, and attached buildings, exclusive of vent shafts, courts, utility rooms, stairs, escalators, or the like.

Floor area ratio means the numerical value obtained through dividing the gross floor area of a building by the lot area on which such building is located.

Floor plan means a graphic representation of the anticipated utilization of the floor area within a building or structure, but not necessarily as detailed as construction plans.

Foster care arrangement means a facility providing care and shelter for nonblood related persons where adult supervision does not involve the payment of money or services or shelter in lieu of money other than direct payment by social service governmental agencies.

Frontage means that boundary of a lot which abuts an existing or dedicated public street.

Garage, private, means a detached or attached accessory building or a portion of the principal building, including a car port, which is used primarily for the storing of passenger vehicles, trailers, manufactured homes, trucks of a rated capacity not in excess of 10,000 pounds gross weight, in which only vehicles used by the tenants of the building on the premises are stored or sheltered.

Garage, public, means any premises, except those described as a private garage, used for the storage or care of power driven vehicles or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

Garage, repair, means a building or space for the repair or maintenance of vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junkyards.

Garage sale means any display of used goods or salesmen samples for sale of said goods on a property customarily used as a residence. The persons conducting the sale shall be residents of the immediate neighborhood.

Garden supply store means a business selling trees; flowering, ornamental, or vegetable plants; grasses; shrubs; and other ground covers as well as selling non-living garden or yard products, such as, but not limited to: fertilizer, herbicides, pesticides, garden and yard tools, yard maintenance and care equipment, landscape rock, yard decorations, edging, etc. Garden supply stores may be conducted within a building or without.

Gasoline station means a facility which supplies and dispenses, at retail, motor fuels, including electrical charging, directly into vehicles. When the use is incidental to the conduct of a public garage, the premises is classified as a public garage.

General development plan means a report in text and in map form with the map drawn to scale depicting the general location and relationship of structures, streets, driveways, recreation areas, parking areas, utilities, etc., as related to a proposed development.

General floodplain districts means those areas designated as unnumbered A zones on the flood insurance rate map.

Greenhouse means a glass building in which plants are grown. The term "greenhouse" does not include structures using tarps, plastic sheeting, or other temporary materials.

Group family daycare center means a licensed facility which is accessory to a residential use and where daycare is provided for no more than 14 children at any one time. The total number of children includes all children of any care giver when the children are present in the residence. The term "group family daycare center" includes facilities licensed as family childcare and group family childcare.

Group home means a state-licensed residential facility or housing with services establishment licensed under M.S.A. ch. 144G.

Guest suite means an apartment or room in an apartment building that is occupied exclusively by guests of leaseholders in the apartment building.

Home occupation means any business or commercial activity that is conducted or petitioned to be conducted from property that is zoned for residential use.

Horticulture means uses and structures designed for the storage of products and machinery pertaining and necessary thereto.

Hotel means any building or portion thereof providing provisions for nine or more guests, in which lodging is provided with or without meals for compensation and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and in which ingress and egress to and from all rooms is through an inside lobby or office, supervised by a person in charge.

Impound lot means a property used for the storing of impounded vehicles with or without towing service.

Institutional housing means housing for students, mentally ill, elderly, nurses, physically retarded, and similar housing of a specialized nature.

Interim use means an interim use may or may not be consistent with the zoning regulations of the district within which they are proposed but may be acceptable or beneficial if reviewed and provisionally approved for a limited period of time.

Intersection sight distance triangle means, in the case of 90-degree intersecting streets, the area within a triangle formed by connecting the following three points:

- (1) The point of intersection of the curblines adjacent to the lot of the intersecting streets;
- (2) A point 60 feet from said point of intersection along one curbline; and
- (3) A point 60 feet from said point of intersection along the other curbline.

In the case of all other intersecting streets, the intersection sight distance triangle shall be defined by the zoning administrator.

Junkyard means land or buildings where waste, discarded or salvaged materials are brought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including, but not limited to, scrap metal, rags, paper, rubber products, plastics, glass products, lumber products and products resulting from wrecking or salvage of automobiles or other vehicles, outdoor storage of two or more unregistered vehicles, except as otherwise authorized. Such use shall not include sanitary land fill or organic waste or material.

Kennel, commercial, means any structure or premises on which four or more domestic pets, of one type, over four months of age are kept, owned, boarded, groomed, sheltered, protected, bred, or offered for sale or any other merchandising.

Kennel, private, means any structure or premises on which four or more domestic pets, of one type, over four months of age are kept for private enjoyment and not for monetary gain.

Land reclamation means the reclaiming of land by depositing or excavating material so as to alter at the minimum 400 cubic yards of the existing grade, either by hauling or regarding the area.

Landfills means a system of trash, waste, refuse, debris, salvaged material, or garbage disposal, in which the waste is buried between layers of soil.

Landscaping means alteration of the natural terrain, including the planting of trees, grass, shrubs, and ground cover.

Live entertainment means an activity performed in person by one or more individuals for the purpose to amuse or interest an audience, including, but not limited to, bands and disc jockeys.

Loading space means an area, not within a building, used for loading or unloading of goods from any type of vehicle.

Lodginghouse means a building or premises where lodging is provided for compensation for three or more persons, but not exceeding 25 persons.

Lot means a tract of land, designated by metes and bounds, registered land survey, or plat, and separated from other tracts of land by legal description approved by the city and recorded or to be recorded in the office of the county recorder. In addition, the term "lot" means a tract of land occupied or used or intended for occupancy or use for purposes permitted in this part, abutting on a public street or approved private street, of sufficient size to provide the yards and area required by this subpart.

Lot area means area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which such lot abuts, even if fee title to such a street is in the owner of the lot. If a corner lot has its corner bounded by a curved line connecting other street lines which, if extended, would intersect, the area may be computed as if such boundary lines were so extended.

Lot area per unit means the lot area required by this part to be provided for each dwelling unit.

Lot, corner, means a lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

Lot depth means the minimum horizontal distance between the front lot line and the rear lot line of a lot.

Lot, double frontage, means an interior lot having frontage on two streets.

Lot, interior, means a lot other than a corner lot.

Lot line means a lot line is the property line bounding a lot, except that where any portion of a lot extends into a public right-of-way or a proposed right-of-way, the line of such public right-of-way shall be the lot line.

Lot line, front, means that boundary of a lot which abuts an existing or dedicated public street. In no case shall there be more than two front lot lines applied to any lot. Any other lines abutting a public right-of-way shall be designated by the zoning administrator as either a side or rear lot line.

Lot line, rear, means that boundary of a lot which is opposite the front lot line, except for on commercial and industrial lots with two front lot lines. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

Lot line, side, means any boundary of a lot which is not a front lot line or a rear lot line.

Lot of record means any lot which is one unit of a plat duly approved and filed, or one unit of an auditor's subdivision or a registered land survey, that has been recorded in the office of the county recorder prior to the effective date of the ordinance from which this subpart is derived.

Lot width means the maximum horizontal distance between the side lot lines of a lot measured on or within the front yard setback requirements.

Maintenance free exterior means construction involving the use of low or no maintenance exterior materials not requiring frequent maintenance, such as, but not limited to, aluminum, steel, fiber cement or composite siding, or vinyl siding, brick, stucco or other unpainted masonry products, vinyl or aluminum clad windows and doors, garage doors, fascia, soffits, or other trim.

Major industrial buildings means an industrial building or facility which comprises at least 100,000 square feet of occupied building area and is situated on at least ten acres.

Manufactured home means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designated to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term "manufactured home" includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification pursuant to M.S.A. §§ 327.31 through 327.36, as amended.

Manufactured home lot means a parcel of land for the placement of a single manufactured home for the exclusive use of the occupants of said manufactured home.

Manufactured home park means any site, lot, field, or tract of land under single ownership, designed, maintained or intended for the placement of two or more

occupied manufactured homes. The term "manufactured home parks" shall include any buildings, structures, vehicles, or enclosure intended for use as part of the equipment of such manufactured home park.

Manufactured home stand means that part of an individual manufactured home lot which has been reserved for placement of the manufactured home, appurtenant structures or additions.

Manufacturing, heavy, means all manufacturing, compounding, processing, packaging, treatment, or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located. Such uses include, but are not limited to, the following: sawmill, refineries, commercial feedlots, acid, cement, explosives, flour, seed, and grain milling or storage, meat packing, slaughter houses, coal or tar asphalt distillation, rendering of fat, grease, lard or tallow, alcoholic beverages, poisons, exterminating agents, glue or size, lime, gypsum, plaster of Paris, tanneries, automobile parts, paper and paper products, glass, chemicals, plastics, crude oil and petroleum products, including storage, electric power generation facilities, vinegar works, junkyard, auto reduction yard, foundry, forge, casting of metal products, rock, stone, cement products.

Manufacturing, light, means fabrication, processing, or assembly employing only electric or other substantially noiseless and inoffensive motive power, utilizing hand labor or quiet machinery and processes, and free from neighborhood disturbing agents, such as odors, gas fumes, smoke, cinders, flashing or excessively bright lights, refuse matter, electromagnetic radiation, heat or vibration.

Mean flow level means the average flow elevation of a stream or river computed as the midpoint between extreme low and extreme high water.

Medical uses means those uses concerned with the diagnosis, treatment, and care of human beings. The term "medical uses" includes hospitals, dental services, medical services, or clinics.

Meeting/assembly halls means a facility available for private rental for private events such as weddings, conferences, or meetings. The term "meeting/assembly halls" does not include rental for uses that are open to the public such as night clubs.

Memory care facility means a secure assisted living facility or a portion of such facility providing services specifically for adults experiencing memory loss due to Alzheimer's disease or other dementia related illness.

Metes and bounds description means a description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of the section, lot or area by described lines or portions thereof.

Mining means the extraction of sand, gravel, rock, soil or other material from the land in the amount of 1,000 cubic yards or more and the removal thereof from the site. The term "mining" shall not include the removal of materials associated with the construction of a building, the removal of excess materials in accordance with approved plats or utility and highway construction, minor agricultural and sod removal except as further regulated herein.

Multiple residence means three or more dwelling units in one structure.

Municipal water and sewer systems means utility systems serving a group of buildings, lots, or an area of the city, with the design and construction of such utility systems as approved by the city engineer.

Natural resource analysis means a report in map and text form identifying the existing natural features of a parcel of land and the relationship of a proposed use to the existing natural conditions of the parcel.

Noise means one, or a group of, loud, harsh nonharmonious sounds or vibrations that are present and irritating to the ear.

Noise, ambient, means all encompassing sounds associated with a given environment, which may be either a composite of sounds, transmitted by any means from many sources near and far or from a single predominant source.

Nonconforming structure means a structure which does not comply with the bulk yard setback or height regulations of the district in which it is located. Any structure permitted by existing city ordinance upon the effective date of the ordinance from which this subpart is derived, which would not conform to the applicable regulations if the structure were to be erected under the provisions of this part.

Nonconforming use means any use of a lot or structure which does not conform to the applicable use regulations of the district in which it is located, or use of land, building or structures permitted and existing at the time of adoption of the ordinance from which this subpart is derived, which does not comply with all of the regulations of this part, or any amendments hereto, governing the zoning district in which such use is located.

Noxious means matter which is capable of causing injury or is in any way harmful to living organisms, or is capable of causing detrimental effect upon the health, the physiological and social or economic well-being of human beings.

Nursery, landscape, means a business growing and selling trees, flowering and ornamental plants, grasses, shrubs, and other ground covers, which may be conducted within a building or without, for the purpose of landscape construction.

Nursery, temporary landscape, means a business conducting temporary sales with an associated primary use erected on a commercially zoned lot for the purpose of displaying or selling seasonal plant and landscape materials not inside a permanent structure.

Nursing home, rest home or convalescent home means a building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder but not containing equipment for surgical care or for treatment of disease or injury. Said nursing home shall be licensed by the state board of health, as provided for in M.S.A. § 144.50.

Obstruction means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Occupancy means the purpose for which a building is used or intended to be used. The term "occupancy" shall also include the building or rooms housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

Office uses means those commercial activities that take place in office buildings, where goods are not produced, sold, or repaired. The term "office uses" includes banks, general offices, professional offices, governmental offices, insurance offices, real estate offices, travel agencies or transportation ticket offices, telephone exchanges, utility offices, radio broadcasting and similar uses.

Open sales lot means land devoted to the display of goods for sale, rent, lease, advertising, merchandising, or trade where such goods are not enclosed within a building, including, but not limited to, flea markets. The term "open sales lot" does not include temporary landscape nurseries.

Open space means any open area not covered by a structure.

Open space, common, means a parcel of land or an area of water (not required for storage of the regional flood) or a combination of such land and water area within the site designated for private open space for the sole benefit, use and enjoyment of the homeowners within a planned unit development or similar developments associated with common open space area.

Open space, private, means any open space owned by a person.

Open space, public, means any open space publicly owned.

Open storage means storage of any material outside of the building or structure.

Ordinary high water level means the boundary of water basins, watercourses, public waters, and public waters wetlands, and:

- (1) An elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- (2) For watercourses, is the elevation of the top of the bank of the channel; and
- (3) For reservoirs and flowages, is the operating elevation of the normal summer pool.

Overhead doors means a door which allows passenger vehicles or trucks to enter or exit a building.

Parcel means a tract of land that does not have sufficient street frontage or area, as defined within this subpart, to be considered a buildable lot.

Parking space means a suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one automobile.

Party wall means a common wall which divides two independent structures.

Paths of solar energy system means a solar energy system that uses natural and architectural components to collect and store solar power energy without using external mechanical power.

Pedestrian way means a public or private right-of-way across or within a block, to be used by pedestrians.

Performance standards means criteria established to control environmental conditions, such as, but not limited to: odor, smoke, toxic or noxious matter, vibration, fire and explosive hazard, glare, runoff generated by or inherent in use of land or building.

Place of worship means a building, together with its necessary buildings and uses, where persons regularly assembly for religious worship and which buildings, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship, including, but not limited to, churches, mosques, synagogues, and temples.

Plan, comprehensive, means a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan execution. A comprehensive plan represents the planning agency's recommendations for the future development of the community.

Plan, concept, means a report in map and depicting the location, general purpose, general type of land use, and circulation pattern, primary relationship between site elements and between the proposed development and surrounding development, proposed general schedule of development and information on the proposed developer.

Plan, general development, means a report in text and map form with the map drawn to scale, depicting the general location and relationship of structures, streets, driveways, recreation areas, parking areas, utilities, buffering, as related to a proposed development.

Plan, parking, means a graphic, plan, or map shall be prepared reflecting the total parking required, based on the more restrictive land use where a building is proposed to accommodate uses that may require application of two or more differing parking standards, based on potential occupancy. The standard providing the greatest amount of parking shall be applied exclusively.

Plan, site, means a map or graphics prepared to scale depicting the development of a tract of land, including, but not limited to, the location and relationship of the structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, existing and proposed grading, walkways, and other site development information as related to a proposed development.

Plat means a map, graphics or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record title. The plat is recorded legal document and must conform to all state laws.

Pool deck surround means an area immediately adjacent to or attached to a pool or spa that is specifically constructed or installed for sitting, standing, or walking.

Pool platform means a raised platform similar to a deck, surrounding an above-ground pool.

Practical difficulty, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by city zoning regulations; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Prefabricated home means a nonmobile housing unit, the walls, floors and ceilings of which are constructed at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site.

Principal structure or use means the main use of land, buildings or other structures as distinguished from an accessory use.

Property line means the legal boundaries of a parcel of property which may also coincide with the right-of-way of a road, cartway and the like.

Public land means land owned or operated by municipalities, school district, county, state, or other governmental unit.

Public building means a building owned and operated by the city, including, but not limited to, fire stations, wells, city hall, public works, senior citizen facility and police facilities.

Quad means a four-unit multiple residence building with private entrances to each unit.

Reclamation, land, means the improvement of land by the depositing of material to elevate the grade. Any parcel upon which 400 cubic yards or more of fill are deposited shall be considered as reclaimed land.

Recreation, commercial, includes all uses such as bowling alleys, driving ranges, movie theaters, or the equivalent thereof, that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.

Recreation, public, means and includes all uses such as tennis courts, ball field, picnic areas, and the like, that are commonly provided for the public at parks, playgrounds, community centers, and other sites, owned and operated by a unit of government for the purpose of providing recreation.

Recreation, regional, means a public indoor and outdoor recreation facility serving a regional clientele, including, but not limited to, uses such as soccer, track and field events, skating, hockey, biking, volleyball, and concerts. The site must be owned and operated by a unit of government, public, or not-for-profit-organization for the purpose of providing recreation.

Recreational equipment means non-enclosed structures or equipment used for recreational purposes, including, but not limited to, trampolines, treehouses without walls and roofs, slides, climbing structures, playhouses under 30 square feet with a maximum height of five feet, and playground equipment. The term "recreation equipment" does not include playhouses over 30 square feet or five feet in height or treehouses with fully enclosed walls.

Recreational vehicle means any vehicle or structure constructed in such a manner as to permit occupancy thereof, as living quarters and so designed that it is or may be mounted on wheels, and used as conveyance on highways and streets, propelled or drawn by its own or other motor power.

Regional flood means a flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

Registered land survey means a survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into tract or tracts of registered land survey number.

Regulatory flood protection elevation means the elevation to which uses regulated by this subpart are required to be elevated or floodproofed. The regulatory flood protection elevation shall be an elevation no lower than two feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Restaurants (Class I) means a traditional restaurant where food is served by a waitress or waiter to a customer and consumed while seated at a counter or a table. Food is served on nondisposable containers.

Restaurants (Class II) means fast food restaurants in which a majority of the customers are served food at a counter and take it to a table to eat at or may take food outside to consume in a vehicle or off the premises.

Road means a public right-of-way affording primary access by pedestrians in vehicles to abutting property whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, land, place, or however otherwise designated. Egress and ingress easements shall not be considered roads.

Selective cutting means the removal of single scattered trees.

Self-storage facility, indoor, means a fully enclosed, climate controlled, building containing separate, individual and private storage spaces of varying sizes, leased or rented on an individual basis for the storage of personal property; where individual renters control and access individual storage spaces via its own access door. Each unit must be directly accessed from the interior of the building via its own access door. Outdoor access to individual units is prohibited. Ancillary retail sales of related items, such as moving supplies, facility offices, and a dwelling for a night watchman may also be included. Such facilities to be used for storage only.

Senior housing means multifamily housing with occupancy restricted to persons over 55 years of age. The term "senior housing" includes senior assisted living facility.

Sewage means any water carrying domestic waste, exclusive of footing and rough drainage of any residence, industry, agricultural or commercial establishment, whether treated or untreated and includes the liquid waste produced by bathing, laundry, and culinary operations, and from toilets and floor drains. Raw sewage is sewage which has not been subjected to any treatment process.

Shop, specialty, means a business in a commercial zone which requires a conditional use permit because of the special product or services sold or rendered.

Shopping center, community center, means a regional center designed for the purpose of retailing and providing a wide range of goods and services such as apparel, furniture and banking and financial services, for a trade area comprised of several residential neighborhoods.

Shopping center, neighborhood center, means a retail center designed for the purpose of retailing convenience goods, such as food and drugs, providing personal services such as barbershops and laundry stations, for a combination of basic day to day shopping for service needs of persons living or working within the nearby area.

Shopping center, regional center, means a retail center designed to serve a trade area of several communities and to provide a range of convenience and shoppers endurable goods and services comparable to that found in the central business districts of Minneapolis and St. Paul.

Shoreland means land located within the following distances from public water:

- (1) 1,000 feet from the normal high water mark of a lake, pond, or flowage; or
- (2) 300 feet from a river or stream or floodplain 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 natural topographic divides which extend landward from the water for lesser distances. Public waters shall be any existing body of water, wetland, drainageway as designated by the state department of natural resources.

Shoreland alteration means grading and filling in shoreland areas or any alteration of the natural topography where the slope of the land is towards a public water or watercourse leading to a public water.

Shoreland setback means the minimum horizontal distance between the structure and the normal high water mark.

Sign means any letters, words, symbols, poster, picture, device reading matter, or representation in the nature of a message, announcement, visual communication, or advertisement whether printed, painted, posted, affixed, constructed, or displayed for the purpose of information or communication. The term "sign" includes sign structural supports, uprights, bracing and framework. The term "sign" shall specifically include architectural or graphic features which are intrinsically associated with a particular product, good service, business, firm corporation, or profession.

Sign, advertising, means a sign which directs attention to a business, commodity, service, activity, or entertainment not necessarily conducted, sold, or offered upon the premises where such sign is located, such as a beer billboard.

Significant tree means any live healthy tree measuring eight inches in diameter or greater, measured at 4½ feet above the ground.

Solar energy means radiant energy that is direct, diffused, and reflected energy received from the sun.

Solar energy system means a device or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

Solar energy system, ground-mounted, means a freestanding solar energy system mounted directly to the ground.

Stable, commercial, means any structure or premises on which horses are kept, owned, boarded, groomed, trained, bred, or offered for sale. A commercial stable requires a conditional use permit.

Stable, private, means any structure or premises on which 20 or more horses, or more than one horse per acre, are kept for private enjoyment and hobby purposes only. A private stable requires a conditional use permit.

Street means a public right-of-way which affords primarily means of access to abutting property and shall also include avenue, highway, road, or way.

Street right-of-way means the width of the right-of-way, measured at right angles to the centerline of the street.

Street, arterial or major, means a street which serves, or is designed to serve heavy flows of traffic which is used primarily as a street route for traffic between communities or other heavy traffic generating areas.

Street, collector, means a street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major roadway. Direct driveway access is limited to the greatest extent possible.

Street, local, means a street intended to serve primarily as access to abutting properties.

Street, pavement, means the wearing or exposed surface of the roadway used by vehicular traffic.

Street width means the width of street surface measured at right angles between the curbs or edge of pavement.

Story means that portion of a building included between the surface of any floor and the surface of the flooring next above. A basement shall be counted as a story provided 40 percent or more of the height of the basement is above grade.

Structural alteration means any change, other than incidental repairs, which would prolong the life of supporting members of a building such as bearing walls, columns, beams, girders, or foundations.

Structure means anything constructed, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground.

Subdivision means the division or redivision of a lot, tract, or parcel of land into two or more lots, either by plat, metes and bounds, or by registered land survey.

Taproom means an establishment with alcoholic drinks available on tap.

Tattoo parlors/shops means any room or space where tattooing (body art) or body piercing is performed, not including beauty salons or cosmetology businesses involving ear piercing or permanent cosmetic services.

Topsoil means black dirt composed of unconsolidated material, largely undecomposed organic matter with a maximum of 35 percent sand.

Tow truck means motor vehicles equipped with a crane and winch, or an attached device used exclusively to transport vehicles, and further equipped to control the movement of the towed or transported vehicle.

Tow truck operation means operation of tow trucks based out of the location of a minor or major auto repair business. The term "tow truck operation" does not include the drop off of vehicles by tow trucks not associated with the business.

Townhouse means a single-family building attached by party walls with other single-family buildings, and orientated so that all exits open to the outside with private entries maintained to each individual unit.

Toxic and hazardous waste means waste materials, including, but not limited to: poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials, and similar harmful chemicals and waste which requires special handling and must be disposed of in a manner which conserves the environment and protects the public health and safety.

Transient sale means temporary sale of goods, wares, services, and merchandise within the city outside of a building with a valid certificate of occupancy in or upon a vacant lot, motor vehicle, trailer, tent, or railroad car.

Treehouse means a structure constructed in a tree. Treehouses without enclosed walls and roofs are regulated as recreational equipment and treehouses with enclosed walls and roofs are regulated as accessory buildings.

Truck terminal means a building or area in which freight brought by motor truck is assembled, stored, or transferred for routing in intrastate or interstate shipment by motor truck.

Use means the purpose or activity for which the land or building thereon is designated, arranged, or intended, for which it is occupied, utilized, or maintained.

Use, accessory, means a use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

Use, permitted, means a public or private use which of itself conforms with the purposes, objectives, requirements, regulations, performance standards of a particular district.

Use, principal, means the main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or conditional.

Variance means a modification or variation of the provisions of this part where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of the ordinance would cause a practical difficulty.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

Vehicle, passenger, means any motor vehicle under 10,000 GVW and designed and used for carrying not more than ten persons, including station wagons, pickup trucks, vans and motorcycles.

Vehicle rental agency means any real property owned, leased or used by a person, association or corporation for the purpose of storing, displaying or parking two or more passenger vehicles for short-term lease of not more than 90 days.

Vehicle sales lot means any real property owned, leased or used by a persons, business, association or corporation for the purpose of storing, displaying or parking two or more new or used vehicles for sale, consignment, lease, trade or exchange. Parking or storage of two or more vehicles on real property with a sign indicating a phone number, address or other identifying information, or a sign indicating that such vehicles are for sale, consignment, lease, trade or exchange, is prima facie evidence of a vehicle sales lot.

Warehousing means the use of a portion or all of a building or buildings used for the storage of goods of any type.

Wetlands means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- (1) Have a predominance of hydric soils;
- (2) Are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) Under normal circumstances support a prevalence of such vegetation.

Yard means a required open space on the lot which is unoccupied and obstructed by a structure from its lowest level to the sky except as permitted in this part. A yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

Yard, front, means a yard extending along the full width of the front lot line between the side lot lines and extending from the abutting street right-of-way to the front faces of the principal building or to the depth required in the setback regulations for the zoning district in which such lot is located, whichever distance is greater.

Yard, rear, means a yard extending along the full width of the rear lot line between the side lot lines and extending from the rear lot line to the rear faces of the principal building or to the depth required in the setback regulations for the zoning district in which such lot is located whichever distance is greater. In single-family residential districts, the principal building shall include attached garages.

Yard, side, means the yard extending along the side lot line between the front and rear yards to the faces of the principal building or to the depth or width required by setback regulations for the zoning district in which such lot is located, whichever distance is greater.

Yard waste drop-off facility means a facility for disposal of yard waste not typically collected by commercial and residential waste haulers. The term "yard waste" includes compostable items such as leaves, lawn clippings and shrub prunings, but for the purposes of this definition also includes tree branches, tree trunks, and stumps from removed trees. All on-site yard waste must be stored within a building or within portable metal containers. No processing or treatment of yard waste nor active composting may occur at a drop-off facility.

Zero lot line means the location of a building or parking area over a common lot line.

Zero lot line split means the instance where a structure is allowed to be constructed over a lot line of two adjoining lots.

Zoning administrator means the officer charged with the administration and enforcement of this part. The zoning administrator or director of community development shall be considered the director of planning and economic development or designee when referenced in this Code.

Zoning amendment means a change of the zoning map or zoning text authorized by the city, either in the allowed use with a district, or in the boundaries of a district.

Zoning district means an area within the limits of the city for which the regulations and requirements governing use are uniform.

Zoning district, overlay, means a zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district use regulations.

Zoning district, underlying, means all zoning districts except overlay zoning districts.

Zoning map means the map incorporated into this subpart as a part thereof, designating the zoning districts.

(Code 2004, pt. 3, § 25.02; Ord. No. 84-856, 1-3-1985; Ord. No. 86-929, 2-20-1986; Ord. No. 86-936, 4-3-1986; Ord. No. 86-934, 6-5-1986; Ord. No. 88-1085, 6-16-1988; Ord. No. 89-1130, 4-20-1989; Ord. No. 89-1135, 4-20-1989; Ord. No. 91-1243, 1-17-1991; Ord. No. 92-1227, 2-6-1992; Ord. No. 92-1282, 3-5-1992; Ord. No. 93-1337, 6-3-1993; Ord. No. 94-1534, 9-1-1994; Ord. No. 95-1564, 7-6-1995; Ord. No. 95-1586, 12-21-1995; Ord. No. 98-1728, 6-25-1998; Ord. No. 98-1753, 11-19-1998; Ord. No. 99-1770, 2-18-1999; Ord. No. 00-1836, 3-16-2000; Ord. No. 01-1935, 1-3-2002; Ord. No. 05-2063, 10-20-2005; Ord. No. 10-2203, 5-20-2010; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2489, 12-20-2021; Ord. No. 22-2498, 3-21-2022; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 25.02, 12-18-2023; Ord. No. 24-2568, ch. 25, 11-18-2024; Ord. No. 25-2572, § 25.02, 1-22-2025)

Sec. 100-3. Applicability.

(a) In their interpretation and application, the provisions of this subpart shall be minimum requirements for the promotion of public health, safety, morals, and welfare.

(b) Where the conditions imposed by any provision of this part are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

(c) From and after the effective date of the ordinance from which this subpart is derived, the use of all land and every building or portion of a building erected, altered in respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the city, shall be in conformity with the provisions of this part. Any existing building or structure and any existing use or properties not in conformity with the regulations herein prescribed, shall be regarded as nonconforming but may be continued, extended or changed, subject to the special regulations herein provided with respect to nonconforming properties or uses.

(Code 2004, pt. 3, § 26.01)

Sec. 100-4. Private agreements.

This part does not abrogate any easement, covenant, or any other private agreement which are legally enforceable, provided that where the regulations of this

part are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this subpart shall govern.

(Code 2004, pt. 3, § 26.02)

Sec. 100-5. Accessory buildings, structures, uses.

(a) No accessory building or use shall be constructed or use developed on a lot prior to obtaining a building permit for the principal building or use to which it is accessory.

(b) A detached accessory building or garage shall not be located in any required front or side yard setback.

(c) All accessory buildings and uses shall comply with the regulations of the zoning district in which they are located.

(d) No accessory building shall exceed the height of the principal building except in the agriculture zoning district.

(Code 2004, pt. 3, § 26.04; Ord. No. 84-856, 1-3-1985; Ord. No. 94-1501, 4-21-1994; Ord. No. 20-2447, 7-20-2020)

Sec. 100-6. Existing lots.

A lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the county recorder on or before the date of adoption of the ordinance from which this subpart is derived may be used for single-family detached dwelling purposes, provided the area and width are within 75 percent of the minimum requirements of this part, and provided that it can be demonstrated that safe and adequate sewer systems can be installed to serve such permanent dwelling, and provided that it does have access on the public street.

(Code 2004, pt. 3, § 26.05)

Sec. 100-7. Nonconforming structures, uses.

The lawful use of any land or building existing at the time of the adoption of an additional control or regulation under the city's zoning authority may be continued, even if such does not conform to the regulations of this subpart, in accordance with the following provisions and restrictions:

(1) *Nonconforming structures.*

- a. *Alterations and maintenance.* Repair, replacement, restoration, maintenance, and improvement to legal nonconforming structures are permitted so long as they do not extend or intensify the nonconforming use.

- b. *Enlargement.* A nonconforming building or structure shall not be added to or enlarged in any manner unless such additions or enlargements are made so as to bring said building or structure into conformity.
 - c. *Restoration.* A nonconforming building or structure which is damaged by fire or other causes to the extent of more than 50 percent of its market value, shall not be restored to its nonconforming use, unless a formal application for a building permit has been applied for within 180 days of when the property was damaged.
 - d. *Abandonment.* A nonconforming use of a building which has been discontinued for a period of more than one year shall not be abandoned and may not be reestablished.
 - e. *Conforming additions.* Existing buildings not in conformance with architectural control standards in the applicable zoning district shall construct additions in conformance with the architectural control standards. Any addition greater than 50 percent of the square footage of the building shall require the entire building to meet architectural control standards.
 - f. *Applicability.* This section does not apply to nonconforming signs, which are regulated by section 133-3.
 - g. *Car washes.* Car washes existing prior to July 17, 2024, that are nonconforming may be expanded provided the increase in size doesn't exceed more than 50 percent of the current footprint of the car wash.
- (2) *Nonconforming uses.*
- a. *Extension.* No such nonconforming use shall be intensified, enlarged or increased, nor extended to occupy a greater area of land.
 - b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use.
 - c. If any such nonconforming use ceases for any reason for a period of more than one year, the same shall be abandoned and may not be reestablished.
- (Code 2004, pt. 3, § 26.06; Ord. No. 04-2035, 12-16-2004; Ord. No. 23-2528, 9-18-2023; Ord. No. 23-2535, § 26.06, 12-18-2023; Ord. No. 24-2553, § 26.06, 6-17-2024)

Chapter 101

ADMINISTRATION

- Sec. 101-1. Enforcing officer.
- Sec. 101-2. Planning commission/board of adjustments and appeals.
- Sec. 101-3. Zoning and comprehensive plan amendments.
- Sec. 101-4. Conditional use permits.
- Sec. 101-5. Interim use permits.
- Sec. 101-6. Variances.
- Sec. 101-7. Administration.
- Sec. 101-8. Financial guarantees.
- Sec. 101-9. Administrative fees.
- Sec. 101-10. Appeals.
- Sec. 101-11. Environmental review.
- Sec. 101-12. Soil erosion and sedimentation control.
- Sec. 101-13. Height limitations and communications antennas.

Sec. 101-1. Enforcing officer.

The director of community development or designee shall serve as the zoning administrator. The zoning administrator shall enforce this subpart.

- (1) Oversee issuance of building and other permits, and make and maintain records thereof.
 - (2) Conduct inspections of buildings and use of land to determine compliance with the terms of this subpart.
 - (3) Maintain permanent and current records of this subpart, including, but not limited to, all maps, amendments, and conditional uses, variances, appeals and applications.
 - (4) Receive, file, and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.
- (Code 2004, pt. 3, § 27.01; Ord. No. 20-2447, 7-20-2020)

Sec. 101-2. Planning commission/board of adjustments and appeals.

(a) The city council has established, for the city, a planning commission, which also may be known as the commission.

(b) The planning commission is an advisory board to the city council. The planning commission shall review, hold public hearings, and make recommendations to the city council on all applications for zoning amendments, conditional use permits, and variances, using the criteria in sections 101-3(a), 101-4(a) and 101-5(a), as amended from time to time. The planning commission shall also prepare and recommend a comprehensive plan for the development of the city, study and make recommendations to the city council as regards means to carry out and maintain the comprehensive plan and regulations thereto. The commission shall prepare and recommend to the proper officials of the municipality, needed capital improvements consistent with the comprehensive plan for the city. The commission shall conduct hearings, study, and recommend to the city council, a zoning code and such amendments thereto as may, from time to time, be proposed.

(c) Hearings by the planning commission shall be held within such time and upon such notice to interested parties as provided in this subpart and its adopted rules for the transaction of its business.

(d) The planning commission is established as a board of adjustments and appeals for the city. The decisions of the board on matters within its jurisdiction are advisory to the city council. The board shall have the powers hereinafter set forth.

- (1) To hear 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 city zoning regulations.

(2) To hear requests for variances from the literal provisions of city zoning regulations in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to recommend granting such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of city zoning regulations. The board may not recommend the granting of a variance for any use that is not permitted under city zoning regulations for property in the zone where the affected person's land is located. The board may impose conditions in the recommendation for a variance to ensure compliance and to protect adjacent properties. A hearing on a request for a variance to city zoning regulations shall comply with the applicable provisions of city zoning regulations.

(3) To hear appeals to the denial of permits found to be in conflict with the official map as described in M.S.A. § 462.359.

(e) Hearings before the board, pursuant to the provisions of subsections (d)(1) and (3) of this section shall be preceded by the following: Notice of the purpose, time, and place of such hearing shall be published in the official newspaper of the city at least ten days prior to the hearing and a similar notice shall be mailed to the affected property owner, who is the appellant, at least ten days before the day of the hearing. For the purpose of giving notice, the city may use any appropriate records to determine the name and address of the affected property owner.

(f) The board shall within a reasonable time make its recommendation as to the matter before it and shall serve a copy of such recommendation upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney. The board may adopt rules for the conduct of the hearings before it. Such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The board shall provide for a record of its proceedings, which shall include the minutes of its meetings, its findings, and the actions taken on each matter heard by it, including the final recommendation.

(g) Compensation of members; expenses. The members of the planning commission/board shall receive as compensation such remuneration as set by council action, and the board may, with the consent of the council, incur expenses that are deemed necessary.

(Code 2004, pt. 3, § 27.02; Ord. No. 88-1112, 1-5-1989; Ord. No. 95-1557, 5-18-1995; Ord. No. 96-1628, 1-2-1997; Ord. No. 15-2319, 7-9-2015; Ord. No. 19-2442, 1-6-2020; Ord. No. 20-2447, 7-20-2020; Ord. No. 25-2569, § 27.02, 1-6-2025)

Sec. 101-3. Zoning and comprehensive plan amendments.

(a) *Criteria for granting zoning/comprehensive plan amendments.* The city council may adopt amendments to city zoning regulations, the zoning map, and the comprehensive plan relative to land uses within a particular district or to the

location of the district lines. Zoning amendments shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the comprehensive plan or changes in conditions in the city.

(b) *Type of amendments.* The following are the types of zoning and comprehensive plan amendments:

- (1) A change in the district's boundary.
- (2) A change in a district's regulations.
- (3) A change in any other provision of this subpart.
- (4) A change in the comprehensive plan.
- (5) Establishment of an agricultural preserve.

(c) *Initiation of proceedings.* Proceedings for amending this subpart shall be initiated by at least one of the following three methods:

- (1) By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed.
- (2) By recommendation of the planning commission.
- (3) By action of the city council.

(d) *Required exhibits for rezoning, district regulation changes, or comprehensive plan amendments.*

- (1) A boundary line survey.
- (2) A general development plan showing the potential development of the property, indicating proposed streets, buildings, drainage, and landscaping.
- (3) Other information as required by staff.

(e) *Procedure.* The procedure for a property owner to initiate a rezoning, district regulation change or comprehensive plan amendment is:

- (1) The property owner or the owner's agent shall meet with the zoning administrator to explain the proposal, obtain procedures, and an application form.
- (2) For all comprehensive plan amendments, the applicant shall file a concept plan review request form together with the required exhibits with the zoning administrator and shall pay a filing fee as established by the city council. For zoning amendments, applicants may request review by submitting the concept plan review form with exhibits and paying the filing fee. All concept plan review packets may be forwarded to the city council for consideration at a regular meeting or workshop to allow the city council an opportunity to

provide comments and feedback to the applicant regarding the request. Council review and comments relating to the concept review is advisory in nature and does not constitute any form of approval of the project.

- (3) The applicant shall file the completed application form together with the required exhibits with the zoning administrator and shall pay a filing fee as established by the city council. All applications for rezoning or comprehensive plan amendment shall be received in the office of community development no later than 30 days prior to a planning commission meeting. Applications submitted for comprehensive plan amendments that have not provided the city with a complete concept plan review form and exhibits shall be considered incomplete until the concept plan review form and exhibits have been provided.
 - (4) The zoning administrator shall transmit the application and the required exhibits to the planning commission.
 - (5) The zoning administrator shall set the date for the public hearing and shall have notices of such hearing published in the legal newspaper at least once, not less than ten days and not more than 30 days prior to said hearing in accordance with M.S.A. § 462.357, subd. 3.
 - (6) The zoning administrator shall see that a similar notice shall be mailed at least ten days before the day of the hearing to all property owners of record within 350 feet of the exterior boundaries of the property in accordance with M.S.A. § 462.357, subd. 3.
 - (7) The planning commission shall hold the public hearing and then shall recommend one of three actions: approval, denial, or conditional recommendation.
 - (8) The planning commission shall transmit its recommendation to the city council for its official action.
 - (9) The council shall act upon the application after receiving the recommendation of the planning commission. A two-thirds majority of councilmembers must vote in the affirmative to approve certain amendments, as designated in M.S.A. §§ 462.355 and 462.357.
 - (10) No application of a property owner for an amendment to the text of the zoning ordinance, zoning map, or comprehensive plan shall be considered by the planning commission within a one-year period following a denial of such request, except that the planning commission may permit a new application, if, in the opinion of the planning commission, new evidence or a change of circumstances warrant it.
- (Code 2004, pt. 3, § 27.03; Ord. No. 86-939, 4-3-1986; Ord. No. 04-2035, 12-16-2004; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 27.03, 12-18-2023)

Sec. 101-4. Conditional use permits.

(a) *Criteria for granting conditional use permits.* In granting a conditional use permit, the city council shall consider the advice and recommendations of the planning commission and the effect of the proposed use on the comprehensive plan and upon the health, safety, and general welfare of occupants of surrounding lands. Among other things, the council shall consider the following findings where applicable:

- (1) The use shall not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- (2) The use will be located, designed, maintained, and operated to be compatible with adjoining properties and the existing or intended character of the zoning district.
- (3) The use shall have an appearance that will not have an adverse effect upon adjacent properties.
- (4) The use, in the opinion of the city council, shall be reasonably related to the overall needs of the city and to the existing land use.
- (5) The use shall be consistent with the purposes of this subpart and purposes of the zoning district in which the applicant intends to locate the proposed use.
- (6) The use shall not be in conflict with the comprehensive plan of the city.
- (7) The use will not cause traffic hazard or congestion.
- (8) The use shall have adequate utilities, access roads, drainage and necessary facilities.

(b) *Permits to remain with property.* Conditional use permits shall remain with the property, and not the applicant, as long as the property and use are in compliance with the conditions attached to the permit.

- (1) A conditional use permit shall expire if the use is discontinued for a period of more than one year.
- (2) A conditional use permit shall be recorded pursuant to M.S.A. § 462.3595.

(c) *Additional conditions.* In permitting a new conditional use or the alteration of an existing conditional use, the city council may impose, in addition to these standards and requirements expressly specified by this subpart, additional conditions which the city council considers necessary to protect the best interest of the surrounding area or community as a whole. These conditions may include, but are not limited to, the following:

- (1) Increasing the required lot size or yard dimension.
- (2) Limiting the height, size or location of buildings.

- (3) Controlling the location and number of vehicle access points.
- (4) Increasing the street width.
- (5) Increasing the number of required off-street parking spaces.
- (6) Limiting the number, size, location or lighting of signs.
- (7) Requiring additional fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- (8) Designating sites for open space.
- (9) Enhanced building materials or architectural design.

The zoning administrator shall maintain a record of all conditional use permits issued, including information on the use, location, and conditions imposed by the city council such as review dates, and other information as may be appropriate.

(d) *Required exhibits for a conditional use permit.* The following exhibits shall be required:

- (1) A boundary line survey.
- (2) A general development plan showing the potential development of the property, including proposed streets, buildings, landscaping, and drainage.
- (3) Any other information as required.

(e) *Procedure.* The procedure for obtaining a conditional use permit is as follows:

- (1) The property owner or the owner's agent shall meet with the zoning administrator to explain the proposal, learn the procedures, and obtain an application form.
- (2) The applicant shall file the completed application form together with the required exhibits with the zoning administrator and shall pay a filing fee as established by the city council. All applications for a conditional use permit must be received in the office of community development 30 days prior to a planning commission meeting.
- (3) The zoning administrator shall transmit the application to the planning commission and shall notify all property owners of record within 350 feet of the exterior boundaries of the property in question and within 350 feet of all contiguous property under common ownership.
- (4) The zoning administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in legal newspaper, not less than ten days and not more than 30 days prior to said hearing.

- (5) The planning commission shall hold the public hearing and determine possible adverse effects of the proposed conditional use and determine what additional requirements may be necessary to reduce such adverse effects and recommend to the city council one of three actions:
 - a. Approval;
 - b. Denial; or
 - c. Conditional approval.
 - (6) The planning commission shall transmit its recommendation to the city council for its official action.
 - (7) The city council shall take appropriate action on the request for conditional use permit after receiving the recommendations by the planning commission. If it grants a conditional use permit, the city council may impose conditions it considers necessary to protect the public health, safety, and welfare.
 - (8) Zoning administrator may transmit the application directly to the city council to hold the public hearing following the notice procedure outlined in subsections (e)(3) through (5) of this section.
 - (f) *Revocation of conditional use permits.*
 - (1) Where a conditional use permit has been issued pursuant to provisions of this subpart, such permit shall become null and void without further action by the planning commission or city council unless construction commences within one year of the date of granting such conditional use. A conditional use permit shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than one year.
 - (2) If the applicant violates any of the conditions set forth in the permit, the city council shall have the authority to revoke the conditional use permit following a public hearing. In addition to a potential revocation of the conditional use permit, the city may issue a citation for a violation of any of the conditions set forth in the permit, pursuant to section 101-7(d).
- (Code 2004, pt. 3, § 27.04; Ord. No. 88-1067, 2-4-1988; Ord. No. 04-2035, 12-16-2004; Ord. No. 11-2227, 8-4-2011; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 27.04, 12-18-2023)

Sec. 101-5. Interim use permits.

(a) *Criteria for granting interim use permits.* An interim use permit allows a temporary use that is not designated as permitted or conditionally permitted but is acceptable for a limited period of time, subject to conditions. The city council shall consider the advice and recommendations of the planning commission and the effect

of the proposed use on the comprehensive plan and upon the health, safety, and general welfare of occupants of surrounding lands. Among other things, the council shall consider the following findings where applicable:

- (1) The proposed use will not impose additional costs on the public if it is necessary for the public to take the property in the future;
- (2) The proposed use will not create an excessive burden on parks, streets, and other public facilities; and
- (3) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety, and general welfare.

(b) *Termination.* Interim use permits shall terminate upon the specified termination date or whenever the use is discontinued for more than one year. The city council may impose conditions requiring termination prior to the termination date, including, but not limited to, the platting of neighboring property.

(c) *Additional conditions.* In permitting a new interim use or the alteration of an existing interim use, the city council may impose, in addition to these standards and requirements expressly specified by this subpart, additional conditions which the city council considers necessary to protect the best interest of the surrounding area or community as a whole. These conditions may include, but are not limited to, the following:

- (1) All conditions listed in section 101-4(c);
- (2) Termination date;
- (3) Conditions requiring termination prior to the termination date.

(d) *Procedure.* The procedure for obtaining an interim use permit and the exhibits required for making an application shall be the same as for a conditional use permit, as provided in section 101-4(d) and (e).

(e) *Revocation of interim use permits.* If the applicant violates any of the conditions set forth in the permit, the city council shall have the authority to revoke the interim use permit following a public hearing. In addition to a potential revocation of the interim use permit, the city may issue a citation for a violation of any of the conditions set forth in the permit, pursuant to section 101-7(d).
(Code 2004, pt. 3, § 27.05; Ord. No. 20-2447, 7-20-2020)

Sec. 101-6. Variances.

(a) *Criteria for granting variances.* A variance to the provision of city zoning regulations may be issued by the city council to provide relief to the landowner in those cases where this subpart imposes practical difficulty on the property owner in the use of said owner's land. No use variances may be issued.

- (1) Variances shall only be permitted:
 - a. When they are in harmony with the general purposes and intent of this subpart; and

- b. When the variances are consistent with the comprehensive plan.
- (2) Variances may be granted when the applicant for the variances establishes that there are practical difficulties in complying with the zoning. Practical difficulties, as used in connection with the granting of a variance, means that:
 - a. The property owner proposes to use the property in a reasonable manner not permitted by this subpart;
 - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner;
 - c. The variance, if granted will not alter the essential character of the locality;
 - d. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems; and
 - e. The variance requested is the minimum variance which would alleviate the unique circumstances.

(b) *Restrictions and conditions.* The city council may impose such restrictions and conditions upon the premises benefited by the variance as may be necessary to comply with the standards established by this subpart, or to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance.

(c) *Required exhibits for variances.*

- (1) The boundary survey and preliminary building and site development plan.
- (2) Any other information as required.

(d) *Procedures.* The procedure for obtaining a variance from the regulations of this subpart are as follows:

- (1) The property owner or the owner's agent shall meet with the zoning administrator to explain the situation, learn the procedures and obtain an application form.
- (2) The applicant shall file the completed application form together with the required exhibits with the zoning administrator and shall pay a filing fee as established by the city council. Applications for variance must be submitted to the office of community development no later than 30 days prior to a planning commission meeting.
- (3) The zoning administrator shall transmit the application to the planning commission and shall notify all property owners of record within 350 feet of the exterior boundaries of the property in question and within 350 feet of all contiguous property under common ownership.

- (4) The planning commission shall hold the public hearing and determine possible adverse effects of the variance and determine what additional requirements may be necessary to reduce such adverse effects and recommend to the city council one of three actions:
 - a. Approval;
 - b. Denial; or
 - c. Conditional approval.
- (5) The planning commission shall transmit its recommendation to the city council for its official action.
- (6) The city council shall take appropriate action on the request for a variance after receiving the recommendations by the planning commission.
- (7) No application by a property owner for a variance shall be submitted to the planning commission within a 12-month period following denial of such request, except that the planning commission may permit a new application if, in the opinion of the planning commission, new evidence or a change of circumstances warrant it.
- (8) The city council may revoke a variance if any conditions established by the city council, as part of granting the variance request, are violated.

(e) *Expiration.* When a variance has been issued pursuant to the provisions of this subpart, the variance shall become null and void without further action by the planning commission or city council unless construction relative to the variance commences within one year of the date of granting the variance. If a variance ceases to exist for a period of more than one year, it shall also expire without further action by the city.

(Code 2004, pt. 3, § 27.06; Ord. No. 85-921, 1-2-1986; Ord. No. 88-1065, 2-4-1988; Ord. No. 04-2035, 12-16-2004; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022)

Sec. 101-7. Administration.

(a) *Zoning administrator.* The director of community development shall serve as the zoning administrator. The zoning administrator shall enforce this subpart and shall perform the following duties:

- (1) Enter upon land or within a building during reasonable working hours as found necessary to fulfill the duties as administrator of this subpart.
- (2) Conduct inspections of buildings, structures, and uses of land, to determine compliance with the terms of this subpart.

- (3) Maintain permanent and current records of this subpart, including, but not limited to, the following: all maps, amendments, conditional use permits, variances, appeals, nonconforming uses, planned unit developments, and other applications thereto.
- (4) Receive, file, and forward to the planning commission all applications for amendments, appeals, variances, conditional use permits, planned unit developments, and other matters which these bodies are required to consider under this subpart.
- (5) Institute, in the name of the city, appropriate actions or proceedings against a violator as provided by law.
- (6) Establish and enforce necessary or desirable regulations in writing, clarifying or explaining any provision of this subpart.
- (7) Provide such clerical, technical, and professional assistance as may be required by the planning commission in the exercise of their duties.

(b) *Building permit.*

- (1) *Required.* No person shall erect, alter, remodel, wreck or move any kind of a structure or building or part thereof without first securing a building permit.
 - a. *Single- and two-family home permits.* Applications for building permits shall be made with the building permit forms available from the zoning administrator and shall be accompanied by building plans and a certificate of survey. Building permits shall not be issued prior to receipt of permit fees established by the city council.
 - b. *Site plan.* All applications for commercial, industrial, institutional, apartments, attached townhomes, or detached townhomes must secure site plan approval in addition to required building permits. Building permits shall not be issued prior to approval of the site plan by the zoning administrator or designee. All applications shall be accompanied by the following materials:
 1. *Certificate of survey.* The survey shall be drawn to an established scale indicated on the survey and indicate all existing structures and site improvements.
 2. *Site plan.* The site plan shall include the location of all proposed buildings and their proposed uses; location of driveways and parking areas; front, side and rear setbacks; location, size, and purpose of all easements; location and size of existing buildings and structures on site and within the distance of 100 feet from the property; location of refuse areas; location of outdoor storage areas.
 3. *Tree preservation plan.* The plan shall include all requirements of section 129-9.

4. *Landscape plan.* The plan shall include all requirements of section 129-7.
 5. *Grading and drainage plan.* Grading and drainage plan shall contain existing and proposed grades with a minimum of two-foot contour intervals to a known datum. All proposed stormwater management facilities, roadway gradients, flood hazard zones, and spot elevations on parking lots and curblines must also be shown on the grading plan. The grading and drainage plan must also comply with the requirements of section 129-15(g).
 6. *Utilities plan.* Utilities plan shall indicate the location of existing and proposed water and sanitary sewer lateral and service locations and size of pipe. Other utilities information required as requested by the city engineer.
 7. *Lighting and photometric plan.* The lighting plan shall include detail drawings for all proposed lighting fixtures and a photometric plan depicting the extent of lighting within and beyond the property lines.
 8. *Floor plans.* Floor plans shall indicate the square footage and dimensions of all proposed rooms and areas identifying the proposed uses.
 9. *Elevations.* Elevations shall include specification of colors and materials to be used. A material board including samples of the proposed materials shall be submitted upon request of the zoning administrator.
- (2) *Plans drawn to scale.* All plans to be drawn to an established engineering scale and prepared by a registered architect, engineer, landscape architect, or surveyor.
- (c) *Procedure.* All building permits shall be issued by the building official following review and approval by the zoning administrator of the site plan for conformity with the city's present development code and comprehensive land use plan. The zoning administrator may submit the application to the administrative review committee for review.
- (d) *Violations and penalties.*
- (1) Any person or entity who shall violate or refuse to comply with any condition of a conditional use permit or any other provisions of this subpart shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed \$1,000.00 or by imprisonment not to exceed 90 days, or both, together with the cost of prosecution.

- (2) In addition to the potential criminal sanctions set forth above, a violation of any condition of a conditional use permit will result in revocation of such permit by the city council, following public hearing.
 - (3) Notice and public hearings of violations and termination proceedings and all nonconforming, conditional, incompatible, accessory, special uses, or home occupation uses, notice of hearing shall be given by the city council to the interested parties by certified mail or in lieu thereof one legal published notice at least ten days before the public hearing date, which notice shall be given by the city council within a reasonable time.
- (Code 2004, pt. 3, § 27.07; Ord. No. 20-2447, 7-20-2020)

Sec. 101-8. Financial guarantees.

(a) *Improvements required—Agreement providing for proper installment of improvements.* Prior to installation of any required improvements and prior to issuance of a building permit, the developer shall complete a detailed cost estimate of proposed site improvements on a city form titled, "The Work," and shall enter into a contract in writing, called the site improvement performance agreement, with the city (on file in the office of community development), requiring the developer to furnish and construct said site improvements at the developer's sole cost and in accordance with the plans and specifications and usual contract conditions, all approved by the city council. The contract shall provide that the developer will assure the city that the improvements and utilities will be constructed and installed according to the specifications approved by the city council. The developer shall secure the city by a cash deposit, certified check, or in lieu thereof, by furnishing a letter of credit or performance bond as hereinafter set forth in subsection (b) of this section.

(b) *Improvements required—Financial guarantees required by performance bond.* The contract provided by subsection (a) of this section shall require the developer to make a cash deposit, certified check, or in lieu thereof, furnish the performance bonds as follows:

- (1) *Requirement and filing of financial guarantees.*
 - a. The developer shall provide cash deposit equal to at least ten percent of the cost of the improvements with any difference between the cost of the improvements and the cash deposit guaranteed by a letter of credit or performance bond with the city listed as beneficiary. These guarantees shall be filed with the city prior to issuance of a building permit. Items covered by these guarantees include:
 - 1. Lighting;
 - 2. Fences, screen structures;
 - 3. Trash disposal enclosures;
 - 4. Curbing, islands, delineators;

5. Storm drainage system, sewers, catchbasins, culverts, swales;
6. Public trail or sidewalk construction;
7. Grading;
8. Paving;
9. Private trail and sidewalk construction;
10. Driveway, curb cut, parking lot, fire lane construction;
11. Water mains, hydrants, sanitary sewers;
12. Landscaping;
13. Sod and seed;
14. Trees;
15. Other plantings and materials;
16. Site grading, berming (except public trail grading);

b. These financial guarantees are for all of the improvements to be furnished and installed by the developer, pursuant to the contract.

(2) *One-time reduction.* The developer may request a one-time reduction in the financial guarantee, provided there has been substantial progress shown in completion of the proposed plans.

(c) *Single-family landscape escrows.*

(1) An escrow deposit shall be made prior to permit issuance for all single-family homes, in an amount determined by the city council. That escrow shall guarantee completion of landscaping, final grade, curb stop adjustment, and any other work required by ordinance or development agreement. An additional escrow deposit shall be required prior to the issuance of a certificate of occupancy if landscaping work has not been completed between May 15 and October 15 of any year, in an amount determined by the city council. The costs of inspections occurring after the issuance of a certificate of occupancy shall be deducted from that escrow, in the amounts identified in the fee schedule. Additional fees may be charged by the city for work that is not completed within the required timeframe.

(2) If escrow related work is not completed within the time period required by the city, the zoning administrator may authorize escrow account closure. Written notification to the escrow payor will be made by regular and certified mail to payor's last known address at least 30 days in advance of account closure. Closed accounts will be used by the city to complete unfinished items with any unused balance dispersed to the current owner of the property.

(Code 2004, pt. 3, § 27.08; Ord. No. 86-957, 7-10-1986; Ord. No. 99-1812, 9-16-1999; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 27.08, 12-18-2023)

Sec. 101-9. Administrative fees.

All permit fees, application fees, planning fees, administrative fees and other charges for services under this subpart shall be set in accordance with a fee schedule adopted by resolution of the city council.

(Code 2004, pt. 3, § 27.09; Ord. No. 90-1184, 2-1-1990; Ord. No. 20-2447, 7-20-2020)

Sec. 101-10. Appeals.

An aggrieved person wishing to seek review of an action pursuant to M.S.A. § 462.361, subd. 1, may file an appeal with the county district court. No appeal shall be effective unless it is served and filed within 60 days as follows:

- (1) For an appeal from the adoption or amendment of an ordinance, rule, or regulation, from the effective date of the ordinance from which this subpart is derived;
- (2) For an appeal from an order, from the issuance of the order;
- (3) For an appeal from any other decision governed by this section or referenced in M.S.A. § 462.361, subd. 1, from the decision of the city council.

(Code 2004, pt. 3, § 27.10; Ord. No. 22-2514, 12-19-2022)

Sec. 101-11. Environmental review.

(a) When an environmental assessment worksheet (EAW), alternative urban areawide review (AUAR), or environmental impact statement (EIS) is required or otherwise ordered or submitted, the applicable review procedures shall be as set forth in the Minnesota Environmental Quality Board (environmental quality board) regulations for the environmental review program, as authorized by Minnesota Statutes and specified in Minn. R. ch. 4410.

(b) An EAW, AUAR, or EIS application, together with the completed data portions of the environmental document, shall be accompanied by a fee as established by the city council. The application shall be processed and transmitted to the city council for appropriate action by the city engineer.

(c) Applications for land use approvals requiring an EAW shall be considered incomplete until the responsible governmental unit (RGU) makes a negative declaration on the need for an EIS. Applications for land use approvals requiring an EIS shall be considered incomplete until the EIS has been determined to be adequate by the RGU or EQB. Applications for land use approvals requiring an AUAR shall be considered incomplete until the AUAR has been determined to be adequate by the EQB.

(Ord. No. 23-2535, § 27.11, 12-18-2023)

Sec. 101-12. Soil erosion and sedimentation control.*(a) Findings of fact.***(1)** It is determined that:

- a. Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;
- b. This stormwater runoff contributes to increased quantities of water-borne pollutants; and
- c. Stormwater runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

(2) Therefore, the city establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety. All new development and redevelopment shall conform to city engineering specifications for site work and the natural limitations as presented by the topography and soil to create the best potential for preventing soil erosion.

(b) Purpose. The purpose of this section is to control and eliminate, to the greatest extent possible, stormwater pollution and soil erosion and sedimentation in order to protect and safeguard the general health, safety, and welfare of the public. It establishes standards and specifications for development and conservation practices and planning activities designed to:

- (1)** Minimize increases in stormwater runoff from any new development or redevelopment in order to reduce flooding, siltation, streambank erosion and maintain the integrity of stream and ditch channels;
- (2)** Minimize increases in non-point source pollution caused by stormwater runoff from new development or redevelopment which would otherwise degrade local water quality;
- (3)** Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.

- (4) Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

(c) *Scope.*

- (1) In order to achieve compliance with the municipal separate storm sewer system (MS4) permit coverage extended to the city by the state pollution control agency (MPCA), and to be consistent with the local surface water management plan adopted by the city, all public and private development and redevelopment projects, alterations, or improvements shall meet the requirements of this part, the National Pollutant Discharge Elimination System (NPDES) construction stormwater permit (if applicable) and the rules of whichever water management organization has jurisdiction on the subject property. Except where a variance is granted or ordinance does not require, any person or entity proposing a land disturbance activity within the city shall apply to the city for project approval which shall include one or more of the following:
 - a. Grading, erosion and sediment control plan;
 - b. Stormwater pollution prevention plan (SWPPP); and
 - c. Stormwater management plan.
- (2) No land shall be disturbed until the project is approved by the city, has received a watershed district permit, any other applicable permits, and conforms to the standards set forth herein. Chapter 34, article III; chapter 74, article IV; section 129-6 and other pertinent sections of this Code shall also be applied.

(d) *Abrogation and greater restrictions.* This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provisions of this section shall prevail. All other ordinances inconsistent with this part are repealed to the extent of the inconsistency only.

(e) *Definitions.* Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the same meaning as they have in common usage and to give this section its most reasonable application. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bench means a relatively level step excavated into earth material on which fill is to be placed.

Best management practices (BMP) are erosion control, sediment control and water quality management practices that are most effective and practicable for means of controlling, preventing and reducing the degradation of surface water as published by state or designated area-wide planning agencies.

Borrow means soil or other earth materials acquired from an off-site location for use in grading or filling on a site.

Buffer means land that is used to protect adjacent lands and waters from development and more intensive land uses. The land is kept in a natural state of trees, shrubs, and low ground cover and understory of plants and functions to filter runoff, control sediment and nutrient movement, and protect fish and wildlife habitat. In areas of agricultural use, the land may be used for less intensive agricultural purposes, provided its function as a buffer remains intact.

Channel means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clearing and grubbing means the cutting and removal of trees, shrubs, bushes, windfalls and other vegetation, including removal of stumps, roots and other remains in the designated areas.

Common plan of development or sale means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, or on different schedules, but under one proposed plan. The term "common plan of development" is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur.

Detention facility means a temporary or permanent natural or manmade structure that provides for the temporary storage of stormwater runoff.

Discharge means the release, conveyance, channeling, runoff or drainage of stormwater, including snowmelt, from a construction or development site.

Disturbed ground means any clearing, grading, excavating or other activity that removes vegetation or exposes or loosens the soil making it susceptible to erosion by wind, water, vehicular traffic or human made activity.

Erosion means any process that wears away the surface of land by the action of wind, water, ice, gravity, nature or manmade activities.

Erosion control refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

Exposed soil areas are areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surfaces have been removed, thus rendering the soil more prone to erosion. The term "exposed soil areas" includes

topsoil stockpile areas; borrow areas and disposal areas within the construction site. The term "exposed soil areas" does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection requirements. Once soil is exposed, it is considered exposed soil, until it meets the definition of final stabilization.

Fill means a deposit of soil or other earth materials placed by artificial means.

Filter strip means a vegetated section of land designed to treat runoff as overland sheet flow. It may be designed in any natural vegetated form from a grassy meadow to a small forest. The dense vegetated cover facilitates pollutant removal, reduces erosion and promotes infiltration.

Final stabilization requires that all soil disturbing activities at the site have been completed and all soils must be stabilized by a uniform perennial vegetative cover with a minimum density of 70 percent over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions.

Floodplain means the channel or beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood.

High water level means the expected elevation of the water in a stormwater pond will rise to a 100-year rain event as calculated by the pond design.

Hydric soils means soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper soil horizon.

Hydrologic soil group (HSG) means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

Impaired waters means water bodies that do not meet water quality standards and designated uses because of pollutants, pollution, or unknown causes of impairment.

Impervious surface means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads. Class 5 gravel surfaces are considered to be impervious surfaces.

Land disturbance activity means any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands

within this government's jurisdiction, including, but not limited to, construction, clearing and grubbing, grading, excavating, transporting and filling of land. The term "land disturbance activity" does not mean:

- (1) Minor land disturbance activities, including, but not limited to, underground utility repairs, home gardens, home landscaping, minor repairs and maintenance work which do not disturb more than 2,000 square feet of land or exceed 100 cubic yards of earthwork provided work does not obstruct or modify a watercourse or storm sewer system and is not located in a floodplain;
- (2) Installation and maintenance of fences, signs, posts, poles, electric, telephone, cable television, utility lines or individual service connections to these utilities; or
- (3) General farming practices; or
- (4) Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the city's requirements as soon as possible.

Native vegetation means the pre-settlement (already existing in the state at the time of statehood in 1858) group of plant species native to the local region, that were not introduced as a result of European settlement or subsequent human introduction.

Normal water level refers to the permanent pool of water retained in a stormwater pond. By design, this is the water level below the invert elevation of the pond outlet with a depth not to exceed eight feet.

Ordinary high water level means the boundary of water basins, watercourses, public waters, and public waters wetlands, and:

- (1) The ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- (2) For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- (3) For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Outfall means the point of discharge to any watercourse from a public or private stormwater drainage system.

Permanent cover means final stabilization. Examples include grass, gravel, asphalt and concrete. See also Final stabilization.

Public waters are waters of the state as defined in M.S.A. § 103G.005, subd. 15.

Retention facility means a temporary or permanent natural or artificial structure that provides for the storage of stormwater runoff by means of a permanent pool of water.

Runoff means rainfall, snowmelt, dewatering discharge, irrigation or any artificial sources of water flowing over the ground surface.

Sediment means the product of an erosion process; solid material both mineral and organic, which is in suspension, is being transported, or has been moved by water, wind, or ice and has come to rest on the earth's surface either above or below water level.

Slope means the incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

Special water means surface water or receiving water that is of a high quality or is deemed worthy to receive extra protection.

Storm sewer system includes, but is not limited to, the combination of roadway gutters, roadway section ditches, culverts, storm sewer piping, overflow channels, infiltration trenches, detention and retention water quality treatment basins and other methods or devices used for capturing, conveying, controlling and treating stormwater and snowmelt runoff.

Stormwater. Under Minn. R. 7077.0105, subpt. 41b, the term "stormwater" means precipitation runoff, stormwater runoff, snowmelt runoff and any other surface runoff and drainage. According to the Code of Federal Regulations (CFR), under 40 CFR 122.26(b)(13), the term "stormwater" means "stormwater runoff, snowmelt runoff and surface and drainage." The term "stormwater" does not include construction site dewatering.

Stormwater pollution prevention plan means the joint stormwater, erosion prevention and sediment control plan that is a document containing the requirements of subsection (h) of this section. When implemented, the plan will define the methods to be used to reduce soil erosion on a parcel of land and off-site non-point pollution. The plan involves both temporary and permanent controls.

Stormwater pond (also referred to as wet sedimentation basin, wet retention basin, or simply wet pond) means an artificial or modified natural basin constructed to capture and retain stormwater runoff for the purpose of removing pollutants and mitigating downstream water quantity impacts.

Surface waters means all streams, ponds, lakes, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems, whether natural or artificial, public or private.

Surveyor means a person duly registered or authorized to practice land surveying in the state.

Temporary erosion protection means short-term methods installed to prevent erosion. Examples include silt fence, straw mulch, wood fiber blanket, wood chips and erosion netting.

Vegetated (grassy) swale means a vegetated earthen channel that conveys stormwater while treating the stormwater by biofiltration. Such swales aid in the removal of pollutants by both filtration and infiltration.

Waters of the state, as defined in M.S.A. § 115.01, subd. 22, means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, on the surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Wetlands means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- (1) Have a predominance of hydric soils;
- (2) Are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) Under normal circumstances support a prevalence of such vegetation.

(f) *General criteria.* The grading, erosion and sediment control plan shall be required for any land disturbance activity or project disturbing more than 20,000 square feet and shall minimize exposed soil and unstable soil conditions in area and duration, disturbance of natural soil cover and vegetation, work in and adjacent to water bodies and wetlands, off-site sediment transport by trucks and equipment, and disturbance to the surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing. The plan shall also protect receiving water bodies, wetlands, storm sewer inlets and adjacent properties from sediment deposition. It shall provide a plan for minimal compaction of site soils.

(g) *Submittal components.* An acceptable application for construction will include the following requirements and contain the components detailed in the following subsections:

- (1) *Grading and erosion and sediment control plans.* The grading/erosion control checklist and approval form should be used as a reference. These can be obtained from the city engineering department. All grading and erosion and sediment control plans shall include the following items:
 - a. *Plans for existing and proposed conditions.* A complete site plan and specifications, signed by the person who designed the plan shall be in compliance with section 129-7, shall be clearly labeled with a north arrow and a date of preparation, and shall include, at a minimum, the following information:
 1. Project map indicating site boundaries and existing elevations, property lines and lot dimensions in relation to surrounding roads, buildings and other structures, and other significant geographic features.
 2. Identification of all surface waters, on and adjacent to the site and within one-half mile of project boundary, including, but not limited to, lakes, ponds, streams (including intermittent streams), wetlands, natural or artificial water diversion or detention areas, public and private ditches, subsurface drainage facility (including drain tiles), stormwater conveyance, and storm sewer catchbasins. Show ordinary high water marks of all navigable waters, 100-year flood elevations, normal and high water elevations of ponds, and delineated wetland boundaries, if any. If not available, appropriate flood zone determination or wetland delineation, or both, may be required at the applicant's expense.
 3. For projects that have a discharge point on the project that is within one mile of, and flows to, an impaired water, the applicant must identify the impaired waters in the SWPPP, and whether there is a U.S. Environmental Protection Agency (EPA) approved total maximum daily load (TMDL) for the pollutants or stressors identified in this part. Unless otherwise notified by the Minnesota Pollution Control Agency (MPCA) in writing, the applicant's identification of impaired waters must be based on the most recent EPA approved section 303(d) Clean Water Act list of impaired waters and EPA approved TMDLs at the time a complete permit application is submitted. The applicant's identification must include those TMDLs applicable to the project's stormwater discharge that were approved at any time prior to permit application submittal and are still in effect.

4. Map of watershed drainage areas showing direction of flow for pre- and post-construction drainage, soil types, infiltration rates, and depth to seasonal high water table.
 5. Existing and proposed grades showing drainage on and adjacent to the site using two-foot contours or less.
 6. Existing and proposed impervious surfaces.
 7. Steep slopes of 12 percent or more existing over a distance for 50 feet or more.
 8. Location of all areas not to be disturbed during construction, including trees, vegetation, and designated areas for infiltration.
 9. Proposed grading or other land disturbing activity; areas of soil or earth material storage; quantities of soil or earth material to be removed, placed, stored or otherwise moved on site, and delineated limits of disturbance.
 10. Locations of proposed runoff control, temporary and permanent erosion and sediment control, and temporary and permanent soil stabilization measures.
 11. If more than ten acres are disturbed and drained to a single point of discharge temporary sediment basins must be installed; however, if the site has special waters as defined by the NPDES construction permit requirements, then temporary sediment basins must be installed where five or more acres are disturbed. When site restrictions do not allow for a temporary sediment basin, equivalent measures as approved by the city may be used.
 12. Any mitigation measures required as a result of any review conducted for the project (e.g., wetland mitigation, etc.).
- b. *Stormwater pollution prevention plan.* A stormwater pollution prevention plan (SWPPP) specific to the conditions and requirements of the site. (See subsection (h) of this section.)

(h) *SWPPP design components.* All SWPPPs shall be reviewed by the city for effectiveness of erosion and sediment control measures in the context of the site topography and drainage, proposed design, suggested location and phased implementation of effective practicable stormwater pollution prevention measures.

- (1) *General criteria.* Design, engineering and implementation of these measures shall use the following performance standards, BMPs, and design criteria:
- a. *Project compliance.* Statement of how the project will comply with all requirements of the NPDES Phase II regulations.
 - b. *Description.* Explanation of the project and associated construction activity.

- c. *Contact information.* Contact information for the on-site individual responsible for implementation of the SWPPP; and for the project manager and contractor.
 - d. *Training.* The applicant must identify a person knowledgeable and experienced in the application of erosion prevention and sediment control BMPs who will oversee the implementation of the SWPPP, and the installation, inspection and maintenance of the erosion prevention and sediment control BMPs before and during construction.
 - e. *Runoff easements.* If a stormwater management plan involves directing some or all runoff from the site, the applicant shall obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.
 - f. *Scheduling site activities.* The applicant shall schedule site activities to lessen their impact on erosion and sediment creation. A detailed schedule indicating dates and sequence of land alteration activities; implementation, maintenance and removal of erosion and sedimentation control measures; and permanent site stabilization measures shall be provided.
- (2) *Best management practice implementation.* All erosion and sediment control and water quality BMPs must be constructed and or installed prior to the commencement of land disturbing activities. These measures shall be coordinated with the different stages of development.
 - (3) *Monitoring and inspection.* The trained person identified in the SWPPP or their assigned designee must routinely inspect the entire construction site at least once every seven days during active construction and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours. Following an inspection which occurs within 24 hours after a rainfall event, the next inspection must be conducted within seven days after that. All inspections and maintenance conducted during construction must be recorded in writing and these records must be retained with the SWPPP in accordance with the NPDES construction site permit.
 - (4) *Other information.* The city will require additional or modified information as warranted.
 - a. The city may require soil borings or other site investigation to be conducted and may require submission of a soils engineering or geology report. The report shall include information as requested by the city.
 - b. The city may require a stormwater runoff volume and rate analysis report or other hydrologic, water quality and hydraulic computations to be submitted.

- c. The SWPPP shall be modified when there is a change in design, operation, maintenance, weather or seasonal conditions that have a significant effect on discharge or inspections indicate that the plan is not effective and existing BMPs are not controlling pollutants and discharges from the site.
- (5) *Contractor/owner inspections and maintenance.* The contractor or owner shall be responsible for inspections and maintenance on the site.
- a. Inspections and maintenance must be documented and readily available for review on-site. Inspections are required as follows:
 - 1. Once every seven days on exposed soil areas.
 - 2. Within 24 hours after a one-half-inch rain event over 24 hours.
 - 3. Once every 30 days on stabilized areas.
 - 4. As soon as runoff occurs or prior to resuming construction on frozen ground.
 - b. Maintenance is required as follows:
 - 1. When sediment reaches one-third the height of the BMP on perimeter control devices, sediment must be removed within 24 hours.
 - 2. If the perimeter control device is not functional it must be repaired or replaced within 24 hours.
 - 3. Temporary sediment basins shall be maintained when sediment reaches one-half the outlet height or one-half the basin storage volume. Basin must be drained or sediment removed within 72 hours.
 - 4. Sediment tracked from construction site vehicle entrance and exit locations must be removed from paved surfaces within 24 hours of discovery.
 - 5. Inlet protection devices must be cleaned weekly or more frequently as necessary. Sediment and other debris captured in these devices must be deposited in appropriate locations or containers.
- (i) *SWPPP implementation components.*
- (1) *Minimize exposed soil.* Land shall be developed in increments of workable size such that adequate erosion and sedimentation control can be provided as construction progresses. At no time shall more than 20 acres be exposed. Special consideration shall be given to the stabilization of steep slopes. Development shall be carefully reviewed to ensure adequate measures have been taken to prevent erosion, sedimentation and structural damage.
 - (2) *Restabilization.* The area exposed shall be covered by an approved ground cover within 14 days after work is completed. When construction work is

completed, a minimum depth of four inches of topsoil meeting current MnDOT specifications shall be spread over the developed area and turf establishment started.

- (3) *Reduce compaction.* To reduce soil compaction and enhance vegetation establishment, all compacted soil shall be tilled to a depth of at least six inches before revegetation.
- (4) *Perimeter sediment controls.* Perimeter sediment control measures shall be properly installed before construction activity begins. These control measures shall be designed to contain sediment on site and control the quality and quantity of stormwater leaving a site before, during, and after construction. Control measures may include silt fence, compost logs, berms, or other approved methods.
- (5) *Channel protection.* Channels shall be diverted around disturbed areas if practical, or other channel protection measures will be required. The normal wetted perimeter of any temporary or permanent drainage channel must be stabilized within 200 linear feet of the property edge, or from a point of discharge to any surface water. Stabilization must be completed within 24 hours of connecting to surface water. Sediment control is required along channel edges to reduce sediment reaching the channel. Stabilization of all waterways and outlets shall conform with the stipulations of this part.
- (6) *Outlet protection.* Pipe outlets must have approved energy dissipation measures installed within 24 hours of connection to surface water.
- (7) *Slope protection.* The following control measures shall be taken to control erosion during construction:
 - a. No exposed slopes shall be steeper in grade than four feet horizontal to one foot vertical.
 - b. Exposed slopes steeper than ten feet horizontal to one foot vertical shall be stabilized to minimize erosion.
 - c. At the foot of exposed slopes or slopes with long runs a channel and berm may be required to be constructed to control erosion. The channeled water shall be diverted to the sedimentation basin (debris basin, sediment basin, or silt trap) before being allowed to enter the natural drainage system.
 - d. Along the top of exposed slopes or slopes with long runs a berm may be required to be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. These methods shall be approved by the city engineering department. At the base of the slope, an energy dissipater shall be installed to prevent erosion.

- e. Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils materials, and expected length of exposure. Slope protection shall consist of mulch, burlap, jute netting, sod blankets, fast growing seeds or temporary plantings or annual grasses. A mulch shall consist of hay, straw, or other approved protective materials. Mulch must be anchored to the slopes by an approved method to provide additional slope stability.
- f. Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will effectively protect exposed slopes and are approved by the engineering department.
- g. Wind erosion. Snow fences or other wind reducing means shall be employed during construction on-site to reduce wind erosion of the soil. These measures shall be employed as soon as construction has started on-site and shall be extended as needed throughout the development.
- h. All exposed soil areas with a continuous positive slope that are within 200 linear feet of any surface water, or any conveyance (curb, gutter, storm sewer inlet, drainage ditch, etc.) to a surface water source, must have temporary or permanent cover year round. The area shall be stabilized if it has not been worked for seven days on slopes greater than three feet horizontal to one foot vertical (3:1), 14 days on slopes ranging from 3:1 to 10:1 and 21 days for flatter slopes. On sensitive sites or sites with special waters, exposed soil areas with a greater than three feet horizontal to one foot vertical (3:1) must be stabilized within three days and slopes flatter than 3:1 must be stabilized within seven days. All exposed soil areas must have temporary erosion protection or permanent cover no later than November 1 regardless of the stabilization requirements listed above. All exposed soils from construction activities taking place after November 1 must provide temporary erosion protection or permanent cover by the end of the workday if conditions warrant.
- i. If more than ten acres are disturbed and drained to a single point of discharge temporary sediment basins must be installed. When site restrictions do not allow for a temporary sediment basin, equivalent measures such as smaller basins, check dams, and vegetated buffer strips can be included.
- j. For disturbed areas less than ten acres, temporary sedimentation basins are encouraged but not required. The applicant shall install erosion and sediment controls at locations that result in maximum protection and sediment capture. Minimum requirements include silt fences, rock check dams, or other equivalent control measures along slopes. Silt fences, rock check dams, etc., must be regularly inspected and maintained.

- (8) *Silt fence.* A silt fence shall be properly installed by being trenched and buried at least six inches into the soil. Generally, sufficient silt fence will be required to contain sheet flow runoff generated at an individual site. This method is used to prevent sediment damage to adjacent properties and sensitive environmental areas, such as water bodies, plant communities, rare, threatened or endangered species habitat, wildlife corridors, greenways, wetlands, etc., provided that all silt fences used for erosion and sedimentation control and all other temporary controls shall not be removed until the city and other permitting agencies have determined that the site has been permanently stabilized and shall be removed within 30 days thereafter.
- (9) *Soil stockpiling.* Temporary stockpiling of 100 cubic yards or more of excess soil on any lot or other vacant area will not be allowed without issuance of a permit for the earth moving activity in question. Stockpiles of soil or other materials subject to erosion by wind or water shall be covered, vegetated, enclosed, fenced on the down gradient side or otherwise effectively protected from erosion in accordance with the amount of time the material will be on site and the manner of its proposed use. No stockpiling is allowed in the street.
- (10) *Stockpile protections.* For soil stockpiles greater than ten cubic yards, the toe of the pile must be more than 25 feet from a road, drainage channel or stormwater inlet. If left for more than seven days, they must be stabilized with mulch, vegetation, tarps or other means. If left for less than seven days, erosion from stockpiles must be controlled with perimeter control devices such as silt fence. If for any reason a soil stockpile is located closer than 25 feet to a road, drainage channel or stormwater inlet, it must be covered with tarps or a more permanent protection and controlled with perimeter control devices immediately.
- (11) *Vehicle exits/entrances.* Vehicle tracking of sediment from the construction site must be minimized by BMPs such as stone pads, concrete or steel wash racks, or equivalent systems. Street sweeping must be used if such BMPs are not adequate to prevent sediment from being tracked onto the street. The exit must be at least 50 feet long (15-foot minimum on single-family residential sites), and the exit must be graded so runoff does not enter the adjacent street. Place a geotextile fabric under a layer of aggregate at least six inches thick. The aggregate size must be a minimum of one to three inches or an approved equal. Directions should be given to use the designated construction exits.
- (12) *Street cleaning.* Streets and outlying roads shall be cleaned and swept within 24 hours whenever tracking of sediments occurs and before sites are left idle for weekends and holidays.

- (13) *Dewatering treatment required.* Sediment laden water that is being removed from the site by pumping or trenching shall be treated to remove a minimum of 80 percent of suspended solids before discharge. Water may not be discharged in a manner that causes erosion to receiving channels or flooding of the discharge site.
 - (14) *Storm drain protection.* All storm drain inlets shall be protected during construction with control measures as approved by the city. These devices shall remain in place until final stabilization of the site. A regular inspection and maintenance plan shall be developed and implemented to ensure these devices are operational at all times, providing protection of storm sewer infrastructure from sediment loading/plugging. Silt fence fabric under catchbasin grates will not be considered appropriate protection. Protective devices shall be removed prior to freeze up and replaced when temperature permits.
 - (15) *Waste containment.* Appropriate on-site containment must be provided for all trash, solid waste, construction debris, floating debris, and hazardous materials. Disposal of collected sediment shall be deposited only in approved locations.
 - (16) *Special precautions.* Extra precautions must be taken to contain sediment when working in or crossing water bodies.
- (j) *Review.* The city shall complete a review of the SWPPP concurrent with other submittals. City approval is contingent on issuance of all other permits required by other agencies having jurisdiction on the project. There shall be no work on the site until the requirements are met and approval has been granted.
- (1) *Compliance.* A SWPPP will be considered compliant when the city determines that the SWPPP meets the requirements of this part and all other requirements for project approval. Compliance assumes implementation and maintenance of the SWPPP components.
 - (2) *Noncompliance.* If the city determines that the SWPPP does not meet the requirements of this part the city shall not issue approval for the land disturbance activity. The SWPPP must be resubmitted for approval before the land disturbance activity begins.
 - (3) *City inspections and enforcement.* Inspections are required before any land disturbing activity begins, at the completion of the project and prior to the release of financial securities. The city shall also conduct inspections on a regular basis during the course of construction to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the applicant to maintain proper erosion and sediment control at all sites. In cases where cooperation

is withheld or applicant fails to achieve compliance, enforcement proceedings will be applied as outlined in subsection (n)(4) of this section. An inspection must be conducted before any work is allowed to restart.

(k) *Modification of plan.* The applicant must amend the SWPPP as necessary to include additional requirements such as additional or modified BMPs designed to correct problems identified or address situations whenever:

- (1) A change in design, construction, operation, maintenance, weather, or seasonal conditions that has a significant effect on the discharge of pollutants to surface waters or underground waters.
- (2) Inspections indicate the SWPPP is not effective in eliminating or significantly minimizing the discharge of pollutants to surface waters or underground waters or that the discharges are causing water quality standard exceedances.
- (3) The SWPPP is not achieving the general objectives of controlling pollutants and sediments or is not consistent with the terms and conditions of the approved project plans.

(l) *Financial securities.* The applicant shall be subject to the financial security provisions of the city development agreement or site improvement performance agreement.

(m) *Emergency action.* If circumstances exist such that noncompliance with this subpart poses an immediate danger to the public health, safety and welfare, as determined by the city, the city may take emergency preventative action. The city shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the city may be recovered from the applicant's financial security.

(n) *Notification of failure of the SWPPP.* The city shall notify the project contact of the failure of the SWPPP's measures.

- (1) *Initial contact.* The initial contact will be to the party or parties listed on the application or the SWPPP as contacts. Except during an emergency action, 48 hours after notification by the city or 72 hours after the failure of erosion control measures, whichever is less, the city at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party, the city has been unable to establish contact, the city may proceed with corrective work. If there are conditions when time is of the essence in controlling erosion, the city may take immediate action, and then notify the applicant as soon as possible. Any cost incurred by the city may be recovered from the applicant's financial security.

- (2) *Erosion off-site.* If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of entry from the adjoining property owner, and implement the cleanup and restoration plan within 48 hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the city, may more than seven calendar days go by without corrective action being taken. If in the discretion of the city, the permit holder does not repair the damage caused by the erosion, the city may do the remedial work required. Any cost incurred by the city may be recovered from the applicant's financial security. When restoration to wetlands and other resources are required, the applicant will be required to work with the appropriate agency to ensure that the work is done properly.
- (3) *Erosion into streets, wetlands or water bodies.* If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.
- (4) *Failure to do corrective work.* When an applicant fails to conform to any provision of this policy within the time stipulated, the city may take one or more of the following actions:
 - a. Issue a stop work order, withhold the scheduling of inspections, or the issuance of a certificate of occupancy.
 - b. Correct the deficiency or hire a contractor to correct the deficiency. Project approval constitutes a right-of-entry for the city or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.
 - c. Require reimbursement to the city for all costs incurred in correcting stormwater pollution control deficiencies. If payment is not made within 30 days after costs are incurred by the city, payment will be made from the applicant's financial securities.
- (o) *Right of entry and inspection powers.* The applicant shall allow the city and their authorized representatives, upon presentation of credentials, to:
 - (1) Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
 - (2) Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
 - (3) Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.

- (4) Inspect the stormwater pollution control measures.
 - (5) Sample and monitor any items or activities pertaining to stormwater pollution control measures.
- (Code 2004, pt. 3, § 33.15; Ord. No. 10-2203, 5-20-2010; Ord. No. 20-2447, 7-20-2020)

Sec. 101-13. Height limitations and communications antennas.

(a) Height limitations, as set forth in this section, shall not apply to church spires, flag poles, and municipal water towers and attachments, including antennas. Any structure over 50 feet in height from ground level shall require a conditional use permit. Communication antennas, no greater than 50 feet in height, are permitted in any zoning district and must be located in the rear yard or on the principal structure and meet a 20-foot setback from the side and rear property lines. Freestanding communication antennas over 50 feet in height shall also be regulated by the standards outlined in subsection (b) of this section. Any structure over 150 feet in height from ground level shall not be permitted, unless specifically permitted in another section of city zoning regulations.

(b) Freestanding communication antennas that are greater than 50 feet in height are only permitted through conditional use permit and are subject to the following standards:

- (1) The applicant must hold an FCC license to operate the proposed communication system.
- (2) The applicant shall submit a study which demonstrates that existing municipal water tower sites and colocation with existing facilities are not technically feasible.
- (3) That all structures must be mono-pole.
- (4) That all structures must be constructed for collocation at market rate.
- (5) That the applicant must provide proof that the construction and operation of the facilities will not interfere with reception and transmission of radio or television services enjoyed by neighboring residential and nonresidential properties.
- (6) That the structures have no lighting other than what is required by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), or other governmental bodies.
- (7) That the structures have no signage except as required by state and federal regulations.
- (8) That the structures not be multi-colored and the color be of minimal visibility unless the architectural design or materials that are used, as determined by the city, suggest otherwise.

- (9) That the structures not be located in the designated front yard of a property.
 - (10) That the structure not be within the following distance of any residential structures:
 - a. 350 feet for towers 100 feet in height or greater.
 - b. 300 feet for towers greater than 80 feet and less than 100 feet.
 - c. 250 feet for towers 80 feet in height or less.
 - (11) That the height of any structure does not exceed 150 feet.
 - (12) That the structures be placed with a minimum setback from all lot lines equal to the height of the proposed structure, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances. Towers may not be located within the building setback areas of the underlying zoning district.
 - (13) That the owner agrees to remove the structure within 12 months after terminating transmission from the facility.
- (c) Communication antennas attached to or on top of existing buildings may exceed the height limitations of the district when the following standards are met:
- (1) The applicant must hold an FCC license to operate the proposed communication system;
 - (2) Building mounted antennas shall not extend more than ten feet above the roof and must be set back at least five feet from the roof edge; and
 - (3) Wall or facade mounted antennas shall not extend more than five feet above the roof.
- (d) Temporary mobile communication antennas may be utilized to provide personal wireless service at special events for a duration no longer than 30 days within a calendar year. The height of temporary mobile communication antennas is limited to 80 feet.
- (Code 2004, pt. 3, § 33.17; Ord. No. 96-1613, 10-3-1996; Ord. No. 98-1761, 12-17-1998; Ord. No. 08-2166, 10-16-2008; Ord. No. 11-2221, 3-17-2011; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2500, 4-18-2022)

Chapter 102—104

RESERVED

CD102:1

Chapter 105

ZONING DISTRICTS GENERALLY

- Sec. 105-1. Designation of zoning districts.
- Sec. 105-2. Zoning map.
- Sec. 105-3. Exemptions.

Sec. 105-1. Designation of zoning districts.

The zoning districts are so designed to assist in carrying out the intents and purposes of the comprehensive plan and are based upon the comprehensive plan which has the purpose of protecting the public health, safety, convenience and general welfare. For the purposes of this subpart, the city is divided into the following zoning districts:

<i>Symbols</i>	<i>Names</i>
AG	Agricultural
FR	Farm Residence
RE	Residential Estate
R-1	Single-Family
R-1A	Single-Family
R-1AA	Single-Family
R-1B	Single-Family
R-2	Two-Family
R-3A	Multifamily Low Density
R-3B	Multifamily Medium Density
R-3C	Multifamily High Density
DF	Development Flex
R-4	Manufactured Home
B-1	Neighborhood Business
B-2	Community Commercial
B-3	Regional Commercial
B-4	Office Research Park
RR	Regional Recreation
POD	Planned Office District
B-5	Town Commercial
RD	105th Avenue Redevelopment District
PBD	Planned Business District
MU	County Road 10 Mixed Use District
I-1	Light Industrial
I-1A	Light Industrial
I-2	Heavy Industrial
I-2A	Heavy Industrial
FP	Floodplain
HOD	Highway 65 Overlay District

(Code 2004, pt. 3, § 28.01; Ord. No. 98-1753, 11-19-1998; Ord. No. 15-2322, 9-17-2015; Ord. No. 22-2506, 7-18-2022)

Sec. 105-2. Zoning map.

(a) The location and boundaries of the districts established by this subpart are set forth on the official zoning map which is incorporated as part of this subpart and which is on file with the office of community development.

(b) District boundary lines recorded on the city zoning map are intended to follow lot lines, the centerlines of streets or alleys, the centerlines of streets or alleys projected, railroad right-of-way lines, the center of watercourses or the corporate limit lines as they exist at the time of the enactment of the ordinance from which this subpart is derived.

(c) Whenever any street, alley, or other public way is vacated, the zoning district adjoining that of such vacated street, alley or public way, shall automatically be extended to the center of such vacated area and all area included therein shall be then and hence forth subject to all of the regulations of the extended district.

(d) Any area shown on the zoning map as park, playground, school, cemetery, water body, etc., shall be subject to the zoning regulations of the district in which it is located. In case of doubt, the zoning regulations of the most restricted adjoining district shall govern.

(e) All territory which may hereafter be annexed to the city shall be considered zoned in the same manner as contiguous territory inside the previous city limits unless otherwise classified.

(f) It shall be the responsibility of the zoning administrator to maintain and amend said zoning map. The zoning administrator shall make, or cause to have made, any corrections or amendments to said map after all of the procedures outlined in this subpart for the making of such revisions or amendments shall have been followed by the planning commission and city council.

(g) Amendments to the zoning map shall be recorded on said map within 15 days after adoption by the city council. The copy of the official zoning map shall be kept on file in the office of the community development department and shall be open to public inspection at all times during which the office is customarily open.

(h) If the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the city council may, by ordinance, adopt a new official zoning map. The new official zoning map may correct drafting or other errors or omissions in the principal zoning map, but no such corrections shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map."

(Code 2004, pt. 3, § 28.02; Ord. No. 20-2447, 7-20-2020)

Sec. 105-3. Exemptions.

The following essential services are permitted in any district: the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies of systems, including gas, electrical, steam or water transmission or distribution systems; collection, communication systems, including communication equipment facilities, supply or disposal systems; elevated and underground water storage tanks; poles, wires, mains, drains, sewers, pipes, conduits, cables; fire alarm boxes, police call boxes; traffic signals, hydrants, and other similar equipment and accessories in connection therewith, including city buildings and parks; reasonably necessary for the furnishing of adequate service of such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

(Code 2004, pt. 3, § 28.03; Ord. No. 86-929, 2-20-1986; Ord. No. 20-2447, 7-20-2020)

Chapter 106—108

RESERVED

CD106:1

Chapter 109

RESIDENTIAL DISTRICTS

Article I. In General

Secs. 109-1—109-18. Reserved.

Article II. Agricultural (AG)

Sec. 109-19. Intent.

Sec. 109-20. Permitted uses.

Sec. 109-21. Accessory uses.

Sec. 109-22. Conditional uses.

Sec. 109-23. Standards.

Secs. 109-24—109-49. Reserved.

Article III. Farm Residential (FR)

Sec. 109-50. Intent.

Sec. 109-51. Permitted uses.

Sec. 109-52. Accessory uses.

Sec. 109-53. Conditional uses.

Sec. 109-54. Standards.

Secs. 109-55—109-81. Reserved.

Article IV. Residential Estate (RE)

Sec. 109-82. Intent.

Sec. 109-83. Permitted uses.

Sec. 109-84. Accessory uses.

Sec. 109-85. Conditional uses.

Sec. 109-86. Standards.

Secs. 109-87—109-115. Reserved.

Article V. Single-Family (R-1)

Sec. 109-116. Intent.

Sec. 109-117. Permitted uses.

Sec. 109-118. Accessory uses.

Sec. 109-119. Conditional uses.

Sec. 109-120. Standards.

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Article VI. Single-Family (R-1A)

Sec. 109-139. Intent.
Sec. 109-140. Permitted uses.
Sec. 109-141. Accessory uses.
Sec. 109-142. Conditional uses.
Sec. 109-143. Standards.
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Article VII. Single-Family (R-1AA)

Sec. 109-170. Intent.
Sec. 109-171. Permitted uses.
Sec. 109-172. Accessory uses.
Sec. 109-173. Conditional uses.
Sec. 109-174. Standards.
Secs. 109-175—109-201. Reserved.

Article VIII. Single-Family (R-1B)

Sec. 109-202. Intent.
Sec. 109-203. Permitted uses.
Sec. 109-204. Accessory uses.
Sec. 109-205. Conditional uses.
Sec. 109-206. Standards.
Secs. 109-207—109-235. Reserved.

Article IX. Two-Family (R-2)

Sec. 109-236. Intent.
Sec. 109-237. Permitted uses.
Sec. 109-238. Accessory uses.
Sec. 109-239. Conditional uses.
Sec. 109-240. Standards.
Secs. 109-241—109-258. Reserved.

Article X. Low Density Multifamily (R-3A)

Sec. 109-259. Intent.
Sec. 109-260. Permitted uses.
Sec. 109-261. Accessory uses.
Sec. 109-262. Conditional uses.
Sec. 109-263. Standards, quad, townhouse.
Sec. 109-264. Setback buffers.
Sec. 109-265. Landscaping.

RESIDENTIAL DISTRICTS

- Sec. 109-266. Screening.
- Sec. 109-267. Senior housing standards.
- Secs. 109-268—109-297. Reserved.

Article XI. Medium Density Multifamily (R-3B)

- Sec. 109-298. Intent.
- Sec. 109-299. Permitted uses.
- Sec. 109-300. Accessory uses.
- Sec. 109-301. Conditional uses.
- Sec. 109-302. Standards—Quad, townhouse.
- Sec. 109-303. Standards—Multiple dwelling.
- Sec. 109-304. Setback buffers.
- Sec. 109-305. Landscaping.
- Sec. 109-306. Screening.
- Sec. 109-307. Storage.
- Sec. 109-308. Parking.
- Sec. 109-309. Senior housing standards.
- Secs. 109-310—109-336. Reserved.

Article XII. High Density Multifamily (R-3C)

- Sec. 109-337. Intent.
- Sec. 109-338. Permitted uses.
- Sec. 109-339. Accessory uses.
- Sec. 109-340. Conditional uses.
- Sec. 109-341. Standards—Quad, townhouse.
- Sec. 109-342. Standards—Multiple dwelling.
- Sec. 109-343. Setback buffers.
- Sec. 109-344. Parking.
- Sec. 109-345. Landscaping.
- Sec. 109-346. Screening.
- Sec. 109-347. Storage.
- Sec. 109-348. Senior housing standards.
- Secs. 109-349—109-369. Reserved.

Article XIII. Development Flex (DF)

- Sec. 109-370. Intent.
- Sec. 109-371. Criteria.
- Sec. 109-372. Procedure.
- Sec. 109-373. Plan requirements.
- Sec. 109-374. Standards.
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Secs. 109-376—109-393. Reserved.

Article XIV. Manufactured Homes (R-4)

Sec. 109-394. Intent.

Sec. 109-395. Permitted uses.

Sec. 109-396. Accessory uses.

Sec. 109-397. Conditional uses.

Sec. 109-398. Standards.

Sec. 109-399. Filing requirements.

Sec. 109-400. Procedure.

ARTICLE I. IN GENERAL

Secs. 109-1—109-18. Reserved.

ARTICLE II. AGRICULTURAL (AG)

Sec. 109-19. Intent.

The Agricultural (AG) District is intended for areas for long-term agricultural preserves. No sewer service will be provided to these areas. This district is established to preserve farmland in the city.

(Code 2004, pt. 3, § 29.001; Ord. No. 20-2447, 7-20-2020)

Sec. 109-20. Permitted uses.

The following are permitted uses in the Agricultural (AG) Zone:

- (1) Agricultural preserves.
- (2) Single-family detached dwellings.
- (3) Raising domestic farm animals, excluding hogs and fur-bearing animals, not to exceed one animal unit per acre, subject to the farm fence regulations in section 129-8.
- (4) Group family day care.
- (5) State-licensed residential care facilities or housing with services established registered under M.S.A. § 144G serving six or fewer persons.

(Code 2004, pt. 3, § 29.002; Ord. No. 91-1248, 4-4-1991; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 29.002, 12-18-2023)

Sec. 109-21. Accessory uses.

The following accessory uses are allowed in the Agricultural (AG) Zone:

- (1) Private garages/accessory buildings/carports attached to garages.
- (2) Private swimming pools and tennis courts.
- (3) Keeping of not more than two boarders or roomers per dwelling unit.
- (4) Commercial day care accessory to a legal conforming church or school.

(Code 2004, pt. 3, § 29.003; Ord. No. 94-1501, 4-21-1994; Ord. No. 94-1527, 7-21-1994; Ord. No. 20-2447, 7-20-2020)

Sec. 109-22. Conditional uses.

The following are conditional uses in the Agricultural (AG) Zone:

- (1) Boardinghouses.

- (2) Places of worship.
 - (3) Schools.
 - (4) Golf courses.
 - (5) Home occupations as described in section 129-10(d).
 - (6) Private kennels.
 - (7) Accessory buildings, including all garages and carports, with a total combined area greater than 3,000 square feet.
- (Code 2004, pt. 3, § 29.004; Ord. No. 94-1501, 4-21-1994; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 29.004, 12-18-2023)

Sec. 109-23. Standards.

The following standards are required in the Agricultural (AG) Zone:

- (1) Minimum area to be zoned AG: 40 acres.
- (2) Minimum lot area: 40 acres.
- (3) Front footage: 1,200 feet.
- (4) Minimum depth: None.
- (5) Average width: 1,200 feet.
- (6) Front yard setback: 45 feet for house, 45 feet for garage/accessory building, 200 feet for accessory buildings sheltering domestic farm animals.
- (7) Rear yard: 30 feet for house, 30 feet for garage/accessory building, 50 feet for accessory buildings sheltering domestic farm animals.
- (8) Side yard: 20 feet for house, 20 feet for garage/accessory building, 50 feet for accessory buildings sheltering domestic farm animals.
- (9) Corner lot: 45 feet for house, 45 feet for garage/accessory building, 200 feet for accessory buildings sheltering domestic farm animals.
- (10) Garages/accessory buildings.
 - a. It shall be required for all single-family dwellings that there be a garage constructed of a minimum of 400 square feet with no dimension less than 20 feet. Total garage/carport/accessory building space shall not exceed 3,000 square feet of gross area except provided for in article VI of this chapter.
 - b. The architectural style and color of a garage/accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building.
- (11) Maximum building height: 2½ stories or 30 feet.
- (12) No part of the garage shall be considered a livable area.

- (13) For a single-family dwelling, the minimum above grade finished floor area of the various kinds of dwellings shall be as follows:
 - a. Without basement: 1,240 square feet.
 - b. With basement: 1,040 square feet.
 - (14) No residential structure shall have a width of less than 24 feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
 - (15) All residential structures shall have permanent concrete or wood foundations, which comply with the adopted state residential code and which is solid for the complete circumference of the house.
 - (16) All single-family dwellings and additions to single-family dwellings, other than earth-sheltered homes and rear yard pre-engineered patio enclosures, shall have at least a $\frac{3}{12}$ roof pitch and shall have a shingled roof. Pre-engineered patio enclosures shall be limited to not more than 320 square feet of floor area and shall not have any dimension greater than 20 feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit.
 - (17) All residential dwellings must be built in conformance with the adopted state residential code.
 - (18) All residential dwellings shall have roof overhangs which extend a minimum of one foot from the exterior wall of the structure.
 - (19) Any metal siding upon residential structure shall have horizontal edges and overlapping sections no wider than 12 inches. Sheet metal siding shall not be permitted in this residential district except as follows: For parcels of five acres or more, metal siding shall be permitted for accessory structures other than the garage.
 - (20) All single-family lots shall contain a minimum of two front yard trees of a minimum of 2½ inch caliper.
 - (21) Driveways shall not be constructed closer than five feet to the property line.
 - (22) The lowest floor elevation shall be no lower than two feet above the regulatory flood protection elevation or four feet above the high water level established by a registered professional engineer, whichever is greater.
 - (23) Single-family lots shall provide a driveway with a surface equal to the street's surface for the first 35 feet off the traveled street.
- (Code 2004, pt. 3, § 29.005; Ord. No. 84-856, 1-3-1985; Ord. No. 86-972, 8-21-1986; Ord. No. 94-1501, 4-21-1994; Ord. No. 98-1743, 9-17-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2489, 12-20-2021)

Secs. 109-24—109-49. Reserved.

ARTICLE III. FARM RESIDENTIAL (FR)

Sec. 109-50. Intent.

The Farm Residential (FR) District is intended for areas where urban services are not presently available. A minimum lot size of ten acres will retain these lands in their natural uses and agricultural uses pending proper timing of economical provision for parks, streets, utilities, and other public facilities, so that orderly development will occur.

(Code 2004, pt. 3, § 29.011; Ord. No. 20-2447, 7-20-2020)

Sec. 109-51. Permitted uses.

The following are permitted uses in the Farm Residential (FR) Zone:

- (1) Single-family detached dwellings.
- (2) General farming and gardening.
- (3) Raising domestic farm animals, excluding hogs and fur bearing animals, not to exceed one animal unit per acre, subject to the farm fence regulations in section 129-8.
- (4) Group family day care.
- (5) Nurseries.
- (6) State-licensed residential care facilities or housing with services established registered under M.S.A. ch. 144G serving six or fewer persons.

(Code 2004, pt. 3, § 29.012; Ord. No. 91-1248, 4-4-1991; Ord. No. 98-1728, 6-25-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 29.012, 12-18-2023)

Sec. 109-52. Accessory uses.

The following accessory uses are allowed in the Farm Residential (FR) Zone:

- (1) Private garages/accessory buildings/carports attached to garages.
- (2) Private swimming pools and tennis courts.
- (3) Keeping of not more than two boarders or roomers per dwelling unit.
- (4) Commercial day care accessory to a legal conforming church or school.
- (5) Attached accessory dwelling unit or detached accessory dwelling unit consistent with the standards outlined in section 109-54, subject to approval of an administrative permit.
- (6) Ground-mounted solar systems meeting standards outlined in 109-54(25).

(Code 2004, pt. 3, § 29.013; Ord. No. 94-1501, 4-21-1994; Ord. No. 94-1527, 7-21-1994; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2489, 12-20-2021; Ord. No. 24-2560, § 29.013, 9-16-2024)

Sec. 109-53. Conditional uses.

The following are conditional uses in the Farm Residential (FR) Zone:

- (1) Places of worship.
 - (2) Golf courses and golf driving ranges.
 - (3) Schools.
 - (4) Public buildings.
 - (5) Home occupations as described in section 129-10(d).
 - (6) Private kennels.
 - (7) Boardinghouses.
 - (8) Private stables with a density exceeding one horse per acre, or more than 20 horses in aggregate, meeting standards outlined in section 109-54(24).
 - (9) Garden supply stores.
 - (10) Accessory buildings located within the front yard, provided the structure to be placed in the front yard has at least a 100-front yard setback.
 - (11) Accessory buildings with a total combined area greater than 1,200 square feet but less than 3,000 square feet.
- (Code 2004, pt. 3, § 29.014; Ord. No. 89-1113, 4-20-1989; Ord. No. 93-1492, 12-16-1993; Ord. No. 95-1574, 9-21-1995; Ord. No. 98-1729, 6-25-1998; Ord. No. 01-1910, 7-19-2001; Ord. No. 01-1933, 12-20-2001; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 29.014, 12-18-2023)

Sec. 109-54. Standards.

The following standards are required in the Farm Residential (FR) Zone:

- (1) Minimum lot area: ten acres.
- (2) Frontage: 300 feet.
- (3) Average width: 300 feet.
- (4) Minimum depth: none.
- (5) Front yard setback: 45 feet for house, 45 feet for garage/accessory building, 200 feet for accessory buildings sheltering domestic farm animals.
- (6) Rear yard: 30 feet for house, 30 feet for garage/accessory building, 50 feet for accessory buildings sheltering domestic farm animals.
- (7) Side yard: 20 feet for house, 20 feet for garage/accessory building, 50 feet for accessory buildings sheltering domestic farm animals.
- (8) Corner lot: 45 feet for house, 45 feet for garage/accessory building, 200 feet for accessory buildings sheltering domestic farm animals.

- (9) Garages/accessory buildings.
- a. It shall be required for all single-family dwellings that there be a garage constructed of a minimum of 400 square feet with no dimension less than 20 feet. Total garage/accessory building/carport space shall not exceed 1,200 square feet, except as provided by section 109-53(10). The height of the accessory structure shall not exceed the height of the principal building.
 - b. Accessory buildings shall only be located in the rear yard, except as permitted by section 109-53(10). The architectural style and color of a garage/accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building.
- (10) Maximum building height: 2½ stories or 30 feet.
- (11) No part of the garage shall be considered a livable area.
- (12) For a single-family dwelling, the minimum above grade finished floor area of the various kinds of dwellings shall be as follows:
- a. Without basement: 1,240 square feet.
 - b. With basement: 1,040 square feet.
- (13) No residential structure shall have a width of less than 24 feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (14) All residential structures shall have permanent concrete or wood foundations, which comply with the adopted state residential code and which is solid for the complete circumference of the house.
- (15) All single-family dwellings and additions to single-family dwellings, other than earth-sheltered homes and rear yard pre-engineered patio enclosures, shall have at least a 3/12 roof pitch and shall have a shingled roof. Steel panel (standing seam) roofing can be used as an alternative to a shingled roof provided the material used is:
- a. A minimum 26 gauge steel base sheet;
 - b. Provided with a minimum G-90 galvanized protective coating or equivalent;
 - c. A factory finished solid color material with a minimum paint quality grade of standard or better.

All steel panel roofing shall be installed per the most current edition of the state residential building code and the manufacturer's installation instructions. Only manufacturer-produced flashing, fasteners, trim pieces and vents shall be used in the installation of steel panel roofing. Variations on non-manufacturer produced accessories shall be pre-approved by the city

building official for use with any steel panel roofing. Pre-engineered patio enclosures shall be limited to not more than 320 square feet of floor area and shall not have any dimension greater than 20 feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit.

- (16) All residential dwellings must be built in conformance with the state residential code.
- (17) All residential dwellings shall have roof overhangs which extend a minimum of one foot from the exterior wall of the structure.
- (18) Any metal siding upon residential structure shall have horizontal siding edges and overlapping sections no wider than 12 inches. Sheet metal siding shall not be permitted in this residential district except as follows: For parcels of four acres or more, metal siding shall be permitted for accessory structures other than the garage.
- (19) All single-family lots shall contain a minimum of two front yard trees of a minimum of 2½ inch caliper.
- (20) Driveways shall not be constructed closer than five feet to the property line.
- (21) The lowest floor elevation shall be no lower than two feet above the regulatory flood protection elevation or four feet above the high water level established by a registered professional engineer, whichever is greater.
- (22) Single-family lots shall provide a driveway with a surface equal to the street's surface for the first 35 feet off the traveled street.
- (23) Standards and requirements for private stables:
 - a. Minimum lot area: ten acres.
 - b. Maximum density: three horses per acre.
 - c. Must obtain Minnesota Pollution Control Agency (MPCA) feedlot permit.
 - d. Buildings used for sheltering, training, or riding horses shall have a minimum 200-foot setback from any property line.
- (24) Standards and requirements for churches, golf courses and golf driving ranges, schools, and garden supply stores:
 - a. Shall have principal access to a collector or arterial roadway.
 - b. Front, rear, and side yard building and parking setbacks: 45 feet.
 - c. Maximum building height two stories.
 - d. Off street loading and overhead doors shall comply with section 129-14.
 - e. All site improvements and landscaping shall comply with sections 129-6 and 129-7.
 - f. Underground irrigation is required for all front and corner side yards.

- g. Architectural style and building materials shall be compatible with the surrounding area and subject to council approval.

(25) Standards and requirements for ground mounted solar systems:

- a. Rear yard only.
- b. Side yard setback: 20 feet.
- c. Rear yard setback: 30 feet.
- d. The maximum height at full tilt is 15 feet.
- e. The footprint of the solar panel units and any attached and/or detached accessory structures may not total more than 3,000 square feet.
- f. Solar collection devices shall be designed and located to avoid solar glare or reflection onto adjacent properties and right of way and shall not interfere with traffic or create a safety hazard. The property owner shall be responsible to ensure reflection angles from collector surfaces are oriented away from neighboring windows. Where necessary, buffering may be required to address glare.

(Code 2004, pt. 3, § 29.015; Ord. No. 84-856, 1-3-1985; Ord. No. 86-972, 8-21-1986; Ord. No. 94-1501, 4-21-1994; Ord. No. 98-1743, 9-17-1998; Ord. No. 01-1910, 7-19-2001; Ord. No. 11-2225, 6-16-2011; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 29.015, 12-18-2023; Ord. No. 24-2560, § 29.015, 9-16-2024)

Secs. 109-55—109-81. Reserved.

ARTICLE IV. RESIDENTIAL ESTATE (RE)

Sec. 109-82. Intent.

The Residential Estate (RE) District is established to provide for a large lot zoning of 2½ acres or more in size. Single-family homes are permitted in this district. This district shall be located only in areas where sanitary sewer and water services can be extended in the near future.

(Code 2004, pt. 3, § 29.021; Ord. No. 20-2447, 7-20-2020)

Sec. 109-83. Permitted uses.

The following are permitted uses in the Residential Estate (RE) Zone:

- (1) Single-family detached dwellings.
- (2) Group family day care.

- (3) State-licensed residential care facilities or housing with services established registered under M.S.A. ch. 144G serving six or fewer persons.
(Code 2004, pt. 3, § 29.022; Ord. No. 91-1248, 4-4-1991; Ord. No. 20-2447, 7-20-2020)

Sec. 109-84. Accessory uses.

The following accessory uses are allowed in the Residential Estate (RE) Zone:

- (1) Private garages/accessory buildings/carports attached to garages.
- (2) Private swimming pools and tennis courts.
- (3) Keeping of not more than two boarders or roomers per dwelling.
- (4) Commercial day care accessory to a legal conforming church or school.
- (5) Keeping of not more than six hen chickens consistent with standards outlined in section 109-83.
- (6) Attached accessory dwelling unit or detached accessory dwelling unit consistent with the standards outlined in section 109-86, subject to approval of an administrative permit.
- (7) Ground-mounted solar systems meeting standards outlined in 109-86(21).
(Code 2004, pt. 3, § 29.023; Ord. No. 94-1501, 4-21-1994; Ord. No. 94-1527, 7-21-1994; Ord. No. 15-2320, 8-6-2015; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2489, 12-20-2021; Ord. No. 24-2560, § 29.023, 9-16-2024)

Sec. 109-85. Conditional uses.

The following are conditional uses in the Residential Estate (RE) Zone:

- (1) Boardinghouses.
- (2) Schools.
- (3) Places of worship.
- (4) Home occupations as described in section 129-10(d).
- (5) Golf courses.
- (6) Private kennels.
- (7) More than two garage/accessory buildings.
- (8) Garage, carport, and accessory building space with total combined area larger than 2,000 square feet and up to 3,000 square feet for properties outside the metropolitan urban services areas (MUSA) boundary.
(Code 2004, pt. 3, § 29.024; Ord. No. 94-1501, 4-21-1994; Ord. No. 09-2195, 10-15-2009; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 29.024, 12-18-2023)

Sec. 109-86. Standards.

The following standards are required in the Residential Estate (RE) Zone:

- (1) The minimum area to be zoned RE is 40 acres.
- (2) Front yard setback: 35 feet.
- (3) Side yard setback: ten feet.
- (4) Corner lots: 35 feet.
- (5) Rear yard setback: 30 feet.
- (6) Minimum lot size: 104,000 square feet (2 ½ acres).
- (7) Minimum frontage: 100 feet.
- (8) Minimum lot depth: 300 feet.
- (9) Average lot width: 150 feet.
- (10) Maximum building height shall not exceed 2 ½ stories or 30 feet.
- (11) Garages/accessory buildings.
 - a. It shall be required for all single-family dwellings that there be a garage constructed of a minimum of 400 square feet with no dimension less than 20 feet. Total garage and accessory building space shall not exceed 2,000 square feet of gross area for parcels inside the MUSA boundary.
 - b. The architectural style and color of a garage and accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building. Garage/accessory building access doors shall not exceed ten feet in height. Accessory buildings shall only be located in the rear yard.
 - c. No part of the garage shall be considered a livable area.
- (12) For a single-family dwelling, the minimum finished first floor area of the various kinds of dwellings shall be as follows:
 - a. Without basement: 1,240 square feet.
 - b. With basement: 1,040 square feet.
- (13) No residential structure shall have a width of less than 24 feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (14) All residential structures shall have permanent concrete or wood foundations, which comply with the Adopted state residential code and which is solid for the complete circumference of the house.

- (15) All single-family dwellings and additions to single-family dwellings, other than earth-sheltered homes and rear yard pre-engineered patio enclosures, shall have at least a $\frac{3}{12}$ roof pitch and shall have a shingled roof. Steel panel (standing seam) roofing can be used as an alternative to a shingled roof provided the material used is:

- a. A minimum 26 gauge steel base sheet.
- b. Provided with a minimum G-90 galvanized protective coating or equivalent.
- c. A factory finished solid color material with a minimum paint quality grade of standard or better.

All steel panel roofing shall be installed per the most current edition of the state residential building code and the manufacturer's installation instructions. Only manufacturer-produced flashing, fasteners, trim pieces and vents shall be used in the installation of steel panel roofing. Variations on non-manufacturer produced accessories shall be pre-approved by the city building official for use with any steel panel roofing. Pre-engineered patio enclosures shall be limited to not more than 320 square feet of floor area and shall not have any dimension greater than 20 feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit.

- (16) All residential dwellings must be built in conformance with the adopted state residential code.
- (17) All residential dwellings shall have roof overhangs which extend a minimum of one foot from the exterior wall of the structure.
- (18) Any metal siding upon residential structure shall have horizontal edges and overlapping sections no wider than 12 inches. Sheet metal siding shall not be permitted in this residential district.
- (19) Driveways shall not be constructed closer than five feet to the property line.
- (20) The lowest floor elevation shall be no lower than two feet above the regulatory flood protection elevation or four feet above the high water level established by a registered professional engineer, whichever is greater.
- (21) Standards and requirements for ground-mounted solar systems:
- a. Rear yard only.
 - b. Side yard setback: 20 feet.
 - c. Rear yard setback: 30 feet.
 - d. The maximum height at full tilt is 15 feet.
 - e. The footprint of the solar panel units and any attached and/or detached accessory structures may not total more than 2,000 square feet.

- f. Solar collection devices shall be designed and located to avoid solar glare or reflection onto adjacent properties and right of way and shall not interfere with traffic or create a safety hazard. The property owner shall be responsible to ensure reflection angles from collector surfaces are oriented away from neighboring windows. Where necessary, buffering may be required to address glare.

(Code 2004, pt. 3, § 29.025; Ord. No. 84-856, 1-3-1985; Ord. No. 86-972, 8-21-1986; Ord. No. 94-1501, 4-21-1994; Ord. No. 98-1743, 9-17-1998; Ord. No. 01-1911, 7-19-2001; Ord. No. 09-2195, 10-15-2009; Ord. No. 11-2225, 6-16-2011; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2560, § 29.025, 9-16-2024)

Secs. 109-87—109-115. Reserved.

ARTICLE V. SINGLE-FAMILY (R-1)

Sec. 109-116. Intent.

The purpose of the Single-Family (R-1) District is to allow low density single-family units in developing portions of the city where sanitary sewer and water services are available.

(Code 2004, pt. 3, § 29.031; Ord. No. 20-2447, 7-20-2020)

Sec. 109-117. Permitted uses.

The following are permitted uses in the Single-Family (R-1) Zone:

- (1) Single-family detached dwellings.
- (2) Group family day care.
- (3) State-licensed residential care facilities or housing with services established registered under M.S.A. ch. 144G serving six or fewer persons.

(Code 2004, pt. 3, § 29.032; Ord. No. 91-1248, 4-4-1991; Ord. No. 20-2447, 7-20-2020)

Sec. 109-118. Accessory uses.

The following accessory uses are allowed in the Single-Family (R-1) Zone:

- (1) Up to two private garages/accessory buildings.
- (2) Private swimming pools.
- (3) Keeping of not more than two boarders or roomers per dwelling unit.
- (4) Commercial day care accessory to a legal conforming church or school.
- (5) Keeping of not more than six hen chickens consistent with standards outlined in section 129-22.

- (6) Attached accessory dwelling unit consistent with the standards outlined in section 129-25, subject to approval of an administrative permit.
(Code 2004, pt. 3, § 29.033; Ord. No. 90-1193, 3-15-1990; Ord. No. 94-1501, 4-21-1994; Ord. No. 94-1527, 7-21-1994; Ord. No. 15-2320, 8-6-2015; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2489, 12-20-2021; Ord. No. 22-2514, 12-19-2022)

Sec. 109-119. Conditional uses.

The following are conditional uses in the Single-Family (R-1) Zone:

- (1) Boardinghouses.
- (2) Places of worship.
- (3) Schools.
- (4) Golf courses.
- (5) Home occupations as described in section 129-10(d).
- (6) Three garage/accessory buildings.
- (7) Total combined garage, carport and accessory structure space greater than 1,000 square feet and up to 1,200 square feet.
- (8) Detached accessory dwelling unit consistent with the standards outlined in section 129-25.
(Code 2004, pt. 3, § 29.034; Ord. No. 99-1799, 7-8-1999; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2489, 12-20-2021; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 29.034, 12-18-2023)

Sec. 109-120. Standards.

The following standards are required in the Single-Family (R-1) Zone:

- (1) Front yard setback: 30 feet.
- (2) Side yard setback: ten feet.
- (3) Corner lots: 20 feet.
- (4) Rear yard setback: 30 feet. Building setback of 75 feet from the surveyed ordinary high water mark of public waters as defined by the state department of natural resources.
- (5) Garages and accessory buildings shall have rear and side yard setbacks of not less than five feet with the exception that accessory buildings, less than 120 square feet in area, shall have a rear and side yard setback of not less than one foot. Accessory buildings placed within the five-foot setback area, and within a drainage and utility easement, shall not be placed or constructed, in the easement, in a manner to limit the use of the easement or alter storm drainage in any way as to negatively impact other property. Accessory buildings placed within a drainage and utility easement are placed, by the

owner, at the owner's risk of removal by the city or other agencies that may have legal use of the easement. Garages and accessory buildings shall have corner yard setbacks of not less than 20 feet.

- (6) Conditional use permits under section 109-119(2) through (4) shall have the following setbacks:
 - a. Building: 50 feet front, rear and side;
 - b. Parking: 30 feet front, rear and side.
- (7) Minimum lot size: 10,000 square feet.
- (8) Minimum lot width as measured at the front setback line: 80 feet.
- (9) Minimum frontage: 60 feet.
- (10) Minimum depth: 125 feet.
- (11) Maximum building height shall not exceed 2½ stories or 30 feet, whichever is less.
- (12) It shall be required for all single-family dwellings that there be a garage constructed of a minimum of 400 square feet with no dimension less than 20 feet. Total combined garage, carport and accessory building space shall not exceed 1,000 square feet unless specifically authorized by a conditional use permit. The architectural style and color of a garage and accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building. Garage/accessory building access doors shall not exceed ten feet in height.
- (13) No accessory building, other than a garage shall be located within any yard other than the rear yard, except that single story accessory buildings may be permitted in the side yard with the approval of the zoning administrator only if there is a door on the same side of the single-family dwelling that is accessible to living space. Side yard shed approval will also be based on a screening plan consisting of privacy fencing and or landscaping to minimize the impact to adjacent properties. Garages located in the rear yard must have capability of driveway access. The minimum width of access drive shall be no less than eight feet with a three-foot setback for a total width of 11 feet. Access can include the ability to drive through existing garage into the rear yard upon providing evidence that an eight-foot minimum width garage door has been installed along the rear of the garage and that access to rear door is not restricted by non-vehicular storage. If grass is unable to be maintained in the access drive, a driveway meeting the standards of subsection (20) of this section shall be installed to access the garage. Garages or accessory buildings not having driveway access capability shall be limited in door size to no more than six feet in width to preclude storage of vehicles normally requiring driveway access.

- (14) For a single-family dwelling, the minimum finished first floor area of the various kinds of dwellings shall be as follows:
 - a. Without basement: 1,240 square feet.
 - b. With basement: 1,040 square feet.
- (15) No residential structure shall have a width of less than 24 feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (16) All single-family dwellings and additions to single-family dwellings, other than earth-sheltered homes and rear yard pre-engineered patio enclosures, shall have at least a $\frac{3}{12}$ roof pitch and shall have a shingled roof. Steel panel (standing seam) roofing can be used as an alternative to a shingled roof provided the material used is:
 - a. A minimum 26-gauge steel base sheet.
 - b. Factory finished solid color material with a minimum paint quality grade of standard or better.

All steel panel roofing shall be installed per the most current edition of the state residential code and the manufacturer's installation instructions. Only manufacturer produced flashing, fasteners, trim pieces and vents shall be used in the installation of steel panel roofing. Variations on non-manufacturer produced accessories shall be pre-approved by the city building official for use with any steel panel roofing. Pre-engineered patio enclosures shall be limited to not more than 320 square feet of floor area and shall not have any dimension greater than 20 feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit.

- (17) All residential dwellings must be built in conformance with the state residential code.
- (18) All residential dwellings shall have roof overhangs which extend a minimum of one foot from the exterior wall of the structure.
- (19) Any metal siding upon residential structure shall have horizontal edges and overlapping sections no wider than 12 inches. Sheet metal siding shall not be permitted in this residential district.
- (20) Driveways shall not be constructed closer than three feet to the property line. All driveways and approaches shall be hard surfaced using concrete, blacktop, or equivalent paving approved by the city engineer.
- (21) It shall be required that all front yards, rear yards, and side yards be sodded over a minimum of four inches of black dirt. Each lot shall also contain two front yard overstory deciduous trees of 2½ caliper inches. One of the required trees may be replaced by a six-foot conifer or two ornamental trees of two

caliper inches. One additional overstory tree shall be planted in side corner yards on corner lots. In addition, all corner lots will contain an additional boulevard tree along the corner side yard. All trees shall meet the city's residential tree planting requirements. All landscaping work to be completed at the time of request for a certificate of occupancy if issued between May 15 and October 15, unless dates have been modified by the zoning administrator to accommodate unseasonable weather. A certificate of occupancy requested after October 15 and before May 15 may be issued with a cash deposit submitted by the builder in an amount required by the zoning administrator to guarantee installation of landscaping. Natural areas left undisturbed can be excluded from this requirement with the approval of the zoning administrator.

(22) The lowest floor elevation shall be no lower than the regulatory flood protection elevation or four feet above the high groundwater level established by a registered professional engineer, whichever is greater.

(23) All new homes constructed southeast or northeast of the county airport, as subsequently described shall meet the noise abatement standards, as provided for in section 129-21. The southeast area is bounded by 85th Avenue, 35 W, 95th Avenue and the Airport; the northeast area is bounded by 101st Avenue, Naples Street, 109th Avenue, and Radisson Road.

(Code 2004, pt. 3, § 29.035; Ord. No. 84-839, 9-6-1984; Ord. No. 84-856, 1-3-1985; Ord. No. 86-972, 8-21-1986; Ord. No. 87-1000, 5-7-1987; Ord. No. 89-1163, 10-19-1989; Ord. No. 90-1193, 3-15-1990; Ord. No. 94-1501, 4-21-1994; Ord. No. 99-1799, 4-21-1994; Ord. No. 94-1543, 2-16-1995; Ord. No. 97-1686, 11-20-1997; Ord. No. 98-1694, 1-22-1998; Ord. No. 98-1705, 3-19-1998; Ord. No. 98-1743, 9-17-1998; Ord. No. 99-1771, 3-4-1999; Ord. No. 99-1813, 9-16-1999; Ord. No. 99-1823, 11-18-1999; Ord. No. 00-1836, 3-16-2000; Ord. No. 01-1903, 5-23-2001; Ord. No. 05-2053, 8-18-2005; Ord. No. 05-2062, 10-20-2005; Ord. No. 12-2249, 4-19-2012; Ord. No. 17-2371, 2-2-2017; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022; Ord. No. 23-2535, § 29.035, 12-18-2023)

Secs. 109-121—109-138. Reserved.

ARTICLE VI. SINGLE-FAMILY (R-1A)

Sec. 109-139. Intent.

The purpose of the Single-Family (R-1A) District is to allow low density single-family units in developing portions of the city. This district shall encourage larger lot single-family dwelling units utilizing city services of sanitary sewer, water, street, and storm drainage.

(Code 2004, pt. 3, § 29.051; Ord. No. 87-1044, 11-5-1987; Ord. No. 20-2447, 7-20-2020)

Sec. 109-140. Permitted uses.

The following are permitted uses in the Single-Family (R-1A) Zone:

- (1) Single-family detached dwellings.
- (2) Group family day care.
- (3) State-licensed residential care facilities or housing with services established registered under M.S.A. ch. 144G serving six or fewer persons.
(Code 2004, pt. 3, § 29.052; Ord. No. 87-1044, 11-5-1987; Ord. No. 91-1248, 4-4-1991; Ord. No. 20-2447, 7-20-2020)

Sec. 109-141. Accessory uses.

The following accessory uses are allowed in the Single-Family (R-1A) Zone:

- (1) Up to two private garages/accessory buildings.
- (2) Private swimming pools.
- (3) Private tennis courts and patios.
- (4) Signs as regulated under section 133-7(c).
- (5) Keeping of not more than two boarders or roomers per dwelling unit.
- (6) Keeping of not more than six hen chickens consistent with standards outlined in section 129-22.
- (7) Attached accessory dwelling unit consistent with the standards outlined in section 129-25, subject to approval of an administrative permit.
(Code 2004, pt. 3, § 29.053; Ord. No. 87-1044, 11-5-1987; Ord. No. 94-1501, 4-21-1994; Ord. No. 15-2320, 8-6-2015; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2489, 12-20-2021; Ord. No. 22-2514, 12-19-2022)

Sec. 109-142. Conditional uses.

The following are conditional uses in the Single-Family (R-1A) Zone:

- (1) Boardinghouse.
- (2) Home occupations as described in section 129-10(d).
- (3) Three garage/accessory buildings.
- (4) Recreation facilities such as golf courses and country clubs.
- (5) Detached accessory dwelling unit consistent with the standards outlined in section 129-25.
(Code 2004, pt. 3, § 29.054; Ord. No. 87-1044, 11-5-1987; Ord. No. 94-1501, 4-21-1994; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2489, 12-20-2021; Ord. No. 22-2514, 12-19-2022)

Sec. 109-143. Standards.

The following standards are required in the Single-Family (R-1A) Zone:

- (1) Front yard setback: 35 feet.
- (2) Side yard setback: ten feet.
- (3) Corner side yard setback: 25 feet.
- (4) Rear yard setback: 30 feet.
- (5) Rear yard and side yard setback for detached garage: 15 feet, and accessory buildings: five feet. Rear yard and side yard setback for accessory buildings less than 120 square feet: one foot. Corner yard setback for garages and accessory buildings: 25 feet.
- (6) Uses by conditional use permit section 109-142(4) shall have the following building setbacks for front yard, side yard, and rear yard: 50 feet.
- (7) Parking/driveway for conditional uses section 109-142(4) shall have a minimum setback of 25 feet.
- (8) Minimum lot size.
 - a. 12,150 square feet (interior lot) with city sewer and water services.
 - b. 13,500 square feet (corner lot) with city water and sewer services.
 - c. Ten acres without city sewer and water services.
- (9) Minimum lot width.
 - a. Minimum lot width as measured at the front setback line: 90 feet.
 - b. Minimum corner lot width: 100 feet.
- (10) Minimum lot depth: 135 feet.
- (11) Maximum building height: 2½ stories or 35 feet. An accessory structure shall not exceed the height of the home.
- (12) Garages/accessory buildings.
 - a. It shall be required for all single-family dwellings that there be a garage constructed of a minimum of 528 square feet (24 feet by 22 feet). Total combined garage and accessory building space shall not exceed 1,200 square feet. Attached garages shall have a side yard setback of not less than ten feet. Triple stall attached garages shall have a side yard setback of not less than five feet.
 - b. The architectural style and color of a garage and accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building. Garage and accessory access doors shall not exceed ten feet in height.

- (13) No accessory building, other than a garage shall be located within any yard other than the rear yard, except that single story accessory buildings may be permitted in the side yard with the approval of the zoning administrator only if there is a door on the same side of the single-family dwelling that is accessible to living space. Side yard shed approval will also be based on a screening plan consisting of privacy fencing and or landscaping to minimize the impact to adjacent properties. Garages located in the rear yard must have capability of driveway access. The minimum width of access drive shall be no less than eight feet with a five-foot setback for a total width of 13 feet. Access can include the ability to drive through existing garage into the rear yard upon providing evidence that an eight-foot minimum width garage door has been installed along the rear of the garage and that access to rear door is not restricted by non-vehicular storage. If grass is unable to be maintained in the access drive, a driveway meeting the standards of subsection (20) of this section shall be installed to access the garage. Garages or accessory buildings not having driveway access capability shall be limited in door size to no more than six feet in width to preclude storage of vehicles normally requiring driveway access.
- (14) For a single-family dwelling, the minimum finished floor area at or above grade of the various kinds of dwellings shall be as follows:
- With basement: 1,500 square feet.
 - Without basement: 1,700 square feet.
- (15) No residential structure shall have a width of less than 26 feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (16) All single-family dwellings and additions to single-family dwellings, other than earth-sheltered homes and rear yard pre-engineered patio enclosures, shall have at least a $\frac{3}{12}$ roof pitch and shall have a shingled roof. Pre-engineered patio enclosures shall be limited to not more than 320 square feet of floor area and shall not have any dimension greater than 20 feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit.
- (17) All residential dwellings must be built in conformance with the state residential code.
- (18) Residential dwellings shall have roof overhangs which extend a minimum of two feet from the exterior wall of the structure or approved alternative.
- (19) Any single-family house constructed in this zoning district shall use the following exterior materials:
- Front elevation: use of wood, stone, stucco, fiber cement or composite siding, or brick. Metal or vinyl siding is also permitted on the front

exterior when used in combination with wood, stone, stucco, or brick. The minimum gauge of the siding shall be 0.024 for metal and 0.042 for vinyl. The maximum coverage of metal and vinyl siding shall be 75 percent of front exterior exclusive of window and door openings.

- b. Side/rear elevations: use of wood, stone, stucco, brick, wood paneling, metal, fiber cement or composite siding product, or vinyl.
- (20) Driveways shall not be constructed closer than five feet to the property line. All driveways and approaches shall be hard surfaced using concrete, blacktop, or equivalent paving approved by the city engineer.
- (21) It shall be required that all front yards, side yards, and rear yards of a new single-family dwelling be sodded over a minimum of four inches of black dirt. Each lot shall also contain two front yard overstory deciduous trees of 2½ caliper inches. One of the required trees may be replaced by a six-foot conifer or two ornamental trees of two caliper inches. One additional overstory tree shall be planted in side corner yards on corner lots. All trees shall meet the city's residential tree planting requirements. All landscaping work to be completed at the time of request for a certificate of occupancy if issued between May 15 and October 15, unless dates have been modified by the zoning administrator to accommodate unseasonable weather. A certificate of occupancy requested after October 15 and before May 15 may be issued with a cash deposit submitted by the builder in an amount required by the zoning administrator to guarantee installation of landscaping. Any undisturbed area beyond the first 120 feet of lot depth may be left in its natural vegetative state.
- (22) The lowest floor elevation shall be no lower than the regulatory flood protection elevation or four feet above the high groundwater level established by a registered professional engineer, whichever is greater.
- (23) All new homes constructed southeast or northeast of the county airport, as subsequently described, shall meet the noise abatement standards, as provided for in section 129-21. The southeast area is bounded by 85th Avenue, 35W, 95th Avenue and the Airport; the northeast area is bounded by 101st Avenue, Naples Street, 109th Avenue, and Radisson Road.
- (Code 2004, pt. 3, § 29.055; Ord. No. 87-1044, 11-5-1987; Ord. No. 89-1167, 11-16-1989; Ord. No. 90-1193, 3-15-1990; Ord. No. 90-1195, 3-15-1990; Ord. No. 90-1217, 8-2-1990; Ord. No. 92-1304, 8-20-1992; Ord. No. 94-1501, 4-21-1994; Ord. No. 94-1543, 2-14-1995; Ord. No. 96-1599, 5-16-1996; Ord. No. 98-1705, 3-19-1998; Ord. No. 98-1743, 9-17-1998; Ord. No. 99-1771, 3-4-1999; Ord. No. 01-1903, 3-4-1999; Ord. No. 99-1823, 11-18-1999; Ord. No. 00-1836, 3-16-2000; Ord. No. 05-2053, 8-18-2005; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022; Ord. No. 24-2568, § 29.055, 11-18-2024)

Secs. 109-144—109-169. Reserved.

ARTICLE VII. SINGLE-FAMILY (R-1AA)

Sec. 109-170. Intent.

The purpose of the Single-Family (R-1AA) District is to allow low density single-family units in developing portions of the city where sanitary sewer and water services are available. This district establishes lot sizes and house sizes that are slightly larger than those of the R-1 District.

(Code 2004, pt. 3, § 29.041; Ord. No. 90-1181, 1-18-1990; Ord. No. 20-2447, 7-20-2020)

Sec. 109-171. Permitted uses.

The following are permitted uses in the Single-Family (R-1AA) Zone:

- (1) Single-family detached dwellings.
- (2) Group family day care.
- (3) State-licensed residential care facilities or housing with services established registered under M.S.A. ch. 144G serving six or fewer persons.

(Code 2004, pt. 3, § 29.042; Ord. No. 90-1181, 1-18-1990; Ord. No. 91-1248, 4-4-1991; Ord. No. 20-2447, 7-20-2020)

Sec. 109-172. Accessory uses.

The following accessory uses are allowed in the Single-Family (R-1AA) Zone:

- (1) Up to two private garages/accessory buildings.
- (2) Private swimming pools.
- (3) Keeping of not more than two boarders or roomers per dwelling unit.
- (4) Commercial day care accessory to a legal conforming church or school.
- (5) Keeping of not more than six hen chickens consistent with standards outlined in section 129-22.
- (6) Attached accessory dwelling unit consistent with the standards outlined in section 129-25, subject to approval of an administrative permit.

(Code 2004, pt. 3, § 29.043; Ord. No. 90-1181, 1-18-1990; Ord. No. 94-1501, 4-21-1994; Ord. No. 94-1527, 7-21-1994; Ord. No. 15-2320, 8-6-2015; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2489, 12-20-2021; Ord. No. 22-2514, 12-19-2022)

Sec. 109-173. Conditional uses.

The following are conditional uses in the Single-Family (R-1AA) Zone:

- (1) Boardinghouses.

- (2) Places of worship.
 - (3) Schools.
 - (4) Golf courses.
 - (5) Home occupations as described in 129-10(d).
 - (6) Three garage/accessory buildings.
 - (7) Total combined garage and accessory structure space greater than 1,000 square feet and up to 1,200 square feet.
 - (8) Detached accessory dwelling unit consistent with the standards outlined in section 129-25.
- (Code 2004, pt. 3, § 29.044; Ord. No. 90-1181, 1-18-1990; Ord. No. 99-1799, 7-8-1999; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2489, 12-20-2021; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 29.044, 12-18-2023)

Sec. 109-174. Standards.

The following standards are required in the Single-Family (R-1AA) Zone:

- (1) Front yard setback: 30 feet.
- (2) Side yard setback: ten feet.
- (3) Corner lots: 20 feet.
- (4) Rear yard setback: 30 feet.
- (5) Garages and accessory buildings shall have rear and side yard setbacks of not less than five feet with the exception that accessory buildings less than 120 square feet shall meet a one-foot setback. Garages and accessory buildings shall meet a corner side yard setback of not less than 20 feet.
- (6) Conditional use permits under section 109-173(2) through (5) shall have the following setbacks:
 - a. Building: 50 feet front, rear and side;
 - b. Parking: 30 feet front, rear and side.
- (7) Minimum lot size: 10,800 square feet.
- (8) Lot width: 80 feet.
- (9) Lot width corner: 90 feet.
- (10) Minimum frontage: 60 feet.
- (11) Minimum depth: 125 feet.
- (12) Maximum building height shall not exceed 2½ stories or 30 feet, whichever is less.

- (13) It shall be required for all single-family dwellings that there be a garage constructed of a minimum of 400 square feet with no dimension less than 20 feet. Total combined garage and accessory building space shall not exceed 1,000 square feet unless specifically authorized by a conditional use permit. The architectural style and color of a garage and accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building. Garage/accessory building doors shall not exceed ten feet in height.
- (14) No accessory building, other than a garage shall be located within any yard other than the rear yard, except that single story accessory buildings may be permitted in the side yard with the approval of the zoning administrator only if there is a door on the same side of the single-family dwelling that is accessible to living space. Side yard shed approval will also be based on a screening plan consisting of privacy fencing and or landscaping to minimize the impact to adjacent properties. Garages located in the rear yard must have capability of driveway access. The minimum width of access drive shall be no less than eight feet with a three-foot setback for a total width of 11 feet. Access can include the ability to drive through existing garage into the rear yard upon providing evidence that an eight-foot minimum width garage door has been installed along the rear of the garage and that access to rear door is not restricted by non-vehicular storage. If grass is unable to be maintained in the access drive, a driveway meeting the standards of section 109-120(20) shall be installed to access the garage. Garages or accessory buildings not having driveway access capability shall be limited in door size to no more than six feet in width to preclude storage of vehicles normally requiring driveway access.
- (15) For a single-family dwelling, the minimum finished floor area above grade shall be 1,240 square feet.
- (16) No residential structure shall have a width of less than 24 feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (17) All single-family dwellings and additions to single-family dwellings, other than earth-sheltered homes and rear yard pre-engineered patio enclosures, shall have at least a $\frac{3}{12}$ roof pitch and shall have a shingled roof. Pre-engineered patio enclosures shall be limited to not more than 320 square feet of floor area and shall not have any dimension greater than 20 feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit.
- (18) All residential dwellings must be built in conformance with the state residential code.

- (19) Any metal siding used on residential structures shall have horizontal edges and overlapping sections no wider than 12 inches. Sheet metal siding shall not be permitted in this residential district.
 - (20) Residential driveways and vehicle parking areas shall not be constructed closer than three feet to the property line. All driveways, approaches and vehicle parking areas shall be hard surfaced using concrete, blacktop, or equivalent paving approved by the city engineer.
 - (21) All front yards, rear yards, and side yards shall be sodded over a minimum of four inches of black dirt. All landscaping work to be completed at the time of request for a certificate of occupancy if issued between May 15 and October 15, unless dates have been modified by the zoning administrator to accommodate unseasonable weather. A certificate of occupancy requested after October 15 and before May 15 may be issued with a cash deposit submitted by the builder in an amount required by the zoning administrator to guarantee installation of landscaping. Natural areas left undisturbed can be excluded from this requirement with the approval of the zoning administrator. In addition, each lot shall contain two front yard overstory deciduous trees of 2½ caliper inches. One of the required trees may be replaced by a six-foot conifer or two ornamental trees of two caliper inches. One additional overstory tree shall be planted in side corner yards on corner lots. In addition, all corner lots will contain an additional tree along the corner side yard. All trees shall meet the city's residential tree planting requirements. Existing trees within the front yard can be substituted upon approval of the zoning administrator.
 - (22) The lowest floor elevation shall be no lower than the regulatory flood protection elevation or four feet above the high groundwater level as established by a registered professional engineer, whichever is greater.
 - (23) All new homes constructed southeast or northeast of the county airport, as subsequently described shall meet the noise abatement standards, as provided for in section 129-21. The southeast area is bounded by 85th Avenue, 35W, 95th Avenue and the Airport; the northeast area is bounded by 101st Avenue, Naples Street, 109th Avenue, and Radisson Road.
- (Code 2004, pt. 3, § 29.045; Ord. No. 90-1181, 1-18-1990; Ord. No. 94-1501, 4-21-1994; Ord. No. 94-1543, 2-16-1995; Ord. No. 97-1686, 11-20-1997; Ord. No. 98-1705, 3-19-1998; Ord. No. 98-1743, 9-17-1998; Ord. No. 99-1771, 3-4-1999; Ord. No. 99-1799, 6-24-1999; Ord. No. 99-1813, 9-16-1999; Ord. No. 99-1823, 11-18-1999; Ord. No. 00-1836, 3-16-2000; Ord. No. 01-1903, 5-23-2001; Ord. No. 05-2053, 8-18-2005; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022; Ord. No. 23-2535, § 29.045, 12-18-2023; Ord. No. 24-2568, § 29.045, 11-18-2024)

Secs. 109-175—109-201. Reserved.

ARTICLE VIII. SINGLE-FAMILY (R-1B)**Sec. 109-202. Intent.**

The purpose of the Single-Family (R-1B) District is to allow low density single-family units in developing portions of the city. This district shall encourage tree preservation, open space, and larger lot single-family dwelling units utilizing city services of sanitary sewer, water, street, and storm drainage.

(Code 2004, pt. 3, § 29.061; Ord. No. 99-1770, 2-19-1999; Ord. No. 20-2447, 7-20-2020)

Sec. 109-203. Permitted uses.

The following are permitted uses in the Single-Family (R-1B) Zone:

- (1) Single-family detached dwellings.
- (2) Group family day care.
- (3) State-licensed residential care facilities or housing with services established registered under M.S.A. ch. 144G serving six or fewer persons.

(Code 2004, pt. 3, § 29.062; Ord. No. 91-1248, 4-4-1991; Ord. No. 99-1770, 2-19-1999; Ord. No. 20-2447, 7-20-2020)

Sec. 109-204. Accessory uses.

The following accessory uses are allowed in the Single-Family (R-1B) Zone:

- (1) Detached accessory buildings meeting the requirements of section 109-206(12) and chicken coops as regulated under section 129-22.
- (2) Private swimming pools.
- (3) Private tennis courts and patios.
- (4) Signs as regulated under section 133-7(c).
- (5) Keeping of not more than two boarders or roomers per dwelling unit.
- (6) Keeping of not more than six hen chickens consistent with standards outlined in section 129-22.
- (7) Attached accessory dwelling unit consistent with the standards outlined in section 129-25, subject to approval of an administrative permit.

(Code 2004, pt. 3, § 29.063; Ord. No. 99-1770, 2-19-1999; Ord. No. 15-2320, 8-6-2015; Ord. No. 20-2447, 7-20-2020; Ord. No. 20-2465, 12-7-2020; Ord. No. 21-2489, 12-20-2021)

Sec. 109-205. Conditional uses.

The following are conditional uses in the Single-Family (R-1B) Zone:

- (1) Boardinghouse.

- (2) Home occupations as described in section 129-10(d).
- (3) Recreation facilities such as golf courses and country clubs.
(Code 2004, pt. 3, § 29.064; Ord. No. 99-1770, 2-19-1999; Ord. No. 20-2447, 7-20-2020)

Sec. 109-206. Standards.

The following standards are required in the Single-Family (R-1B) Zone:

- (1) Front yard setback: 25 feet minimum.
- (2) Side yard setback: ten feet.
- (3) Corner side yard setback: 25 feet.
- (4) Rear yard setback: 35 feet.
- (5) Developments, structures, utilities, and all other site activities shall be designed, installed, and constructed so that the maximum number of trees are preserved on all lots or parcels. Flexibility of city standards shall be considered, when possible, to ensure the preservation of the maximum number of trees.
- (6) Parking/driveway for conditional uses shall have a minimum setback of 25 feet.
- (7) Minimum lot size: 15,000 square feet (interior lot) with city sewer and water services. 16,500 square feet (corner lot) with city water and sewer services. Ten acres without city sewer and water services.
- (8) Minimum lot width: 100 feet.
- (9) Minimum corner lot width: 110 feet.
- (10) Minimum lot depth: 135 feet.
- (11) Maximum building height: 2½ stories or 35 feet.
- (12) It shall be required for all single-family dwellings that there be an attached garage constructed of a minimum of 528 square feet (24 feet by 22 feet). Total attached garage space and detached accessory building space shall not exceed 1,200 square feet of gross area. A minimum garage shall be located on the lot such to allow for future expansion of ten feet in width.
 - a. Garages (attached) shall have a rear and side yard setback of not less than ten feet. Detached accessory buildings shall have rear and side yard setback of not less than five feet. However, pursuant to section 34-369, no detached accessory building may be located in the protective buffer zone of any stormwater pond. The protective buffer zone for the R-1B district is 75 feet from the high water level of the stormwater pond as defined in section 34-313.

- b. One detached accessory building per lot is allowed and the square footage of the detached accessory building shall not exceed 120 square feet. A minimum garage shall be located on the lot such to allow for future expansion of ten feet in width.
 - c. The architectural style and color of an attached garage and detached accessory building shall be compatible with the principal building. The facing material of the attached garage shall be compatible with the principal building. Garage (attached) doors shall not exceed ten feet in height and detached accessory building doors cannot exceed eight feet in height.
 - d. Detached accessory buildings placed within a drainage and utility easement are done so at the owner's risk of removal by the city or other agencies that may have legal use of the easement.
- (13) No part of the garage shall be considered a livable area.
- (14) For a single-family dwelling, the minimum finished floor area at or above grade of the various kinds of dwellings shall be as follows:
- a. Without basement: 2,000 square feet.
 - b. With basement: 1,800 square feet.
- (15) No residential structure shall have a width of less than 28 feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (16) All residential structures shall have permanent concrete or wood foundations, which comply with the adopted state residential code and which is solid for the complete circumference of the house.
- (17) All single-family dwellings, other than earth-sheltered homes, shall have at least a $\frac{5}{12}$ roof pitch and shall have a shingled roof, unless alternative is approved by the zoning administrator.
- (18) All residential dwellings must be built in conformance with the residential code as adopted in the state.
- (19) All residential dwellings shall have roof overhangs which extend a minimum of one foot from the exterior wall of the structure.
- (20) Any single-family house constructed in this zoning district shall use the following exterior materials:
- a. Front elevation: Use of wood, fiber cement or composite siding, stone, stucco or brick. steel, or aluminum, or 0.041 or better vinyl siding may be used in combination with these other materials.
 - b. Side/rear elevations: Use of wood, fiber cement or composite siding, stone, stucco, brick, aluminum, or steel, or 0.041 or better vinyl siding.

- (21) Driveways shall not be constructed closer than five feet to the property line. All driveways and approaches shall be hard surfaced using concrete, blacktop, or equivalent paving approved by the city engineer.
 - (22) It shall be required that all front yards, side yards, and rear yards of a new single-family dwelling be sodded over a minimum of four inches of black dirt. Each lot shall contain a minimum of two front yard overstory deciduous trees of 2 ½ caliper inches. One of the required trees may be replaced by a six-foot conifer or two ornamental trees of two caliper inches. One additional overstory tree shall be planted in side corner yards on corner lots. All trees shall meet the city's residential tree planting requirements. Existing trees within the front yard can be substituted upon approval of the community development department. All landscaping work to be completed at the time of request for a certificate of occupancy if issued between May 15 and October 15. A certificate of occupancy requested after October 15 and before May 15 may be issued with a cash deposit submitted by the builder in an amount required by the zoning administrator to guarantee installation of landscaping. Natural areas left undisturbed can be excluded from this requirement with the approval of the zoning administrator.
 - (23) The lowest floor elevation shall be no lower than the regulatory flood protection elevation or four feet above the high water level established by a registered professional engineer, whichever is greater.
- (Code 2004, pt. 3, § 29.065; Ord. No. 94-1501, 4-21-1994; Ord. No. 99-1770, 2-19-1999; Ord. No. 01-1903, 5-23-2001; Ord. No. 01-1922, 10-4-2001; Ord. No. 20-2447, 7-20-2020; Ord. No. 20-2465, 12-7-2020)

Secs. 109-207—109-235. Reserved.

ARTICLE IX. TWO-FAMILY (R-2)

Sec. 109-236. Intent.

The purpose of the Two-Family (R-2) District is to allow single- and two-family dwelling units in developing portions of the city where sanitary sewer and water services are available. This district shall be located adjacent to collector or arterial streets.

(Code 2004, pt. 3, § 29.071; Ord. No. 90-1222, 9-6-1990; Ord. No. 20-2447, 7-20-2020)

Sec. 109-237. Permitted uses.

The following are permitted uses in the Two-Family (R-2) Zone:

- (1) Two-family detached dwellings.

- (2) Single-family detached dwelling meeting all requirements of section 109-120.
- (3) Group family day care.
- (4) State-licensed residential care facilities or housing with services established registered under M.S.A. ch. 144G serving six or fewer persons.
(Code 2004, pt. 3, § 29.072; Ord. No. 90-1222, 9-6-1990; Ord. No. 91-1248, 4-4-1991; Ord. No. 20-2447, 7-20-2020)

Sec. 109-238. Accessory uses.

The following accessory uses are allowed in the Two-Family (R-2) Zone:

- (1) Private garages/accessory buildings.
- (2) Private swimming pools.
- (3) One accessory building.
- (4) Commercial day care accessory to a legal conforming church or school.
(Code 2004, pt. 3, § 29.073; Ord. No. 94-1501, 4-21-1994; Ord. No. 94-1527, 7-21-1994; Ord. No. 20-2447, 7-20-2020)

Sec. 109-239. Conditional uses.

The following are conditional uses in the Two-Family (R-2) Zone:

- (1) Boardinghouses.
- (2) Places of worship.
- (3) Public buildings.
- (4) Home occupations as described in section 129-10(d).
- (5) Golf courses.
- (6) Zero lot line splits.
- (7) More than two garage/accessory buildings.
- (8) Manufactured home park meeting the standards of article XIV of this chapter.
(Code 2004, pt. 3, § 29.074; Ord. No. 94-1501, 4-21-1994; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 29.074, 12-18-2023)

Sec. 109-240. Standards.

The following standards are required in the Two-Family (R-2) Zone:

- (1) Front yard setback: 35 feet.
- (2) Side yard setback: ten feet.
- (3) Corner lots: 35 feet.
- (4) Rear yard setback: 30 feet.

- (5) Rear yard setback, detached garages and accessory buildings: five feet.
- (6) Minimum lot size: 14,000 square feet.
- (7) Zero lot line split: 6,250 square feet/lot.
- (8) Average lot width: 90 feet.
- (9) Minimum frontage: 60 feet.
- (10) Minimum depth: 125 feet.
- (11) Maximum building height shall not exceed 2½ stories or 30 feet, whichever is less.
- (12) Garages/accessory buildings.
 - a. It shall be required for all two-family dwellings that there be a garage constructed of a minimum of 400 square feet with no dimension less than 20 feet for each individual dwelling unit. Total garage and accessory building space per unit shall not exceed ten percent of the lot area and in no case exceed 1,000 square feet of gross area. Garages shall have a side yard setback of not less than five feet.
 - b. The architectural style and color of a garage or accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building. Garage access doors shall not exceed ten feet in height. No accessory building, other than the garage, shall be located within any yard other than the rear yard.
- (13) Conditional use permits (except for those uses in section 109-239(1), (4), (6) and (7) shall have the following setbacks:
 - a. Front yard setback: 50 feet;
 - b. Side yard setback: 50 feet;
 - c. Rear yard setback: 50 feet.
- (14) No part of the garage shall be considered a livable area.
- (15) For two-family dwelling houses, the minimum finished floor area for one- and two-bedroom units shall be 850 square feet per unit. Each additional bedroom beyond two shall require an additional 120 square feet of finished floor area.
- (16) No residential structure shall have a width of less than 24 feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (17) All residential structures shall have permanent concrete or wood foundations, which comply with the Adopted state residential code and which is solid for the complete circumference of the house.

- (18) All two-family and single-family dwellings and additions to two-family and single-family dwellings, other than earth-sheltered homes, shall have at least a $\frac{3}{12}$ roof pitch and shall have a shingled roof. Pre-engineered patio enclosures shall be limited to not more than 320 square feet of floor area and shall not have any dimension greater than 20 feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit.
- (19) All residential dwellings must be built in conformance with the adopted state residential code.
- (20) All residential dwellings shall have roof overhangs which extend a minimum of one foot from the exterior wall of the structure.
- (21) Any metal siding upon residential structure shall have horizontal edges and overlapping sections no wider than 12 inches. Sheet metal siding shall not be permitted in this residential district.
- (22) Driveways shall not be constructed closer than five feet to the property line except for common lot lines on zero lot line splits.
- (23) It shall be required that all front yards, rear yards, and side yards be sodded over a minimum of four inches of black dirt and that the work be completed at the time of request for a certificate of occupancy. Natural areas left undisturbed can be excluded from this requirement with the approval of the zoning administrator. Each lot shall contain two front yard overstory deciduous trees of 2½ caliper inches. One of the required trees may be replaced by a six-foot conifer or two ornamental trees of two caliper inches. One additional overstory tree shall be planted in side corner yards on corner lots.
- (24) The lowest floor elevation shall be no lower than two feet above the regulatory flood protection elevation or four feet above the high water level established by a registered professional engineer, whichever is greater.
- (25) Maintenance free exterior as approved by the zoning administrator.
(Code 2004, pt. 3, § 29.075; Ord. No. 84-839, 9-6-1984; Ord. No. 84-856, 1-3-1985; Ord. No. 86-948, 6-5-1986; Ord. No. 86-972, 8-21-1986; Ord. No. 89-1141, 5-18-1989; Ord. No. 94-1501, 4-21-1994; Ord. No. 94-1538, 11-17-1994; Ord. No. 97-1686, 11-20-1997; Ord. No. 98-1743, 9-17-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022)

Secs. 109-241—109-258. Reserved.

ARTICLE X. LOW DENSITY MULTIFAMILY (R-3A)

Sec. 109-259. Intent.

The Low Density Multifamily (R-3A) District is intended to allow the development of townhouses or quads. These districts shall be located on the fringe of established one- and two-family residential neighborhoods.

(Code 2004, pt. 3, § 29.081; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022)

Sec. 109-260. Permitted uses.

The following are permitted uses in the Low Density Multifamily (R-3A) Zone:

- (1) Townhouses.
- (2) Quads.
- (3) Group family day care.

(Code 2004, pt. 3, § 29.082; Ord. No. 91-1248, 4-4-1991; Ord. No. 20-2447, 7-20-2020)

Sec. 109-261. Accessory uses.

The following accessory uses are allowed in the Low Density Multifamily (R-3A) Zone:

- (1) Private garages.
- (2) Commercial day care accessory to a legal conforming church or school.

(Code 2004, pt. 3, § 29.083; Ord. No. 94-1527, 7-21-1994; Ord. No. 20-2447, 7-20-2020)

Sec. 109-262. Conditional uses.

The following are conditional uses in the Low Density Multifamily (R-3A) Zone:

- (1) Schools.
- (2) Places of worship.
- (3) State-licensed residential care facility or state-licensed child care facility serving up to 16 persons.
- (4) Home occupations as described in section 129-10(d).
- (5) Golf courses (public and private).
- (6) Private tennis courts.
- (7) Private swimming pools.
- (8) Senior housing complying with standards as set forth in section 109-267.

(9) Manufactured home park meeting the standards of article XIV of this chapter.
(Code 2004, pt. 3, § 29.084; Ord. No. 87-1017, 4-2-1987; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 29.084, 12-18-2023)

Sec. 109-263. Standards, quad, townhouse.

The following standards are required in quads and townhouses in the Low Density Multifamily (R-3A) Zone:

- (1) Minimum frontage: None.
- (2) Minimum depth: None.
- (3) Minimum width: None.
- (4) Setback from streets:
 - a. From any public or private street internal to the quad or townhome development:
 1. Side of home with garage door: 25 feet.
 2. Side of home without garage door: 15 feet.
 - b. From any other streets: 40 feet.
- (5) Setback from other lot lines:
 - a. No setback required for unit lots.
 - b. All other lots: 20 feet.
- (6) Minimum distance between buildings: 30 feet.
- (7) Number of units permitted per building: Minimum of three, maximum of six (townhouses only).
- (8) Maximum building height: 2½ stories or 30 feet, whichever is less.
- (9) Parking and driveways may be constructed to within the following minimum setbacks of property line.
 - a. Front yard/corner side yard setback: 30 feet.
 - b. Side yard setback: 20 feet.
 - c. Rear yard setback: 20 feet.
- (10) The lowest floor elevation shall be no lower than two feet above the regulatory flood protection elevation or four feet above the high water level established by a registered professional engineer, whichever is greater.
- (11) Garage access doors shall not exceed eight feet in height.

(12) Maintenance free exterior as approved by the zoning administrator.
(Code 2004, pt. 3, § 29.085; Ord. No. 85-898, 8-15-1985; Ord. No. 86-972, 8-21-1986; Ord. No. 94-1501, 4-21-1994; Ord. No. 94-1538, 11-17-1994; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 24-2568, § 29.085, 11-18-2024)

Sec. 109-264. Setback buffers.

When higher density districts are located adjacent to lower density districts, the following setbacks shall apply for all buildings:

- (1) R-3A adjacent to single-family: 60 feet.
- (2) R-3A adjacent to R-2: 50 feet.
- (3) A reduction in the required setback buffer may be requested by following the requirements of section 129-20.
(Code 2004, pt. 3, § 29.086; Ord. No. 86-937, 4-3-1985; Ord. No. 85-898, 8-15-1985; Ord. No. 20-2447, 7-20-2020)

Sec. 109-265. Landscaping.

(a) All open areas of any lot not occupied by building or parking shall be landscaped with trees, shrubs, and berms, in accordance with requirements of section 129-7.

(b) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved.
(Code 2004, pt. 3, § 29.087; Ord. No. 89-1177, 1-4-1990; Ord. No. 20-2447, 7-20-2020)

Sec. 109-266. Screening.

At least 75 percent of the setback requirements shall be maintained as an opaque landscape buffer zone.
(Code 2004, pt. 3, § 29.088; Ord. No. 20-2447, 7-20-2020)

Sec. 109-267. Senior housing standards.

(a) Notwithstanding other provisions of this chapter, senior housing projects shall meet the following requirements:

- (1) Minimum floor area.
 - a. Efficiency: 440 square feet.
 - b. One-bedroom: 520 square feet.
 - c. Two-bedroom: 700 square feet (minimum 100 square feet per bedroom).
- (2) Minimum lot area: one acre.

- (3) Open space: 250 square feet per unit, plus on-site sidewalk system with sitting areas. This area shall not include setback area requirements for parking lots. Active open spaces (i.e., game areas, garden plots, etc.) shall be no less than 50 feet in any direction, unless integrated with primary use areas of the site and having suitable access to residents.
 - (4) Recreation: Recreational areas for elderly, handicapped, and children shall be provided.
 - (5) Height: 30 feet.
 - (6) Maintenance free exteriors: maintenance free exterior as approved by the zoning administrator.
- (Code 2004, pt. 3, § 29.089, 4-2-1987; Ord. No. 94-1538, 11-17-1994; Ord. No. 20-2447, 7-20-2020)

Secs. 109-268—109-297. Reserved.

ARTICLE XI. MEDIUM DENSITY MULTIFAMILY (R-3B)

Sec. 109-298. Intent.

The Medium Density Multifamily (R-3B) District is intended to allow the development of townhouses, quads, and other types of medium density multifamily units located adjacent to major collector streets and served by public services and facilities.

(Code 2004, pt. 3, § 29.091; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022)

Sec. 109-299. Permitted uses.

The following are permitted uses in the Medium Density Multifamily (R-3B) Zone:

- (1) Townhouses.
 - (2) Quads.
 - (3) Multiple dwellings.
 - (4) Group family day care.
- (Code 2004, pt. 3, § 29.092; Ord. No. 91-1248, 4-4-1991; Ord. No. 20-2447, 7-20-2020)

Sec. 109-300. Accessory uses.

The following accessory uses are allowed in the Medium Density Multifamily (R-3B) Zone:

- (1) Private garages.

(2) Commercial day care accessory to a legal conforming church or school.
(Code 2004, pt. 3, § 29.093; Ord. No. 94-1527, 7-21-1994; Ord. No. 20-2447, 7-20-2020)

Sec. 109-301. Conditional uses.

The following are conditional uses in the Medium Density Multifamily (R-3B) Zone:

- (1) Schools.
- (2) Places of worship.
- (3) State-licensed residential care facility or state-licensed child care facility serving up to 16 persons.
- (4) Golf courses (public and private).
- (5) Home occupations as regulated by section 129-10(d).
- (6) Private tennis courts.
- (7) Private swimming pools.
- (8) Senior housing complying with standards as set forth in section 109-309.
- (9) Structure heights of greater than 2½ stories or 30 feet for non-senior multiple dwellings.
- (10) Manufactured home park meeting the standards of article XIV of this chapter.

(Code 2004, pt. 3, § 29.094; Ord. No. 87-1017, 4-2-1987; Ord. No. 88-1072, 3-17-1988; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 29.094, 12-18-2023)

Sec. 109-302. Standards—Quad, townhouse.

The following standards are required in quads and townhouses in the Medium Density Multifamily (R-3B) Zone:

- (1) Minimum frontage: None.
- (2) Minimum depth: None.
- (3) Minimum width: None.
- (4) Setback from streets:
 - a. From any public or private street internal to the quad or townhome development:
 1. Side of home with garage door: 25 feet.
 2. Side of home without garage door: 15 feet.
 - b. From any other streets: 40 feet.

- (5) Setback from other lot lines:
 - a. No setback required for unit lots.
 - b. All other lots: 20 feet.
- (6) Minimum distance between buildings: 30 feet.
- (7) Number of units permitted per building: minimum of three, maximum of six (townhouses only).
- (8) Maximum building height: 2½ stories or 30 feet, whichever is less.
- (9) Parking and driveways may be constructed to within the following minimum setbacks of property line:
 - a. Front yard/corner side yard setback: 30 feet.
 - b. Side yard setback: 20 feet.
 - c. Rear yard setback: 20 feet.
- (10) The lowest floor elevation shall be no lower than two feet above the regulatory flood protection elevation or four feet above the high water level established by a registered professional engineer, whichever is greater.
- (11) Garage access doors shall not exceed eight feet in height.
- (12) Maintenance-free exterior as approved by the zoning administrator.
(Code 2004, pt. 3, § 29.095; Ord. No. 85-898, 8-15-1985; Ord. No. 86-972, 8-21-1986; Ord. No. 94-1501, 4-21-1994; Ord. of 11-17-1994; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 24-2568, § 29.095, 11-18-2024)

Sec. 109-303. Standards—Multiple dwelling.

The following standards are required in multiple dwelling units in the Medium Density Multifamily (R-3B) Zone:

- (1) Minimum width: none.
- (2) Minimum frontage: none.
- (3) Minimum depth: none.
- (4) Front yard setback: 45 feet.
- (5) Rear yard setback: 30 feet.
- (6) Side yard setback: 30 feet.
- (7) Parking and driveways.
 - a. Parking and driveways may be constructed to within the following minimum setbacks of property line:
 - 1. Front yard/corner side yard: 30 feet.
 - 2. Side yard: 20 feet.

3. Rear yard: 20 feet.

b. When a R-3B, multiple-family, is located adjacent to a R-1 or R-2 zoning district, the side yard and rear yard parking/driveway setback shall be a minimum of 25 feet.

(8) The lowest floor elevation shall be no lower than two feet above the regulatory flood protection elevation or four feet above the high water level established by a registered professional engineer, whichever is greater.

(9) Maximum building height: 2½ stories or 30 feet, whichever is less. Greater heights up to 50 feet as permitted by conditional use permit.

(10) Maintenance free exterior as approved by the zoning administrator.

(Code 2004, pt. 3, § 29.096; Ord. No. 85-898, 8-15-1985; Ord. No. 86-972, 8-21-1986; Ord. No. 88-1072, 3-17-1988; Ord. No. 94-1538, 11-17-1994; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 24-2568, § 29.096, 11-18-2024)

Sec. 109-304. Setback buffers.

When higher density districts are located adjacent to lower density districts, the following setbacks shall apply for all buildings.

(1) R-3B adjacent to single-family districts, other than RE: 80 feet.

(2) R-3B adjacent to R-2: 60 feet.

(3) R-3B adjacent to RE: 30 feet.

(4) A reduction in the required setback buffer may be requested by following the requirements of section 129-20.

(Code 2004, pt. 3, § 29.097; Ord. No. 85-898, 8-15-1985; Ord. No. 86-937, 4-3-1986; Ord. No. 20-2447, 7-20-2020)

Sec. 109-305. Landscaping.

(a) All open areas of any lot not occupied by building or parking shall be landscaped with trees, shrubs, and berms, in accordance with requirements of section 129-7.

(b) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved.

(Code 2004, pt. 3, § 29.098; Ord. No. 89-1177, 4-1-1990; Ord. No. 20-2447, 7-20-2020)

Sec. 109-306. Screening.

At least 75 percent of the setback requirements shall be maintained as an opaque landscape buffer zone.

(Code 2004, pt. 3, § 29.099; Ord. No. 20-2447, 7-20-2020)

Sec. 109-307. Storage.

For multiple dwellings, garbage receptacles must be in either the rear or side yards and screened from public view by a six-foot-high solid fence.
(Code 2004, pt. 3, § 29.0991; Ord. No. 20-2447, 7-20-2020)

Sec. 109-308. Parking.

Parking is permitted in the front yards, provided that the parking area is opaquely screened from public view by a combination of berms and plantings.
(Code 2004, pt. 3, § 29.0992; Ord. No. 85-898, 8-15-1985; Ord. No. 20-2447, 7-20-2020)

Sec. 109-309. Senior housing standards.

Notwithstanding other provisions of this chapter, elderly/retirement housing projects shall meet the following requirements:

- (1) Minimum floor area.
 - a. Efficiency: 440 square feet.
 - b. One-bedroom: 520 square feet.
 - c. Two-bedroom: 700 square feet (minimum 100 square feet per bedroom).
- (2) Minimum lot area: one acre.
- (3) Open space: 250 square feet per unit, plus on-site sidewalk system with sitting areas. This area shall not include setback area requirements for parking lots. Active open spaces (i.e., game areas, garden plots, etc.) shall be no less than 50 feet in any direction, unless integrated with primary use areas of the site and having suitable access to residents.
- (4) Recreation: Recreational areas for elderly, handicapped, and children shall be provided.
- (5) Height: 50 feet.
- (6) Maintenance free exterior: maintenance free exterior as approved by the zoning administrator.

(Code 2004, pt. 3, § 29.0993, 4-2-1987; Ord. No. 94-1538, 11-17-1994; Ord. No. 20-2447, 7-20-2020)

Secs. 109-310—109-336. Reserved.

ARTICLE XII. HIGH DENSITY MULTIFAMILY (R-3C)

Sec. 109-337. Intent.

The High Density Multifamily (R-3C) District is intended to create, preserve, and enhance areas for multifamily use at higher densities for both permanent and more transient families. It is appropriate only in areas served by public utilities, with good accessibility to thoroughfares, retail and other services.

(Code 2004, pt. 3, § 29.101; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022)

Sec. 109-338. Permitted uses.

The following are permitted uses in the High Density Multifamily (R-3C) Zone:

- (1) Townhouses.
- (2) Quads.
- (3) Multiple dwellings.
- (4) Group family day care.

(Code 2004, pt. 3, § 29.102; Ord. No. 91-1248, 4-4-1991; Ord. No. 20-2447, 7-20-2020)

Sec. 109-339. Accessory uses.

The following accessory uses are allowed in the High Density Multifamily (R-3C) Zone:

- (1) Private garages.
- (2) Commercial day care accessory to a legal conforming church or school.

(Code 2004, pt. 3, § 29.103; Ord. No. 94-1527, 7-21-1994; Ord. No. 20-2447, 7-20-2020)

Sec. 109-340. Conditional uses.

The following are conditional uses in the High Density Multifamily (R-3C) Zone:

- (1) Schools.
- (2) Places of worship.
- (3) State-licensed residential care facility or state-licensed child care facility serving up to 16 persons.
- (4) Home occupations as described in section 129-10(d).
- (5) Golf courses (public and private).
- (6) Private swimming pools.
- (7) Private tennis courts.

- (8) Senior housing complying with standards as set forth in section 109-348.
 - (9) Structure height of greater than 2½ stories or 30 feet for non-senior multiple dwellings.
 - (10) Manufactured home park meeting the standards of article XIV of this chapter.
- (Code 2004, pt. 3, § 29.104; Ord. No. 87-1017, 4-2-1987; Ord. No. 88-1072, 3-17-1988; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 29.104, 12-18-2023)

Sec. 109-341. Standards—Quad, townhouse.

The following standards are required for quads and townhouses in the High Density Multifamily (R-3C) Zone:

- (1) Minimum frontage: none.
- (2) Minimum depth: none.
- (3) Minimum width: none.
- (4) Setback from streets:
 - a. From any public or private street internal to the quad or townhome development:
 - 1. Side of home with garage door: 25 feet.
 - 2. Side of home without garage door: 15 feet.
 - b. From any other streets: 40 feet.
- (5) Setback from other lot lines:
 - a. No setback required for unit lots.
 - b. All other lots: 20 feet.
- (6) Minimum distance between buildings: 30 feet.
- (7) Number of units permitted per building: minimum of three, maximum of six (townhouses only).
- (8) Maximum building height: 2½ stories or 30 feet, whichever is less.
- (9) Parking and driveways may be constructed to within the following minimum setbacks of property line:
 - a. Front yard/corner side yard: 30 feet.
 - b. Side yard: 20 feet.
 - c. Rear yard: 20 feet.
- (10) The lowest floor elevation shall be no lower than two feet above the regulatory flood protection elevation or four feet above the high water level established by a registered professional engineer, whichever is greater.

(11) Garage access doors shall not exceed eight feet in height.

(12) Maintenance-free exterior as approved by the zoning administrator.
(Code 2004, pt. 3, § 29.105; Ord. No. 85-898, 8-15-1985; Ord. No. 86-972, 8-21-1986; Ord. No. 94-1501, 4-21-1994; Ord. No. 94-1538, 11-17-1994; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 24-2568, § 29.105, 11-18-2024)

Sec. 109-342. Standards—Multiple dwelling.

The following standards are required for multiple dwelling units in the High Density Multifamily (R-3C) Zone:

- (1) Minimum frontage: none.
- (2) Minimum depth: none.
- (3) Front yard: 55 feet.
- (4) Rear yard: 20 feet.
- (5) Side yard: 20 feet.
- (6) Parking: one-half garage space plus two off-street spaces per unit.
- (7) Minimum distance between buildings: 40 feet.
- (8) Maximum building height: 2½ stories or 30 feet, whichever is less; greater heights permitted by conditional use permit.
- (9) Parking and driveways.
 - a. Parking and driveways may be constructed to within the following minimum setbacks of property line:
 1. Front yard/corner side yard: 30 feet.
 2. Side yard: 20 feet.
 3. Rear yard: 20 feet.
 - b. When a R-3C, multiple-family, is located adjacent to a single- or two-family zoning district, the side yard and rear yard parking/driveway setback shall be a minimum of 25 feet.
- (10) The lowest floor elevation shall be no lower than two feet above the regulatory flood protection elevation or four feet above the high water level established by a registered professional engineer, whichever is greater.
- (11) Maintenance-free exterior as approved by the zoning administrator.
(Code 2004, pt. 3, § 29.106; Ord. No. 85-898, 8-15-1985; Ord. No. 86-972, 8-21-1986; Ord. No. 88-1072, 3-17-1988; Ord. No. 94-1538, 11-17-1994; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 24-2568, § 29.106, 11-18-2024)

Sec. 109-343. Setback buffers.

When higher density districts are located adjacent to lower density districts, the following setbacks shall apply for all yards and shall not be used for parking.

- (1) R-3C adjacent to single-family zoning districts: 100 feet.
- (2) R-3C adjacent to R-2: 70 feet.

- (3) R-3C adjacent to R-3A: 50 feet.
- (4) R-3C adjacent to R-3B: 30 feet.
- (5) A reduction in the required setback buffer may be requested by following the requirements of section 129-20.
(Code 2004, pt. 3, § 29.107; Ord. No. 86-937, 4-3-1986; Ord. No. 20-2447, 7-20-2020)

Sec. 109-344. Parking.

(a) Parking is permitted in the side or front yards, provided that the parking area is effectively screened from public view by a combination of fence, plantings, and berms.

(b) For additional requirements, refer to section 129-13.
(Code 2004, pt. 3, § 29.108; Ord. No. 85-898, 8-15-1985; Ord. No. 20-2447, 7-20-2020)

Sec. 109-345. Landscaping.

(a) All open areas of any lot not occupied by building or parking shall be landscaped with trees, shrubs, and berms, in accordance with the regulations of section 129-7.

(b) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved.
(Code 2004, pt. 3, § 29.109; Ord. No. 89-1177, 1-4-1990; Ord. No. 20-2447, 7-20-2020)

Sec. 109-346. Screening.

At least 75 percent of the setback requirements between districts shall be maintained as a landscape buffer zone sufficient enough to provide an opaque screen. The buffer zone shall contain a combination of trees, shrubs, berms and fences.

(Code 2004, pt. 3, § 29.1091; Ord. No. 20-2447, 7-20-2020)

Sec. 109-347. Storage.

For multiple dwellings, garbage receptacles must be in either the rear or side yards and screened from public view by a six-foot-high solid fence.

(Code 2004, pt. 3, § 29.1092; Ord. No. 20-2447, 7-20-2020)

Sec. 109-348. Senior housing standards.

Notwithstanding other provisions of this chapter, elderly/retirement housing projects shall meet the following requirements:

- (1) Minimum floor area.
 - a. Efficiency: 440 square feet.
 - b. One-bedroom: 520 square feet.
 - c. Two-bedroom: 700 square feet (minimum 100 square feet per bedroom).
- (2) Minimum lot area: one acre.
- (3) Open space: 250 square feet per unit, plus on-site sidewalk system with sitting areas. This area shall not include setback area requirements for parking lots. Active open spaces (i.e., game areas, garden plots, etc.) shall be no less than 50 feet in any direction, unless integrated with primary use areas of the site and having suitable access to residents.
- (4) Recreation: Recreational areas for elderly, handicapped, and children shall be provided.
- (5) Height: 50 feet, with greater heights permitted by CUP.
- (6) Maintenance free exteriors: maintenance free exterior as approved by the zoning administrator.

(Code 2004, pt. 3, § 29.1093, 4-2-1987; Ord. No. 94-1538, 11-17-94; Ord. No. 20-2447, 7-20-2020)

Secs. 109-349—109-369. Reserved.

ARTICLE XIII. DEVELOPMENT FLEX (DF)

Sec. 109-370. Intent.

The Development Flex (DF) District (formerly known as the residential flex district) is intended to provide for greater flexibility in land use planning and maximize the choice of housing types and styles than is possible under the strict application of other sections of this subpart. The development flex district also attempts to create a reasonable balance between the interests of the property owner in freely developing said owner's property with greater flexibility in land uses, and at the same time protect the interest of surrounding properties in the following ways:

- (1) By encouraging a more creative approach in housing developments, that will result in quality living environments through innovative design and aesthetic controls;

- (2) By permitting a combination of housing types and style, including single-family, two-family, and multiple-family dwellings, with the exception of manufactured homes;
 - (3) By allowing flexibility in design by permitting cluster developments and a variety of architectural styles and treatments;
 - (4) By allowing for any type of ownership, private, condominium, or rental;
 - (5) By allowing flexibility in setback and height restrictions;
 - (6) By allowing nonresidential uses, such as commercial or light industrial uses which will serve the inhabitants of such district, provided such nonresidential uses will enhance the character, amenities, and convenience of those who live in the proposed development;
 - (7) By providing an efficient use of land resulting in more cost efficient installation of utilities, streets, and other facilities.
 - (8) By encouraging the preservation of common open space, recreational facilities, natural features, such as woodland and wetland areas;
 - (9) By contributing to the tax base of the community without making undue demands on the community services; and
 - (10) By providing the means for greater creativity and flexibility in environmental design than is provided under the strict application of the city zoning regulations and subdivision ordinance, while, at the same time, preserving the health, safety, order, convenience, prosperity, and general welfare of the city and its inhabitants.
- (Code 2004, pt. 3, § 29.111; Ord. No. 97-1658, 5-15-1997; Ord. No. 20-2447, 7-20-2020)

Sec. 109-371. Criteria.

The Development Flex (DF) District is a zoning district which may be allowed in combination with any residential, commercial, or light industrial land use designation. Every proposal presented to the city council for rezoning to the development flex district shall be accompanied by a conditional use permit application and a site plan. The city council shall consider the following criteria and objectives in processing the application for rezoning to development flex district and the application for the conditional use permit:

- (1) That the proposal shall provide for a wider range of housing types, price ranges and styles than could be accomplished under the existing zoning;
- (2) That the proposal shall provide amenities and facilities and open spaces greater than the minimum requirements under existing zoning;
- (3) That the proposed development is compatible with the purpose and intent of this subpart and with the comprehensive plan;

- (4) That the proposal shall in no way be detrimental to the environment. Scenic aspects and natural features, such as streams, trees, topography, and geological features, shall be protected and preserved to the greatest extent possible;
 - (5) That the proposal shall not impose any undue burden upon the public services and facilities, such as fire and police protection, schools, streets, water systems, sanitary sewer systems, and storm sewer systems;
 - (6) That the proposed development is designed in such a manner to form a desirable and unified environment within its own boundaries, and also which will not be detrimental to future land uses in the surrounding areas; and
 - (7) That the proposal be consistent with all other applicable city and state regulations.
- (Code 2004, pt. 3, § 29.112; Ord. No. 97-1658, 5-15-1997; Ord. No. 20-2447, 7-20-2020)

Sec. 109-372. Procedure.

- (a) Prior to making an application for the conditional use permit and rezoning to the development flex district, the developer shall meet with the zoning administrator to review all applicable ordinances, regulations and plans that will affect the area to be rezoned.
- (b) The developer shall present a concept plat or site plan to the zoning administrator. The zoning administrator shall review the concept design and recommend changes to comply with the criteria listed in section 109-371.
- (c) Upon staff approval of concept plan a formal application may be made for a rezoning and conditional use permit. If applicable, an application for preliminary plat shall be made concurrently.
 - (1) The rezoning and conditional use permit shall be reviewed and considered as outlined under sections 101-3 and 101-4. The public hearing for the proposed rezoning shall be held concurrently with the conditional use permit and preliminary plat. A rezoning to development flex shall not be made without a conditional use permit.
 - (2) Prior to approval of building permits, the zoning administrator shall find that all standards listed in the conditional use permit have been satisfied in the site plan, building permit, or plat applications.
 - (3) Any changes to the standards or allowed uses within an area zoned DF shall require a conditional use permit amendment.

- (4) If construction does not commence within two years after issuance of the conditional use permit, the council may initiate rezoning to remove the development flex district zoning and rezone the property to the zoning that was in effect at the time of the initial rezoning.

(Code 2004, pt. 3, § 29.113; Ord. No. 20-2447, 7-20-2020)

Sec. 109-373. Plan requirements.

(a) Submittal requirements for DF zoning when involving a new residential subdivision, including single-family homes, duplexes, quads, and townhomes, the application shall include:

- (1) All materials required for a preliminary plat in section 74-46.
- (2) Floor plans and elevations for all proposed homes.
- (3) Anticipated pricing for proposed homes.
- (4) Tree preservation plan meeting the requirements of section 129-9.
- (5) Landscape plan, including plant materials proposed for common areas and for individual lots.
- (6) Narrative explaining the proposed development and mix of housing types.

(b) Submittal requirements for DF zoning when involving multifamily dwellings, commercial, industrial, or institutional uses shall include:

- (1) Certificate of survey including all existing structures.
- (2) Grading plan existing and proposed grades at two-foot contour intervals to a known datum, sufficient spot elevations on all proposed hard surfaces, location of proposed stormwater facilities, identification of areas within a flood hazard zone, finished floor elevations of all buildings.
- (3) Utility plan proposed location and size of all utility lines.
- (4) Site plan, including location of all proposed buildings and proposed uses, location of driveway and parking areas, building and parking setbacks, location of refuse areas, location of outdoor storage areas.
- (5) Tree preservation plan meeting the requirements of section 129-9.
- (6) Landscape plan meeting the requirements of section 129-7.
- (7) Floor plan of proposed buildings, including dimensions of proposed rooms, specification of uses.
- (8) Elevations of the proposed building identifying exterior treatment, materials, and colors.
- (9) Calculation of necessary parking spaces.
- (10) Narrative explaining the operation of the property.

(11) Other information; the staff may require the applicant to furnish such additional information as may be necessary.
(Code 2004, pt. 3, § 29.114; Ord. No. 20-2447, 7-20-2020)

Sec. 109-374. Standards.

In order to provide maximum flexibility, no fixed standards shall apply to the development flex district. All standards for the development shall be established in a conditional use permit. In determining appropriate standards, the city council shall consider for any proposed use the regulations prescribed in other sections of this subpart for the classification most closely resembling the proposed use. Unless specifically contradicted in the conditional use permit, all standards listed in chapter 129 shall apply.
(Code 2004, pt. 3, § 29.115; Ord. No. 20-2447, 7-20-2020)

Sec. 109-375. Accessory dwelling units.

Accessory dwelling units, attached are a permitted accessory use in the DF zoning district when accessory to a detached single-family home, subject to the standards outlined in section 129-25.
(Code 2004, pt. 3, § 29.116; Ord. No. 21-2489, 12-20-2021)

Secs. 109-376—109-393. Reserved.

ARTICLE XIV. MANUFACTURED HOMES (R-4)

Sec. 109-394. Intent.

The purpose of the Manufactured Homes (R-4) Zoning District is to allow manufactured home parks in appropriate areas of the city.
(Code 2004, pt. 3, § 29.121; Ord. No. 20-2447, 7-20-2020)

Sec. 109-395. Permitted uses.

The following are permitted uses in the Manufactured Homes (R-4) Zone:

- (1) Manufactured homes.
- (2) Group family day care.

(Code 2004, pt. 3, § 29.122; Ord. No. 91-1248, 4-4-1991; Ord. No. 20-2447, 7-20-2020)

Sec. 109-396. Accessory uses.

The following accessory uses are allowed in the Manufactured Homes (R-4) Zone:

- (1) Within the community building: barber and beauty shops, laundromats, small grocery stores.

- (2) Carport or garage not to exceed 624 square feet.
- (3) Shed (accessory building) not to exceed 200 square feet.
(Code 2004, pt. 3, § 29.123; Ord. No. 94-1540, 11-17-1994; Ord. No. 20-2447, 7-20-2020)

Sec. 109-397. Conditional uses.

The following are conditional uses in the Manufactured Homes (R-4) Zone:

- (1) Home occupations, as described in section 129-10(d).
- (2) Manufactured home sales office.
- (3) Manufactured home sales lots in conformity with section 109-398(22).
(Code 2004, pt. 3, § 29.124; Ord. No. 86-975, 9-18-1986; Ord. No. 20-2447, 7-20-2020)

Sec. 109-398. Standards.

The following standards are required in the Manufactured Homes (R-4) Zone:

- (1) Minimum acreage of manufactured home park: 20 acres.
- (2) Minimum lot size: 4,500 square feet.
- (3) Minimum frontage: 60 feet.
- (4) Front yard setbacks: ten feet from the curb; five feet from the sidewalk.
- (5) Where an alley is provided adjacent to the rear line, there shall be a minimum setback of five feet.
- (6) Side yard setback: five feet.
- (7) Minimum distance between manufactured homes: 20 feet.
- (8) Where a manufactured home park abuts a residential district, there shall be a setback of at least 100 feet which shall be landscaped and maintained.
- (9) The parking of more than one manufactured home on any single lot is not permitted.
- (10) A patio shall be constructed on the ground beside each manufactured home parking space. The patio shall not be less than 200 square feet in area, constructed of concrete, with four-inch thickness or its approved equivalent.
- (11) Every manufactured home park or recreational camping area shall be located on a well-drained area and the premises shall be properly graded so as not to permit the accumulation of stormwater or other waters, subject to the approval of the city manager. Such approval shall be given upon a showing that the accumulation of water will not violate other laws, rules or ordinances and will not endanger public health or public safety.

(12) Landscaping.

- a. At least one overstory tree shall be placed and maintained on each lot.
- b. Except for the areas used for the manufactured home, patios, sidewalks, and off-street parking areas, the entire lot shall be sodded and maintained with grass.

(13) Parking.

- a. An off-street parking area of at least 440 square feet shall be provided for each manufactured home lot. The parking area surface shall be equal to street construction.
- b. A parking area equal to one space for each ten manufactured home lots shall be provided adjacent to the community building.

(14) Streets, curbs and sidewalks.

- a. Each manufactured home park lot shall abut on and have access to a public or private street. The street shall be constructed of a minimum of two inches of bituminous surface material on a Minnesota Department of Transportation (MnDOT) Class 5 base of at least four-inch thickness.
- b. A concrete curb shall be constructed on each side of the street. The face of this curb shall be at least 15 feet from the centerline of said street. The curb design shall be of a type approved by the city engineer.
- c. A concrete sidewalk, not less than 36 inches wide, shall be constructed.

(15) Water and sewer facilities, burial of utility lines.

- a. Water facilities and sewage disposal shall be installed and maintained by the owner of the manufactured home park and shall be constructed in accordance with the laws of the state, the recommendations of the state health department, and ordinances and requirements of the city.
- b. All utility lines within the manufactured home park shall be buried.

(16) Fire hydrants. Fire hydrants shall be placed throughout the area in such a way to satisfy the state department of public safety, fire marshal division, that adequate fire protection is achieved.

(17) Lighting.

- a. Street lighting shall be installed and maintained by the owner of the manufactured home park and shall be constructed in accordance with all applicable laws and ordinances.
- b. A streetlight standard that extends 25 feet above ground level shall be provided at each entrance to a manufactured home park and at each intersection therein. Similar standards shall be provided at 150 foot intervals on all streets. Such standards shall be equipped with 175-watt light and provided with photo control and a 15 amp fuse connector kit.

- (18) Storage of boats, etc.
- a. All boats, boat trailers, hauling trailers, and all other equipment not stored within the manufactured home or stored within the utility enclosure that may have been provided, shall be stored in a separate area provided by the park, and shall not be stored upon the lot occupied by manufactured homes, nor upon the streets within the manufactured home park.
 - b. The storage area provided by the park must be secured for the storage of boats, campers, and hauling trailers and must be fenced with a minimum of six-foot-high fencing. The storage area shall include at least 200 square feet of area for each ten manufactured home lots.
- (19) Park and recreation. A minimum of ten percent of the total manufactured home park shall be devoted to park and recreation and shall be furnished with playground equipment.
- (20) Office and community building. In a manufactured home park, an adequate office and community building shall be provided with a minimum square footage of 3,000 square feet.
- (21) Storm shelter and civil defense.
- a. Storm shelters shall be provided in each manufactured home park. Such shelters shall be constructed so as to provide safety for the occupants of the manufactured home park in the event of a tornado. A minimum of four square feet of shelter space shall be provided for each resident of the park.
 - b. An approved civil defense siren must be installed by the developer of the manufactured home park as close to the center of the manufactured home park as possible.
- (22) Manufactured homes building code. All manufactured homes occupied or stored in a manufactured home park shall comply with the requirements of manufactured homes building code.
- (23) Driveways shall not be constructed closer than five feet to the property line without written authorization from the adjacent property owner and zoning administrator.
- (24) Accessory buildings (garages, carports, or sheds).
- a. Side and rear yard setbacks: five feet.
 - b. Front yard setbacks: ten feet from the curb; five feet from the sidewalk.
 - c. Minimum distance between accessory buildings and manufactured homes on neighboring lots: five feet.

- d. Color of accessory building shall be compatible with the principal building.
- e. Accessory building total height shall not exceed 12 feet.
- f. Requests for building permits shall be submitted through park management. The management shall submit a survey of the lot showing the location of the garage or carport, manufactured home, patio, off-street parking area, sidewalk, and landscaping prior to issuance of a building permit.

(25) Manufactured home sales lots.

- a. An application for a special use permit to operate a manufactured home sales lot under the provisions of this chapter shall be made to the city.
- b. The application for a manufactured home sales lot in a manufactured home park shall show its location in relation to manufactured homes used as dwellings.
- c. On all manufactured home sales lot sites, a permanent building with at least 1,200 square feet of floor space shall be constructed.
- d. Manufactured home sales lots shall be properly screened from any residential use with trees, shrubs, or walls, and there shall be maintained a 100-foot landscaped green area around the perimeter of such sales lot. If a sales lot abuts a public street, a 30-foot setback shall be required.

(Code 2004, pt. 3, § 29.125; Ord. No. 86-948, 6-5-1986; Ord. No. 94-1540, 11-17-1994; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 29.125, 12-18-2023; Ord. No. 24-2559, 9-16-2024)

Sec. 109-399. Filing requirements.

(a) *Survey and design information required.* The manufactured home park plan shall be clearly and legibly drawn at a scale of one inch equals 50 feet, or 100 feet, or 200 feet and shall contain the following information:

(1) *Identification and description.*

- a. The proposed name of the plan, which shall not duplicate or be similar in pronunciation to the name of any plan previously recorded in the county.
- b. The location of the plan by section, township, and range or by other legal description.
- c. The names and addresses of the owners, subdivider, surveyor and designer.
- d. Graphic scale, north point, date of preparation.

(2) *Existing conditions.*

- a. A boundary line survey of the proposed plan, including measured distances and angles, which shall be tied into the nearest section of quarter section corner by traverse.
- b. Existing zoning classifications for land within the plan and on abutting property within 350 feet of the property within the manufactured home park plan.
- c. Total acreage.
- d. Location, width, and name of every existing or previously platted street or other public way, showing type, width and condition of improvements, railroad and utility right-of-way, parks, and other public open spaces, permanent buildings and structures, easements, section lines and corporate lines within the proposed plan and within a distance of 350 feet beyond the proposed plan.
- e. If the proposed plan is a rearrangement or replat of any former plan, the lot and block arrangement of the original plan, along with its original name, shall be indicated by dotted or dash lines. Also, any revised or vacated roadways of the original plan shall be so indicated.
- f. Location and size of existing sewers, watermains, culverts or other underground facilities within the tract and to a distance of 100 feet beyond the tract, including such data as grades, invert elevations, and locations of catchbasins, utility holes, and hydrants.
- g. Boundary lines of unsubdivided lands within 350 feet, identified by name and ownership.

(3) *Plan design features.*

- a. Layout of proposed streets showing right-of-way widths and proposed street names. If the proposed street is an extension of an existing named street, that name shall be used. In all other cases, the name of any street shall be consistent with the county and city street naming system.
- b. Locations and widths of alleys, pedestrian ways, and utility easements.
- c. Layout, numbers, and preliminary dimensions of lots and blocks.
- d. Areas intended to be dedicated or reserved for public use, including their size in acres.
- e. Areas intended for uses other than residential or public.
- f. Minimum front and side street building setback lines, as required by city zoning regulations.

(b) *Supplementary information required.* The following information shall be filed with the manufactured home park plan:

- (1) Soil absorption tests where septic tanks are proposed, and any other subsoil information requested by the city engineer, including soil borings to a depth of at least 15 feet.
- (2) Plans for water supply, sewage disposal, drainage system, and flood control, including the proposed location, size and gradient of proposed sewer lines and watermains, and such other supporting data, as may be required by the city engineer or the planning commission.
- (3) Centerline gradients of proposed streets.
- (4) Typical cross section of proposed street improvements.
- (5) If any zoning changes are necessary for property within the manufactured home park plan, a rezoning application shall be filed and considered concurrently by the council with the manufactured home park plan.
- (6) Where the subdivider owns property adjacent to that which is being proposed for subdivision, the planning commission may require that the subdivider submit a manufactured home park plan of the adjacent property so as to show the relationship of the proposed plan to the future development of the adjacent property.
- (7) Any additional information required by the planning commission and city staff.

(c) *Qualifications governing approval of a manufactured home park plan.*

- (1) The approval of a manufactured home park plan by the council shall only constitute acceptance of the design as a basis for the preparation of the final manufactured home park plan by the owners or subdividers. Subsequent approval by appropriate officials having jurisdiction will be required of the engineering proposals, pertaining to water supplies, storm drainage, sewer disposal, sidewalks, grading, gradients, and roadway widths, and the surfacing of streets prior to the approval of final manufactured home park plan by the city. The subdivider shall also present evidence that the manufactured home park plan has been reviewed by, and meets the requirements of, those responsible for the provision of gas, electric, and telephone service.
- (2) No subdivision will be approved for a manufactured home park plan which includes any area subject to periodic flooding or which contains poor drainage facilities which would make adequate drainage of the streets and lots impossible, unless the subdivider agrees to make improvements which will, in the opinion of the city engineer, make the area completely safe for occupancy and provide adequate street and lot drainage.

(Code 2004, pt. 3, § 29.126; Ord. No. 20-2447, 7-20-2020)

Sec. 109-400. Procedure.

(a) *Preapplication requirements.* Prior to the preparation of a manufactured home park plan, the owners shall meet with the director of community development, the city engineer, and other appropriate officials, to review all applicable ordinances, regulations and plans in the area to be subdivided. At this time, or at subsequent informal meetings, the subdivider shall submit a general sketch plan of the proposed subdivision and drainage plan. The sketch plan can be presented in a simple form but should include any zoning changes which would be required and should show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that would serve it, to neighboring subdivision and development, and to the topography of the site. The subdivider is urged to avail such person of the advice and assistance of the planning commission at a planning commission meeting at this point, in order to save time and effort and facilitate the approval of the preliminary plan.

(b) *Preliminary plan.* After the preapplication meeting, the subdivider shall file, with the director of community development, an application and the preliminary plan which has been prepared in accordance with regulations set forth in this chapter. At the time of submission of the preliminary plan, a cash fee established by ordinance shall be paid to the city. This fee shall be used to defray costs incurred by the city in connection with consideration of the proposed subdivision.

- (1) The administrative review committee shall undertake a comprehensive review of the preliminary plan in order to determine how the proposed development will affect traffic, utilities, drainage, community facilities, public safety, surrounding development, natural features, historic sites, open space, etc. The committee shall also consider the proposed development in terms of its conformity with the city's comprehensive land use plan.
- (2) The director of community development shall submit copies of the preliminary plan to the county highway department, the state highway department (where applicable). The written report from the above-mentioned agencies shall be submitted to the director of community development prior to referral to the planning commission.
- (3) The director of community development shall refer copies of the preliminary plan to the planning commission. The director of community development shall arrange for a public hearing to be held. The required legal publication shall be made and notices shall be sent to all property owners of record within 350 feet of all contiguous property under common ownership.
- (4) The subdivider or a duly authorized representative shall attend the planning commission meetings at which the proposal is scheduled for consideration.
- (5) At the public hearing all persons interested in the proposed subdivision shall be heard, and the planning commission shall, approve, modify and approve,

or disapprove the preliminary plan, and submit to the council, the applicant, and the administrator, its findings and recommendations. The council shall act upon the preliminary plan and send written notification of its action to the planning commission, administrator, and the applicant. Should the subdivider desire to amend the preliminary plan as approved, such person shall submit the amended plan in accordance with the original procedure set forth above, with the exception of the public hearing and fees. If the council determines that the scope of the revisions constitutes a new plan, then the public hearing and fees shall be required.

(c) *Final plan.*

- (1) The subdivider, within 180 days after the approval of the preliminary plan, shall file with the administrator a copy of the final plan prepared by a land surveyor duly registered in the state. Failure of the subdivider to submit the final plan within 180 days, unless a written request for extension has been submitted and for good cause granted by the council, shall cause the preliminary plan to become null and void.
- (2) The subdivider shall also submit to the director of community development, at the same time, a currently certified abstract of title or registered property certificate and such other evidence as the city attorney may require showing the subdividers title or ownership in the land to be subdivided.
- (3) The final plan shall be accompanied by plans approved by the state department of health showing that the applicant is complying with all recommendations, suggestions, and laws under the jurisdiction of that department.
- (4) The subdivider shall have incorporated all changes and modifications in the final plan required by the council. In all other respects, the final plan shall conform to the preliminary plan.
- (5) A development plan for the necessary improvements shall be submitted by the subdivider to the director of community development, and then forwarded to the city engineer for a review of a cost estimate.
- (6) The director of community development, upon receipt of the final plan, shall retain one copy of the final plan for such officer's records and shall:
 - a. Refer copies of the final plan to the administrative review committee, which shall review the final plan with respect to its conformance with the approved preliminary plan, and the committee shall report its findings to the director of community development within 15 days of its receipt by the committee.
 - b. Refer one copy each to applicable public and private utility companies.

- c. Refer the abstract of title or registered property certificate to the city attorney for examination and report on any restrictive covenants. The city attorney's written report shall be submitted to the director of community development within 15 days of its receipt by the city attorney. The costs incurred by the city in this regard shall be the responsibility of the subdivider and shall be paid by the subdivider to the city prior to release of the executed final plan.
 - d. Obtain a written report or statement from the city certifying the payment by the subdivider of all fees due the city pursuant to this chapter.
 - e. Place the consideration of the final plan on the agenda of the next regularly scheduled council meeting, and notify the subdivider, in writing, of the date, place, and time of the meeting.
 - f. Submit all of the above reports to the council for its consideration.
- (7) The subdivider or a duly authorized representative shall attend the meeting before the council at which the final plan is scheduled for consideration.
 - (8) The council may, if all reports indicate full compliance with the provisions of this chapter, approve the final plan as submitted and authorize the mayor and city manager to sign the final plan.
 - (9) The council may, if the report from the administrative review committee indicates substantial deviation in the final plan from the approved preliminary plan, determine if the submission shall represent a new plan. If the submission does represent a new plan, the council shall deny the final plan and direct the subdivider to resubmit such subdividers proposal following preliminary plan requirements.
 - (10) The council may, if any of the other reports indicate a lack of compliance with the provisions of this chapter, require full compliance by the subdivider within the 180-day period from the date of approval of the preliminary plan. Failure of the subdivider to comply shall nullify and void the preliminary and final plans.
 - (11) The subdivider shall, if the final plan is approved by the council and signed by the mayor and city manager, record the final plan with the county register of deeds within 30 days of the date of approval and signing of the final plan. Any final plan not so recorded shall become null and void, unless the council has granted an extension, which shall not exceed 90 additional days.
 - (12) The subdivider shall furnish the director of community development a tracing and three copies of the final plan showing evidence of the recording. The subdivider shall be responsible for any costs incurred pertaining to the

verification of the final plan materials. The subdivider shall also furnish one reduced tracing of the final plan. Failure to furnish such copies shall be grounds for refusal to issue building permits for lots within the final plan.

- (13) No changes, erasures, modifications or revisions shall be made in any final plan after approval has been given by the council, unless said plan is resubmitted to the city and the council approves any modifications. If any such final plan is recorded without complying with this requirement, the same shall be considered null and void, no building permits shall be issued for lots within the final plan, and the council shall institute proceedings to have the plan stricken from the records of the city and county.
(Code 2004, pt. 3, § 29.127; Ord. No. 20-2447, 7-20-2020)

Chapter 110—112

RESERVED

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Chapter 113

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ARTICLE I. IN GENERAL

Secs. 113-1—113-18. Reserved.

ARTICLE II. NEIGHBORHOOD BUSINESS (B-1)

Sec. 113-19. Intent.

The purpose of the Neighborhood Business (B-1) District is to allow small commercial areas serving residential neighborhoods with low traffic uses. This district may be located adjacent to residential and commercial districts and shall be primarily located on collector roads.

(Code 2004, pt. 3, § 30.01; Ord. No. 87-1016, 4-2-1987; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 30.01, 11-18-2024)

Sec. 113-20. Permitted uses.

The following are permitted uses in the Neighborhood Business (B-1) Zone:

- (1) Grocery, convenience store.
- (2) Beauty shop, barbershop.
- (3) Laundry, dry cleaning.

- (4) Business and professional offices as permitted in section 113-127(1).

(Code 2004, pt. 3, § 30.02; Ord. No. 97-1691, 1-8-1998; Ord. No. 20-2447, 7-20-2020)

Sec. 113-21. Accessory uses.

The following accessory uses are allowed in the Neighborhood Business (B-1) Zone: none.

(Code 2004, pt. 3, § 30.03; Ord. No. 20-2447, 7-20-2020)

Sec. 113-22. Conditional uses.

The following are conditional uses in the Neighborhood Business (B-1) Zone:

- (1) Gasoline station without auto repair.
- (2) Specialty shops.
- (3) Commercial day care centers.

(Code 2004, pt. 3, § 30.04; Ord. No. 89-1140, 5-18-1989; Ord. No. 20-2447, 7-20-2020)

Sec. 113-23. Standards.

The following standards are required in the Neighborhood Business (B-1) Zone:

- (1) Minimum frontage: 150 feet.

- (2) Minimum depth: 150 feet.
- (3) Front yard setback: 40 feet.
- (4) Side yard setback: ten feet; corner lot: 40 feet.
- (5) Rear yard setback: 30 feet.
- (6) Maximum building height shall not exceed two stories or 30 feet, whichever is less.
- (7) Parking and driveways.
 - a. Parking and driveways may be constructed to within the following minimum setbacks of property line:
 - 1. Front yard/corner side yard: 30 feet.
 - 2. Side yard: ten feet.
 - 3. Rear yard: ten feet.
 - b. When a B-1 zoning district is located adjacent to any residentially zoned property, the side yard and rear yard parking/driveway setback shall be a minimum of 25 feet.
- (8) Off-street loading: Refer to section 129-14.
(Code 2004, pt. 3, § 30.05; Ord. No. 85-898, 8-15-1985; Ord. No. 95-1553, 4-20-1995; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022)

Sec. 113-24. Landscaping.

- (a) All open areas of any lot not used for parking, driveways, or storage shall be landscaped with trees, shrubs, berms, and planted ground covers.
- (b) It shall be the owner's responsibility to see that the landscaping is maintained in an attractive and well maintained condition. The owner shall also replace any dead or damaged trees or shrubs with a similar species. Any dead or damaged sod shall also be replaced.
- (c) All vacant lots or portions of lots shall be maintained in an orderly manner, free of litter and junk.
- (d) All lots in this district shall provide a landscaped yard. This yard shall be kept clear of all structures, storage and off-street parking. Except for driveways, the yard shall extend along the entire boundary of the site. This yard shall have a minimum width of not less than ten feet.
- (e) For additional landscaping requirements, refer to section 113-25.

(f) Underground irrigation shall be required for all yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved.

(Code 2004, pt. 3, § 30.06; Ord. No. 89-1177, 1-4-1990; Ord. No. 88-1075, 3-17-1988; Ord. No. 20-2447, 7-20-2020)

Sec. 113-25. Screening.

On a lot adjacent to a lot in a residential district, there shall be an opaque screen made up of trees or berms and a six-foot-high solid fence constructed of maintenance free materials. All screening within 30 feet of any driveway or street intersection shall not be over 36 inches in height above the curb or centerline of the street.

(Code 2004, pt. 3, § 30.07; Ord. No. 20-2447, 7-20-2020)

Sec. 113-26. Storage.

(a) Refuse facilities, except for individual containers for public use, shall be located in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

(b) No outdoor storage of any materials is permitted except as provided for in section 113-26.

(Code 2004, pt. 3, § 30.08; Ord. No. 02-1948, 6-20-2002; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022)

Sec. 113-27. Outside display.

(a) Outside display area is limited to a maximum of 30 percent of the width of a building frontage and is not to exceed a total of 150 square feet of area. The term "building frontage" means the dimension or width of a store front occupied by the retailer establishing the outside display. For purposes of this part, a frontage must contain a public or customer entrance or exit and no space is allowed more than two frontages.

(b) Outside display to be located immediately adjacent to and within the dimensions of the building frontage and shall not extend from the front building edge more than 50 inches.

(c) Outside display shall not exceed a height of 60 inches.

(d) Vending machines or cabinets for items such as beverages, ice and propane are exempt from the height and area restrictions provided they are limited to a maximum of three machines or cabinets per frontage.

(e) Outside display shall not be located so as to block pedestrian walkways, doorways, parking stalls, drive aisles (including access for emergency services). Thirty-six inches is the minimum width required to maintain pedestrian access.

(f) Outside display to be maintained in an orderly and attractive manner that does not detract from the image of the community or adjacent businesses.

(g) Outside display should be a representation of the products sold on site, not a storage area for inventory on pallets.

(h) Products shall be able to be sold from the display.
(Code 2004, pt. 3, § 30.09; Ord. No. 02-1948, 6-20-2002; Ord. No. 20-2447, 7-20-2020)

Sec. 113-28. Architectural control.

(a) At least 50 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:

- (1) Brick.
- (2) Natural or cultured stone.
- (3) Glass.
- (4) Stucco or exterior insulation and finish systems (EIFS).
- (5) Fiber cement or composite siding.
- (6) Architectural metal.
- (7) Integrally colored, rock-faced block.

(b) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock-faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to zoning administrator approval.

(c) Buildings may be constructed of primarily one of the materials listed in subsection (a) of this section if the design meets or exceeds the intent of this subpart.

(d) All buildings to incorporate four-sided design.

(e) Gasoline canopies support columns shall be constructed of masonry materials consistent with the principal building to a minimum height of five feet.
(Code 2004, pt. 3, § 30.091; Ord. No. 20-2447, 7-20-2020)

Secs. 113-29—113-59. Reserved.

ARTICLE III. COMMUNITY COMMERCIAL (B-2)**Sec. 113-60. Intent.**

The purpose of the Community Commercial (B-2) District is to allow commercial uses serving surrounding neighborhoods with low to moderate traffic uses. This district may be located adjacent to residential, commercial, and industrial districts and shall be primarily located on collector or arterial roads.

(Code 2004, pt. 3, § 30.11; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 30.11, 11-18-2024)

Sec. 113-61. Permitted uses.

The following are permitted uses in the Community Commercial (B-2) Zone:

- (1) General retail, except when specifically listed elsewhere in this chapter.
- (2) Banks.
- (3) Restaurants.
- (4) Brew pubs.
- (5) Personal services, including massage, hair salons, and similar businesses.
- (6) Dry cleaning and laundry.
- (7) Repair services, excluding repair of vehicles and small engines.
- (8) Business and professional offices, including medical offices.
- (9) Personalized instructional services and fitness centers, total floor area limited to 4,000 square feet without a conditional use permit.
- (10) Portrait or art studio.
- (11) Cannabis retail and/or medical cannabis businesses licensed for cannabis retail (subject to the standards listed in Chapter 23 of the Blaine Code of Ordinances).
- (12) Taproom.

(Code 2004, pt. 3, § 30.12; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 25-2572, § 30.12, 1-22-2025)

Sec. 113-62. Accessory uses.

The following accessory uses are allowed in the Community Commercial (B-2) Zone: none.

(Code 2004, pt. 3, § 30.13; Ord. No. 20-2447, 7-20-2020)

Sec. 113-63. Conditional uses.

The following are conditional uses in the Community Commercial (B-2) Zone:

- (1) Animal hospitals.
- (2) Amusement and recreation.
- (3) Fitness center not meeting the requirements of section 113-61(9).
- (4) Gasoline station.
- (5) Minor auto repair for passenger vehicles.
- (6) Car wash.
- (7) Construction and contractor's offices.
- (8) Commercial day care centers.
- (9) Educational uses not meeting the requirements of section 113-61(9).
- (10) Small equipment rental; moving van rental and minor repair. Moving vans are limited to single rear axle vans and trucks up to 33 feet in total overall length. Repair activities are limited to moving vans owned or leased by the equipment rental facility.
- (11) Meeting/assembly halls.
- (12) Motels/hotels.
- (13) Open sales lot.
- (14) Private clubs.
- (15) Outdoor dining accessory to a restaurant.
- (16) Theaters.
- (17) Vocation, technical, and trade schools.
- (18) Zero lot line splits with shared parking or access.
- (19) Off-sale liquor stores.
- (20) Two or more buildings on same lot.
- (21) Places of worship.
- (22) Principal adult uses, as defined and licensed under chapter 22, article II.
- (23) Domestic animal indoor kennels and training facilities.
- (24) Major automobile repair for passenger vehicles.
- (25) Funeral homes.
- (26) Vehicle rental agency with up to 15 vehicles on site.
- (27) Pawn shop.

(28) Indoor vehicle sales associated with and on the same property as major automobile repair.

(29) Live entertainment accessory to a restaurant.

(Code 2004, pt. 3, § 30.14; Ord. No. 86-928, 2-20-1986; Ord. No. 88-1087, 6-16-1988; Ord. No. 89-1140, 5-18-1989; Ord. No. 93-1320, 1-7-1993; Ord. No. 93-1479, 11-18-1993; Ord. No. 94-1534, 9-1-1994; Ord. No. 95-1575, 9-21-1995; Ord. No. 03-1983, 6-26-2003; Ord. No. 03-1990, 8-21-2003; Ord. No. 05-2063, 10-20-2005; Ord. No. 09-2179, 2-19-2009; Ord. No. 14-2295, 10-16-2014; Ord. No. 18-2407, 6-21-2018; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 30.14, 12-18-2023)

Sec. 113-64. Standards.

The following standards are required in the Community Commercial (B-2) Zone:

- (1) Front yard setback: 50 feet.
- (2) Side yard setback.
 - a. When adjacent to commercial or industrial districts: 20 feet; corner lot 50 feet;
 - b. When adjacent to residential districts: 100 feet.
 - c. A reduction in the required setback buffer may be requested by following the requirements of section 129-20.
- (3) Rear yard setback.
 - a. When adjacent to commercial or industrial districts: 20 feet;
 - b. When adjacent to residential districts: 100 feet.
 - c. A reduction in the required setback buffer may be requested by following the requirements of section 129-20.
- (4) In the event where front, side or rear setback requirements from a differing adjacent district fall within a public street or highway right-of-way, the minimum setback shall be 20 feet from the property line but not less than the required setback from the adjacent differing district boundary.
- (5) Maximum building height shall not exceed three stories, or 50 feet in height, whichever is less.
- (6) Parking and driveways.
 - a. Parking and driveways may be constructed to within the following minimum setbacks of property line:
 1. Front yard/corner side yard: 30 feet.
 2. Side yard: ten feet.
 3. Rear yard: ten feet.

- b. When a B-2 zoning district is located adjacent to any residentially zoned property, the side yard and rear yard parking/driveway setback shall be a minimum of 25 feet.
 - (7) Off-street loading. Refer to section 129-14.
 - (8) Major automobile repair standards.
 - a. No outside storage of vehicles that have exterior damage or are dismantled.
 - b. No air quality or noise impact to adjacent properties shall be permitted.
 - c. Additional screening as determined by the zoning administrator.
 - d. A 75-foot landscaped buffer between a major automobile repair facility and all residential zoning districts.
 - (9) Car wash standards.
 - a. Stand-alone car washes and car washes accessory to a gasoline station shall meet a 300-foot setback to any property zoned or guided in the comprehensive plan as residential and intended for residential buildings. The setback shall be measured from the car wash structure to the property line of the residential property.
 - b. All exterior lighting shall comply with section 129-2.
 - c. Through the conditional use permit process, the city may require additional necessary conditions to limit the impact of drive-thru lanes on surrounding property, including, but not limited to, limiting hours of operation, restricting drive-thru lane orientation, and/or requiring additional landscaping, berming or other means of screening.
 - d. The site and building shall be designed to limit the effects of the washing operation and vacuums on adjacent properties and public rights-of-way. Garage doors shall be positioned to limit exposure to residential districts.
- (Code 2004, pt. 3, § 30.15; Ord. No. 85-898, 8-15-1985; Ord. No. 86-937, 4-3-1986; Ord. No. 93-1491, 12-16-1993; Ord. No. 94-1534, 9-1-1994; Ord. No. 94-1539, 11-17-1994; Ord. No. 95-1553, 4-20-1995; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 24-2553, § 30.15, 6-17-2024)

Sec. 113-65. Landscaping.

- (a) All open areas of any lot not used for parking, driveways, or storage, shall be landscaped with trees, shrubs, berms, and planted ground covers.
- (b) It shall be the owner's responsibility to see that the landscaping is maintained in an attractive and well maintained condition. The owner shall also replace any dead or damaged trees or shrubs with a similar species. Any dead or damaged sod shall also be replaced.

(c) All vacant lots or portions of lots shall be maintained in an orderly manner, free of litter and junk.

(d) All lots in this district shall provide a landscaped yard. This yard shall be kept clear of all structures, storage and off-street parking. Except for driveways, the yard shall extend along the entire boundaries of the site. This yard shall have a minimum width of not less than ten feet.

(e) For additional landscaping requirements, refer to section 129-7.

(f) Underground irrigation shall be required for all yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved.

(Code 2004, pt. 3, § 30.16; Ord. No. 88-1075, 3-17-1988; Ord. No. 89-1177, 1-4-1990; Ord. No. 20-2447, 7-20-2020)

Sec. 113-66. Screening.

On a lot adjacent to a lot in a residential district, there shall be an opaque screen made up of trees or berms and a six-foot-high solid fence made of maintenance free materials.

(Code 2004, pt. 3, § 30.17; Ord. No. 20-2447, 7-20-2020)

Sec. 113-67. Storage.

(a) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

(b) No outdoor storage of any materials is permitted except as provided for in section 113-68.

(c) Employee service vehicles with a maximum of 10,000 GVW, associated with a commercial retail business that is specifically mentioned in this zoning district, may be parked outside under conditions as approved by the zoning administrator. Vehicles associated with a commercial retail business specifically mentioned in this zoning district greater than 10,000 GVW may be parked in a loading area with at least one overhead door approved by the zoning administrator and meeting the requirements of section 129-14.

(Code 2004, pt. 3, § 30.18; Ord. No. 91-1267, 10-3-1991; Ord. No. 02-1948, 6-20-2002; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022)

Sec. 113-68. Outside display.

Outside display in B-2 retail sites is allowed provided the following standards are met:

- (1) Outside display area is limited to a maximum of 30 percent of the width of a building frontage and is not to exceed a total of 150 square feet of area for buildings under 40,000 square feet and not to exceed 400 square feet for buildings larger than 40,000 square feet. The term "building frontage" means the dimension or width of a store front occupied by the retailer establishing the outside display. For purposes of this part a frontage must contain a public or customer entrance or exit and no space is allowed more than two frontages.
 - (2) Outside display to be located immediately adjacent to and within the dimensions of the building frontage and shall not extend from the front building edge more than 50 inches.
 - (3) Outside display shall not exceed a height of 60 inches.
 - (4) Vending machines or cabinets for items such as beverages, ice and propane are exempt from the height and area restrictions provided they are limited to a maximum of three machines or cabinets per frontage.
 - (5) Outside display shall not be located so as to block pedestrian walkways, doorways, parking stalls, drive aisles (including access for emergency services). Thirty-six inches is the minimum width required to maintain pedestrian access.
 - (6) Outside display to be maintained in an orderly and attractive manner that does not detract from the image of the community or adjacent businesses.
 - (7) Outside display should be a representation of the products sold on site, not a storage area for inventory on pallets.
 - (8) Products shall be able to be sold from the display.
- (Code 2004, pt. 3, § 30.19; Ord. No. 02-1948, 6-20-2002; Ord. No. 20-2447, 7-20-2020)

Sec. 113-69. Architectural control.

(a) At least 50 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:

- (1) Brick.
- (2) Natural or cultured stone.
- (3) Glass.
- (4) Stucco or exterior insulation and finish systems (EIFS).

- (5) Fiber cement or composite siding.
- (6) Architectural metal.
- (7) Integrally colored, rock-faced block.

(b) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock-faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to zoning administrator approval.

(c) Buildings may be constructed of primarily one of the materials listed in subsection (a) of this section if the design meets or exceeds the intent of this subpart.

(d) All buildings to incorporate four sided design.

(e) Gasoline canopies support columns shall be constructed of masonry materials consistent with the principal building to a minimum height of five feet.

(Code 2004, pt. 3, § 30.191; Ord. No. 20-2447, 7-20-2020)

Secs. 113-70—113-96. Reserved.

ARTICLE IV. REGIONAL COMMERCIAL (B-3)

Sec. 113-97. Intent.

The purpose of the Regional Commercial (B-3) District is to allow commercial uses serving regional trade areas with moderate to high traffic uses. This district may be located adjacent to residential, commercial, and industrial districts and shall be primarily located on arterial roads.

(Code 2004, pt. 3, § 30.21; Ord. No. 93-1491, 12-16-1993; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 30.21, 11-18-2024)

Sec. 113-98. Permitted uses.

The following are permitted uses in the Regional Commercial (B-3) Zone:

- (1) General retail, except when specifically listed elsewhere in this subpart.
- (2) Banks.
- (3) Restaurants.
- (4) Brew pubs.
- (5) Personal services, including massage, hair salons, and similar businesses.
- (6) Dry cleaning and laundry.
- (7) Repair services, excluding repair of vehicles and small engines.
- (8) Business and professional offices, including medical offices.

- (9) Personalized instructional services and fitness centers, total floor area limited to 4,000 square feet without a conditional use permit.
 - (10) Portrait or art studio.
 - (11) Cannabis retail and/or medical cannabis businesses licensed for cannabis retail (subject to the standards listed in Chapter 23 of the Blaine Code of Ordinances).
 - (12) Taproom.
- (Code 2004, pt. 3, § 30.22; Ord. No. 84-850, 11-15-1984; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 25-2572, § 30.22, 1-22-2025)

Sec. 113-99. Accessory uses.

The following accessory uses are allowed in the Regional Commercial (B-3) Zone:

- (1) Parking structures as regulated in section 129-13(10).
- (Code 2004, pt. 3, § 30.23; Ord. No. 93-1491, 12-16-1993; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 30.23, 11-18-2024)

Sec. 113-100. Conditional uses.

The following are conditional uses in the Regional Commercial (B-3) Zone:

- (1) Animal hospitals.
- (2) Amusement and recreation.
- (3) Fitness center not meeting the requirements of section 113-61(9).
- (4) Vehicle sales lot, for passenger vehicles only subject to the following standards:
 - a. Minimum lots size shall be four acres.
 - b. Minimum building size shall be 25,000 square feet.
 - c. Site shall incorporate extensive berming along street frontages.
 - d. Vehicle storage and display areas to have minimum 25-foot setback from all interior property lines and 40-foot setback from any public right-of-way.
- (5) Gasoline station.
- (6) Minor auto repair for passenger vehicles.
- (7) Indoor vehicle sales.
- (8) Boat sales and display areas.
- (9) Bowling alleys.
- (10) Car wash.
- (11) Construction and contractor's offices.

- (12) Dance hall.
 - (13) Commercial day care centers.
 - (14) Educational uses.
 - (15) Meeting/assembly halls.
 - (16) Manufactured home sales lots.
 - (17) Hotels.
 - (18) Private clubs.
 - (19) Recreational vehicle sales lots and showrooms.
 - (20) Outdoor dining accessory to a restaurant.
 - (21) Skating rinks.
 - (22) Small equipment rental; moving van rental and minor repair. Moving vans are limited to single rear axle vans and trucks up to 33 feet in total overall length. Repair activities are limited to moving vans owned or leased by the equipment rental facility.
 - (23) Theaters.
 - (24) Vocational, technical, and trade schools.
 - (25) Zero lot line split with shared access or parking.
 - (26) Off-sale liquor stores.
 - (27) Two or more buildings on same lot.
 - (28) Places of worship.
 - (29) Principal adult uses, as defined and licensed under chapter 22, article II.
 - (30) Domestic animal indoor kennels and training facilities.
 - (31) Major automobile repair for passenger vehicles.
 - (32) Funeral homes.
 - (33) Vehicle rental agency with up to 15 vehicles on site.
 - (34) Pawn shop.
 - (35) Live entertainment accessory to a restaurant.
- (Code 2004, pt. 3, § 30.24; Ord No. 86-928, 2-20-1986; Ord. No. 88-1087, 6-16-1988; Ord. No. 89-1140, 5-18-1989; Ord. No. 93-1320, 1-7-1993; Ord. No. 93-1479, 11-18-1993; Ord. No. 94-1534, 9-1-1994; Ord. No. 95-1575, 9-21-1995; Ord. No. 03-1983, 6-26-2003; Ord. No. 03-1990, 8-21-2003; Ord. No. 05-2063, 10-20-2005; Ord. No. 09-2179, 2-19-2009; Ord. No. 18-2407, 6-21-2018; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 30.24, 12-18-2023)

Sec. 113-101. Standards.

The following standards are required in the Regional Commercial (B-3) Zone:

- (1) Front yard setback: 50 feet.
- (2) Side yard setback.
 - a. When adjacent to commercial or industrial districts: 20 feet;
 - b. When adjacent to residential districts: 100 feet.
 - c. A reduction in the required setback buffer may be requested by following the requirements of section 129-20.
- (3) Rear yard setback.
 - a. When adjacent to commercial or industrial districts: 20 feet;
 - b. When adjacent to residential districts: 100 feet.
 - c. A reduction in the required setback buffer may be requested by following the requirements of section 129-20.
- (4) In the event where front, side or rear setback requirements from a differing adjacent district fall within a public street or highway right-of-way, the minimum setback shall be 20 feet from the property line but not less than the required setback from the adjacent differing district boundary.
- (5) Buildings exceeding three stories or 50 feet in height, whichever is less, must obtain a conditional use permit.
- (6) Parking and driveways.
 - a. Parking and driveways may be constructed to within the following minimum setbacks of property line:
 1. Front yard/corner side yard: 30 feet.
 2. Side yard: ten feet.
 3. Rear yard: ten feet.
 - b. When a B-3 zoning district is located adjacent to any residentially zoned property, the side yard and rear yard parking/driveway setback shall be a minimum of 25 feet.
- (7) Off-street loading. Refer to section 129-14.
- (8) Major automobile repair standards.
 - a. No outside storage of vehicles that have exterior damage or are dismantled.
 - b. No air quality or noise impact to adjacent properties shall be permitted.
 - c. Additional screening as determined by the zoning administrator.

- d. A 75-foot landscaped buffer between a major automobile repair facility and all residential zoning districts.
- (9) Car wash standards.
- a. Stand-alone car washes and car washes accessory to a gasoline station shall meet a 300-foot setback to any property zoned or guided in the comprehensive plan as residential and intended for residential buildings. The setback shall be measured from the car wash structure to the property line of the residential property.
 - b. All exterior lighting shall comply with section 129-2.
 - c. Through the conditional use permit process, the city may require additional necessary conditions to limit the impact of drive-thru lanes on surrounding property, including, but not limited to, limiting hours of operation, restricting drive-thru lane orientation, and/or requiring additional landscaping, berming or other means of screening.
 - d. The site and building shall be designed to limit the effects of the washing operation and vacuums on adjacent properties and public rights-of-way. Garage doors shall be positioned to limit exposure to residential districts.

(Code 2004, pt. 3, § 30.25; Ord. No. 85-898, 8-15-1985; Ord. No. 86-937, 4-3-1986; Ord. No. 90-1235, 10-18-1990; Ord. No. 94-1534, 9-1-1994; Ord. No. 94-1539, 11-17-1994; Ord. No. 95-1553, 4-20-1995; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 24-2553, § 30.25, 6-17-2024)

Sec. 113-102. Landscaping.

(a) All open areas of any lot not used for parking, driveways, or storage, shall be landscaped with trees, shrubs, berms, and planted ground covers.

(b) It shall be the owner's responsibility to see that the landscaping is maintained in an attractive and well maintained condition. The owner shall also replace any dead or damaged trees or shrubs with a similar species. Any dead or damaged sod shall also be replaced.

(c) All vacant lots or portions of lots shall be maintained in an orderly manner, free of litter and junk.

(d) For additional landscaping requirements, refer to section 129-7.

(e) Underground irrigation shall be required for all yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved.

(Code 2004, pt. 3, § 30.26; Ord. No. 89-1177, 1-4-1990; Ord. No. 88-1075, 3-17-1988; Ord. No. 20-2447, 7-20-2020)

Sec. 113-103. Screening.

On a lot adjacent to a lot in a residential district, there shall be an opaque screen made up of trees or berms and a six-foot-high solid fence constructed of maintenance free materials.

(Code 2004, pt. 3, § 30.27; Ord. No. 20-2447, 7-20-2020)

Sec. 113-104. Storage.

(a) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

(b) No outdoor storage of any materials is permitted except as provided for in section 113-105.

(c) Employee service vehicles with a maximum of 10,000 GVW, associated with a commercial retail business that is specifically mentioned in this zoning district, may be parked outside under conditions as approved by the zoning administrator. Vehicles associated with a commercial retail business specifically mentioned in this zoning district greater than 10,000 GVW may be parked in a loading area with an overhead door approved by the zoning administrator and meeting the requirements of section 129-14.

(Code 2004, pt. 3, § 30.28; Ord. No. 91-1267, 10-3-1991; Ord. No. 02-1948, 6-20-2002; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022)

Sec. 113-105. Outside display.

Outside display in B-3 retail sites is allowed provided the following standards are met:

- (1) Outside display area is limited to a maximum of 30 percent of the width of a building frontage and is not to exceed a total of 150 square feet of area for buildings under 40,000 square feet and not to exceed 400 square feet for buildings over 40,000 square feet. The term "building frontage" is defined as the dimension or width of a store front occupied by the retailer establishing the outside display. For purposes of this article, a frontage must contain a public or customer entrance or exit and no space is allowed more than two frontages.
- (2) Outside display to be located immediately adjacent to and within the dimensions of the building frontage and shall not extend from the front building edge more than 50 inches.
- (3) Outside display shall not exceed a height of 60 inches.

- (4) Vending machines or cabinets for items such as beverages, ice and propane are exempt from the height and area restrictions provided they are limited to a maximum of three machines or cabinets per frontage.
 - (5) Outside display shall not be located so as to block pedestrian walkways, doorways, parking stalls, drive aisles (including access for emergency services). Thirty-six inches is the minimum width required to maintain pedestrian access.
 - (6) Outside display to be maintained in an orderly and attractive manner that does not detract from the image of the community or adjacent businesses.
 - (7) Outside display should be a representation of the products sold on site, not a storage area for inventory on pallets.
 - (8) Products shall be able to be sold from the display.
- (Code 2004, pt. 3, § 30.29; Ord. No. 02-1948, 6-20-2002; Ord. No. 20-2447, 7-20-2020)

Sec. 113-106. Architectural control.

(a) At least 50 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:

- (1) Brick.
- (2) Natural or cultured stone.
- (3) Glass.
- (4) Stucco or exterior insulation and finish systems (EIFS).
- (5) Fiber cement or composite siding.
- (6) Architectural metal.
- (7) Integrally colored rock-faced block.

(b) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock-faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to zoning administrator approval.

(c) Buildings may be constructed of primarily one of the materials listed in subsection (a) of this section if the design meets or exceeds the intent of this subpart.

(d) All buildings are to incorporate four-sided design.

(e) Gasoline canopies support columns shall be constructed of masonry materials consistent with the principal building to a minimum height of five feet.

(Code 2004, pt. 3, § 30.291; Ord. No. 20-2447, 7-20-2020)

Secs. 113-107—113-125. Reserved.**ARTICLE V. OFFICE RESEARCH PARK (B-4)****Sec. 113-126. Intent.**

The purpose of the Office Research Park (B-4) District is to allow office uses and supporting commercial uses serving a local or regional trade area. This district may be located adjacent to residential, commercial, and industrial districts and shall be primarily located on collector or arterial roads.

(Code 2004, pt. 3, § 30.31; Ord. No. 97-1680, 10-16-1997; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 30.31, 11-18-2024)

Sec. 113-127. Permitted uses.

The following are permitted uses in the Office Research Park (B-4) Zone:

- (1) Business and professional offices, including medical offices.
- (2) Uses not explicitly enumerated in this section as permitted uses, but closely similar thereto, provided that these uses are not explicitly mentioned as permitted or conditional uses elsewhere in this part.

(Code 2004, pt. 3, § 30.32; Ord. No. 97-1680, 10-16-1997; Ord. No. 20-2447, 7-20-2020)

Sec. 113-128. Accessory uses.

The following are permitted uses in the Office Research Park (B-4) Zone: none.
(Code 2004, pt. 3, § 30.33; Ord. No. 97-1680, 10-16-1997; Ord. No. 20-2447, 7-20-2020)

Sec. 113-129. Conditional uses.

The following are permitted uses in the Office Research Park (B-4) Zone:

- (1) Restaurants meeting standards of section 113-131.
- (2) Zero lot line split, with shared access or shared parking.
- (3) Commercial daycare.
- (4) Banks and financial institutions.
- (5) Places of worship.
- (6) General retail and service uses.
- (7) Funeral homes.

(8) Animal clinics.
(Code 2004, pt. 3, § 30.34; Ord. No. 91-1252, 6-20-1991; Ord. No. 97-1680, 10-16-1997; Ord. No. 98-1729, 6-25-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 30.34, 12-18-2023)

Sec. 113-130. Standards.

The following are permitted uses in the Office Research Park (B-4) Zone:

- (1) Front yard setback: 50 feet.
- (2) Side yard setback.
 - a. When adjacent to commercial or industrial districts: 20 feet;
 - b. Corner lot: 100 feet.
- (3) Rear yard setback: 20 feet when adjacent to commercial or industrial districts.
- (4) In the event where front, side or rear setback requirements from a differing adjacent district fall within a public street or highway right-of-way, the minimum setback shall be 20 feet from the property line but not less than the required setback from the adjacent differing district boundary.
- (5) Maximum building height shall not exceed 2½ stories, or 36 feet in height, whichever is less. Buildings exceeding three stories or 50 feet in height, whichever is less, must obtain a conditional use permit.
- (6) Parking and driveways.
 - a. Parking and driveways may be constructed to within the following minimum setbacks of property line:
 1. Front yard/corner side yard: 30 feet.
 2. Side yard: ten feet.
 3. Rear yard: 20 feet.
 - b. For additional parking requirements: Refer to section 129-14.
 - c. When a B-4 zoning district is located adjacent to any residentially zoned property, the side yard and rear yard parking/driveway setback shall be a minimum of 25 feet.
- (7) When an office park district is adjacent to any residential district, all building setbacks shall be 100 feet along any side adjacent to a residential district. A reduction in the required setback buffer may be requested by following the requirements of section 129-20.
- (8) Off-street loading. Refer to section 129-14.
(Code 2004, pt. 3, § 30.35; Ord. No. 85-898, 8-15-1985; Ord. No. 86-937, 4-3-1986; Ord. No. 90-1235, 11-1-1990; Ord. No. 97-1680, 10-16-1997; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022)

Sec. 113-131. Standards for restaurants.

(a) Freestanding restaurants shall have a minimum first floor building area of 6,000 square feet.

(b) Drive-up window or separate take-out facilities are not permitted.

(c) No live entertainment is permitted.

(d) Outdoor dining is permitted as part of a conditional use permit.

(e) Restaurants are permitted in a multi-tenant building if the multi-tenant building contains a minimum first floor area of not less than 6,000 square feet. (Code 2004, pt. 3, § 30.355; Ord. No. 98-1729, 6-25-1998; Ord. No. 20-2447, 7-20-2020)

Sec. 113-132. Landscaping.

(a) All open areas of any lot not used for parking, driveways, or storage shall be landscaped with trees, shrubs, berms, and planted ground covers.

(b) It shall be the owner's responsibility to see that the landscaping is maintained in an attractive and well maintained condition. The owner shall also replace any dead or damaged trees or shrubs with a similar species. Any dead or damaged sod shall also be replaced.

(c) All vacant lots or portions of lots shall be maintained in an orderly manner, free of litter and junk.

(d) For additional landscaping requirements, refer to section 129-7.

(e) Underground irrigation shall be required for all yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved. (Code 2004, pt. 3, § 30.36; Ord. No. 88-1075, 3-17-1988; Ord. No. 89-1177, 1-4-1990; Ord. No. 20-2447, 7-20-2020)

Sec. 113-133. Screening.

On a lot adjacent to a lot in a residential district, there shall be an opaque screen made up of trees or berms and a six-foot-high solid fence constructed of maintenance free materials.

(Code 2004, pt. 3, § 30.37; Ord. No. 20-2447, 7-20-2020)

Sec. 113-134. Storage.

(a) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such

facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

(b) No outdoor storage of any materials is permitted.
(Code 2004, pt. 3, § 30.38; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022)

Sec. 113-135. Architectural control.

(a) At least 50 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:

- (1) Brick.
- (2) Natural or cultured stone.
- (3) Glass.
- (4) Stucco or exterior insulation and finish systems (EIFS).
- (5) Fiber cement or composite siding.
- (6) Architectural metal.
- (7) Integrally colored, rock-faced block.

(b) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock-faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to zoning administrator approval.

(c) Buildings may be constructed of primarily one of the materials listed in subsection (a) of this section if the design meets or exceeds the intent of this subpart.

(d) All buildings to incorporate four-sided design.

(e) Gasoline canopies support columns shall be constructed of masonry materials consistent with the principal building to a minimum height of five feet.
(Code 2004, pt. 3, § 30.39; Ord. No. 20-2447, 7-20-2020)

Secs. 113-136—113-153. Reserved.

ARTICLE VI. REGIONAL RECREATION (RR)

Sec. 113-154. Intent.

The Regional Recreation (RR) District is intended for a public recreation facility that provides facilities for a regional clientele.
(Code 2004, pt. 3, § 30.41; Ord. No. 20-2447, 7-20-2020)

Sec. 113-155. Conditional uses.

The following are conditional uses in the Regional Recreation (RR) Zone:

- (1) Indoor/outdoor public recreation of regional clientele, and maintenance facilities necessary for the operation thereof.
- (2) Fitness center.
- (3) Public assembly, exhibition and conference center.
- (4) Sports medicine clinic.
- (5) Educational uses.
- (6) Building taller than 50 feet in total height.
- (7) Sports domes with a membrane-supported roof not meeting architectural standards of section 113-159.
- (8) Restaurant.
- (9) Dormitory.
- (10) Outdoor storage accessory to operation of a maintenance facility for a public recreation facility and located in rear yards.
- (11) Parking structures as an accessory use, as regulated in section 129-13(10). (Code 2004, pt. 3, § 30.42; Ord. No. 17-2376, 4-6-2017; Ord. No. 18-2414, 10-18-2018; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2476, 8-2-2021; Ord. No. 24-2568, § 30.42, 11-18-2024)

Sec. 113-156. Standards.

The following standards are required in the Regional Recreation (RR) Zone:

- (1) Minimum area to be zoned RR: 80 acres.
- (2) Minimum lot size: five acres with city water and sewer services.
- (3) Minimum lot width: 200 feet.
- (4) Minimum building size: 5,000 square feet.
- (5) Front yard building setback: 40 feet.
- (6) Corner side yard building setback: 40 feet.
- (7) Side yard building setback: 15 feet.
- (8) Rear yard building setback: 20 feet.
- (9) All buildings shall be sprinkled and contain other fire and life safety standards denoted in N.F.P.A. 101 and subject to metropolitan airport commission regulations.

(10) Parking and driveways.

- a. Parking and driveways may be constructed to within the following minimum setbacks of property line:
 1. Front yard/corner side yard: 25 feet.
 2. Side yard: ten feet.
 3. Rear yard: ten feet.
- b. If rear yard or side yard parking setback is adjacent to a collector/arterial street as designated in the city's transportation plan, the parking setback shall be 25 feet. Such setback shall be 50 percent opaquely screened with berms, shrubs, trees, fence, or a combination thereof.

(Code 2004, pt. 3, § 30.43; Ord. No. 18-2414, 10-18-2018; Ord. No. 20-2447, 7-20-2020)

Sec. 113-157. Landscaping.

All landscaping requirements shall meet the provisions of section 129-7, including the following:

- (1) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevard and into general parking islands, except natural areas to be preserved.
- (2) Traffic safety islands or general parking islands where deemed appropriate shall be landscaped.
- (3) Ground covers used in lieu of grass shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within 12 months after planting.

(Code 2004, pt. 3, § 30.44; Ord. No. 20-2447, 7-20-2020)

Sec. 113-158. Storage refuse facilities.

(a) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

(b) No outdoor storage of any materials is permitted, except for outdoor storage approved by a conditional use permit in section 113-155(10).

(Code 2004, pt. 3, § 30.45; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2476, 8-2-2021; Ord. No. 22-2494, 1-19-2022)

Sec. 113-159. Architectural control.

(a) All buildings erected shall be a type of construction, as defined in the state building code, except Type V.

(b) Any building shall be constructed so that all exterior sides shall be surfaced equivalent to the front building elevation as determined by the zoning administrator.

(c) Exterior surfaces.

(1) Exterior wall surfaces of all buildings shall be primarily faced with brick, stone, precast panel, cast-in-place panel, architectural concrete in combination with glass or other permitted materials.

(2) Based on building size, height, location or special use, the zoning administrator may approve the use of modern metal paneling materials or its equivalent for exterior wall surfaces provided such materials are used in conjunction with other materials listed above. Use of modern metal paneling materials or its equivalent shall not exceed 70 percent of the cumulative area of all building walls. Modern metal paneling shall be used primarily on the rear wall and secondarily on the side or front wall.

(d) The building design should exhibit architectural control which seeks to be creative and maximize building lines, shades, and angles to maximize architectural uniqueness. In addition, the city is desirous of such building design which will enhance energy conservation and attempt to use active or passive solar design.

(e) All building design and exterior wall surface materials shall be reviewed and approved by the zoning administrator.

(Code 2004, pt. 3, § 30.46; Ord. No. 20-2447, 7-20-2020)

Secs. 113-160—113-186. Reserved.**ARTICLE VII. PLANNED OFFICE DISTRICT (POD)****Sec. 113-187. Intent.**

The purpose of the Planned Office District (POD) is to allow office, manufacturing uses and supporting commercial uses in a corporate campus environment. This district may be located adjacent to residential, commercial, and industrial districts and shall be primarily located on collector or arterial roads.

(Code 2004, pt. 3, § 30.71(1); Ord. No. 07-2133, 6-21-2007; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 30.71, 11-18-2024)

Sec. 113-188. Land uses.

(a) *Uses allowed by conditional use permit (CUP).* Land uses may include office, manufacturing and specific service use developments as specifically indicated below. All land uses not specified in subsection (b) of this section are prohibited. All land uses shall be reviewed and approved pursuant to the conditional use permit procedures in section 101-4. The POD zoning classification is intended to be a companion to the PI Planned Industrial land use designation.

(b) *Requirements.* The proposed land uses, their mix, lot sizes, and location must be compatible and complementary both internally and with adjacent land uses. The proposed land uses must not create any internal or external traffic congestion or traffic flow problems. Existing business of industrial uses that were legal conforming uses as of the day of the adoption of the ordinance from which this subpart is derived shall continue to be considered legal conforming uses under the provisions of this part.

- (1) Business and professional offices.
- (2) Research and development laboratories.
- (3) Financial institutions.
- (4) Medical office/clinic.
- (5) Trade and convention centers.
- (6) Zero lot line and multi-building developments.
- (7) Manufacturing.
- (8) Distribution and warehousing of products limited to not more than 33 percent of total floor area.
- (9) Coffee shops, restaurants, day cares, and other service/retail uses accessory to a principal use and located within an office building.
- (10) Athletic clubs.
- (11) Full service or business class hotel consisting of a minimum of four floors, multiple meeting rooms, business data center, in-room desks, indoor pool and fitness area.
- (12) Ground-mounted solar as an accessory use.
- (13) Parking structures as an accessory use, as regulated in section 129-13(10). (Code 2004, pt. 3, § 30.72; Ord. No. 07-2133, 6-21-2007; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 30.72, 11-18-2024)

Sec. 113-189. Development procedure.

(a) Prior to applying for a conditional use permit for development within the POD zone, the developer shall meet with the zoning administrator, or their designee, to review the applicable ordinances, regulations and plans that will affect the area to be rezoned.

(b) The developer shall present a concept plan or site plan to the zoning administrator. The zoning administrator shall review the concept design and recommend changes to comply with performance standards and section 101-4.

(c) Upon staff approval of the concept design a formal application may be made for a conditional use permit. The conditional use permit shall be considered as outlined under section 101-4.

(d) Prior to approval of building permits, the zoning administrator shall find that all standards listed in the conditional use permit have been satisfied in the site plan and building permit applications.

(e) The conditional use permit shall outline all allowed uses within the development, including square footages allotted to each use. A conditional use permit amendment shall be required for any deviation.

(Code 2004, pt. 3, § 30.73; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 30.73, 12-18-2023)

Sec. 113-190. Standards.

The following standards are required in the Planned Office District (POD):

(1) *Building setbacks (minimum).*

- a. Front yard: 40 feet.
- b. Side yard: 15 feet.
- c. Rear yard: 20 feet.
- d. The minimum setback from a county road or arterial roadway shall be 50 feet.
- e. All setbacks shall be determined from the planned right-of-way (ROW), as designated in the city, county or state transportation plan, and normally defined in the subdivision regulations.

(2) *Parking lot setbacks (minimum).*

- a. Front yard: 25 feet.
- b. Side yard: ten feet.
- c. Rear yard: 15 feet.
- d. The minimum setback from a county road or arterial roadway shall be 50 feet.

- e. All setbacks shall be determined from the planned right-of-way (ROW), as designated in the city, county or state transportation plan, and normally defined in the subdivision regulations.
- (3) *Building sizes (minimum).*
- a. 40,000 square feet for professional, medical or corporate office use.
 - b. 50,000 square feet for mixed use buildings containing manufacturing, product distribution or product warehousing. Mixed use buildings to contain a minimum office use component of at least 50 percent of the gross building area.
- (4) *Building height.* There shall be no height limitations, provided all buildings are in compliance with metropolitan airport commission regulations. Multi-floor buildings are encouraged.
- (5) *Building exteriors.*
- a. Major exterior surfaces of all walls shall be face brick, stone, glass, stucco, architecturally treated concrete cast in place or pre-cast panels, decorative block, wood, or architectural metal, or approved equivalent, as determined by the city. Wood and metal may be used, provided that they are appropriately integrated into the overall building design and not placed in areas which may be subject to damage associated with heavy use.
 - b. Under no circumstances shall sheet aluminum, corrugated aluminum, asbestos, iron, plain or painted plain concrete block be deemed acceptable as major exterior wall materials on buildings within this district.
- (6) *Landscaping.* In addition to the provisions of section 129-7, the following requirements shall be met:
- a. Underground irrigation shall be required for all yards.
 - b. Traffic safety islands or general parking islands, were required as part of plan approval, shall be landscaped and irrigated. At least five percent of the surface area of land within a parking area shall be landscaped.
 - c. Applicable landscaping requirements set forth in section 129-7 shall be increased by 1.5 times, which shall include at least 25 percent of the number of ornamental, conifer and overstory trees exceeding minimum size requirements in the front yard or in areas within view of the public right-of-way.
- (7) *Loading spaces/overhead doors.*
- a. Loading spaces and overhead doors should be designed to be compatible with the principal building. Architectural techniques should be employed to reduce visual impacts from adjacent properties and roadways.

- b. Loading spaces/overhead doors shall be located primarily in designated rear yards and secondarily in designated side yards.
 - c. Overhead doors limited to not more than one door per 20,000 square feet of building area with the exception that all buildings are allowed a minimum of three overhead doors and all city approved multi-tenant spaces are allowed a minimum of two overhead doors.
 - d. Outside storage of trucks or semitrailers is limited to not more than the number of docks or overhead doors. All truck storage areas to be 100 percent screened by a combination of earth berms, architectural elements such as fencing or building extensions and landscaping.
- (8) *Refuse enclosures.* Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (Code 2004, pt. 3, § 30.74; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022; Ord. No. 23-2535, § 30.74, 12-18-2023)

Secs. 113-191—113-218. Reserved.

ARTICLE VIII. TOWN COMMERCIAL (B-5)

Sec. 113-219. Intent.

The purpose of the Town Commercial (B-5) District is to allow limited commercial uses that are appropriate for highly visible properties serving a local or regional trade areas with elevated architectural and site design. This district may be located adjacent to residential, commercial, and industrial districts and shall be primarily located on collector or arterial roads.

(Code 2004, pt. 3, § 30.81; Ord. No. 21-2480, 8-16-2021; Ord. No. 24-2568, § 30.81, 11-18-2024)

Sec. 113-220. Permitted uses.

The following are permitted uses in the Town Commercial (B-5) Zone:

- (1) General retail.
- (2) Personal services, including massage, hair salons, and similar businesses.
- (3) Repair services, excluding repair of vehicles and small engines.
- (4) Business and professional offices, including medical offices.
- (5) Portrait or art studio.

(6) Pharmacies.
(Code 2004, pt. 3, § 30.82; Ord. No. 21-2480, 8-16-2021; Ord. No. 23-2520, 1-18-2023)

Sec. 113-221. Conditional uses.

The following are conditional uses in the Town Commercial (B-5) Zone:

- (1) Class I and II restaurants, with or without dining or live entertainment, as specifically allowed in the conditional use permit (CUP).
 - (2) Brew pubs.
 - (3) Bank.
 - (4) Hotel with convention facilities.
 - (5) Places of worship.
 - (6) Theaters.
 - (7) Private community/recreation centers.
 - (8) Taproom or brewery with brewer taproom.
 - (9) Coffee shop.
 - (10) Liquor stores.
 - (11) Indoor amusement and recreation not including fitness uses.
 - (12) Zero lot line splits with shared access or shared parking.
- (Code 2004, pt. 3, § 30.83; Ord. No. 21-2480, 8-16-2021; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2520, 1-18-2023; Ord. No. 23-2535, § 30.83, 12-18-2023)

Sec. 113-222. Accessory uses.

The following accessory uses are allowed in the Town Commercial (B-5) Zone:

- (1) Parking structures as an accessory use, as regulated in section 129-13(10).
- (Code 2004, pt. 3, § 30.84; Ord. No. 21-2480, 8-16-2021; Ord. No. 24-2568, § 30.84, 11-18-2024)

Sec. 113-223. Prohibited uses.

The following are prohibited uses in the Town Commercial (B-5) Zone:

- (1) Pawn shops.
- (2) Residential, including memory care and assisted living facilities.
- (3) Event centers.
- (4) Tobacco/vape shops.
- (5) Fitness centers, including yoga and gyms.

- (6) Auto repair and service.
 - (7) Car washes.
 - (8) Gas/convenience stores.
- (Code 2004, pt. 3, § 30.85; Ord. No. 21-2480, 8-16-2021)

Sec. 113-224. Standards.

The following standards are required in the Town Commercial (B-5) Zone:

- (1) *Building setbacks (minimum).*
 - a. Front yard: 50 feet, or one-half the total building height, whichever is greater.
 - b. Side yard: 15 feet, or one-half the total building height, whichever is greater.
 - c. Rear yard: 20 feet, or one-half the total building height, whichever is greater.
 - d. All setbacks shall be determined from the planned right-of-way (ROW), as designated in the city, county or state transportation plan, and normally defined in the subdivision regulations.
- (2) *Parking lot setbacks (minimum).*
 - a. Front yard: 30 feet.
 - b. Side yard: 15 feet.
 - c. Rear yard: 20 feet.
 - d. All setbacks shall be determined from the planned right-of-way (ROW), as designated in the city, county or state transportation plan, and normally defined in the subdivision regulations.
- (3) *Building sizes (minimum).* Freestanding Class II restaurants: 5,000 square feet minimum building size.
- (4) *Building height.* There shall be no height limitations, provided all buildings are in compliance with metropolitan airport commission regulations.
- (5) *Building exteriors.*
 - a. At least 50 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation.
 - 1. Brick.
 - 2. Natural or cultured stone.
 - 3. Glass.
 - 4. Stucco or exterior insulation and finish systems (EIFS).

5. Fiber cement or composite siding.
 6. Architectural metal.
 7. Integrally colored, rock-faced block.
 - b. The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock-faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to zoning administrator approval.
 - c. Buildings may be constructed of primarily one of the materials listed in subsection (5)a of this section if the design meets or exceeds the intent of this article.
 - d. All buildings to incorporate four-sided design. Under no circumstances shall sheet aluminum, corrugated aluminum, asbestos, iron, plain or painted plain concrete block be deemed acceptable as major exterior wall materials on buildings within the city.
- (6) *Landscaping.* In addition to the provisions of section 129-7, the following requirements shall be met:
- a. Underground irrigation shall be required.
 - b. Traffic safety islands or general parking islands, were deemed appropriate by the zoning administrator, shall be landscaped and irrigated. At least five percent of the surface area of land within a parking area shall be landscaped.
 - c. On any given site there shall be at least three different shrub species.
- (7) *Open space.* The minimum area of permeable surface shall be 30 percent of the total project area. The zoning administrator may approve a modification to the requirement, provided additional architectural or landscape enhancements are provided.
- (8) *Refuse enclosures.* Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (9) *Lighting.* A lighting plan shall be submitted depicting type and design, layout of fixtures, and the illumination pattern. The design shall preclude any off-site glare.
- (Code 2004, pt. 3, § 30.86; Ord. No. 02-1955, 9-5-2002; Ord. No. 04-2005, 1-22-2004; Ord. No. 21-2480, 8-16-2021; Ord. No. 22-2494, 1-19-2022)

Chapter 114—116

RESERVED

CD114:1

Chapter 117

MIXED USE DISTRICTS

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ARTICLE I. IN GENERAL

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ARTICLE II. 105TH AVENUE REDEVELOPMENT DISTRICT (RD)

Sec. 117-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions listed apply only to the RD district.

Brew pub means a brewer who holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted by state statute.

Brewer means a person or entity who manufactures malt liquor for sale.

Brewer taproom means an area on the premises of a brewery or on the premises adjacent to a brewery owned by the brewer in which the brewer sells or otherwise provides exclusively malt liquor produced by the brewer for consumption within the brewer taproom.

Brewery means a facility that brews malt liquor for distribution off site.

Cigar lounge means a licensed tobacco products shop limited to cigars and pipes and operated in compliance with the Minnesota Clean Indoor Act (M.S.A. §§ 144.411 to 144.417).

Cocktail room means on-sale of distilled liquor or wine produced for consumption on the premises owned by the distillery.

Distillery means a place or establishment where strong alcoholic drinks are produced by the process of distilling.

Farmers market means a food market at which local farmers sell fruit and vegetables and often meat, cheese and bakery products directly to consumers.

Live entertainment means an activity performed in person by one or more individuals for the purpose to amuse or interest an audience including, but not limited to, bands and disc jockeys.

Market means a place where buyers and sellers can meet to facilitate the exchange or transaction of goods and services.

Microdistillery means a place or establishment where strong alcoholic drinks are produced by the process of distilling in small quantities usually done in a single batch.

Professional office uses means those commercial activities that take place in office buildings, where goods are not produced, sold, or repaired.

Spa means a business that offers at least two out of three types of treatments: massage, skin care or other services like body wraps and scrubs.

(Code 2004, pt. 3, § 30.901; Ord. No. 22-2506, 7-18-2022; Ord. No. 24-2557, § 30.901, 9-4-2024; Ord. No. 24-2566, § 30.901, 10-21-2024)

Sec. 117-20. Intent.

The intent of the 105th Avenue Redevelopment District (RD) is to promote development and redevelopment consistent with the master plan for the 105th Avenue Redevelopment Area by encouraging residential uses in conjunction with commercial and expanded recreational activities to create an entertainment district. To create greater flexibility in land uses, and at the same time protect the interest of surrounding properties in the following ways:

- (1) By promoting a planned environment for integrated commercial uses which feature design continuity. A development shall reflect a common theme using compatible architectural design and consistency in signage, landscaping and lighting.
- (2) By encouraging a more creative approach in development, that will result in quality living environments through innovative design and aesthetic controls.
- (3) By providing for mixed use developments that are carefully planned to promote efficient use of land, parking, and open space.
- (4) By providing enhanced oversight through site plan approvals to ensure compatibility of mixed uses and consistency with the approved master plan.
- (5) By encouraging pedestrian access.
- (6) By allowing flexibility in setback and height restrictions.
- (7) By ensuring high standards of site design, architectural design, building materials and landscape design are achieved through design guidelines and approvals.
- (8) By providing the means for greater creativity and flexibility in environmental design than is provided under the strict application of the city zoning regulations and subdivision ordinance, while, at the same time, preserving the health, safety, order, convenience, prosperity, and general welfare of the city.

(Code 2004, pt. 3, § 30.902; Ord. No. 22-2506, 7-18-2022)

Sec. 117-21. Development procedure.

(a) All new buildings and additions require site plan approval through the planning commission and city council.

(b) A development agreement is required as part of the development approval and shall address, at a minimum, approved site and building design criteria, approved sign locations and design criteria, construction phasing, parking, cash escrow or letter of credit for construction of on-site and off-site improvements generated by the development.

(c) All buildings are subject to and must meet the design guidelines for the district.

(d) The district shall be governed by and maintained through an association or under the terms of a reciprocal easement and maintenance agreement or similar document which will provide maintenance on sidewalks, private streets, landscaping, snow removal, trash removal and parking for the district.

(Code 2004, pt. 3, § 30.903; Ord. No. 22-2506, 7-18-2022; Ord. No. 24-2566, § 30.903, 10-21-2024)

Sec. 117-22. Permitted uses.

The following are permitted uses in the 105th Avenue Redevelopment District (RD):

- (1) Art galleries and studios.
- (2) Bakery.
- (3) Candy or ice cream shops.
- (4) Cigar lounge.
- (5) Coffee shop.
- (6) Delicatessen stores.
- (7) Entertainment, such as live music.
- (8) General retail.
- (9) Market or grocer under 5,000 square feet.
- (10) Multifamily residential.
 - a. Multi-level multiple unit (apartments).
 - b. Townhomes.
- (11) Professional office or clinic.
- (12) Restaurants.
 - a. Class I.

- b. Class II under 20,000 square feet without drive-through.
 - c. Food hall.
 - (13) Hotel with or without banquet/convention space.
 - (14) Indoor recreation, not including fitness uses.
 - (15) Shared or off-site parking within the 105 Redevelopment Area.
 - (16) Structured parking including parking ramps.
- (Code 2004, pt. 3, § 30.904; Ord. No. 22-2506, 7-18-2022; Ord. No. 24-2557, § 30.904, 9-4-2024; Ord. No. 24-2566, § 30.904, 10-21-2024)

Sec. 117-23. Conditional uses.

All land uses listed below shall be reviewed and approved pursuant to the conditional use permit procedures in section 101-4:

- (1) Brewer tap room as associated with and on the same site as a licensed brewery.
 - (2) Farmers market.
 - (3) Outdoor recreation, such as a driving range, sports field, axe throwing, pickleball, minigolf, not including fitness uses.
 - (4) Licensed cocktail room with and on the same site as a licensed distillery/microdistillery or winery.
 - (5) More than one principal building on one lot.
 - (6) Outdoor seating/dining.
 - (7) Rooftop signage.
 - (8) Off-site parking outside of the 105 Redevelopment Area.
 - (9) Spa as defined in this part.
 - (10) Taproom.
 - (11) Drive-through located south of 105th Avenue NE, limit to one per parcel.
 - (12) Any signage not specifically permitted pursuant to section 117-34.
- (Code 2004, pt. 3, § 30.905; Ord. No. 22-2506, 7-18-2022; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2527, § 30.905, 9-6-2023; Ord. No. 24-2566, § 30.905, 10-21-2024)

Sec. 117-24. Prohibited use.

The following are prohibited uses in the 105th Avenue Redevelopment District (RD):

- (1) Auto sales: indoor or outdoor sales.
- (2) Automobile repair.

- (3) Car washes.
 - (4) Daycare.
 - (5) Drive-through facilities, except when located south of 105th Avenue NE.
 - (6) Fitness centers, including yoga and gyms.
 - (7) Gas/convenience stores.
 - (8) Outdoor storage.
 - (9) Pawn shops.
 - (10) Self-storage/mini storage.
 - (11) Tobacco/vape shops, except for cigar lounges as defined in section 117-19.
 - (12) Any uses not listed as permitted, or conditional.
- (Code 2004, pt. 3, § 30.906; Ord. No. 22-2506, 7-18-2022; Ord. No. 23-2527, § 30.906, 9-6-2023; Ord. No. 24-2557, § 30.906, 9-4-2024)

Sec. 117-25. Residential standards.

(a) *Setbacks.* A consistent street edge must be maintained at the right-of-way line along all street frontages. Street edge elements may consist of the principal building, landscaping, or a combination of these elements. Exceptions may include property which is adjacent to a water feature, surface parking or other instances the city council deems appropriate.

(b) *Building height is a minimum of two stories and a maximum of 150 feet.* All buildings must be in compliance with Federal Aviation Administration regulations.

(c) *Sidewalks are required along all public and private streets.* The location and alignment of new sidewalks shall connect directly to existing sidewalk network.

(d) *Mechanical equipment.* All mechanical equipment shall be screened and properly maintained with material similar to the material used on the main structure. Screened mechanical equipment shall not be located in the front or street side yards.

(e) *Trash enclosure.* Refuse facilities shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

(Code 2004, pt. 3, § 30.907; Ord. No. 22-2506, 7-18-2022; Ord. No. 24-2566, § 30.907, 10-21-2024)

Sec. 117-26. Residential parking.

(a) *Minimum spaces required.* The minimum spaces required for residential parking are as follows:

- (1) Multi-unit building.
 - a. 1.5 spaces per unit.
 - b. Minimum of one underground.
- (2) Townhouse: two garage spaces per unit.

(b) *Access; driveway location; review.* Parking areas shall have access to a public alley or street. Driveways shall be located to minimize interference with traffic movement. Parking will be reviewed as part of the site plan; a parking analysis is required as part of the review.

(c) *Surface parking.*

- (1) Parking lots shall be located to the rear of the buildings, or side yards if a rear location is not feasible.
- (2) When parking areas abut the street, the sidewalk edge must be delineated with landscaping, architectural fencing (meeting design guidelines) or other decorative features.

(d) *Shared parking.*

- (1) One or more residential buildings may provide the required off-street parking facilities by joint use of one or more sites where the total number of spaces provided are less than the sum of the total required for each residential use should they provide them separately.
- (2) The following are required for shared parking:
 - a. The building or use for which off-street parking facilities will be provided by another building or use shall be located within 800 feet of such parking facilities.
 - b. There shall be demonstrated no substantial conflict in using shared facilities through a professional parking analysis.
 - c. Shared parking facilities shall record with the county an irrevocable covenant running with the land. A certified copy of the recorded agreement shall be provided to the zoning administrator prior to issuance of a building permit.

(Code 2004, pt. 3, § 30.908; Ord. No. 22-2506, 7-18-2022; Ord. No. 24-2566, § 30.908, 10-21-2024)

Sec. 117-27. Architectural control residential.

All buildings must meet and be consistent with the following design guidelines:

- (1) Exterior wall finishes.
 - a. At least 50 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:
 1. Brick.
 2. Natural or cultured stone.

3. Glass.
 4. Stucco or exterior insulation and finish systems (EIFS).
 5. Fiber cement or composite siding.
 6. Architectural metal.
 7. Integrally colored rock-faced block.
- b. The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock-faced concrete block and textured concrete panels, or other comparable or superior materials as approved by the zoning administrator. All materials subject to zoning administrator approval.
- (2) Building articulation elements shall be provided at a maximum average spacing of 40 feet.
- (3) Flat rooflines are encouraged.
- (4) Façade articulation shall be provided through any of the following elements:
- a. A projecting bay, entry vestibule, or recess extending from the ground level through the second floor.
 - b. A ground-level recess.
 - c. A change in the rhythm of windows at the ground level and second floor, combined with a change of parapet height or material.
- (5) All buildings shall provide ground floor windows along facades, parks, plazas or other public outdoor spaces. Darkly tinted windows or windows that block two-way visibility are prohibited.
- (6) Awnings.
- a. An awning may project over the public sidewalk provided that it is at least eight feet above grade and does not project more than two-thirds the width of the public sidewalk as measured from the building.
 - b. Awnings must be constructed of durable, water repellent material such as canvas or metal. Plastic or fiberglass are not permitted.
 - c. Backlit or illuminated awnings are not permitted.
 - d. Retractable or fixed awnings may be used.
 - e. Awnings shall not extend across multiple buildings. Long expanses of awnings should be broken into segments that reflect the door or window openings located beneath.
 - f. Awning colors and materials shall complement the building façade.
 - g. Signage on awnings is permitted on the end panel or valance only. Lettering size shall be proportional to the space available as approved by the zoning administrator.

- h. Awnings and canopies deteriorate over time; regular maintenance and replacement is required. If material shows signs of wear, including, but not limited to, fraying, fading, or physical damage to the awning.
- i. Awnings should be part of the site plan review and receive approval. Any encroachments over public right-of-way shall be approved by the city council prior to construction.

(Code 2004, pt. 3, § 30.909; Ord. No. 22-2506, 7-18-2022)

Sec. 117-28. Commercial standards.

(a) *Setbacks.* A consistent street edge must be maintained at the right-of-way line along all street frontages. Street edge elements may consist of the principal building, landscaping, outdoor seating, or a combination of these elements. Exceptions may include property which is adjacent to a water feature, surface parking or other instances the city council deems appropriate.

(b) *Building height.* All buildings shall be in compliance with Federal Aviation Administration regulations.

(c) *Sidewalks.* Sidewalks are required along all public and private streets. The location and alignment of new sidewalks shall connect directly to existing sidewalk network.

(d) *Mechanical equipment.* All mechanical equipment shall be screened and properly maintained with material similar to the material used on the main structure. Screened mechanical equipment shall not be located in the front or street side yards.

(e) *Trash enclosure.* Refuse facilities shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

(f) *Outdoor display.* Outside display area is limited to a maximum of 30 percent of the width of a building frontage and is not to exceed a total of 150 square feet of area for buildings under 40,000 square feet and not to exceed 400 square feet for buildings larger than 40,000 square feet. The term "building frontage" means the dimension or width of a store front occupied by the retailer establishing the outside display. For purposes of this section, a frontage must contain a public or customer entrance or exit and no space is allowed more than two frontages.

- (1) Outside display to be located immediately adjacent to and within the dimensions of the building frontage and shall not extend from the front building edge more than 50 inches.
- (2) Outside display shall not exceed a height of 60 inches.

- (3) Vending machines or cabinets for items such as beverages, ice and propane are not permitted.
 - (4) Outside display shall not be located so as to block pedestrian walkways, doorways, parking stalls, drive aisles (including access for emergency services). Thirty-six inches is the minimum width required to maintain pedestrian access.
 - (5) Outside display to be maintained in an orderly and attractive manner that does not detract from the image of the community or adjacent businesses.
 - (6) Outside display should be a representation of the products sold on site, not a storage area for inventory on pallets.
 - (7) Products shall be able to be sold from the display.
- (Code 2004, pt. 3, § 30.910; Ord. No. 22-2506, 7-18-2022; Ord. No. 24-2566, § 30.910, 10-21-2024)

Sec. 117-29. Commercial parking.

Commercial parking areas shall have access to a public alley or street. Driveways shall be located to minimize interference with traffic movement. Parking will be reviewed as part of the site plan; a parking analysis is required as part of the review. On-street parking, parking structure, and shared parking are encouraged.

(1) *Surface parking.*

- a. Parking lots when feasible should be located to the rear of the buildings or side yards.
- b. When parking areas abut the street, the sidewalk edge must be delineated with landscaping, architectural fencing (meeting design guidelines) or other decorative features.

(2) *Parking structure.*

- a. Parking structures shall be appropriately located and behind the rear of the building when practical.
- b. Parking structures abutting any public street or walkway shall be compatible with the materials and architectural style of surrounding buildings.
- c. Parking structures shall be designed so that vehicles are not visible from the sidewalk and the only opening at the street level are those to accommodate vehicle ingress and egress.
- d. Snow storage areas shall not be located in the front or side yard abutting a street. If storage is not accommodated on site, it shall be hauled out.

- (3) *Shared parking.*
- a. One or more businesses may provide the required off-street parking facilities by joint use of one or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately.
 - b. The following are required for shared parking:
 1. The building or use for which off-street parking facilities will be provided by another building or use shall be located within 800 feet of such parking facilities.
 2. There shall be demonstrated no substantial conflict in using shared facilities through a professional parking analysis.
 3. Shared parking facilities shall record with the county an irrevocable covenant running with the land. A certified copy of the recorded agreement shall be provided to the zoning administrator prior to issuance of a building permit.
- (4) *Off-site parking.* Any parking located outside of the 105 Redevelopment Area which is used to meet the requirements of this section shall be a conditional use if the following conditions are met:
- a. Reasonable access from the off-site parking facilities to the use being served shall be provided.
 - b. An agreement or lease shall be approved as part of the conditional use permit. The agreement/lease shall specify the total number and location of parking spaces under contract.
- (5) *Off-street parking requirements; approved parking spaces location.* The off-street parking requirements shall be established by the zoning administrator based upon the characteristics and functional similarities between uses, including, but not limited to: the size of building, type of use, number of employees, expected volume and turnover of customer traffic, and expected frequency and number of delivery or service vehicles. For structures containing multiple uses, each shall be calculated separately. The requirements may be revised upward or downward by the city council as part of an application for a conditional use permit based on verifiable information pertaining to parking.
- (6) *Parking analysis requirements.* A parking analysis is required when a new building is proposed on a site, for tenant improvements or when a more intense use is proposed in an existing building. The parking analysis is to be prepared by a professional who has knowledge and experience with parking needs and assessments. The analysis should consist of the following information:
- a. A site plan of the property identifying where the proposed project is located, showing all existing uses/tenant spaces and all existing parking space locations.

- b. Parking analysis matrix that includes:
 - 1. Names of all existing/proposed uses with tenant address;
 - 2. Each tenants total building square footage, existing and proposed;
 - 3. Lists dining and seating counts for restaurant, bar, brewery, cocktail room and coffee shop uses; and
 - 4. Lists an accurate total number of all existing parking spaces onsite.
- c. Proposed parking layout and number of stalls for the development.
- d. Floor plan layouts may be required to determine relevant seating areas and other-relevant square-footage areas.
- e. Parking adequacy should be determined prior to making major financial and legal commitments related to the property. In some cases, insufficient on-site parking may prevent the proposed project/use from being permitted.

(Code 2004, pt. 3, § 30.911; Ord. No. 22-2506, 7-18-2022; Ord. No. 24-2566, § 30.911, 10-21-2024)

Sec. 117-30. Outdoor seating and service of food and beverages.

The following standards are required for outdoor seating and service of food and beverages:

- (1) The use shall not be located in the interior or rear yard if the use is adjacent to a parcel that is occupied by a residential use. This will not apply if the first floor of the building located on the adjacent parcel is not occupied by a residential use or if a residential use is located above the principal use.
- (2) Additional parking will not be required if the outdoor seating area does not exceed 500 square feet or ten percent of the gross floor area of the principal use, whichever is less. Parking will be required at the same rate as the principal use for that portion of outdoor seating area in excess of 500 square feet or ten percent of the gross building area, whichever is less.

(Code 2004, pt. 3, § 30.912; Ord. No. 22-2506, 7-18-2022)

Sec. 117-31. Architectural control commercial.

All buildings must meet and be consistent with the following design guidelines:

- (1) Exterior wall finishes.
 - a. At least 75 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:
 - 1. Brick.
 - 2. Natural or cultured stone.
 - 3. Glass.

4. Stucco.
5. Fiber cement or composite siding.
6. Architectural metal.
7. Integrally colored rock-faced block.
- b. The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock-faced concrete block and other comparable or superior materials as approved by the zoning administrator. All materials subject to zoning administrator approval.
- (2) All buildings are to incorporate four-sided design.
- (3) Franchises or national chains with standardized architecture and signage shall comply with the standards contained in this section. Aggressive and bright signage must be altered and scaled down to meet the intentions of these standards.
- (4) Building articulation elements shall be provided at a maximum average spacing of 40 feet.
- (5) Façade articulation shall be provided through any of the following elements:
 - a. A projecting bay, entry vestibule, or recess extending from the ground level through the second floor.
 - b. A ground-level recess.
 - c. A change in the rhythm of windows at the ground level and second floor, combined with a change of parapet height or material.
- (6) All buildings shall have at least one customer entrance facing an abutting public or private street, rather than just the parking area. A building may have more than one entrance. Customer entrances shall be open to the public during business hours.
- (7) Main building entrances shall be architecturally emphasized and visible from the street by utilizing design features such as awnings, pillars, special building materials or architectural details.
- (8) All buildings shall provide ground floor windows along facades, parks, plazas or other public outdoor spaces. Darkly tinted windows or windows that block two-way visibility are prohibited.
- (9) Awnings.
 - a. An awning may project over the public sidewalk provided that it is at least eight feet above grade and does not project more than two-thirds the width of the public sidewalk as measured from the building.
 - b. Awnings must be constructed of durable, water repellent material such as canvas or metal. Plastic or fiberglass are not permitted.

- c. Backlit or illuminating awnings are not permitted.
- d. Retractable or fixed awnings may be used.
- e. Awnings shall not extend across multiple storefronts or multiple buildings. Long expanses of awnings should be broken into segments that reflect the door or window openings located beneath.
- f. Awning colors and materials shall complement the building façade.
- g. Signage on awnings is permitted on the end panel or valance only. Lettering size shall be proportional to the space available as approved by the zoning administrator.
- h. Awnings and canopies deteriorate over time; regular maintenance and replacement is required if material shows signs of wear, including but not limited to fraying, fading, or physical damage to the awning.
- i. Awnings should be part of the site plan review and receive approval. Any encroachments over public right-of-way shall be approved by the city council prior to construction.

(Code 2004, pt. 3, § 30.913; Ord. No. 22-2506, 7-18-2022)

Sec. 117-32. District landscaping.

The use of window boxes, hanging flower baskets, or other seasonal landscaping is encouraged. Window boxes, hanging plants and planters should be near entrances.

- (1) The periphery of all parking lots shall be well landscaped along the public right-of-way to maintain an edge that contains low shrubs, street trees, decorative fencing (per design guidelines) or a combination of these elements.
- (2) Trees, shrubs, groundcover, and perennial plantings shall be required at the base of a parking structure. Perimeter planters may be required around the upper-level decks of the parking structure, particularly when facing a public right-of-way.
- (3) Sodding and ground cover. All open areas of any site not occupied by building, parking, or storage, shall be sodded over four inches of topsoil. Exceptions are as follows:
 - a. Seeding over four inches of topsoil of future expansion areas as shown on approved plans.
 - b. Undisturbed areas containing existing natural vegetation which can be maintained free of foreign and noxious materials.
 - c. Areas designated as open space for future expansion area properly planted and maintained with grass.

(4) Slopes and berms.

- a. Final slope grade steeper than the ratio of 3:1 will not be permitted without special approval or treatment, such as terracing or retaining walls.
- b. Berming used to provide required screening of parking lots and other open areas shall not have a slope to exceed 3:1.

(5) Use of landscaping for screening.

- a. Where natural materials, such as trees, are approved in lieu of the required screening by means of walls or fences, density and species of planting shall be such to achieve opaqueness year round.
- b. Landscaping may be permitted in utility and drainage easements or road right-of-way with the approval of the zoning administrator.

(Code 2004, pt. 3, § 30.914; Ord. No. 22-2506, 7-18-2022)

Sec. 117-33. District lighting.

Any lighting used to illuminate off-street parking and driving areas, signs, or structures shall consist of downcast style fixtures with a concealed or shielded light source to prevent glare or spill to adjacent right-of-way or properties.

- (1) Pole-mounted lighting shall not have pole heights exceeding 100 feet.
- (2) No light or combination of lights, including illuminated signs, that cast light upon a public street shall exceed one footcandle meter reading as measured at the edge of roadway. No light or combination of lights that cast light upon a residentially zoned property shall exceed 0.4 footcandle meter reading as measured at the residential property line. All measurements shall be made after dark at the property line or edge of roadway. The city may limit the hours of operation of outdoor lighting if it is deemed necessary by the city to reduce impacts on the surrounding neighborhood.
- (3) Light fixtures shall be consistent with design guidelines or receive express approval from the city zoning administrator.

(Code 2004, pt. 3, § 30.915; Ord. No. 22-2506, 7-18-2022; Ord. No. 24-2566, § 30.915, 10-21-2024)

Sec. 117-34. District signage.

(a) The sign standards provided for in subsection (b) of this section apply only to the 105th Avenue Redevelopment District. If not regulated in this section, chapter 133 shall apply. All signage must meet and be consistent with design guidelines.

(b) In addition to the signs allowed without a permit pursuant to chapter 133, two signs are allowed per business. The two allowed signs must be one wall sign and either a three-dimensional sign, projecting sign or awning sign.

(c) Design standards. All signs shall adhere to the following design standards:

(1) *Generally.*

- a. Use simple sign shapes to complement the architecture of the building.
- b. Signs shall not obscure architectural features of buildings, including window or door openings.
- c. Sign shall be used to display the primary name of the business only.
- d. Use only one line of lettering, if possible.
- e. Only one sign containing the business name or graphic logo shall be permitted per street facing side. Projecting signs are allowed in addition to the one sign allowed facing the street. Use simple, bold lettering with sufficient contrast between the lettering and the background.

(2) *Sign lighting.*

- a. Indirect incandescent lighting shall be permitted.
- b. Spotlights must be placed discreetly to shield from pedestrians and vehicular traffic.
- c. Neon signage may be used if approved as part of the overall sign plan.

(3) *Wall signs.* Wall signs shall meet the following requirements:

- a. The total building signage may have an aggregate area not exceeding one square foot for each foot of building face parallel or substantially parallel to a street lot line with a maximum of 150 square feet.
- b. It must not project more than 12 inches from the wall to which the sign is affixed.

(4) *Multi-tenant wall signs.*

- a. Where a principal building is devoted to two or more permitted uses, the operator of each use may install a wall sign for its use consistent with a building sign plan approved by the city. The total gross signage for the entire building may not exceed one square foot for each foot of the building face parallel, or substantially parallel, to a street lot line with a maximum of 25 square feet per business.
- b. Design the sign plan to emphasize the whole width and geometry of the building and individual storefronts and tenant spaces.
- c. Placement of individual tenant signs shall be coordinated to achieve a unified signage appearance in sign heights, widths, depths, coloring and lettering sizing.
- d. Signs shall use a common lettering style and color scheme.
- e. A sign shall not span across different buildings.

(5) *Monument signs.*

- a. The area of a monument sign may not exceed 15 square feet.
- b. A monument sign may be located in a required yard but must be pedestrian in scale and does not block architecture features, including window and door openings.
- c. A monument sign may not project higher than five feet, as measured from the base of the sign or grade of the nearest roadway, whichever height is less.
- d. Signs shall use a common lettering style and color scheme.

(6) *Awning signs.*

- a. Signage on awnings is permitted on the end panel or valance only. Lettering size shall be proportional to the space available as approved by the zoning administrator.
- b. The gross surface area of an awning or canopy sign may not exceed 50 percent of the gross surface area of the smallest face of the awning or canopy to which the sign is affixed.

(7) *Projecting signs.*

- a. The total area of a projecting sign may not exceed six square feet.
- b. It must be easily visible from the sidewalk and not be a hazard to pedestrians.
- c. The bottom of the sign and bracket must be at least eight feet above sidewalk grade.
- d. Projecting signs shall generally be oriented to visibility by pedestrians and small in size so that they do not obscure other signs.
- e. No part of any sign shall be placed higher than the height of the sills of the second story windows of a multi-story building.
- f. The mounting bracket for a projecting sign shall be a black metal material and designed as a decorative element of the sign that is complementary of the building's architectural style.

(8) *Roof signs.*

- a. One roof sign shall be permitted for each building, but no roof sign shall be permitted for a building exceeding 80 feet in height. Only individual letter signs are permitted and they shall be six feet or less in height and shall not exceed 100 square feet.
- b. The roof signage can be in combination with wall signage but both signs shall not exceed the overall sign square footage allotment for the building. A conditional use permit is required.

(9) *Sandwich board signage.*

- a. *Definitions.* The following words, terms and phrases, when used in this subsection (b)(9), shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Sandwich board signs are freestanding signs that advertise items or specials that are available from the business and which have no more than 20 percent of the total area for such a sign utilized for business identification.

b. *Display standards.*

1. *Sign size and types of signs.* Signs may not exceed a width of two feet and a height of three feet. The signs shall be either an A-frame style or poster style sign that is attached to a frame and a base.
2. *Sign placement.* Sandwich board sidewalk signs shall be placed only within the boundaries of the applicable business's street frontage. The sign may be placed on the edge of the sidewalk that is furthest from the street and closest to the business. The sign cannot be placed on property that is adjacent to the street side of the sidewalk. Further, the sandwich board sign shall be positioned so that it will not:
 - (i) Reduce the sidewalk clearance below a width of 36 inches;
 - (ii) Impede any line of sight for motorists at vehicular public right-of-way intersections, as determined by the city engineer;
 - or
 - (iii) Interfere with persons entering or exiting parked cars.
3. *Displaying from parked vehicles prohibited.* Sandwich board signs may not be displayed from vehicles parked in front of or adjacent to the businesses, whether on public or private property.
4. *Stabilization.* The sign shall be stabilized so as to withstand wind gusts or shall be removed during windy conditions.
5. *Sign elements.* Signs shall be designed to incorporate the colors and other architectural features of the building in front of which they are to be placed. (A white sign background or white framing is acceptable in any situation.) Signs made of plywood, pressboard, or paper products shall not be permitted; signs made of polyethylene, metal, burnished wood, or other materials having a natural appearance shall be permitted. Finishes shall be of high quality and durable.
6. *Display time and removal.* Sandwich board signs may be displayed from the time that the business opens until the time that the business closes. The sandwich board sign shall be removed at the close of each business day.

7. *Advertising.* Advertising on both sides is permitted.
 8. *Illumination.* The sandwich board sign shall not be illuminated.
 9. *Attachments.* Nothing shall be attached to the sandwich board sign and shall have nothing attached to it such as balloons or streamers.
 - c. *No signs in the public right-of-way.* A sandwich board sign shall not be placed in the public right-of-way.
- (10) *Prohibited signage.* The following signage is prohibited:
- a. Signs that, by reason of position, shape or color, would interfere with the proper function of a traffic sign or signal.
 - b. Signs within a public right-of-way, except for signs installed by governmental subdivisions.
 - c. Signs within an easement, except for signs installed by governmental subdivisions or approved by the holder of the easement.
 - d. Signs that resemble any official marker erected by a governmental agency or that displays such words as "stop" or "danger," which are not erected by legal authority.
 - e. Flashing signs, including indoor signs, which are visible from the public streets.
 - f. With the exception of search lights, which may be approved in conjunction with an administrative permit as provided in section 129-25, no rotating beam, beacon or flashing illumination shall be used in conjunction with any display.
 - g. Signs or sign structures that obstruct any window, door, fire escape, stairway or opening intended to provide ingress or egress for any building structure.
 - h. Banners, balloons, and stringers, unless approved in conjunction with an administrative permit, as provided in section 129-25.
 - i. Sign posters that are tacked or posted on trees, fences, utility posts, or other such supports.
 - j. Portable signs with the exception of sandwich boards.
 - k. Billboards.
 - l. All other signs not expressly permitted by this section or approved through site plan review.
 - m. Signs placed on or affixed to vehicles or trailers which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property.

- n. Signs which have become rotted, unsafe or unsightly.
- o. Signs for citywide community events, sponsored by government or nonprofit organizations unless approved in conjunction with an administrative permit, as provided in section 129-25.

(11) Other signage may be considered if meeting the design guidelines and are approved as part of the site plan.

(Code 2004, pt. 3, § 30.916; Ord. No. 22-2506, 7-18-2022; Ord. No. 24-2566, § 30.916, 10-21-2024)

Sec. 117-35. District Signage South of 105th Avenue.

The following sign standards apply only to this district. If not regulated in this section, chapter 34 of the City Code shall apply. All signage must meet and be consistent with design guidelines. In addition to the signs allowed without a permit pursuant to chapter 34, two signs are allowed per business. The two allowed signs must be one wall sign and either a three-dimensional sign, projecting sign or awning sign. One additional wall sign per building may be approved through the sign plan.

- (1) All signs shall adhere to the following design standards:
 - a. Use simple sign shapes to complement the architecture of the building.
 - b. Signs shall not obscure architectural features of buildings, including window or door openings.
 - c. Sign shall be used to display the primary name of the business only.
 - d. Use only one line of lettering, if possible.
 - e. Only one sign containing the business name or graphic logo shall be permitted per street facing side. Projecting signs are allowed in addition to the one sign allowed facing the street. Use simple, bold lettering with sufficient contrast between the lettering and the background.
- (2) Sign lighting.
 - a. Indirect incandescent lighting shall be permitted.
 - b. Place spotlights discreetly to shield from pedestrians and vehicular traffic.
 - c. Neon signage may be used if approved as part of the overall sign plan.
- (3) Wall signs. Wall signs shall meet the following requirements:
 - a. The total building signage may have an aggregate area not exceeding one square foot for each foot of building face parallel or substantially parallel to a street lot line with a maximum of 300 square feet.
 - b. It must not project more than 12 inches from the wall to which the sign is affixed.

- (4) Multi-tenant wall signs.
 - a. Design the sign plan to emphasize the whole width and geometry of the building and individual storefronts and tenant spaces.
 - b. Placement of individual tenant signs shall be coordinated to achieve a unified signage appearance in sign heights, widths, depths, coloring and lettering sizing.
 - c. Signs shall use a common lettering style and color scheme.
 - d. A sign shall not span across different buildings.
- (5) Monument signs.
 - a. The area of a monument sign may not exceed 45 square feet.
 - b. A monument sign may be located in a required yard but must be pedestrian in scale and does not block architecture features, including window and door openings.
 - c. A monument sign may not project higher than five feet, as measured from the base of the sign or grade of the nearest roadway, whichever height is less.
 - d. Signs shall use a common lettering style and color scheme.
- (6) Awning signs.
 - a. Signage on awnings is permitted on the end panel or valance only. Lettering size shall be proportional to the space available as approved by the zoning administrator.
 - b. The gross surface area of an awning or canopy sign may not exceed 50 percent of the gross surface area of the smallest face of the awning or canopy to which the sign is affixed.
- (7) Projecting signs.
 - a. The total area of a projecting sign may not exceed six square feet.
 - b. It must be easily visible from the sidewalk and not be a hazard to pedestrians.
 - c. The bottom of the sign and bracket must be at least eight feet above sidewalk grade.
 - d. Projecting signs shall generally be oriented to visibility by pedestrians and small in size so that they do not obscure other signs.
 - e. No part of any sign shall be placed higher than the height of the sills of the second story windows of a multi-story building.
 - f. The mounting bracket for a projecting sign shall be a black metal material and designed as a decorative element of the sign that is complementary of the building's architectural style.

(8) Roof signs.

- a. One roof sign shall be permitted for each building, but no roof sign shall be permitted for a building exceeding 80 feet in height. Individual letter signs only and shall be six feet or less in height and shall not exceed 100 square feet.
- b. The roof signage can be in combination with wall signage but both signs shall not exceed the overall sign square footage allotment for the building. A conditional use permit is required.

(9) Sandwich board signage.

- a. Definition. The term "sandwich board sign" means a freestanding sign that advertises items or specials that are available from the business and which have no more than 20 percent of the total area for such a sign utilized for business identification.
- b. Display standards.
 1. Sign size and types of signs. Signs may not exceed a width of two feet and a height of three feet. The signs shall be either an A-Frame style or poster style sign that is attached to a frame and a base.
 2. Sign placement. Sandwich board sidewalk signs shall be placed only within the boundaries of the applicable business - street frontage. The sign may be placed on the edge of the sidewalk that is furthest from the street and closest to the business. The sign cannot be placed on property that is adjacent to the street side of the sidewalk. Further, the sandwich board sign shall be positioned so that it will not:
 - (i) Reduce the sidewalk clearance below a width of 36 inches;
 - (ii) Impede any line of sight for motorists at vehicular public right-of-way intersections, as determined by the city engineer;
or
 - (iii) Interfere with persons entering or exiting parked cars.
 3. Sandwich board signs may not be displayed from vehicles parked in front of or adjacent to the businesses, whether on public or private property.
 4. Stabilization. The sign shall be stabilized so as to withstand wind gusts or shall be removed during windy conditions.
 5. Sign elements. Signs shall be designed to incorporate the colors and other architectural features of the building in front of which they are to be placed. (A white sign background and/or white framing is acceptable in any situation.) Signs made of plywood, pressboard, or paper products shall not be permitted; signs made of polyethylene,

metal, burnished wood, or other materials having a natural appearance shall be permitted. Finishes shall be of high quality and durable.

6. Display time and removal. Sandwich board signs may be displayed from the time that the business opens until the time that the business closes. The sandwich board sign shall be removed at the close of each business day.
7. Advertising. Advertising on both sides is permitted.
8. Illumination. The sandwich board sign shall not be illuminated.
9. Attachments. Nothing shall be attached to the sandwich board sign and shall have nothing attached to it such as balloons or streamers.
- c. No signs in the public right-of-way. A sandwich board sign shall not be placed in the public right-of-way.

(10) Prohibited signage.

- a. Signs that, by reason of position, shape or color, would interfere with the proper function of a traffic sign or signal.
- b. Signs within a public right-of-way, except for signs installed by governmental subdivisions.
- c. Signs within an easement, except for signs installed by governmental subdivisions or approved by the holder of the easement.
- d. Signs that resemble any official marker erected by a governmental agency or that displays such words as "Stop" or "Danger," which are not erected by legal authority.
- e. Flashing signs, including indoor signs, which are visible from the public streets.
- f. With the exception of search lights, which may be approved in conjunction with an administrative permit as provided in section 129-25, no rotating beam, beacon of flashing illumination shall be used in conjunction with any display.
- g. Sign or sign structures that obstruct any window, door, fire escape, stairway or opening intended to provide ingress or egress for any building structure.
- h. Banners, balloons, and stringers, unless approved in conjunction with an administrative permit, as provided in section 129-25.
- i. Sign posters, that are tacked or posted on trees, fences, utility posts, or other such supports.
- j. Portable signs with the exception of sandwich boards.
- k. Billboards.

- l. All other signs not expressly permitted by this section or approved through site plan review.
 - m. Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property.
 - n. Signs which have become rotted, unsafe or unsightly.
 - o. Signs for citywide community events, sponsored by government or non-profit organizations unless approved in conjunction with an administrative permit, as provided in section 129-25.
- (11) Other signage may be considered if meeting the design guidelines and are approved as part of the site plan.
(Ord. No. 25-2571, 1-22-2025)

Secs. 117-36—117-58. Reserved.

ARTICLE III. PLANNED BUSINESS DISTRICT (PBD)

Sec. 117-59. Intent.

The purpose of the Planned Business District (PBD) is to allow commercial, multifamily residential and limited light industrial uses serving a local or regional trade area. This district may be located adjacent to residential, commercial, and industrial districts and shall be primarily located on collector or arterial roads.
(Code 2004, pt. 3, § 30.51; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 30.51, 11-18-2024)

Sec. 117-60. Land uses.

The following are land use requirements for the Planned Business District (PBD):

- (1) *Uses allowed by conditional use permit (CUP).* Land uses may include industrial, office, commercial, and multi-floor residential developments as specifically indicated below. All land uses not specified in subsection (2) of this section are prohibited. All land uses shall be reviewed and approved pursuant to the conditional use permit procedures in section 101-4.
- (2) *Restrictions.* The proposed land uses, their mix, lot sizes, and location must be compatible and complementary both internally and with adjacent land uses. The proposed land uses must not create any internal or external traffic congestion or traffic flow problems.
 - a. General retail:
 - 1. Retail except when specifically listed elsewhere herein.

2. Personal services, including massage, hair salons, and similar businesses.
 3. Dry cleaning and laundry.
 4. Repair services, excluding repair of vehicles and small engines.
 5. Business and professional offices, excluding medical offices.
 6. Non-classroom personalized instructional services.
 7. Portrait or art studio.
 8. Cannabis retail and/or medical cannabis businesses licensed for cannabis retail (subject to the standards listed in Chapter 23 of the Blaine Code of Ordinances).
- b. Restaurants, with or without live entertainment or outdoor dining;
 - c. Brew pubs.
 - d. Medical offices.
 - e. Banks.
 - f. Hotels.
 - g. Trade and convention centers.
 - h. Fitness centers.
 - i. Gasoline stations, with or without passenger vehicle auto lube/oil change service or automated car wash.
 - j. Manufacturing, except for cannabis cultivation and cannabis manufacturing.
 - k. Multifamily residential.
 - l. Research and development laboratories.
 - m. Places of worship.
 - n. Commercial child care.
 - o. Theaters.
 - p. Indoor amusement and recreation.
 - q. Corporate office/distribution/warehouses (requires a combination of office space or manufacturing space consisting of not less than 25 percent of gross building area either attached to or as part of a larger office manufacturing campus, operated by the same facility).
 - r. Post secondary education.
 - s. Taprooms or breweries with brewer taprooms.
 - t. Motorcycle sales and maintenance.
 - u. Zero lot line splits with shared access or shared parking and multibuilding developments.

- v. Ground mounted solar as an accessory use.
- w. Liquor stores.
- x. Parking structures as an accessory use, as regulated in section 129-13(10).

(Code 2004, pt. 3, § 30.52; Ord. No. 03-1994, 9-18-2003; Ord. No. 15-2334, 12-17-2015; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 30.52, 12-18-2023; Ord. No. 24-2568, § 30.52, 11-18-2024; Ord. No. 25-2572, § 30.52, 1-22-2025)

Sec. 117-61. Development procedure.

(a) Prior to applying for a conditional use permit for development within the PBD zone, the developer shall meet with the zoning administrator, or designee, to review the applicable ordinances, regulations and plans that will affect the area to be developed.

(b) The developer shall present a concept plan or site plan to the zoning administrator. The zoning administrator shall review the concept design and recommend changes as needed to comply with performance standards and the standards of section 101-4.

(c) Upon staff approval of the concept design a formal application may be made for a conditional use permit. The conditional use permit shall be considered as outlined under section 101-4.

(d) Prior to approval of building permits, the zoning administrator shall find that all standards listed in the conditional use permit have been satisfied in the site plan and building permit applications.

(e) The conditional use permit shall outline all allowed uses within the development, including square footages allotted to each use. A conditional use permit amendment shall be required for any deviation.

(Code 2004, pt. 3, § 30.53; Ord. No. 20-2447, 7-20-2020)

Sec. 117-62. Standards.

The following standards are required for the Planned Business District (PBD):

(1) *Building setbacks (minimum).*

- a. Front yard: 50 feet, or one-half the total building height, whichever is greater.
- b. Side yard: 15 feet, or one-half the total building height, whichever is greater.
- c. Rear yard: 20 feet, or one-half the total building height, whichever is greater.

- (2) *Parking lot setbacks (minimum).*
 - a. Front yard: 30 feet.
 - b. Side yard: 15 feet.
 - c. Rear yard: 20 feet.
- (3) *Building sizes (minimum).*
 - a. Industrial: 12,000 square feet.
 - b. Freestanding commercial: 5,000 square feet with the exception of freestanding restaurants which shall have a minimum building size of 4,000 square feet.
- (4) *Building height.* There shall be no height limitations, provided all buildings are in compliance with metropolitan airport commission regulations.
- (5) *Building exteriors.*
 - a. At least 50 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:
 - 1. Brick.
 - 2. Natural or cultured stone.
 - 3. Glass.
 - 4. Stucco or exterior insulation and finish systems (EIFS).
 - 5. Fiber cement or composite siding.
 - 6. Architectural metal.
 - 7. Integrally colored rock-faced block.
 - b. The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock-faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to zoning administrator approval.
 - c. Buildings may be constructed of primarily one of the materials listed in subsection (5)(a) of this section if the design meets or exceeds the intent of the ordinance.
 - d. All buildings to incorporate four-sided design.
 - e. Gasoline canopies support columns shall be constructed of masonry materials consistent with the principal building to a minimum height of five feet.
 - f. Under no circumstances shall sheet aluminum, corrugated aluminum, asbestos, iron, plain or painted plain concrete block be deemed acceptable as major exterior wall materials on buildings within the city.

- (6) *Landscaping.* In addition to the provisions of section 129-7, the following requirements shall be met:
- Underground irrigation shall be required.
 - Traffic safety islands or general parking islands, where deemed appropriate by the zoning administrator, shall be landscaped and irrigated. At least five percent of the surface area of land within a parking area shall be landscaped.
 - On any given site there shall be at least three different shrub species.
- (7) *Open space.* The minimum area of permeable surface shall be 30 percent of the total project area. The zoning administrator may approve a modification to the requirement provided additional architectural or landscape enhancements are provided.
- (8) *Loading spaces/overhead doors.* Loading spaces/overhead doors shall be located primarily in designated rear yards and secondarily in designated side yards. Overhead doors will be permitted in front yards under unusual circumstances, as approved by the zoning administrator.
- Loading spaces and overhead doors should be designed to be compatible with the principal building. Architectural techniques should be employed to reduce visual impacts from adjacent properties and roadways.
 - Loading spaces and overhead doors should be designed to be compatible with the principal building. Architectural techniques should be employed to reduce visual impacts from adjacent properties and roadways.
 - Overhead doors limited to not more than one door per 6,000 square feet of floor area.
 - Outside storage of trucks or semi-trailers is limited to not more than the number of dock or overhead doors.
- (9) *Refuse enclosures.* Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such facilities shall be constructed of masonry materials such as brick or textured block, in colors compatible with the principal structure. Such facilities shall have solid gates.
- (10) *Lighting.* A lighting plan shall be submitted depicting type and design, layout of fixtures, and the illumination pattern. The design shall preclude any off-site glare.
- (11) *Outside display.* Outside display in PBD retail sites is allowed, provided the following standards are met:
- Outside display area is limited to a maximum of 30 percent of the width of a building frontage and is not to exceed a total of 150 square feet of

area for buildings under 40,000 square feet and not to exceed 400 square feet for buildings over 40,000 square feet. The term "building frontage" means the dimension or width of a storefront occupied by the retailer establishing the outside display. For purposes of this part a frontage must contain a public or customer entrance or exit and no space is allowed more than two frontages.

- b. Outside display to be located immediately adjacent to and within the dimensions of the building frontage and shall not extend from the front building edge more than 50 inches.
- c. Outside display shall not exceed a height of 60 inches.
- d. Vending machines or cabinets for items such as beverages, ice and propane are exempt from the height and area restrictions provided they are limited to a maximum of three machines or cabinets per frontage.
- e. Outside display shall not be located so as to block pedestrian walkways, doorways, parking stalls, drive aisles (including access for emergency services). Thirty-six inches is the minimum width required to maintain pedestrian access.
- f. Outside display to be maintained in an orderly and attractive manner that does not detract from the image of the community or adjacent businesses.
- g. Outside display should be a representation of the products sold on site, not a storage area for inventory on pallets.
- h. Products shall be able to be sold from the display.

(12) *Car wash standards.*

- a. Car washes shall meet a 300-foot setback to any property zoned or guided in the comprehensive plan as residential and intended for residential buildings. The setback shall be measured from the car wash structure to the property line of the residential property.
- b. All exterior lighting shall comply with section 129-2.
- c. Through the conditional use permit process, the city may require additional necessary conditions to limit the impact of drive-thru lanes on surrounding property, including, but not limited to, limiting hours of operation, restricting drive-thru lane orientation, and/or requiring additional landscaping, berming or other means of screening.
- d. The site and building shall be designed to limit the effects of the washing operation and vacuums on adjacent properties and public rights-of-way. Garage doors shall be positioned to limit exposure to residential districts.

(Code 2004, pt. 3, § 30.54; Ord. No. 01-1896, 3-15-2001; Ord. No. 02-1955, 9-5-2002; Ord. No. 03-1994, 9-18-2003; Ord. No. 04-2005, 1-22-2004; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 30.54, 12-18-2023; Ord. No. 24-2553, § 30.54, 6-17-2024)

Secs. 117-63—117-82. Reserved.

ARTICLE IV. COUNTY ROAD 10 MIXED USE DISTRICT (MU)

Sec. 117-83. Intent.

The intent of the County Road 10 Mixed Use District (MU) is:

- (1) To promote development and redevelopment that encourages mixed uses that combine new or existing retail development with a variety of housing, offices, retail or other complementary uses.
- (2) To create a mix of land uses and at the same time protect the interest of surrounding properties in the following ways:
 - a. By establishing a mixed use land use pattern and neighborhood design that is consistent with the vision, goals, and policies of the city's comprehensive plan.
 - b. By creating cohesive, yet diverse, neighborhoods with increased economic and cultural opportunities, contributing to greater livability and a healthier local economy.
 - c. By providing for mixed use development that are carefully planned to promote efficient use of land, parking, and open space.
 - d. By creating attractive neighborhoods that promote pedestrian friendly designs, human interaction, safety and livability.

(Code 2004, pt. 3, § 30.1001; Ord. No. 24-2542, § 30.61, 3-4-2024)

Sec. 117-84. Development procedure.

(a) All new buildings and additions require site plan approval through the planning commission and city council.

(b) A development agreement is required as part of the development approval and shall address, at a minimum, approved site and building design criteria, approved sign locations and design criteria, construction phasing, parking, cash escrow and/or letter of credit for construction of on-site and off-site improvements generated by the development.

(Code 2004, pt. 3, § 30.1002; Ord. No. 24-2542, § 30.62, 3-4-2024)

Sec. 117-85. Permitted uses.

The following are permitted uses in the County Road 10 Mixed Use District (MU):

- (1) Attached townhomes with a minimum of three units.
- (2) Bakeries.
- (3) Banks.

- (4) Brew pubs.
 - (5) Candy or ice cream shops.
 - (6) Coffee shop.
 - (7) Delicatessen stores.
 - (8) Dry cleaning and laundry with no chemicals on premises.
 - (9) General retail.
 - (10) Liquor stores.
 - (11) Cannabis retail and/or medical cannabis businesses licensed for cannabis retail (subject to the standards listed in Chapter 23 of the Blaine Code of Ordinances).
 - (12) Personal services, including massage, hair salons and similar business.
 - (13) Personalized instructional services and fitness centers, total floor area limited to 4,000 square feet.
 - (14) Portrait/art studio/museum.
 - (15) Professional offices, including medical.
 - (16) Repair services (cell phone, clothing, bicycle, shoes), not including automotive repair.
 - (17) Restaurants (Class I and Class II).
- (Code 2004, pt. 3, § 30.1003; Ord. No. 24-2542, § 30.63, 3-4-2024; Ord. No. 25-2572, § 30.63, 1-22-2025)

Sec. 117-86. Conditional uses.

The following are conditional uses in the County Road 10 Mixed Use District (MU):

- (1) Animal hospitals/veterinary clinics.
- (2) Assisted living and/or memory care facilities.
- (3) Brewer tap rooms, as associated with and on the same site as a licensed brewery.
- (4) Buildings over 50 feet in height.
- (5) Charter schools without outdoor recreation space (not including playground equipment which is limited to 5,000 square feet).
- (6) Day care facilities.
- (7) Event centers and banquet facilities.
- (8) Farmers markets.
- (9) Gasoline service stations, not including a car wash.

- (10) Hospitals.
 - (11) Hotels, not including motels.
 - (12) Indoor amusement and recreation, not including fitness.
 - (13) Licensed cocktail rooms with and on the same site as a licensed distillery/microdistillery or winery.
 - (14) Movie or live theaters.
 - (15) Multifamily residential (apartment style).
 - (16) Off-site parking or shared parking.
 - (17) Outdoor dining.
 - (18) Outdoor recreation as an accessory use to a permitted or conditional use in this district.
 - (19) Parking structures as an accessory use, as regulated in section 129-13(10).
 - (20) Personalized instructional services and fitness centers, over 4,000 square feet.
 - (21) Places of worship.
 - (22) Private social clubs.
 - (23) Public buildings or facilities, not including schools.
 - (24) Restaurants with live entertainment (music, etc.).
 - (25) Two or more buildings on same lot.
 - (26) Zero lot line splits with shared access and/or parking.
- (Code 2004, pt. 3, § 30.1004; Ord. No. 24-2542, § 30.64, 3-4-2024; Ord. No. 24-2568, § 30.64, 11-18-2024)

Sec. 117-87. Prohibited uses.

The following are prohibited uses in the County Road 10 Mixed Use District (MU):

- (1) Auto sales: indoor or outdoor sales.
 - (2) Automobile repair.
 - (3) Car washes.
 - (4) Outdoor storage.
 - (5) Pawn shops.
 - (6) Self-storage/ministorage.
 - (7) Tobacco/vape shops.
 - (8) Any uses not listed as permitted or conditional.
- (Code 2004, pt. 3, § 30.1005; Ord. No. 24-2542, § 30.65, 3-4-2024)

Sec. 117-88. Residential performance standards.

The following residential performance standards are required in the County Road 10 Mixed Use District (MU):

- (1) Multifamily units (apartment) must be consistent with comprehensive plan land use designations.

- a. *Building setbacks.*

1. Adjacent to single-family residential: 100 feet.
2. Across the right-of-way from single-family residential: 50 feet.
3. Adjacent to County Road 10: minimum setback of 20 feet with a maximum of 50 feet.
4. Adjacent or across the right-of-way from commercial not adjacent to County Road 10.
 - (i) Front yard: 30 feet.
 - (ii) Side yard: 20 feet.
 - (iii) Rear yard: 20 feet.

- b. *Parking setbacks.*

1. No parking lot shall be located in the front yard adjacent to County Road 10.
2. Front yard: 20 feet, if adjacent to single-family residential the setback shall be 40 feet.
3. Rear yard: 20 feet.
4. Side yard: 20 feet.
5. Fire lane may be located within the setback.

- c. *Building height.*

1. Adjacent to single-family residential maximum of three stories over parking (40 feet above grade).
2. Maximum five residential stories over parking (60 feet above grade).
3. Buildings over 50 feet require a conditional use permit.

- d. *Private recreational uses required.* For multifamily units (apartments), each residential development shall provide private recreational uses for project residents. This area shall be for active or passive recreational uses suited to the needs of the residents of the project including, but not limited to, swimming pools, trails, nature areas, picnic areas, tot lots. Projects with 50 units or less must provide at least one amenity. Projects with more than 50 units must provide at least two amenities.

(2) Multifamily units (attached townhomes) must be consistent with comprehensive plan land use designation.

a. *Building setbacks.*

1. Front yard: 30 feet.
2. Rear yard: 30 feet.
3. Corner side yard: 20 feet.
4. Side yard adjacent to single-family residential or commercial: 30 feet.

b. *Parking setbacks.*

1. Guest parking: 20 feet.
2. Drive aisles: 20 feet.

c. *Building height.*

1. Minimum of two stories, except that a height of one story is permitted for up to ten percent of the units in a development.
2. Maximum of three stories.

(Code 2004, pt. 3, § 30.1006; Ord. No. 24-2542, § 30.66, 3-4-2024)

Sec. 117-89. Architectural control, residential.

The following residential architectural control standards are required in the County Road 10 Mixed Use District (MU):

(1) Exterior wall finish materials.

a. At least 50 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:

1. Brick.
2. Natural or cultured stone.
3. Glass.
4. Stucco or exterior insulation and finish systems (EIFS).
5. Fiber cement or composite siding.
6. Architectural metal.
7. Integrally colored rock-faced block.

b. The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock-faced concrete block and textured concrete panels, or other comparable or superior materials as approved by the zoning administrator. All materials subject to zoning administrator approval.

- (2) Building articulation elements shall be provided at a maximum average spacing of 40 feet.
- (3) Flat rooflines are encouraged along County Road 10.
- (4) Apartment façade articulation for any building over two-stories shall be provided through any of the following elements:
 - a. A projecting bay, entry vestibule, or recess extending from the ground level through the second floor.
 - b. A ground-level recess.
 - c. A change in the rhythm of windows at the ground level and second floor, combined with a change of parapet height or material.
 - d. All buildings shall provide ground floor windows along, parks, plazas or other public outdoor spaces. Darkly tinted windows or windows that block two-way visibility are prohibited.
- (5) Awnings.
 - a. An awning may project over the public sidewalk provided that it is at least eight feet above grade and does not project more than two-thirds the width of the public sidewalk as measured from the building.
 - b. Awnings must be constructed of durable, water repellent material such as canvas or metal. Plastic or fiberglass are not permitted.
 - c. Backlit or illuminated awnings are not permitted.
 - d. Retractable or fixed awnings may be used.
 - e. Awnings shall not extend across multiple buildings. Long expanses of awnings should be broken into segments that reflect the door or window openings located beneath.
 - f. Awning colors and materials shall complement the building façade.
 - g. Signage on awnings is permitted on the end panel or valance only. Lettering size shall be proportional to the space available as approved by the zoning administrator.
 - h. Awnings and canopies deteriorate over time; regular maintenance and replacement is required. If material shows signs of wear, including, but not limited to, fraying, fading, or physical damage to the awning.
 - i. Awnings should be part of the site plan review and receive approval. Any encroachments over public right-of-way shall be approved by the city council prior to construction.

(Code 2004, pt. 3, § 30.1007; Ord. No. 24-2542, § 30.67, 3-4-2024)

Sec. 117-90. Performance standards, commercial.

The following commercial performance standards are required in the County Road 10 Mixed Use District (MU):

(1) *Building setbacks.*

- a. Adjacent to single-family residential: 50 feet.
- b. Adjacent to County Road 10: minimum setback of 20 feet with a maximum of 50 feet.
- c. Front yard: 30 feet.
- d. Side yard: 20.
- e. Rear yard: 20 feet.

(2) *Parking setbacks.*

- a. No parking lot shall be located in the front yard adjacent to County Road 10.
- b. Front yard: 20 feet.
- c. Rear yard: ten feet, if adjacent to single-family residential 25 feet.
- d. Side yard: ten feet, if adjacent to single-family residential 25 feet.
- e. Fire lane may be located within the setback.

(Code 2004, pt. 3, § 30.1008; Ord. No. 24-2542, § 30.68, 3-4-2024)

Sec. 117-91. Architectural control commercial.

The following commercial architectural control standards are required in the County Road 10 Mixed Use District (MU):

(1) *Exterior wall finishes.* One hundred percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:

- a. Brick.
- b. Natural or cultured stone.
- c. Glass.
- d. Stucco or exterior insulation and finish systems (EIFS).
- e. Fiber cement or composite siding.
- f. Architectural metal.
- g. Integrally colored rock-faced block.
- h. Other comparable or superior materials as approved by the zoning administrator.

(2) *Building articulation elements.* Building articulation elements shall be provided at a maximum average spacing of 40 feet.

(3) *Awnings.*

- a. An awning may project over the public sidewalk, provided that it is at least eight feet above grade and does not project more than two-thirds the width of the public sidewalk as measured from the building.
- b. Awnings must be constructed of durable, water repellent material such as canvas or metal. Plastic or fiberglass are not permitted.
- c. Backlit or illuminated awnings are not permitted.
- d. Retractable or fixed awnings may be used.
- e. Awnings shall not extend across multiple buildings. Long expanses of awnings should be broken into segments that reflect the door or window openings located beneath.
- f. Awning colors and materials shall complement the building façade.
- g. Signage on awnings is permitted on the end panel or valance only. Lettering size shall be proportional to the space available as approved by the zoning administrator.
- h. Awnings and canopies deteriorate over time; regular maintenance and replacement is required. If material shows signs of wear, including, but not limited to, fraying, fading, or physical damage to the awning.
- i. Awnings should be part of the site plan review and receive approval. Any encroachments over public right-of-way shall be approved by the city council prior to construction.

(4) *Building height.* Buildings exceeding 50 feet in height must obtain a conditional use permit.

(Code 2004, pt. 3, § 30.1009; Ord. No. 24-2542, § 30.69, 3-4-2024)

Sec. 117-92. Mall performance standards.

The mall property consists of land north of Sanburnol Drive, east of University Avenue, south of County Road 10, and west of Jefferson Street and must conform to the following performance standards:

(1) *Building setbacks.*

- a. Adjacent to County Road 10: minimum setback of 20 feet with a maximum of 50 feet, maximum setbacks do not apply to the Northtown Mall.
- b. Adjacent to Sanburnol Drive: 30 feet.
- c. Adjacent to County Road 10: 20 feet.
- d. Adjacent to University Avenue: 20 feet.
- e. Adjacent to Jefferson Street: 20 feet.

- (2) *Parking setbacks.*
- a. No parking lot shall be located in the front yard adjacent to County Road 10.
 - b. Adjacent to Sanburnol Drive: 15 feet.
 - c. Adjacent to County Road 10 side and rear yard: ten feet.
 - d. Adjacent to University Avenue: ten feet.
 - e. Adjacent to Jefferson Street: ten feet.
- (3) *Exterior wall finishes.* All exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:
- a. Brick.
 - b. Natural or cultured stone.
 - c. Glass.
 - d. Stucco or exterior insulation and finish systems (EIFS).
 - e. Fiber cement or composite siding.
 - f. Architectural metal.
 - g. Integrally colored rock-faced block.
- (4) *Building articulation elements.* Building articulation elements shall be provided at a maximum average spacing of 40 feet.
- (5) *Awnings.*
- a. An awning may project over the public sidewalk, provided that it is at least eight feet above grade and does not project more than two-thirds the width of the public sidewalk as measured from the building.
 - b. Awnings must be constructed of durable, water repellent material such as canvas or metal. Plastic or fiberglass are not permitted.
 - c. Backlit or illuminated awnings are not permitted.
 - d. Retractable or fixed awnings may be used.
 - e. Awnings shall not extend across multiple buildings. Long expanses of awnings should be broken into segments that reflect the door or window openings located beneath.
 - f. Awning colors and materials shall complement the building façade.
 - g. Signage on awnings is permitted on the end panel or valance only. Lettering size shall be proportional to the space available as approved by the zoning administrator.

- h. Awnings and canopies deteriorate over time; regular maintenance and replacement is required. If material shows signs of wear, including, but not limited to, fraying, fading, or physical damage to the awning.
 - i. Awnings should be part of the site plan review and receive approval. Any encroachments over public right-of-way shall be approved by the city council prior to construction.
- (6) *Building height.* Buildings exceeding 50 feet in height must obtain a conditional use permit.
(Code 2004, pt. 3, § 30.1010; Ord. No. 24-2542, § 30.70, 3-4-2024)

Sec. 117-93. General performance standards.

The following general performance standards are required in the County Road 10 Mixed Use District (MU):

- (1) *Assisted living and/or memory care facility.*
 - a. Multi-story buildings must meet performance standards for residential multifamily.
 - b. One-story buildings must meet commercial performance standards.
- (2) *Class II restaurant.* If located in a multiple tenant retail center, must conform to the architecture of a specific center.
- (3) *Hospitals.*
 - a. Shall not be adjacent to low density residential areas.
 - b. Shall have direct access from the site to a collector or arterial street as defined in the comprehensive plan.
 - c. Shall not have emergency vehicle access adjacent to or located across a street from any single-family residential use.
 - d. May be required to submit a detailed parking analysis. Additional parking may be required based on this analysis.
- (4) *Heliports.*
 - a. Shall conform to all applicable Federal Aviation Administration and state department of transportation regulations.
 - b. Shall establish and utilize approach and departure routes over nonresidential areas to the maximum extent possible.
 - c. Shall have hours of operation limited to 7:00 a.m. to 9:00 p.m., inclusive, excluding emergencies.
 - d. Shall not be located within 500 feet of residential areas.
 - e. Shall be provided with a dust free landing pad.
 - f. Shall be fenced or otherwise secured to prevent unauthorized access.

(5) *Outside display.* Outside display is allowed provided the following standards are met:

- a. Outside display area is limited to a maximum of 30 percent of the width of a building frontage and is not to exceed a total of 150 square feet of area for buildings under 40,000 square feet and not to exceed 400 square feet for buildings larger than 40,000 square feet. The term "building frontage" means the dimension or width of a store front occupied by the retailer establishing the outside display. For purposes of this article, a frontage must contain a public or customer entrance or exit and no space is allowed more than two frontages.
- b. Outside display to be located immediately adjacent to and within the dimensions of the building frontage and shall not extend from the front building edge more than 50 inches.
- c. Outside display shall not exceed a height of 60 inches.
- d. Vending machines or cabinets for items such as beverages, ice and propane are exempt from the height and area restrictions provided they are limited to a maximum of three machines or cabinets per frontage.
- e. Outside display shall not be located so as to block pedestrian walkways, doorways, parking stalls, drive aisles (including access for emergency services). 36 inches is the minimum width required to maintain pedestrian access.
- f. Outside display to be maintained in an orderly and attractive manner that does not detract from the image of the community or adjacent businesses.
- g. Outside display should be a representation of the products sold on site, not a storage area for inventory on pallets.
- h. Products shall be able to be sold from the display.

(6) *Parking.*

- a. *Generally.* Parking is regulated by section 129-13 except where regulated in this section.
- b. *Shared parking.*
 1. *Conditional use permit.* A conditional use permit may be granted for one or more businesses to provide the required off-street parking facilities by joint use of one or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately.

2. *Conditions required for shared parking.*
 - (i) The building or use for which application is being made to utilize off-street parking facilities, provided by another building or use shall be located within 800 feet of such parking facilities.
 - (ii) The application shall demonstrate there is no substantial conflict in using shared facilities through a professional parking analysis.
 - (iii) Shared parking facilities shall record with the county an irrevocable covenant running with the land. A certified copy of the recorded agreement shall be provided to the zoning administrator prior to issuance of a building permit.
- c. *Off-site parking.* Any off-site parking which is used to meet the requirements below shall be a conditional use:
 1. Reasonable access from the off-site parking facilities to the use being served shall be provided.
 2. An agreement or lease shall be approved as part of the conditional use permit. The agreement/lease shall specify the total number and location of parking spaces under contract.
 3. The off-street parking requirements shall be established by the zoning administrator based upon the characteristics and functional similarities between uses including, but not limited to: the size of building, type of use, number of employees, expected volume and turnover of customer traffic, and expected frequency and number of delivery or service vehicles. For structures containing multiple uses, each shall be calculated separately. The requirements may be revised downward by the city council as part of an application for a conditional use permit based on verifiable information pertaining to parking.
 4. Approved parking spaces must be located on the same lot as the principal use, unless shared parking or off-site parking is approved for the use.
- d. *Parking analysis requirements.* A parking analysis is required when off-site or shared parking is proposed. The parking analysis is to be prepared by a professional who has knowledge and experience with parking needs and assessments. The analysis should consist of the following information:
 1. A site plan of the property identifying where the proposed project is located, showing all existing uses/tenant spaces and all existing parking space locations.

2. Parking analysis matrix that includes:
 - (i) Names of all existing/proposed uses with tenant address;
 - (ii) Each tenants total building square footage existing and proposed;
 - (iii) Lists dining and seating counts for restaurant, bar, brewery, cocktail room and coffee shop uses; and
 - (iv) Lists an accurate total number of all existing parking spaces on-site.
 3. Proposed parking layout and number of stalls for the development.
 4. Floor plan layouts may be required to determine relevant seating areas and other-relevant square-footage areas.
 5. Parking adequacy should be determined prior to making major financial and legal commitments related to the property. In some cases, insufficient on-site parking may prevent the proposed project/use from being permitted.
- e. *Parking structure.*
1. Parking structures shall be appropriately located and behind the rear of the building when practical.
 2. Parking structures abutting any public street or walkway shall be compatible with the materials and architectural style of surrounding buildings.
 3. Parking structures shall be designed so that vehicles are not visible from the sidewalk and the only opening at the street level are those to accommodate vehicle ingress and egress.
 4. Snow storage areas shall not be located in the front or side yard abutting a street. If storage is not accommodated on site, it should be hauled out.
- (7) *Personalized instructional services, fitness centers, accessory uses.* Personalized instructional services and fitness centers and accessory uses within the building on property:
- a. Any active outdoor use areas shall be screened from residential views.
 - b. A detailed parking demand analysis shall be submitted. Additional parking may be required based on this analysis.
- (8) *Theaters.*
- a. Theaters located within shopping centers or otherwise utilizing joint parking arrangement shall submit an analysis of parking demand versus availability for review and approval by the city. Additional parking may be required based on this analysis if available parking does not meet the expected demand.

- b. Theaters located within existing structures may be required to install appropriate building modifications to provide adequate pedestrian and vehicle access.
 - c. Interior and freestanding theaters shall only be permitted when it can be demonstrated that vehicular ingress and egress may be accomplished without inducing undue traffic problems on area roadways.
- (9) *Traffic impact studies/traffic memo.*
 - a. A traffic impact study prepared by a registered traffic engineer to assess potential traffic impacts on local and regional road systems is required for any of the following: multifamily development.
 - b. A traffic memo prepared by a registered traffic engineer to assess potential traffic impacts on local and regional road systems is required for any of the following:
 - 1. Any development which exceeds 25,000 square feet of gross floor area.
 - 2. Expansion of existing development which exceeds ten percent of gross floor area and the total gross floor area is 25,000 square feet or greater.
- (10) *Refuse enclosure.* Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (11) *Screening.* On a lot adjacent to single-family residential, there shall be an opaque screen made up of trees and/or berms and a six-foot-high solid fence constructed of maintenance free materials.
- (12) *Signage.* Signage is regulated by chapter 133.

(Code 2004, pt. 3, § 30.1011; Ord. No. 24-2542, § 30.71(2), 3-4-2024)

Chapter 118—120

RESERVED

CD118:1

Chapter 121

INDUSTRIAL DISTRICTS

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Article IV. Heavy Industrial (I-2)

Sec. 121-97. Intent.
Sec. 121-98. Permitted uses.
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- Sec. 121-103. Landscaping.
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- Sec. 121-135. Conditional uses.
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- Sec. 121-138. Landscaping.
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- Sec. 121-143. Standards for transient sales.
- Sec. 121-144. Standards for crushing of concrete demolition materials.
- Sec. 121-145. Standards for asphalt processing and recycling facility.

ARTICLE I. IN GENERAL

Secs. 121-1—121-18. Reserved.

ARTICLE II. LIGHT INDUSTRIAL (I-1)

Sec. 121-19. Intent.

The purpose of the Light Industrial (I-1) District is to allow light industrial uses ranging from small to large scale industry and related services. Uses shall be compatible with neighboring nonindustrial uses through architectural standards and intensity of uses. This district may be located adjacent to residential, commercial, and industrial districts and shall have access to collector or arterial roads without passing through residential districts.

(Code 2004, pt. 3, § 31.01; Ord. No. 87-1046, 11-5-1987; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 31.01, 11-18-2024)

Sec. 121-20. Permitted uses.

The following are permitted uses in the Light Industrial (I-1) District:

- (1) Manufacturing uses: manufacturing, compounding, processing, packaging, storage, treatment, or assembly of products and materials within a structure, except for rendering/slaughtering/refining facilities, cannabis cultivation and cannabis manufacturing.
- (2) Warehousing.
- (3) Wholesale businesses.
- (4) Business and professional offices, not including medical.
- (5) Engraving shops.
- (6) Machine shops.
- (7) Printing and publishing.
- (8) Repair services, except for businesses related to passenger vehicles and trucks.
- (9) Service uses of blue-printing, duplicating, mailing, and graphic arts.
- (10) Research and design laboratories.
- (11) Data center.

- (12) Uses not explicitly enumerated in this section as permitted uses, but closely similar thereto as determined by the zoning administrator, provided these uses are not explicitly mentioned as permitted or conditional uses elsewhere in the ordinance.

(Code 2004, pt. 3, § 31.02; Ord. No. 91-1264, 9-19-1991; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 25-2572, § 31.02, 1-22-2025)

Sec. 121-21. Accessory uses.

The following accessory uses are allowed in the Light Industrial (I-1) District:

- (1) Dwelling for watchman (not to exceed 500 square feet) and limited to one person.
- (2) Retail sales, incidental to manufacturing, of products manufactured, assembled, or warehoused on the premises, provided no more than ten percent of the building is used for retail space.
- (3) Coffee shops/cafeteria for employees.
- (4) Recreational facilities for employees.
- (5) Day care related to employees.
- (6) Cars, vans, pickup trucks, and utility trailers no longer than 15 feet in length parked outside and used by employees or visitors in the normal course of the business operation parked in the side and rear yard outside of the required parking stalls.

(Code 2004, pt. 3, § 31.03; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022)

Sec. 121-22. Conditional uses.

The following are conditional uses in the Light Industrial (I-1) District:

- (1) Commercial nurseries/greenhouses.
- (2) Online purchase pick-up location.
- (3) Heliports.
- (4) Passenger vehicle service, major repair, including painting, body work and dismantling, exclusive of auto reduction yards. Storage of vehicles shall be screened with 100 percent opaqueness.
- (5) Outdoor storage of passenger vehicles or vans, other than those specified in section 121-21(6), provided such storage shall be screened with 100 percent opaqueness. Such outdoor storage shall be related specifically to a permitted or approved conditional use.
- (6) Two or more buildings on same lot, provided such buildings relate to one permitted or conditional use.

- (7) Building over 50 feet from ground level.
 - (8) Indoor vehicles sales showroom.
 - (9) Zero lot line, with shared access or parking.
 - (10) Principal adult uses, as defined and licensed under chapter 22, article II.
 - (11) Indoor commercial dog kennel with or without dwelling for night watchperson.
 - (12) Personal care, health care, recreation, fitness, or education related commercial services. Sites must be able to demonstrate adequate on-site parking. Uses must be destination based and not generate traffic volumes measurably above the range normally expected by the other allowed I-1 uses. With the exception noted in section 121-21(3), general retail sales is not permitted under this section.
 - (13) Brewer taproom as associated with and on the same site as a licensed brewery.
 - (14) Ground-mounted solar as an accessory use.
- (Code 2004, pt. 3, § 31.04; Ord. No. 87-1046, 11-5-1987; Ord. No. 89-1118, 3-16-1989; Ord. No. 93-1320, 1-7-1993; Ord. No. 97-1676, 9-18-1997; Ord. No. 98-1754, 11-19-1998; Ord. No. 04-2007, 03-18-2004; Ord. No. 15-2334, 12-17-2015; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2474, 6-21-2021; Ord. No. 22-2514, 12-19-2022)

Sec. 121-23. Standards.

The following standards are required uses in the Light Industrial (I-1) District:

- (1) Minimum lot size: one acre.
- (2) Minimum lot width: 150 feet.
- (3) Minimum lot depth: 150 feet.
- (4) Front yard building setback: 40 feet.
- (5) Corner side yard building setback: 40 feet.
- (6) Side yard building setback: 15 feet.
- (7) Rear yard building setback: 20 feet.
- (8) Building height: 50 feet from ground level without a conditional use permit and subject to Federal Aviation Administration (FAA) regulations.
- (9) Minimum building size: 5,000 square feet.

(10) Parking and driveways.

- a. Parking and driveways may be constructed to within the following minimum setbacks of property line:
 1. Front yard/corner side yard: 25 feet.
 2. Side yard: ten feet.
 3. Rear yard: ten feet.
- b. If rear yard or side yard parking setback is adjacent to a residential district, the parking setback shall be 25 feet. Such setback shall be opaquely screened with berms, shrubs, trees, fence, or a combination thereof.

(11) When a light industrial district is adjacent to any residential district, building setbacks shall be 100 feet along any side adjacent to a residential district. A reduction in the required building setback buffer may be requested by following the requirements in section 129-20.

(Code 2004, pt. 3, § 31.05; Ord. No. 20-2447, 7-20-2020)

Sec. 121-24. Landscaping.

All landscaping requirements shall meet the provisions of section 129-7, including the following:

- (1) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevard except along I-35W and into general parking islands, except natural areas to be preserved.
- (2) Traffic safety islands or general parking islands where deemed appropriate shall be landscaped.

(Code 2004, pt. 3, § 31.06; Ord. No. 20-2447, 7-20-2020)

Sec. 121-25. Loading facilities.

Loading facilities shall be in the side or rear yards and shall be screened. Screening can be accomplished using berms, shrubs, trees, fencing, architectural design or a combination thereof. For additional information and requirements, refer to section 129-14.

(Code 2004, pt. 3, § 31.07; Ord. No. 20-2447, 7-20-2020)

Sec. 121-26. Storage/refuse facilities.

(a) There shall be no outdoor storage of any kind within this district. For purposes of this zoning district, cars, vans pickup trucks and utility trailers no longer than 15 feet in length parked outside and used by employees or visitors in the normal course of the business operation will not be construed to be outdoor storage when parked in the side and rear yard outside of the required parking stalls.

Further, outside parked trucks, semi-trailers and any other vehicles larger than 10,000 GVW used in the normal business' commerce will not be construed to be outdoor storage provided:

- (1) Total number of vehicles over 10,000 GVW, including, but not limited to, box trucks, semi cab, and semi-trailers does not exceed the number of docks or bay doors; and
- (2) Such use is not construed as an operation listed as a conditional use in any industrial zone.

(b) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

(c) There shall be no detached silos, storage tanks, storage bin containers or similar detached structures within this district.

(d) All attached silos, storage tanks, storage bin containers or similar attached structures shall have screening approved by the zoning administrator. Attached structures include structures immediately adjacent to the building, subject to zoning administrator approval.

(Code 2004, pt. 3, § 31.08; Ord. No. 98-1732, 7-9-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022; Ord. No. 22-2514, 12-19-2022)

Sec. 121-27. Mechanical/electrical equipment.

All mechanical/electrical equipment on the ground or roof, such as heating, air conditioning, transformers, shall be screened on all sides so as not to be visible from public streets or adjoining property. Such screening shall be designed and constructed of materials that is compatible with the principal buildings.

(Code 2004, pt. 3, § 31.09; Ord. No. 20-2447, 7-20-2020)

Sec. 121-28. Architectural control.

(a) All buildings erected shall be a type of construction as defined in the state building code.

(b) Any building shall be constructed so that all exterior sides shall be surfaced equivalent to the front building elevation as determined by the zoning administrator.

(c) Exterior surfaces.

- (1) Exterior wall surfaces of all buildings shall be primarily faced with brick, stone, precast panel, cast-in-place panel, architectural concrete with other permitted materials, or glass.
- (2) Use of modern metal paneling materials or its equivalent shall be considered for exterior wall surfaces provided such materials are used in conjunction with other materials listed above. Use of modern metal paneling materials or its equivalent shall not exceed 35 percent of any individual wall surface.

(d) The building design should exhibit architectural control which seeks to be creative and maximize building lines, shades, and angles to maximize architectural uniqueness.

(e) All building design and exterior wall surface materials shall be reviewed and approved by the zoning administrator.

(Code 2004, pt. 3, § 31.091; Ord. No. 98-1732, 7-9-1998; Ord. No. 00-1835, 3-16-2000; Ord. No. 00-1876, 10-19-2000; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 31.091, 12-18-2023)

Secs. 121-29—121-59. Reserved.

ARTICLE III. LIGHT INDUSTRIAL (I-1A)

Sec. 121-60. Intent.

The purpose of the Light Industrial (I-1A) District is to allow light industrial uses ranging from small to large scale industry and related services, including limited outside storage. Uses shall be compatible with neighboring nonindustrial uses through architectural standards, intensity of uses and screening of limited outside storage. This district may be located adjacent to residential, commercial, and industrial districts and shall have access to collector or arterial roads without passing through residential districts.

(Code 2004, pt. 3, § 31.11; Ord. No. 97-1687, 11-20-1997; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 31.11, 11-18-2024)

Sec. 121-61. Permitted uses.

The following are permitted uses in the Light Industrial (I-1A) District:

- (1) Manufacturing uses: manufacturing, compounding, processing, packaging, storage, treatment, or assembly of products and materials within a structure, except for rendering/slaughtering/refining facilities, cannabis cultivation and cannabis manufacturing.
- (2) Warehousing.

- (3) Wholesale businesses.
 - (4) Business and professional offices.
 - (5) Engraving shops.
 - (6) Machine shops.
 - (7) Printing and publishing.
 - (8) Repair services, except for businesses related to passenger vehicles and trucks.
 - (9) Service uses of blue-printing, duplicating, mailing, and graphic arts.
 - (10) Research and design laboratories.
 - (11) Data center.
 - (12) Uses not explicitly enumerated in this section as permitted uses, but closely similar thereto as determined by the zoning administrator, provided these uses are not explicitly mentioned as permitted or conditional uses elsewhere in this subpart.
- (Code 2004, pt. 3, § 31.12; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 25-2572, § 31.12, 1-22-2025)

Sec. 121-62. Accessory uses.

The following accessory uses are allowed in the Light Industrial (I-1A):

- (1) Dwelling for watchman (not to exceed 500 square feet) and limited to one person.
 - (2) Retail sales, incidental to manufacturing, of products manufactured, assembled, or warehoused on the premises, provided no more than ten percent of the building is used for retail space.
 - (3) Coffee shops/cafeteria for employees.
 - (4) Recreational facilities for employees.
 - (5) Day care related to employees.
 - (6) Cars, vans, pickup trucks, and utility trailers no longer than 15 feet in length parked outside and used by employees or visitors in the normal course of the business operation parked in the side and rear yard outside of the required parking stalls.
- (Code 2004, pt. 3, § 31.13; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022)

Sec. 121-63. Conditional uses.

The following are conditional uses in the Light Industrial (I-1A):

- (1) Commercial nurseries/greenhouses.

- (2) Online purchase pickup location.
 - (3) Heliports.
 - (4) Passenger vehicle service, major repair, including painting, body work and dismantling, exclusive of auto reduction yards. Storage of vehicles shall be screened with 100 percent opaqueness.
 - (5) Outdoor storage of passenger vehicles or vans, provided such storage shall be screened with 100 percent opaqueness. Such outdoor storage shall be related specifically to a permitted or approved conditional use.
 - (6) Two or more buildings on same lot provided such buildings relate to one permitted or conditional use.
 - (7) Building over 50 feet from ground level.
 - (8) Indoor vehicles sales showroom.
 - (9) Zero lot line with shared access or parking.
 - (10) Principal adult uses, as defined and licensed under chapter 22, article II.
 - (11) Limited outside storage of materials or small equipment meeting standards of section 121-64(11).
 - (12) Contractor yard meeting standards of section 121-64(11).
 - (13) Ground-mounted solar as an accessory use.
 - (14) Brewer taproom, as defined by section 6-3, associated with and on the same site as a licensed brewery.
 - (15) Personal care, health care, recreation, fitness, or education related commercial services. Sites must be able to demonstrate adequate on-site parking. Uses must be destination based and not generate traffic volumes measurably above the range normally expected by the other allowed industrial uses. With the exception noted in section 121-62(3), general retail sales is not permitted under this section.
 - (16) Commercial dog kennel with or without dwelling for night watchperson.
- (Code 2004, pt. 3, § 31.14; Ord. No. 98-1754, 11-19-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2474, 6-21-2021; Ord. No. 22-2514, 12-19-2022)

Sec. 121-64. Standards.

The following standards are required in the Light Industrial (I-1A):

- (1) Minimum lot size: One acre.
- (2) Minimum lot width: 150 feet.
- (3) Minimum lot depth: 150 feet.
- (4) Front yard building setback: 40 feet.

- (5) Corner side yard building setback: 40 feet.
- (6) Side yard building setback: 15 feet.
- (7) Rear yard building setback: 20 feet.
- (8) Building height: 50 feet from ground level without a conditional use permit and subject to Federal Aviation Administration (FAA) regulations.
- (9) Minimum building size: 5,000 square feet.
- (10) Parking and driveways.
 - a. Parking and driveways may be constructed to within the following minimum setbacks of property line:
 - 1. Front yard/corner side yard: 25 feet.
 - 2. Side yard: ten feet.
 - 3. Rear yard: ten feet.
 - b. If rear yard or side yard parking setback is adjacent to a residential district, the parking setback shall be 25 feet. Such setback shall be opaquely screened with berms, shrubs, trees, fence, or a combination thereof.
- (11) When a light industrial district is adjacent to any residential district, building setbacks shall be 100 feet along any side adjacent to a residential district. A reduction in the required building setback buffer may be requested by following the requirements in section 129-20.
- (12) Limited outside storage.
 - a. Outside storage area limited to a maximum of 50 percent of total building footprint.
 - b. Sites considered for limited outside storage shall be capable of providing full screening so that outside storage is not visible from any public right-of-way.
 - c. Screening to be achieved through a combination of masonry walls, fencing, berming, landscaping, additional setbacks, etc.
 - d. Limited outside storage limited to a maximum height of 12 feet.
 - e. A conditional use permit for limited outside storage shall not permit the outside storage of semi-trucks, semi-trailers, or heavy construction equipment.
 - f. All limited outside storage areas are to be hard-surfaced and bound at the perimeter by either B-6-12 concrete curb and gutter or fencing as determined by the zoning administrator.
 - g. Additional screening may be required to effectively screen outside storage from the view of adjacent properties.

h. Storage shall be located in the rear or side yards.
(Code 2004, pt. 3, § 31.15; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022)

Sec. 121-65. Landscaping.

All landscaping requirements shall meet the provisions of section 129-7, including the following:

- (1) Underground irrigation shall be required for all front yards and corner side yards.
 - (2) Traffic safety islands or general parking islands where deemed appropriate shall be landscaped.
- (Code 2004, pt. 3, § 31.16; Ord. No. 20-2447, 7-20-2020)

Sec. 121-66. Loading facilities.

(a) Loading facilities shall be in the side or rear yards and shall be screened. When visible only to another lot, such facilities must be screened with 50 percent opaqueness. Screening can be accomplished using berms, shrubs, trees, fencing, architectural design or a combination thereof.

(b) For additional information and requirements, refer to section 129-14.
(Code 2004, pt. 3, § 31.17; Ord. No. 20-2447, 7-20-2020)

Sec. 121-67. Storage/refuse facilities.

(a) There shall be no outdoor storage of any kind within this district except as authorized by a conditional use permit. For purposes of this zoning district, cars, vans, pickup trucks and utility trailers no longer than 15 feet in length parked outside and used by employees or visitors in the normal course of the business operation will not be construed to be outdoor storage, when parked in the side and rear yard outside of the required parking stalls. Further, outside parked trucks, semi-trailers and any other vehicles larger than 10,000 GVW used in the normal business' commerce will not be construed to be outdoor storage provided:

- (1) Total number of vehicles over 10,000 GVW, including but not limited to box trucks, semi-cab, and semi-trailers does not exceed the number of docks or bay doors; and
- (2) Such use is not construed as an operation listed as a conditional use in any industrial zone.

(b) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such

facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

(c) There shall be no detached silos, storage tanks, storage bin containers or similar detached structures within this district.

(d) All attached silos, storage tanks, storage bin containers or similar attached structures shall have screening approved by the zoning administrator. Attached structures include structures immediately adjacent to the building, subject to zoning administrator approval.

(Code 2004, pt. 3, § 31.18; Ord. No. 98-1732, 7-9-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022; Ord. No. 22-2514, 12-19-2022)

Sec. 121-68. Mechanical/electrical equipment.

All mechanical/electrical equipment on the ground or roof, such as heating, air conditioning, transformers, shall be screened on all sides so as not to be visible from public streets or adjoining property. Such screening shall be designed and constructed of materials that is compatible with the principal buildings.

(Code 2004, pt. 3, § 31.19; Ord. No. 20-2447, 7-20-2020)

Sec. 121-69. Architectural control.

(a) All buildings erected shall be a type of construction as defined in the state building code.

(b) Any building shall be constructed so that all exterior sides shall be surfaced equivalent to the front building elevation as determined by the zoning administrator.

(c) Exterior surfaces.

(1) Exterior wall surfaces of all buildings shall be primarily faced with brick, stone, precast panel, cast-in-place panel, architectural concrete with other permitted materials, or glass.

(2) Use of modern metal paneling materials or its equivalent shall be considered for exterior wall surfaces provided such materials are used in conjunction with other materials listed above. Use of modern metal paneling materials or its equivalent shall not exceed 35 percent of any individual wall surface.

(d) The building design should exhibit architectural control which seeks to be creative and maximize building lines, shades, and angles to maximize architectural uniqueness.

(e) All building design and exterior wall surface materials shall be reviewed and approved by the zoning administrator.

(Code 2004, pt. 3, § 31.191; Ord. No. 00-1835, 3-16-2000; Ord. No. 00-1876, 10-19-2000; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 31.191, 12-18-2023)

Secs. 121-70—121-96. Reserved.

ARTICLE IV. HEAVY INDUSTRIAL (I-2)

Sec. 121-97. Intent.

The purpose of the Heavy Industrial (I-2) District is to allow heavy industrial uses ranging from small to large scale industry and related services, including outdoor uses and storage. This district may be located adjacent to commercial and industrial districts and shall have access to collector or arterial roads without passing through residential districts.

(Code 2004, pt. 3, § 31.21; Ord. No. 87-1024, 6-4-1987; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 31.21, 11-18-2024)

Sec. 121-98. Permitted uses.

The following are permitted uses in the Heavy Industrial (I-2) District:

- (1) Manufacturing uses: manufacturing, compounding, processing, packaging, storage, treatment, or assembly of products and materials within a structure, except for rendering/slaughtering/refining facilities, cannabis cultivation and cannabis manufacturing.
- (2) Warehousing with outside parking of trucks, semitrailers, or other vehicles greater than 10,000 GVW other than buses not exceeding the number of docks or bay doors.
- (3) Wholesale businesses.
- (4) Business and professional offices.
- (5) Engraving shops.
- (6) Machine shops.
- (7) Printing and publishing.
- (8) Repair services, except for businesses related to passenger vehicles and trucks.
- (9) Service uses of blue-printing, duplicating, mailing, and graphic arts.

- (10) Passenger vehicle service, major repair, including painting, body work and dismantling, exclusive of auto reduction yards. Storage of vehicles shall be screened with 100 percent opaqueness. Towing may be included as an incidental use for vehicles that are towed to the site for repair.
 - (11) Data center.
 - (12) Uses not explicitly enumerated in this section as permitted uses, but closely similar thereto as determined by the zoning administrator, provided these uses are not explicitly mentioned as permitted or conditional uses elsewhere in this subpart.
- (Code 2004, pt. 3, § 31.22; Ord. No. 91-1264, 9-19-1991; Ord. No. 95-1586, 12-21-1995; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 25-2572, § 31.22, 1-22-2025)

Sec. 121-99. Accessory uses.

The following accessory uses are allowed in the Heavy Industrial (I-2) District:

- (1) Dwelling for watcher (not to exceed 500 square feet) and limited to one person.
 - (2) Retail sales, incidental to manufacturing, of products manufactured, assembled, or warehoused on the premises, provided no more than ten percent of the building is used for retail space.
 - (3) Coffee shops/cafeteria for employees.
 - (4) Recreational facilities for employees.
 - (5) Day care related to employees.
 - (6) Short-term lodging facilities for transportation terminals (as provided for in section 121-100(10)). Limited to a maximum of 16 beds.
 - (7) Bulk commodity storage facilities. Such facilities are exempt from the regulations of section 12-107.
 - (8) Cars, vans, pickup trucks, and utility trailers no longer than 15 feet in length parked outside and used by employees or visitors in the normal course of the business operation parked in the side and rear yard outside of the required parking stalls.
- (Code 2004, pt. 3, § 31.23; Ord. No. 90-1179, 1-18-1990; Ord. No. 01-1935, 2-3-2002; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022)

Sec. 121-100. Conditional uses.

The following are conditional uses in the Heavy Industrial (I-2):

- (1) Commercial nurseries/greenhouses.
- (2) Waste transfer facility (subject to the standards listed in section 129-25).

- (3) Automotive towing business with outdoor tow yard or impound lot.
- (4) Heliports.
- (5) Outdoor storage of materials or equipment other than passenger vehicles. All outside storage areas greater than one acre require additional building standards outlined in section 121-102(9).
- (6) Condominium conversion of buildings.
- (7) Two or more buildings on the same lot provided such buildings relate to one permitted or conditional use.
- (8) Contractor yards.
- (9) Commercial kennels.
- (10) Transportation terminal, privately owned.
- (11) Trap and skeet ranges.
- (12) Manufacturing or repair of semi-tractors, trailers, trucks over 10,000 GVW, farm implements, or boats, without outside storage of trucks, boats or trailers exceeding the number of dock and/or bay doors on the building.
- (13) Equipment rental.
- (14) Building over 50 feet from ground level.
- (15) Automobile reduction/automobile reduction yards.
- (16) Zero lot line with shared access or parking.
- (17) Online purchase pick-up location.
- (18) Principal adult uses, as defined and licensed under chapter 22, article II.
- (19) Yard waste drop-off facility.
- (20) Retail sales facility for CNG (compressed natural gas) or other alternative automotive fuels. Retail sales must be accessory to an on-site fleeting fueling operation.
- (21) Personal care, health care, recreation, fitness, or education related commercial services. Sites must be able to demonstrate adequate on-site parking. Uses must be destination based and not generate traffic volumes measurably above the range normally expected by the other allowed I-2 uses. With the exception noted in section 121-99(3), general retail sales are not permitted under this section.
- (22) Indoor vehicle sales showroom.
- (23) Brewer taproom associated with and on the same site as a licensed brewery.
- (24) Ground-mounted solar as an accessory use.

(25) Hazardous waste treatment facilities subject to standards listed in section 129-97

(Code 2004, pt. 3, § 31.24; Ord. No. 88-1104, 11-17-1988; Ord. No. 89-1118, 3-16-1989; Ord. No. 89-1147, 6-15-1989; Ord. No. 93-1320, 1-7-1993; Ord. No. 94-1498, 2-3-1994; Ord. No. 95-1564, 7-6-1995; Ord. No. 98-1722, 5-21-1998; Ord. No. 11-2224, 6-16-2011; Ord. No. 13-2266, 5-16-2013; Ord. No. 14-2295, 10-16-2014; Ord. No. 15-2334, 12-17-2015; Ord. No. 16-2342, 2-18-2016; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2474, 6-21-2021; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 31.24, 12-18-2023)

Sec. 121-101. Interim uses.

The following are interim uses in the Heavy Industrial (I-2) District:

- (1) Transient sales meeting standards outlined in section 121-108.
- (2) Crushing of concrete demolition materials meeting standards of section 121-109.

(Code 2004, pt. 3, § 31.25; Ord. No. 93-1327, 4-15-1993; Ord. No. 20-2447, 7-20-2020)

Sec. 121-102. Standards.

The following standards are required in the Heavy Industrial (I-2) District:

- (1) Minimum lot size: one acre.
- (2) Minimum lot width: 150 feet.
- (3) Minimum lot depth: 150 feet.
- (4) Front yard building setback: 40 feet.
- (5) Corner side yard building setback: 40 feet.
- (6) Side yard building setback: 15 feet.
- (7) Rear yard building setback: 20 feet.
- (8) Building height: 50 feet from ground level unless authorized by a conditional use permit and subject to Federal Aviation Administration (FAA) regulations.
- (9) Minimum building size: 5,000 square feet. A site with an outside storage area greater than one acre in size requires a minimum building size of 20,000 square feet.
- (10) Parking and driveways.
 - a. Parking and driveways may be constructed to within the following minimum setbacks of property line:
 1. Front yard/corner side yard: 25 feet.

2. Side yard: ten feet.
3. Rear yard: ten feet.

- b. If rear yard or side yard parking setback is adjacent to a residential district, the parking setback shall be 25 feet. Such setback shall be opaquely screened with berms, shrubs, trees, fence or a combination thereof.

- (11) When a heavy industrial district is adjacent to any residential district, building setbacks shall be 100 feet along any side adjacent to a residential district. A reduction in the required building setback buffer may be requested by following the requirements in section 129-20.

(Code 2004, pt. 3, § 31.26; Ord. No. 20-2447, 7-20-2020)

Sec. 121-103. Landscaping.

All landscaping requirements shall meet the provisions of section 129-7, including the following:

- (1) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevard except along I-35W and into general parking islands, except natural areas to be preserved.
- (2) Traffic safety islands or general parking islands where deemed appropriate shall be landscaped.

(Code 2004, pt. 3, § 31.27; Ord. No. 20-2447, 7-20-2020)

Sec. 121-104. Loading facilities.

Loading facilities shall be in the side or rear yards. When adjacent to or visible from any public street, such facilities must be screened with 100 percent opaqueness. When visible only to another lot, such facilities must be screened with 50 percent opaqueness. Screening can be accomplished using berms, shrubs, trees, fencing, architectural design or a combination thereof. For additional information and requirements, refer to sections 121-100 and 121-102.

(Code 2004, pt. 3, § 31.28; Ord. No. 20-2447, 7-20-2020)

Sec. 121-105. Storage/refuse facilities.

(a) Outdoor storage shall be allowed within this district meeting all conditions imposed under a conditional use permit. All outdoor storage shall be located in the rear or side yard. Additional screening may be required as part of the required conditional use permit for outdoor storage in the side yard.

(b) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such

facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

(c) There shall be no detached silos, storage tanks, storage bin containers or similar detached structures within this district. Above-ground fuel tanks are exempt from this requirement with zoning administrator approval of placement, screening and issuance of building and fire department permits.

(d) All attached silos, storage tanks, storage bin containers or similar attached structures shall have screening approved by the (community development director) zoning administrator. Attached structures include structures immediately adjacent to the building, subject to zoning administrator approval.

(Code 2004, pt. 3, § 31.29; Ord. No. 95-1564, 7-6-1995; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022; Ord. No. 22-2514, 12-19-2022)

Sec. 121-106. Mechanical/electrical equipment.

All mechanical/electrical equipment on the ground or roof, such as heating, air conditioning, transformers, shall be screened on all sides so as not to be visible from public streets or adjoining property. Such screening shall be designed and constructed of materials that is compatible with the principal buildings.

(Code 2004, pt. 3, § 31.291; Ord. No. 98-1732, 7-9-1998; Ord. No. 20-2447, 7-20-2020)

Sec. 121-107. Architectural control.

(a) All buildings erected shall be a type of construction as defined in the state building code.

(b) Any building shall be constructed so that all exterior sides shall be surfaced equivalent to the front building elevation as determined by the zoning administrator.

(c) Exterior surfaces.

(1) Exterior wall surfaces of all buildings shall be primarily faced with brick, stone, pre-cast panel, cast-in-place panel, architectural concrete in combination with glass or other permitted materials.

(2) Based on building size, height, location or special use, the zoning administrator may approve the use of modern metal paneling materials or its equivalent for exterior wall surfaces, provided such materials are used in conjunction with other materials listed above. Use of modern metal paneling materials or its equivalent shall not exceed 70 percent of the cumulative area of all building walls. Modern metal paneling shall be used primarily on the rear wall and secondarily on the side or front wall.

(d) The building design should exhibit architectural control which seeks to be creative and maximize building lines, shades, and angles to maximize architectural uniqueness.

(e) All building design and exterior wall surface materials shall be reviewed and approved by the zoning administrator.

(Code 2004, pt. 3, § 31.292; Ord. No. 90-1236, 10-18-1990; Ord. No. 98-1732, 7-9-1998; Ord. No. 00-1835, 3-16-2000; Ord. No. 00-1876, 10-19-2000; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 31.292, 12-18-2023)

Sec. 121-108. Standards for transient sales.

The following standards are required for transient sales:

- (1) Location of the sale shall have a minimum 150-foot setback from any intersection.
- (2) No sales shall be located within or upon any public right-of-way, landscaped area, required front and side yard setbacks when the side yard abuts a street, fire lane, or designated drive aisle.
- (3) The space used for transient sales, including off-street parking in connection with the transient sales, shall not exceed the space needed for any existing business at the site.
- (4) Merchandise offered for sale shall not occupy more than 100 square feet.
- (5) Adequate off-street parking must be available to serve both the principal use of the property and the use of the property for transient sales.
- (6) Use of the property for transient sales shall not exceed eight days within a maximum period of six months.
- (7) Transient sales shall not take place between the hours of 6:00 p.m. and 10:00 a.m.
- (8) No overnight storage of transient merchant equipment or merchandise shall be allowed. Transient merchant equipment or merchandise shall be permitted on the premises only between the hours of 8:00 a.m. and 8:00 p.m. on a day transient sales are to take place.
- (9) Signs shall be subject to the requirements of chapter 133.
- (10) The use of any horn, bell, or any loud or unusual noise to call attention to a transient sale is prohibited.
- (11) A license shall be issued pursuant to chapter 22, article V.
- (12) The license required by M.S.A. § 329.11 shall be filed with the city clerk and shall be conspicuously posted in the transient merchant's place of business.

- (13) Written permission to occupy the property shall be filed with the city clerk and shall be conspicuously posted in the transient merchant's place of business.

(Code 2004, pt. 3, § 31.293; Ord. No. 89-1168, 3-1-1990; Ord. No. 98-1732, 7-9-1998; Ord. No. 20-2447, 7-20-2020)

Sec. 121-109. Standards for crushing of concrete demolition materials.

The following standards are required for crushing of concrete demolition materials:

- (1) Minimum lot size of ten acres.
- (2) Crushing and storage located in rear yard only.
- (3) Storage of demolition materials to meet the following setbacks:
 - a. Ten feet against I-2 zoned uses.
 - b. 50 feet against I-1 zoned uses.
 - c. 100 feet against all other zoning districts.
- (4) Recycling (crushing) of concrete demolition materials to meet the following setbacks:
 - a. 50 feet against I-2 zoned uses.
 - b. 100 feet against all other zoning districts.
- (5) Storage bunkered on three sides.
- (6) Maximum storage height of 15 feet.
- (7) Maximum storage volume of 20,000 cubic yards.
- (8) Crushing activity limited to no more than 45 days in a 24-month period.
- (9) Interim use permits issued under section 121-101(2) automatically expire after three years. The holder of such a permit must submit a written request to the city council if they wish to have the permit renewed for an additional three-year period. The city council reserves the right to modify conditions of the permit if conditions warrant. All concrete demolition storage must be removed within 60 days after a conditional use permit expires.

(Code 2004, pt. 3, § 31.294; Ord. No. 93-1327, 4-15-1993; Ord. No. 96-1588, 1-18-1996; Ord. No. 06-2079, 3-16-2006; Ord. No. 20-2447, 7-20-2020)

Secs. 121-110—121-131. Reserved.

ARTICLE V. HEAVY INDUSTRIAL (I-2A)**Sec. 121-132. Intent.**

The purpose of the Heavy Industrial (I-2A) District is to allow heavy industrial uses ranging from small to large scale industry and related services, including outdoor uses, storage and trucking oriented businesses. This district may be located adjacent to commercial and industrial districts and shall have access to collector or arterial roads without passing through residential districts.

(Code 2004, pt. 3, § 31.31; Ord. No. 98-1720, 5-21-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 31.31, 11-18-2024)

Sec. 121-133. Permitted uses.

The following are permitted uses in the Heavy Industrial (I-2A) District:

- (1) Manufacturing uses: manufacturing, compounding, processing, packaging, storage, treatment, or assembly of products and materials within a structure, except for rendering/slaughtering/refining facilities, cannabis cultivation and cannabis manufacturing.
- (2) Warehousing with outside parking of trucks, semitrailers, or other vehicles exceeding 10,000 GVW except for buses not exceeding the number of docks or bay doors.
- (3) Wholesale businesses.
- (4) Business and professional offices.
- (5) Engraving shops.
- (6) Machine shops.
- (7) Printing and publishing.
- (8) Repair services, except for businesses related to passenger vehicles and trucks.
- (9) Service uses of blue-printing, duplicating, mailing, and graphic arts.
- (10) Passenger vehicle service, major repair, including painting, body work and dismantling, exclusive of auto reduction yards. Storage of vehicles shall be screened with 100 percent opaqueness. Towing may be included as an incidental use for vehicles that are towed to the site for repair.
- (11) Data center.

- (12) Uses not explicitly enumerated in this section as permitted uses, but closely similar thereto as determined by the zoning administrator, provided these uses are not explicitly mentioned as permitted or conditional uses elsewhere in the ordinance.

(Code 2004, pt. 3, § 31.32; Ord. No. 98-1720, 5-21-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 25-2572, § 31.32, 1-22-2025)

Sec. 121-134. Accessory uses.

The following accessory uses are allowed in the Heavy Industrial (I-2A) District:

- (1) Dwelling for watchman (not to exceed 500 square feet) and limited to one person.
- (2) Retail sales, incidental to manufacturing, of products manufactured, assembled, or warehoused on the premises, provided no more than ten percent of the building is used for retail space.
- (3) Coffee shops/cafeteria for employees.
- (4) Recreational facilities for employees.
- (5) Day care related to employees.
- (6) Short-term lodging facilities for truck and transportation terminals (as provided for in section 121-135(9); limited to a maximum of 16 beds.
- (7) Cars, vans, pickup trucks, and utility trailers no longer than 15 feet in length parked outside and used by employees or visitors in the normal course of the business operation parked in the side and rear yard outside of the required parking stalls.

(Code 2004, pt. 3, § 31.33; Ord. No. 98-1720, 5-21-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022)

Sec. 121-135. Conditional uses.

The following are conditional uses in the Heavy Industrial (I-2A) District:

- (1) Commercial nurseries/greenhouses.
- (2) Waste transfer facility (subject to the standards listed in section 129-25).
- (3) Automotive towing businesses with outdoor tow yard.
- (4) Heliports.
- (5) Outdoor storage of materials or equipment other than vehicles. All outside storage areas greater than one acre require additional building standards outlined in section 121-137(9).
- (6) Condominium conversion of buildings.

- (7) Two or more buildings on same lot provided such buildings relate to one permitted or conditional use.
 - (8) Contractor yards.
 - (9) Truck or transportation terminal or outside parking of trucks or semi-trailers exceeding the number of docks or bay doors. The minimum building size for a truck terminal, transportation terminal, or cross dock shipping facility shall be 50,000 square feet.
 - (10) Indoor self-storage facility.
 - (11) Commercial kennels.
 - (12) Privately owned transportation terminal.
 - (13) Manufacturing, sales, rental or repair of semi-tractors, trailers, trucks over 10,000 GVW, farm implements, or boats, with or without outside storage of trucks, boats or trailers exceeding the number of dock and/or bay doors on the building.
 - (14) Equipment rental.
 - (15) Building over 50 feet from ground level.
 - (16) Automobile reduction/automobile reduction yards.
 - (17) Zero lot line with shared access or shared parking.
 - (18) Online purchase pickup location.
 - (19) Principal adult uses, as defined and licensed under chapter 22, article II.
 - (20) Yard waste drop-off facility.
 - (21) Ground mounted solar as an accessory use.
 - (22) Brewer taproom, as defined by section 6-3, associated with and on the same site as a licensed brewery.
 - (23) Personal care, health care, recreation, fitness, or education related commercial services. Sites must be able to demonstrate adequate on-site parking. Uses must be destination based and not generate traffic volumes measurably above the range normally expected by the other allowed industrial uses. With the exception noted in section 121-134(3), general retail sales is not permitted under this section.
 - (24) Hazardous waste treatment facilities subject to standards listed in section 129-97.
- (Code 2004, pt. 3, § 31.34; Ord. No. 16-2342, 2-18-2016; Ord. No. 20-2447, 7-20-2020; Ord. No. 21-2474, 6-21-2021; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 31.34, 12-18-2023)

Sec. 121-136. Interim uses.

The following are interim uses in the Heavy Industrial (I-2A) District:

- (1) Transient sales, meeting standards outlined in section 121-143.
 - (2) Crushing of concrete demolition materials meeting standards of section 121-144.
 - (3) Asphalt processing and recycling facility meeting standards of section 121-145.
- (Code 2004, pt. 3, § 31.35; Ord. No. 98-1720, 5-21-1998; Ord. No. 98-1760, 12-17-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 20-2447, 7-20-2020)

Sec. 121-137. Standards.

The following standards are required in the Heavy Industrial (I-2A) District:

- (1) Minimum lot size: one acre.
- (2) Minimum lot width: 150 feet.
- (3) Minimum lot depth: 150 feet.
- (4) Front yard building setback: 40 feet.
- (5) Corner side yard building setback: 40 feet.
- (6) Side yard building setback: 15 feet.
- (7) Rear yard building setback: 20 feet.
- (8) Building height: 50 feet from ground level unless authorized by a conditional use permit and subject to Federal Aviation Administration (FAA) regulations.
- (9) Minimum building size: 5,000 square feet. A site with an outside storage area greater than one acre in size requires a minimum building size of 20,000 square feet.
- (10) Parking and driveways.
 - a. Parking and driveways may be constructed to within the following minimum setbacks of property line:
 1. Front yard/corner side yard: 25 feet.
 2. Side yard: ten feet.
 3. Rear yard: ten feet.
 - b. If rear yard or side yard parking setback is adjacent to a residential district, the parking setback shall be 25 feet. Such setback shall be opaquely screened with berms, shrubs, trees, fence or a combination thereof.

- (11) When a heavy industrial district is adjacent to any residential district, building setbacks shall be 100 feet along any side adjacent to a residential district. A reduction in the required building setback buffer may be requested by following the requirements in section 129-20.
 - (12) Notwithstanding performance standards in chapter 129, all activities within this district must comply with all state pollution control agency regulations. In addition, no vibration shall be permitted which is discernible beyond the property line to the human sense of feeling for three minutes or more duration in any one hour, and any vibration producing an acceleration of more than 0.1 gram, or shall result in any combination of amplitudes and frequencies beyond the safe range of Table 7 of the U.S. Bureau of Mines, Bulletin "Quarry Blasting" on any structure.
 - (13) Common areas for condominiums. The developer may provide parking, common walls, driveways and waiting areas in an area common to all units of the building. Common areas shall be deeded to and held in the name of an owner's association created by the developer and including all owners of property in the project. Declarations, in form and substance acceptable to the city attorney, governing the usage and maintenance of such common areas shall be adopted and filed by the developer.
- (Code 2004, pt. 3, § 31.36; Ord. No. 98-1720, 5-21-1998; Ord. No. 16-2342, 2-18-2016; Ord. No. 20-2447, 7-20-2020)

Sec. 121-138. Landscaping.

All landscaping requirements shall meet the provisions of section 129-7, including the following:

- (1) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevard except along I-35W and into general parking islands, except natural areas to be preserved.
 - (2) Traffic safety islands or general parking islands where deemed appropriate shall be landscaped.
- (Code 2004, pt. 3, § 31.37; Ord. No. 98-1720, 5-21-1998; Ord. No. 20-2447, 7-20-2020)

Sec. 121-139. Loading facilities.

Loading facilities shall be in the side or rear yards. When adjacent to or visible from any public street, such facilities must be screened with 100 percent opaque-ness. When visible only to another lot, such facilities must be screened with 50

percent opaqueness. Screening can be accomplished using berms, shrubs, trees, fencing, architectural design or a combination thereof. For additional information and requirements, refer to section 129-14.

(Code 2004, pt. 3, § 31.38; Ord. No. 98-1720, 5-21-1998; Ord. No. 20-2447, 7-20-2020)

Sec. 121-140. Storage/refuse facilities.

(a) Outdoor storage shall be allowed within this district meeting all conditions imposed under a conditional use permit. All outdoor storage shall be located in the side or rear yard. Additional screening may be required as part of the required conditional use permit for outdoor storage in the side yard.

(b) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the zoning administrator. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

(c) There shall be no detached silos, storage tanks, storage bin containers or similar detached structures within this district. Above-ground fuel tanks are exempt from this requirement with zoning administrator approval of placement, screening and issuance of building and fire department permits.

(d) All attached silos, storage tanks, storage bin containers or similar attached structures shall have screening approved by the (community development director) zoning administrator. Attached structures include structures immediately adjacent to the building, subject to zoning administrator approval.

(Code 2004, pt. 3, § 31.39; Ord. No. 98-1720, 5-21-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022; Ord. No. 22-2514, 12-19-2022)

Sec. 121-141. Mechanical/electrical equipment.

All mechanical/electrical equipment on the ground or roof, such as heating, air conditioning, transformers, shall be screened on all sides so as not to be visible from public streets or adjoining property. Such screening shall be designed and constructed of materials that is compatible with the principal buildings.

(Code 2004, pt. 3, § 31.391; Ord. No. 98-1720, 5-21-1998; Ord. No. 20-2447, 7-20-2020)

Sec. 121-142. Architectural control.

(a) All buildings erected shall be a type of construction, as defined in the uniform building code.

(b) Any building shall be constructed so that all exterior sides shall be surfaced equivalent to the front building elevation as determined by the zoning administrator.

(c) Exterior wall surfaces of all buildings shall be primarily faced with brick, stone, pre-cast panel, cast-in-place panel, architectural concrete in combination with glass or other permitted materials. Based on building size, height, location or special use, the zoning administrator may approve the use of modern metal paneling materials or its equivalent for exterior wall surfaces, provided such materials are used in conjunction with other materials listed above. Use of modern metal paneling materials or its equivalent shall not exceed 70 percent of the cumulative area of all building walls. Modern metal paneling shall be used primarily on the rear wall and secondarily on the side or front wall.

(d) The building design should exhibit architectural control which seeks to be creative and maximize building lines, shades, and angles to maximize architectural uniqueness.

(e) All building design and exterior wall surface materials shall be reviewed and approved by the zoning administrator.

(Code 2004, pt. 3, § 31.392; Ord. No. 98-1720, 5-21-1998; Ord. No. 00-1835, 3-16-2000; Ord. No. 00-1876, 10-19-2000; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 31.392, 12-18-2023)

Sec. 121-143. Standards for transient sales.

The following standards are required for transient sales:

- (1) Location of the sale shall have a minimum 150-foot setback from any intersection.
- (2) No sales shall be located within or upon any public right-of-way, landscaped area, required front and side yard setbacks when the side yard abuts a street, fire lane, or designated drive aisle.
- (3) The space used for transient sales, including off-street parking in connection with the transient sales, shall not exceed the space needed for any existing business at the site.
- (4) Merchandise offered for sale shall not occupy more than 100 square feet.
- (5) Adequate off-street parking must be available to serve both the principal use of the property and the use of the property for transient sales.
- (6) Use of the property for transient sales shall not exceed eight days within a maximum period of six months.
- (7) Transient sales shall not take place between the hours of 6:00 p.m. and 10:00 a.m.

- (8) No overnight storage of transient merchant equipment or merchandise shall be allowed. Transient merchant equipment or merchandise shall be permitted on the premises only between the hours of 8:00 a.m. and 8:00 p.m. on a day transient sales are to take place.
 - (9) Signs shall be subject to the requirements of chapter 133.
 - (10) The use of any horn, bell, or any loud or unusual noise to call attention to a transient sale is prohibited.
 - (11) A license shall be issued pursuant to chapter 22, article V.
 - (12) The license required by M.S.A. § 329.11 shall be filed with the city clerk and shall be conspicuously posted in the transient merchant's place of business.
 - (13) Written permission to occupy the property shall be filed with the city clerk and shall be conspicuously posted in the transient merchant's place of business.
- (Code 2004, pt. 3, § 31.393; Ord. No. 98-1720, 5-21-1998; Ord. No. 20-2447, 7-20-2020)

Sec. 121-144. Standards for crushing of concrete demolition materials.

The following standards are required for crushing of concrete demolition materials:

- (1) Minimum lot size of ten acres.
- (2) Crushing and storage located in rear yard only.
- (3) Storage of demolition materials to meet the following setbacks:
 - a. Ten feet against I-2 zoned uses.
 - b. 50 feet against I-1 zoned uses.
 - c. 100 feet against all other zoning districts.
- (4) Recycling (crushing) of concrete demolition materials to meet the following setbacks:
 - a. 50 feet against I-2 zoned uses.
 - b. 100 feet against all other zoning districts.
- (5) Storage bunkered on three sides.
- (6) Maximum storage height of 15 feet.
- (7) Maximum storage volume of 20,000 cubic yards.
- (8) Crushing activity limited to no more than 45 days in 24-month period.
- (9) Interim use permits issued under section 121-136 automatically expire after three years. The holder of such a permit must submit a written request to the city council if they wish to have the permit renewed for an additional

three-year period. The city council reserves the right to modify conditions of the permit if conditions warrant. All concrete demolition storage must be removed within 60 days after a conditional use permit expires.

(Code 2004, pt. 3, § 31.394; Ord. No. 98-1720, 5-21-1998; Ord. No. 06-2079, 03-16-2006; Ord. No. 20-2447, 7-20-2020)

Sec. 121-145. Standards for asphalt processing and recycling facility.

The following standards are required for asphalt processing and recycling facilities:

- (1) Minimum lot size of 20 acres.
- (2) Recycling and outside storage of materials in rear yard only.
- (3) Outside storage of asphalt materials or asphalt processing facility to meet the following setbacks:
 - a. 50 feet against I-2 (Heavy Industrial) and I-2A (Heavy Industrial) zoned uses.
 - b. 50 feet against I-1 (Light Industrial) uses or airport property.
 - c. 100 feet against all other zoning districts or public right-of-way.
- (4) Maximum outside storage height of 30 feet.
- (5) Maximum outside storage volume of 150,000 cubic yards.
- (6) Facility must prepare for city approval a pollution prevention plan which would identify the type of wastes generated, procedures for spill containment, and disposal methods.
- (7) The facility must be operated in such a manner as to minimize the potential for spills or discharge of any pollution.
- (8) The applicant to obtain and adhere to all other required agency (Minnesota Pollution Control Agency (MPCA), the county) permits and standards.
- (9) Facility to conduct and provide written report to the city of annual soil and water quality tests through an independent and recognized testing company.
- (10) Applicant to prepare for city approval a facility closure plan that provides a financial guarantee in an amount to be determined by the city to ensure that site remediation and abatement measures can be successfully implemented.
- (11) Other standards as recommended and required by the city council through the issuance of an interim use permit.

(Code 2004, pt. 3, § 31.395; Ord. No. 98-1720, 5-21-1998; Ord. No. 98-1760, 12-17-1998; Ord. No. 20-2447, 7-20-2020)

Chapter 122—124

RESERVED

CD122:1

Chapter 125

OVERLAY DISTRICTS

Article I. In General

Secs. 125-1—125-18. Reserved.

Article II. Floodplain Overlay Districts (FP)

- Sec. 125-19. Statutory authorization and purpose.
- Sec. 125-20. General provisions.
- Sec. 125-21. Establishment of zoning districts.
- Sec. 125-22. Floodway District (FW).
- Sec. 125-23. Flood Fringe District (FF).
- Sec. 125-24. General Floodplain District (GF).
- Sec. 125-25. Land development standards.
- Sec. 125-26. Public utilities, railroads, roads, and bridges.
- Sec. 125-27. Manufactured homes, manufactured home parts, and recreational vehicles.
- Sec. 125-28. Administration.
- Sec. 125-29. Nonconformities; continuance.
- Sec. 125-30. Penalties and enforcement.
- Sec. 125-31. Amendments.
- Secs. 125-32—125-50. Reserved.

Article III. Highway 65 Overlay District (HOD)

- Sec. 125-51. Intent.
- Sec. 125-52. Scope of application.
- Sec. 125-53. Prohibited uses.
- Sec. 125-54. Architectural control.
- Sec. 125-55. Property south of Highway 10.

ARTICLE I. IN GENERAL

Secs. 125-1—125-18. Reserved.

ARTICLE II. FLOODPLAIN OVERLAY DISTRICTS (FP)

Sec. 125-19. Statutory authorization and purpose.

(a) *Statutory authorization.* The legislature of the state has, in M.S.A. chs. 103F and 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the city council does ordain as follows.

(b) *Purpose and intent.*

- (1) *Generally.* This article regulates development in the flood hazard areas of the city. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this article to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- (2) *National Flood Insurance Program compliance.* The ordinance from which this article is derived is adopted to comply with the rules and regulations of the National Flood Insurance Program, codified as 44 CFR 59—78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- (3) *Intent.* This article is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(Code 2004, pt. 3, § 32.01; Ord. No. 15-2327, 10-15-2015; Ord. No. 20-2447, 7-20-2020)

Sec. 125-20. General provisions.

(a) *Floodplain maps adopted.* This article adopts the floodplain maps applicable to the city and includes three floodplain districts: floodway, flood fringe, and general floodplain.

- (1) Where floodway and flood fringe districts are delineated on the floodplain maps, the standards in section 125-22 or 125-23 will apply, depending on the location of a property.
- (2) Locations where floodway and flood fringe districts are not delineated on the floodplain maps are considered to fall within the general floodplain district.

Within the general floodplain district, the floodway district standards in section 125-22 apply unless the floodway boundary is determined, according to the process outlined in section 125-24. Once the floodway boundary is determined, the flood fringe district standards in section 125-23 may apply outside the floodway.

(b) *Applicability.* This article applies to all lands within the jurisdiction of the city shown on the official zoning map or the attachments to the map as being located within the boundaries of the floodway, flood fringe, or general floodplain districts. The floodway, flood fringe and general floodplain districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this article. In case of a conflict, the more restrictive standards will apply.

(c) *Incorporation of maps by reference.* The following maps together with all attached material are adopted by reference and declared to be a part of the official zoning map and this article. The attached material includes the flood insurance study for the county and incorporated areas and the flood insurance rate map panels enumerated below, all dated December 16, 2015, and letters of map revision issued by the Federal Emergency Management Agency, effective July 1, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the office of the city clerk and the city engineering department.

- (1) 27003C0309E.
- (2) 27003C0317E.
- (3) 27003C0319E.
- (4) 27003C0328E.
- (5) 27003C0329E.
- (6) 27003C0333E.
- (7) 27003C0335E.
- (8) 27003C0336E.
- (9) 27003C0338E.
- (10) 27003C0340E.
- (11) 27003C0343E.
- (12) 27003C0344E.
- (13) 27003C0345E.
- (14) 27003C0382E.

(d) *Regulatory flood protection elevation.* The regulatory flood protection elevation (RFPE) is an elevation no lower than two feet above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the

floodplain that result from designation of a floodway. In an AO zone, the regulatory flood protection elevation shall be an elevation no lower than three feet above the highest adjacent grade of an existing structure and no lower than three feet above the highest adjacent grade for a proposed addition to an existing structure.

(e) *Interpretation.* The boundaries of the zoning districts are determined by scaling distances on the flood insurance rate map.

- (1) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The zoning administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
- (2) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the board of appeals and adjustment and to submit technical evidence.

(f) *Abrogation and greater restrictions.* It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this article imposes greater restrictions, the provisions of this part prevail. All other ordinances inconsistent with this article are repealed to the extent of the inconsistency only.

(g) *Warning and disclaimer of liability.* This article does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This article does not create liability on the part of the city or its officers or employees for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(h) *Definitions.*

- (1) Unless specifically defined below, words or phrases used in this article must be interpreted according to common usage and so as to give this part its most reasonable application. See also section 100-2, Definitions.
- (2) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Base flood elevation means the elevation of the regional flood. The term "base flood elevation" is used in the flood insurance survey.

Critical facilities means facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and

police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

Development means any artificial change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Floodprone area means any land susceptible to being inundated by water from any source (see "flood," as defined in section 100-2).

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

100-year floodplain means lands inundated by the regional flood (as defined in section 100-2).

Reach means a hydraulic engineering term used to describe a longitudinal segment of a stream or river influenced by a natural or artificial obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Recreational vehicle means a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. The term recreational vehicle is synonymous with the term "travel trailer/travel vehicle."

Repetitive loss means flood related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Special flood hazard area is a term used for flood insurance purposes synonymous with the term "100-year floodplain."

Substantial damage means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement, within any consecutive 365-day period, means any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure

before the start of construction of the improvement. The term "substantial damage" includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term "substantial damage" does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this definition, the term "historic structure" is as defined in 44 CFR 59.1.

(i) *Annexations.* The flood insurance rate map panels adopted by reference into subsection (c) of this section may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of the ordinance from which this article is derived. If any of these floodplain land areas are annexed into the city after the date of adoption of the ordinance from which this subpart is derived, the newly annexed floodplain lands will be subject to the provisions of this part immediately upon the date of annexation.

(Code 2004, pt. 3, § 32.02; Ord. No. 15-2327, 10-15-2015; Ord. No. 16-2361, 8-18-2016; Ord. No. 20-2447, 7-20-2020)

Sec. 125-21. Establishment of zoning districts.

(a) Districts.

- (1) *Floodway district.* The floodway district includes those areas designated as floodway on the flood insurance rate map, adopted in section 125-20(c). For lakes, wetlands and other basins, the floodway district includes those areas designated as Zone A and Zone AE without a floodway on the flood insurance rate map that are at or below the ordinary high water level as defined in M.S.A. § 103G.005, subd. 14.
- (2) *Flood fringe district.* The flood fringe district includes those areas designated as floodway fringe on the flood insurance rate map adopted in section 125-20(c), as being within Zone AE and Zone AO but being located outside of the floodway. For lakes, wetlands and other basins (that do not have a floodway designated), the flood fringe district includes those areas designated as Zone A or AE on the flood insurance rate map panels adopted in section 125-20(c) that are below the one percent annual chance (100-year) flood elevation but above the ordinary high water level as defined in M.S.A. § 103G.005, subd. 14.

(3) *General floodplain district.* The general floodplain district includes those areas designated as Zone A or Zone AE without a floodway on the flood insurance rate map adopted in section 125-20(c), but not subject to the criteria in subsections (a)(1) and (2) of this section.

(b) *Compliance.*

(1) Within the floodplain districts established in this part, the use of any land, the use, size, type and location of structures on lots, the installation and maintenance of transportation, utility, water supply and waste treatment facilities, and the subdivision of land must comply with the terms of this part and other applicable regulations. All uses not listed as permitted uses or conditional uses in sections 125-22, 125-23 and 125-24, respectively, are prohibited.

(2) In addition, a caution is provided here that:

- a. New and replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this part and specifically section 125-27.
- b. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this part and specifically section 125-29.
- c. All structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d. As-built elevations for elevated or floodproofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this part and specifically, as stated in section 125-28.
- e. Critical facilities, as defined in section 125-20(h)(2), are prohibited in all floodplain districts.

(Code 2004, pt. 3, § 32.03; Ord. No. 15-2327, 10-15-2015; Ord. No. 20-2447, 7-20-2020)

Sec. 125-22. Floodway District (FW).

(a) *Permitted uses.* The following uses, subject to the standards set forth in subsection (b) of this section, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

- (1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

- (2) Industrial-commercial loading areas, parking areas, and airport landing strips.
- (3) Open space uses, including, but not limited to, private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
- (4) Residential lawns, gardens, parking areas, and play areas.
- (5) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the department of natural resources' area hydrologist is notified at least ten days prior to issuance of any permit, and that the standards in subsections (d)(1), (3)a and (7) of this section are met.

(b) *Standards for floodway permitted uses.*

- (1) The use must have a low flood damage potential.
- (2) With the exception of the uses listed in subsection (a)(5) of this section, the use must not obstruct flood flows or increase flood elevations and must not involve structures, fill, obstructions, excavations or storage of materials or equipment.
- (3) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (one percent chance) flood.

(c) *Conditional Uses.* The following uses may be allowed as conditional uses following the standards and procedures set forth in section 125-28(d) of this part and further subject to the standards set forth in subsection (d) of this section, if otherwise allowed in the underlying zoning district or any applicable overlay district.

- (1) Structures accessory to the uses listed in subsection (a) of this section and the uses listed in subsections (c)(2) through (7) of this section.
- (2) Extraction and storage of sand, gravel, and other materials.
- (3) Marinas, boat rentals, docks, piers, wharves, and water control structures.
- (4) Storage yards for equipment, machinery, or materials.
- (5) Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in section 129-8, are permitted uses.
- (6) Travel-ready recreational vehicles meeting the exception standards in section 125-27.

- (7) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.
- (d) *Standards for floodway conditional uses.*
 - (1) *All uses.* A conditional use must not cause any increase in the stage of the one percent chance or regional flood or cause an increase in flood damages in the reach or reaches affected.
 - (2) *Fill; storage of materials and equipment.*
 - a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - b. Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
 - c. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the one percent chance or regional flood may only be allowed if the city council has approved a plan that ensures removal of the materials from the floodway based upon the flood warning time available.
- (3) *Accessory structures.*
 - a. Accessory structures must not be designed for human habitation.
 - b. Accessory structures, if permitted, must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters:
 - 1. Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - 2. So far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.
 - c. Accessory structures must be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the state building code. All floodproofed accessory structures must meet the following additional standards:
 - 1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and
 - 2. Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.

- (4) *Floodproofing.* As an alternative, an accessory structure may be internally/ wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the state building code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. A detached garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:
- a. To allow for the equalization of hydrostatic pressure, there must be a minimum of two automatic openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - b. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- (5) *Structural works subject to state law.* Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of M.S.A. § 103G.245.
- (6) *Levee, dike, floodwall restriction.* A levee, dike or floodwall constructed in the floodway must not cause an increase to the one percent chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- (7) *Developments to not adversely affect hydraulic capacity.* Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
- (Code 2004, pt. 3, § 32.04; Ord. No. 15-2327, 10-15-2015; Ord. No. 20-2447, 7-20-2020)

Sec. 125-23. Flood Fringe District (FF).

(a) *Permitted uses.* Permitted uses in the Flood Fringe District (FF) are those uses of land or structures allowed in the underlying zoning districts that comply with the standards in subsection (b) of this section. If no preexisting, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

(b) *Standards for flood fringe permitted uses.*

- (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one

foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

- a. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
 - b. As an alternative to elevation on fill, an accessory structure that constitutes a minimal investment and that does not exceed 576 square feet in size may be internally floodproofed in accordance with section 125-22(d)(3).
- (2) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with subsection (b)(1) of this section, or if allowed as a conditional use under subsection (c)(3) of this section.
 - (3) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
 - (4) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - (5) Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
 - (6) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the city council.
 - (7) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (one percent chance) flood.
 - (8) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.
 - (9) Flood fringe developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

- (10) Manufactured homes and recreational vehicles must meet the standards of section 125-27.

(c) *Conditional uses.* The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning districts or any applicable overlay district, following the procedures in section 125-28(d). Conditional uses must meet the standards in subsections (b)(4) through (10) and (d) of this section.

- (1) Any structure that is not elevated on fill or floodproofed in accordance with subsection (b)(1) of this section.
- (2) Storage of any material or equipment below the regulatory flood protection elevation.
- (3) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with subsection (b)(1) of this section.

(d) *Standards for flood fringe conditional uses.*

- (1) The standards listed in subsections (b)(4) through (b)(10) of this section apply to all conditional uses.
- (2) Basements, as defined by section 100-2, are subject to the following:
 - a. Residential basement construction is not allowed below the regulatory flood protection elevation.
 - b. Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with subsection (d)(3) of this section.
- (3) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the state building code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the state building code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures wet floodproofed to the FP-3 or FP-4 classification are not permitted.
- (4) The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
 - a. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (one percent chance) flood event.

- b. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the city council.
 - c. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- (5) Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.
- (6) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:
- a. The enclosed area is above-grade on at least one side of the structure;
 - b. It is designed to internally flood and is constructed with flood resistant materials; and
 - c. It is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
 - 1. *Design and certification.* The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the state building code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding.
 - 2. *Specific standards for above-grade, enclosed areas.* Above-grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate:
 - (i) The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a

smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters without any form of human intervention; and

- (ii) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the state building code and shall be used solely for building access, parking of vehicles or storage.

(7) Standards for AO zones.

- a. All new construction of residential structures and improvements to these structures shall have the lowest floor (including basement) elevated to at least the regulatory flood protection elevation.
- b. All new construction of nonresidential structures and improvements to these structures shall:
 - 1. Have the lowest floor (including basement) elevated to at least the regulatory flood protection elevation; or
 - 2. Together with all related utility and sanitary facilities, be completely floodproofed to that level, meeting the standards specified in subsection (d)(3) of this section.
- c. All new construction and improvements to all structures shall include adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures or improvements.

(Code 2004, pt. 3, § 32.05; Ord. No. 15-2327, 10-15-2015; Ord. No. 20-2447, 7-20-2020)

Sec. 125-24. General Floodplain District (GF).

(a) *Permitted uses.* The following uses are permitted in the General Floodplain District (GF):

- (1) The uses listed in section 125-22(a), floodway district permitted uses, are permitted uses.
- (2) All other uses are subject to the floodway/flood fringe evaluation criteria specified in subsection (b) of this section. Section 125-22 applies if the proposed use is determined to be in the floodway district. Section 125-23 applies if the proposed use is determined to be in the flood fringe district.

(b) *Procedures for floodway and flood fringe determinations.*

- (1) Upon receipt of an application for a permit or other approval within the general floodplain district, the zoning administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.

- (2) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the floodway or flood fringe district. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in subsection (b)(3) of this section.
 - (3) The determination of floodway and flood fringe must include the following components, as applicable:
 - a. Estimate the peak discharge of the regional (one percent chance) flood.
 - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half foot. A lesser stage increase than one-half foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
 - (4) The zoning administrator will review the submitted information and assess the technical evaluation and the recommended floodway or flood fringe district boundary. The assessment must include the cumulative effects of previous floodway encroachments. The zoning administrator may seek technical assistance from a designated engineer or other expert person or agency, including the department of natural resources. Based on this assessment, the zoning administrator may approve or deny the application.
 - (5) Once the floodway and flood fringe district boundaries have been determined, the zoning administrator must process the permit application consistent with the applicable provisions of section 125-22 and 125-23.
- (Code 2004, pt. 3, § 32.06; Ord. No. 15-2327, 10-15-2015; Ord. No. 20-2447, 7-20-2020)

Sec. 125-25. Land development standards.

(a) *In general.* Recognizing that floodprone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the city.

(b) *Subdivisions.* No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this part.

- (1) All lots within the floodplain districts must be able to contain a building site outside of the floodway district at or above the regulatory flood protection elevation.

- (2) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (one percent chance) flood has been approved by the city council. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
 - (3) For all subdivisions in the floodplain, the floodway and flood fringe district boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
 - (4) In the general floodplain district, applicants must provide the information required in section 125-24(b) to determine the regional flood elevation, the floodway and flood fringe district boundaries and the regulatory flood protection elevation for the subdivision site.
 - (5) If a subdivision proposal or other proposed new development is in a floodprone area, any such proposal must be reviewed to assure that:
 - a. All such proposals are consistent with the need to minimize flood damage within the floodprone area;
 - b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - c. Adequate drainage is provided to reduce exposure of flood hazard.
- (c) *Building sites.* If a proposed building site is in a floodprone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:
- (1) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (2) Constructed with materials and utility equipment resistant to flood damage;
 - (3) Constructed by methods and practices that minimize flood damage; and
 - (4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (Code 2004, pt. 3, § 32.07; Ord. No. 15-2327, 10-15-2015; Ord. No. 20-2447, 7-20-2020)

Sec. 125-26. Public utilities, railroads, roads, and bridges.

(a) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the state building code or elevated to the regulatory flood protection elevation.

(b) *Public transportation facilities.* Railroad tracks, roads, and bridges to be located within the floodplain must comply with sections 125-22 and 125-23. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(c) *On-site water supply and sewage treatment systems.* Where public utilities are not provided:

- (1) On-site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems; and
- (2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and they must not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems is considered to be in compliance with this section.

(Code 2004, pt. 3, § 32.08; Ord. No. 15-2327, 10-15-2015; Ord. No. 20-2447, 7-20-2020)

Sec. 125-27. Manufactured homes, manufactured home parts, and recreational vehicles.

(a) *Manufactured homes.* New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

- (1) Placement or replacement of manufactured home units is prohibited in the floodway district.
- (2) If allowed in the flood fringe district, placement or replacement of manufactured home units is subject to the requirements of section 125-23 and the following standards:
 - a. New and replacement manufactured homes must be elevated in compliance with section 125-23 and must be securely anchored to an adequately

anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

- b. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in subsection (b)(2) of this section.

(b) *Recreational vehicles.* New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the following exemption criteria or be treated as new structures meeting the requirements of this article:

- (1) Recreational vehicles are exempt from the provisions of this part if they are placed in any of the following areas and meet the criteria listed in subsection (b)(2) of this section:
 - a. Individual lots or parcels of record.
 - b. Existing commercial recreational vehicle parks or campgrounds.
 - c. Existing condominium-type associations.
- (2) Criteria for exempt recreational vehicles.
 - a. The vehicle must have a current license required for highway use.
 - b. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
 - c. No permanent structural type additions may be attached to the vehicle.
 - d. The vehicle and associated use must be permissible in any preexisting, underlying zoning district.
 - e. Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in section 32.09(b)(2).
 - f. An accessory structure must constitute a minimal investment.
- (3) Recreational vehicles that are exempt in subsection (b)(2) of this section lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of

section 125-23. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

(Code 2004, pt. 3, § 32.09; Ord. No. 15-2327, 10-15-2015; Ord. No. 20-2447, 7-20-2020)

Sec. 125-28. Administration.

(a) *Zoning administrator.* A zoning administrator or other official designated by the city council must administer and enforce this article.

(b) *Permit requirements.*

(1) *Permit required.* A permit must be obtained from the zoning administrator prior to conducting the following activities:

- a. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement, as defined in section 125-20(h).
- b. The use or change of use of a building, structure, or land.
- c. The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this part.
- d. The change or extension of a nonconforming use.
- e. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
- f. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- g. Relocation or alteration of a watercourse, including new or replacement culverts and bridges, unless a public waters work permit has been applied for.
- h. Any other type of development, as defined in section 125-20(h).

(2) *Application for permit.* Permit applications must be submitted to the zoning administrator on forms provided by the zoning administrator. The permit application must include the following, as applicable:

- a. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
- b. Location of fill or storage of materials in relation to the stream channel.
- c. Copies of any required municipal, county, state or federal permits or approvals.

- d. Other relevant information requested by the zoning administrator as necessary to properly evaluate the permit application.
- (3) *Certificate of occupancy for a new, altered, or nonconforming use.* No building, land or structure may be occupied or used in any manner until a certificate of occupancy has been issued by the building official stating that the use of the building or land conforms to the requirements of this part.
- (4) *Certification.* The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this article. Floodproofing measures must be certified by a registered professional engineer or registered architect.
- (5) *Record of first floor elevation.* The building official must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The building official must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
- (6) *Notifications for watercourse alterations.* Before authorizing any alteration or relocation of a river or stream, the zoning administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to M.S.A. § 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- (7) *Notification to FEMA when physical changes increase or decrease base flood elevations.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the zoning administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.
- (c) *Variances.*
 - (1) *Variance applications.* An application for a variance to the provisions of this part will be processed and reviewed in accordance with applicable state statutes and section 101-5.
 - (2) *Adherence to state floodplain management standards.* A variance must not allow a use, that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
 - (3) *Additional variance criteria.* The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
 - a. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

- b. Variances may only be issued by a community upon:
 - 1. A showing of good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) *Flood insurance notice.* The zoning administrator must notify the applicant for a variance that:
- a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
 - b. Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.
- (5) *General considerations.* The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:
- a. The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
 - b. The danger that materials may be swept onto other lands or downstream to the injury of others;
 - c. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
 - d. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
 - e. The importance of the services to be provided by the proposed use to the community;
 - f. The requirements of the facility for a waterfront location;
 - g. The availability of viable alternative locations for the proposed use that are not subject to flooding;
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

- i. The relationship of the proposed use to the comprehensive land use plan and floodplain management program for the area;
 - j. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - k. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
- (6) *Submittal of hearing notices to the department of natural resources (DNR).* The zoning administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.
- (7) *Submittal of final decisions to the DNR.* A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.
- (8) *Recordkeeping.* The zoning administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the administrator of the national flood insurance program, when requested by the Federal Emergency Management Agency.
- (d) *Conditional uses.*
- (1) *Administrative review.* An application for a conditional use permit under the provisions of this part will be processed and reviewed in accordance with section 101-4.
- (2) *Factors used in decision-making.* In passing upon conditional use applications, the city council must consider all relevant factors specified in other sections of this part, and those factors identified in subsection (c)(5) of this section.
- (3) *Conditions attached to conditional use permits.* The city council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this part. Such conditions may include, but are not limited to, the following:
- a. Modification of waste treatment and water supply facilities.
 - b. Limitations on period of use, occupancy, and operation.
 - c. Imposition of operational controls, sureties, and deed restrictions.
 - d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

- e. Floodproofing measures, in accordance with the state building code and this part. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
 - (4) *Submittal of hearing notices to the department of natural resources (DNR).* The zoning administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.
 - (5) *Submittal of final decisions to the DNR.* A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.
- (Code 2004, pt. 3, § 32.10; Ord. No. 15-2327, 10-15-2015; Ord. No. 20-2447, 7-20-2020)

Sec. 125-29. Nonconformities; continuance.

A use, structure, or occupancy of land which was lawful before the passage or amendment of this part but which is not in conformity with the provisions of this part may be continued subject to the following conditions. Historic structures, as defined in 44 CFR 59.1, are subject to the provisions of subsections (a)(1) through (a)(6) of this section.

- (1) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in subsection (a)(2) of this section. Expansion or enlargement of uses, structures or occupancies within the floodway district is prohibited.
- (2) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the state building code, except as further restricted in subsection (a)(3) and (7) of this section.
- (3) If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, then the entire structure must meet the standards of section 125-22 or 125-23 for new structures depending upon whether the structure is in the floodway or flood fringe district, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.

- (4) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this part. The assessor must notify the zoning administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.
 - (5) If any nonconformity is substantially damaged, as defined in section 125-20(h), it may not be reconstructed except in conformity with the provisions of this part. The applicable provisions for establishing new uses or new structures in section 125-22 or 125-23 will apply depending upon whether the use or structure is in the floodway or flood fringe, respectively.
 - (6) If any nonconforming use or structure experiences a repetitive loss, as defined in section 125-20(h), it must not be reconstructed except in conformity with the provisions of this part.
 - (7) Any substantial improvement, as defined in section 125-20(h), to a nonconforming structure requires that the existing structure and any additions must meet the requirements of section 125-22 or 125-23 for new structures, depending upon whether the structure is in the floodway or flood fringe district.
- (Code 2004, pt. 3, § 32.11; Ord. No. 15-2327, 10-15-2015; Ord. No. 20-2447, 7-20-2020)

Sec. 125-30. Penalties and enforcement.

(a) *Violation constitutes a misdemeanor.* Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

(b) *Other lawful action.* Nothing in this article restricts the city from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the zoning administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this part and will be prosecuted accordingly.

(c) *Enforcement.* In responding to a suspected ordinance violation, the zoning administrator and city council may utilize the full array of enforcement actions available to it, including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The city must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the national flood insurance program.

- (1) When a violation is either discovered by or brought to the attention of the zoning administrator, the zoning administrator shall immediately investigate

the situation and document the nature and extent of the violation of the official control. As soon as it is reasonably possible, this information will be submitted to the appropriate state department of natural resources and Federal Emergency Management Agency regional office along with the city's plan of action to correct the violation to the degree possible.

- (2) The zoning administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure or use is under construction or development, the zoning administrator may order the construction or development immediately halted until a proper permit or approval is granted by the city. If the construction or development is already completed, the zoning administrator may either:
 - a. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or
 - b. Notify the responsible party to apply for an after the fact permit/development approval within a specified period of time not to exceed 30 days.

(Code 2004, pt. 3, § 32.12; Ord. No. 15-2327, 10-15-2015; Ord. No. 20-2447, 7-20-2020)

Sec. 125-31. Amendments.

(a) *Floodplain designation; restrictions on removal.* The floodplain designation on the official zoning map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the commissioner of the department of natural resources (DNR) if the commissioner determines that, through other measures, lands are adequately protected for the intended use.

(b) *Amendments require DNR approval.* All amendments to this part must be submitted to and approved by the commissioner of the department of natural resources (DNR) prior to adoption. The commissioner must approve the amendment prior to community approval.

(c) *Map revisions require ordinance amendments.* The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in section 125-20(c).

(Code 2004, pt. 3, § 32.13; Ord. No. 15-2327, 10-15-2015; Ord. No. 20-2447, 7-20-2020)

Secs. 125-32—125-50. Reserved.

ARTICLE III. HIGHWAY 65 OVERLAY DISTRICT (HOD)**Sec. 125-51. Intent.**

The purpose of the Highway 65 Overlay District (HOD) is to promote the development of an attractive view of the community from Highway 65 through architectural and signage controls, landscaping, screening, building orientation and establish minimum standards that contribute to a community image of quality, visual aesthetics, permanence, and stability along the Highway 65 corridor. (Code 2004, pt. 3, § 32.51; Ord. No. 98-1746, 10-15-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2547, § 32.51, 4-15-2024)

Sec. 125-52. Scope of application.

This overlay district shall apply to all properties which are zoned B-2 (Community Commercial), B-3 (Regional Commercial), B-4 (Office Park), B-5 (Town Commercial), PBD (Planned Business District), I-1 (Light Industrial), I-2 (Heavy Industrial), R-3B (Medium Density Multifamily), and R-3C (High Density Multifamily), which are located within 750 feet of the centerline of the right-of-way of Highway 65. Where only a portion of a parcel lies within 750 feet of the Highway 65 centerline, the article shall apply to the entire parcel. (Code 2004, pt. 3, § 32.52; Ord. No. 98-1746, 10-15-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2547, § 32.52, 4-15-2024)

Sec. 125-53. Prohibited uses.

The following uses are prohibited in the Highway 65 Overlay District (HOD):

- (1) Carwashes.
- (2) Check cashing/money exchange.
- (3) Outside display area for boat sales or recreational vehicles.
- (4) Pawn shop.
- (5) Self-storage facility north of Highway 10.
- (6) Small equipment rental yards.
- (7) Tattoo parlors/shops.
- (8) Tobacco/vape shops.

(Code 2004, pt. 3, § 32.53; Ord. No. 98-1746, 10-15-1998; Ord. No. 07-2139, 8-2-2007; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2547, § 32.53, 4-15-2024)

Sec. 125-54. Architectural control.

For development of properties within the Highway 65 Overlay District, the following standards shall be applied:

(1) *Exteriors.*

- a. At least 50 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation:
 1. Brick.
 2. Natural or cultured stone.
 3. Glass.
 4. Masonry stucco or exterior insulation and finish systems (EIFS).
 5. Fiber cement or composite siding.
 6. Architectural metal.
 7. Integrally colored rock faced block.
 8. Other comparable or superior material as approved by the zoning administrator.
- b. The remaining 50 percent of all exterior wall finishes shall be comprised of any combination of decorative or rock face concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All building materials subject to approval of the zoning administrator.
- c. Buildings may be constructed of primarily one of the materials listed in subsection (1)a of this section, if the design exceeds the intent of the ordinance.
- d. Buildings shall be oriented towards Highway 65 or at a minimum, give the appearance of having a front facing Highway 65 if adjacent to Highway 65.
- e. Building articulation elements shall be provided at a maximum of average spacing of 40 feet.
- f. No more than 75 percent of the building sides visible from Highway 65 may be constructed of decorative concrete block, pre-cast concrete or stucco.
- g. The exterior of the building shall have varied and interesting detailing. Large unadorned walls shall be prohibited (50 feet or more). All large walls viewable from Highway 65 must be relieved by architectural detailing, such as change in materials, change in color, offsets, or other

significant visual relief provided in a manner or at intervals in keeping with the size, mass and scale of the wall and its views from the public right-of-way.

- h. Exterior building material colors shall be complimentary of other buildings within the district.
 - (2) *Landscaping.* Applicable landscaping requirements set forth in section 129-7 shall apply. At least 25 percent of the required trees must be oversized.
 - (3) *Truck parking.* Truck parking shall not be permitted in any yard adjacent to Highway 65. Sites where it can be anticipated that there will be a need or occasion for parking of trucks shall provide space for semi-tractor/trailer parking. Such parking shall be located in a yard not adjacent to Highway 65 and shall be effectively screened from Highway 65 by principal buildings or berming, etc.
- (Code 2004, pt. 3, § 32.54; Ord. No. 98-1746, 10-15-1998; Ord. No. 99-1807, 8-19-1999; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2547, § 32.54, 4-15-2024)

Sec. 125-55. Property south of Highway 10.

The following standards are required for property south of Highway 10:

- (1) a. Conditional uses (in addition to what is permitted with the underlying zoning district): Self-storage facility shall be as part of a mixed use.
- b. Self-storage facility standards:
 - 1. Must be part of a mixed-use project with a minimum of 1,500 square feet of other commercial use not related to the operations of the storage facility.
 - 2. Storage units must be climate controlled.
 - 3. The self-storage facility must be located in the rear of the property and not adjacent to Highway 65.
 - 4. No self-storage facility may be located within 1,500 feet of another storage facility.
 - 5. Setback from residential is 100 feet.
- (2) Building setbacks along Central Avenue Frontage Road.
 - a. Front yard setback: 30 feet.
 - b. Side yard setback: 20 feet, when adjacent to residential districts 50 feet. A reduction in the required setback buffer may be requested by following the requirements of section 129-20.
 - c. Rear yard setback: 20 feet, when adjacent to residential districts 50 feet. A reduction in the required setback buffer may be requested by following the requirements of section 129-20.

- (3) Parking and driveways minimum setbacks from the property line.
- a. Front yard/corner side setback: 25 feet.
 - b. Side yard setback: ten feet.
 - c. Rear yard setback: ten feet.
 - d. When adjacent to any residentially zoned property, the side yard and rear yard parking/driveway setback shall be a minimum of 25 feet.
- (Code 2004, pt. 3, § 32.55; Ord. No. 98-1746, 10-15-1998; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2547, § 32.55, 4-15-2024)

Chapter 126—128

RESERVED

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Chapter 129

PERFORMANCE STANDARDS

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ARTICLE I. IN GENERAL**Sec. 129-1. Intent.**

These performance standards are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. These standards are also designed to preserve the quality of development and reduce negative impacts on surrounding properties. All future development in all districts shall be required to meet these standards. These standards shall also apply to existing developments where stated.

(Code 2004, pt. 3, § 33.01; Ord. No. 20-2447, 7-20-2020)

Sec. 129-2. Lighting.

(a) In all commercial, industrial, or multifamily zoning districts, any lighting used to illuminate off-street parking and driving areas, signs, or structures shall, except as permitted under subsection (e) of this section, consist of downcast style fixtures with a concealed or shielded light source to prevent glare or spill to adjacent right-of-way or properties.

(b) Pole-mounted lighting in commercial, industrial, or multifamily residential zoning districts shall not have pole heights exceeding 20 feet. Pole heights exceeding 20 feet for larger commercial or industrial parking areas (exceeding 120 parking stalls or sites with developed area greater than 2.5 acres), or outdoor recreational facilities in all zoning districts may be considered with review and issuance of a conditional use permit.

(c) No light or combination of lights, including illuminated signs, that cast light upon a public street shall exceed one footcandle meter reading as measured at the edge of roadway. No light or combination of lights that cast light upon a residentially-zoned property shall exceed 0.4 footcandle meter reading as measured at the residential property line. All measurements shall be made after dark at the property line or edge of roadway. The city may limit the hours of operation of outdoor lighting if it is deemed necessary by the city to reduce impacts on the surrounding neighborhood.

(d) Direct or sky-reflected glare, whether from floodlights or from high-temperature processes, such as combustion or welding, shall not be directed into any adjoining property. No flickering or flashing lights shall be allowed. Lighting shall not be placed on a site if the light source or its reflected image can be viewed directly from a location off the site.

(e) Direct view ornamental fixtures shall only be approved when the developer can demonstrate that undesirable off-site impacts stemming from direct or reflected views of the light source are eliminated by reducing light intensity, fixture design, or

location of the lighting fixture. City approval of direct view ornamental light fixtures shall be by city council action in the form of either a conditional use permit or subdivision approval.

(f) The city shall require submission of a light distribution plan to ensure compliance with the intent of this ordinance for all new commercial, industrial, or multifamily residential developments, commercial, industrial, or multifamily residential redevelopment or additions which exceed 20 percent of the floor area of the principal structure, and any modifications to lighting, including conversion to LED lighting. This plan shall include the type, arrangement of proposed lighting, and proposed lighting levels in footcandles at all locations on the site, including its property boundaries and edge of all adjacent roadways.

(Code 2004, pt. 3, § 33.02; Ord. No. 98-1732, 7-9-1998; Ord. No. 20-2447, 7-20-2020)

Sec. 129-3. Nuisances.

No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other adverse influences shall be permitted that will in any way have an objectionable effect upon adjacent or nearby property.

- (1) *Noise.* Noises emanating from any use shall be in compliance with and regulated by the state pollution control standards, state regulation noise pollution control rules, and chapter 50, article IV, division 2.
- (2) *Emission of smoke.* No person owning, or in charge of, or operating any fuel burning, refuse burning, combustant, or process equipment, process device, portable boiler, stacks, vents or premises, shall cause, suffer, or allow emission or discharge of smoke from any single such source into the atmosphere, the appearance, density, or shade of which is darker than number 1½ of the Ringleman Chart.
- (3) *Emission of particulate matter.* No person shall cause or allow the emission of particulate matter from any process, including any material handling or storage activity, that is visible beyond the property line of the emission source.
- (4) *Toxic and noxious matter.* No use shall discharge across the boundaries of the lot where it is located, toxic, odorous or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause appreciable injury or damage to property or business.

(Code 2004, pt. 3, § 33.03; Ord. No. 97-1640, 3-6-1997; Ord. No. 20-2447, 7-20-2020)

Sec. 129-4. Land reclamation/earth removal.

(a) Earth removal, land reclamation, material storage of filling, shall be permitted in all zoning districts, on any lot or parcel except that it is unlawful for any person to remove, store, excavate, or place as fill any rock, sand, dirt, gravel, clay, or

other like material within the city, in excess of 100 cubic yards without first having applied for and having obtained a permit from the city. When 5,000 or more cubic yards of material is to be removed or deposited on any lot or parcel, an interim use permit shall be required.

(b) The city council may incorporate and attach, to the interim use permit, any conditions or restrictions that it deems necessary for the preservation of health, welfare, and safety of the citizens.

(Code 2004, pt. 3, § 33.04; Ord. No. 90-1190, 4-19-1990; Ord. No. 20-2447, 7-20-2020)

Sec. 129-5. Lot provisions.

(a) Any lot of record existing upon the effective date of the ordinance from which this subpart is derived in a residential district, which does meet the minimum requirements of this part as to area or dimensions, may be utilized for residential dwelling purposes, provided the area and lot dimensions are within 75 percent of the requirements of this part, but said lot of record shall not be more intensely developed unless combined with one or more abutting lots or portions thereof, so as to create a lot meeting the requirements of this part.

(b) If in a group of contiguous existing lots under single ownership, any individual lot does not meet the minimum requirements of this part, such individual lot cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots or parcels under the same ownership so that the combination of lots will equal one or more parcels of land, meeting the minimum requirements of this part. No building permit will be issued for a lot that does not comply with this subsection.

(c) Except in the case of residential flex districts, development flex districts or conditional use permits issued for multiple buildings, no more than one principal building shall be located on a lot.

(d) On a corner lot, both street lines shall be front lines for applying the yard and parking requirements of this part, except where specific standards are outlined for corner side yards in single-family and two-family districts.

(e) 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. On corner lots, in any district, no structure or planting in excess of 30 inches above the curbline shall be permitted within the intersection sight distance triangle that are not 75 percent transparent.

(f) All specified setbacks within the specific zoning districts shall be measured from a minimum distance of 60 feet from the centerline of rural section county roads and 50 feet from the centerline of urban section county roads. Structures lawfully existing prior to the enactment of this section are exempt from these provisions.

(Code 2004, pt. 3, § 33.05; Ord. No. 97-1672, 9-4-1997; Ord. No. 00-1840, 4-20-2000; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2502, 5-16-2022)

Sec. 129-6. Site plans.

(a) *Application; plan approval and building permit required.* All applications for commercial, industrial, or institutional development, apartments, attached townhomes, or detached townhomes must secure site plan approval in addition to required building permits whenever a new structure or addition to a structure is proposed. Site plan approval is also required for site improvements to commercial, industrial, institutional, and multifamily properties. Building permits shall not be issued prior to approval of site plan by the zoning administrator or designee. All applications shall be accompanied by the following materials:

- (1) *Certificate of survey.* The survey shall be drawn to an established scale indicated on the survey and indicate all existing structures and site improvements.
- (2) *Site plan.* The site plan shall include the location of all proposed buildings and their proposed uses; location of driveways and parking areas; front, side and rear setbacks; location, size, and purpose of all easements; location and size of existing buildings and structures on site and within the distance of 100 feet from the property; location of refuse areas; location of outdoor storage areas.
- (3) *Tree preservation plan.* Plan shall include all requirements of section 129-9.
- (4) *Landscape plan.* Plan shall include all requirements of section 129-7.
- (5) *Grading and drainage plan.* Grading and drainage plan shall contain existing and proposed grades with a minimum of two-foot contour intervals to a known datum. All proposed stormwater management facilities, roadway gradients, flood hazard zones, and spot elevations on parking lots and curblines must also be shown on the grading plan. The grading and drainage plan must also comply with the requirements of section 129-15(g).
- (6) *Utilities plan.* Utilities plan shall indicate the location of existing and proposed water and sanitary sewer lateral and service locations and size of pipe. Other utilities information required as requested by the city engineer.
- (7) *Lighting and photometric plan.* The lighting plan shall include detailed drawings for all proposed lighting fixtures and a photometric plan depicting the extent of lighting within and beyond the property lines.
- (8) *Floor plans.* Floor plans shall indicate the square footage and dimensions of all proposed rooms and areas identifying the proposed uses.
- (9) *Elevations.* Elevations shall include specification of colors and materials to be used. A material board, including samples of the proposed materials shall be submitted upon request of the zoning administrator.

All plans to be drawn to an established engineering scale and prepared by a registered architect, engineer, landscape architect, or surveyor.

(b) *Procedure.* All building permits shall be issued by the building official following review and approval by the zoning administrator of the site plan for conformity with the city's present development code and comprehensive land use plan. The zoning administrator may submit the application to the administrative review committee for review.

(Code 2004, pt. 3, § 33.06; Ord. No. 20-2447, 7-20-2020)

Sec. 129-7. Landscaping.

(a) All building construction in the R-3A, R-3B, R-3C, DF, B-1, B-2, B-3, B-4, B-5, I-1, I-1A, I-2, I-2A, PBD, RR, RD, MU, and POD zoning districts shall be accompanied by a complete landscape plan. The landscape plan should be developed in accordance with the site plan submitted for approval.

(b) Detailed landscape plans shall include the following information:

- (1) *General.* Name and address of developer/owner, name and address of architect/designer, date of plan preparation, date and description of all revisions, name of project or development, scale of plan, north point indication.
- (2) *Site analysis.* Boundary lines of property line with dimensions based upon certified survey, name and alignment of proposed and existing adjacent on-site streets, location of all proposed utility easements and right-of-way, location of existing and proposed buildings, topographic contours at two-foot contour intervals, location of parking areas, water bodies proposed sidewalks, and percent of site not covered by structures.
- (3) *Landscape data.* A planting schedule table shall contain the following information, including symbols, quantities, common names, botanical names, size of plant materials, root specifications, and special planting instructions.
- (4) *Fences, retaining walls, etc.* Typical sections and details of fences, retaining walls, berms and other landscape improvements.
- (5) *Landscape islands, planter beds.* Typical sections of landscape islands and planter beds with identification of materials used.
- (6) *Planting beds, foundation plantings.* Details of planting beds and foundation plantings.
- (7) *Sodded and seeded areas.* Delineation of both sodded and seeded areas indicated in square footage.
- (8) *Cross section requirement.* Where landscape or artificial materials are used to provide required screening from adjacent and neighboring properties, a cross section shall be provided at a legible scale illustrating the prospective of the site from the neighboring property and property line elevation.

(c) Number of plant materials required. In order to achieve an appropriate and complete quality landscaping of a site, the following minimum number of plant materials shall be provided as indicated below:

- (1) One overstory deciduous shade tree for every 2,000 square feet of building footprint or one tree for every 100 feet of site perimeter, whichever is greater.
- (2) One coniferous tree for every 2,000 square feet of building footprint or one coniferous tree for every 200 feet of site perimeter, whichever is greater.
- (3) One understory shrub for every 300 square feet of building footprint or one shrub for every 30 feet of site perimeter, whichever is greater.
- (4) One ornamental tree for every 2,000 square feet of building footprint or one ornamental tree for every 200 feet of site perimeter, whichever is greater.
- (5) The number of plant materials required in subsection (d) of this section may be reduced by 15 percent in each category in the light industrial (I-1 and I-1A) and heavy industrial (I-2 and I-2A) zoning districts.
- (6) One overstory deciduous shade tree, one coniferous tree, and one ornamental tree is required for each townhome unit.
- (7) A variety of species shall be provided. Spacing and species of trees and shrubs are subject to approval of the zoning administrator.

(d) Minimum size of plantings shall be as follows:

- (1) Overstory deciduous: 2½-inch caliper.
- (2) Coniferous: six feet in height.
- (3) Shrubs: 24-inch (pot).
- (4) Ornamental trees: two-inch caliper.
- (5) In the event the site plan layout does not have adequate open space for the plant materials required in subsection (c) of this section, materials may be oversized to reduce the number of trees required. Overstory deciduous trees measuring three-inch caliper or more, and coniferous trees reaching a height of eight feet or more shall be counted as two trees, subject to zoning administrator approval.

(e) Trees planted in accordance with a required landscape plan shall not be removed without the approval of the zoning administrator.

(f) Sodding and ground cover. All open areas of any site not occupied by building, parking, or storage, shall be sodded over four inches of topsoil. Exceptions to this are as follows:

- (1) Seeding over four inches of topsoil of future expansion areas as shown on approved plans.

- (2) Undisturbed areas containing existing natural vegetation which can be maintained free of foreign and noxious materials.
- (3) Areas designated as open space for future expansion area properly planted and maintained with grass.
- (g) Slopes and berms.
 - (1) Final slope grade steeper than the ratio of 3:1 will not be permitted without special approval or treatment, such as terracing or retaining walls.
 - (2) Berming used to provide required screening of parking lots and other open areas shall not have a slope to exceed 3:1.

(h) Tree preservation and credit policy. It is the policy of the city with respect to specific site development to retain, as far as practical, existing trees which should be incorporated into the site. Credit for retention of existing trees which are of the acceptable minimum size, species, and location, may be given to satisfy the minimum number of requirements. Replacement trees required by a tree preservation plan will be credited to the landscape requirements.

(i) Use of landscaping for screening. Where natural materials, such as trees are approved in lieu of the required screening by means of walls or fences, density and species of planting shall be such to achieve opaqueness year round.

(j) Maintenance policy. It is the responsibility of the property owner to ensure that the landscaping is maintained in an attractive condition. The owner shall replace any damaged or dead trees, shrubs, ground covers, and sodding.

(k) Erosion control. All open disturbed areas of any site shall be seeded as an erosion control measure in accordance with the provisions of section 129-15.

(l) Landscaping may be permitted in utility and drainage easements or road right-of-way with the approval of the zoning administrator.

(m) For the purpose of aesthetically enhancing a site the zoning administrator may approve exchanging up to 50 percent between categories of plant materials and sizes as set forth in subsections (d) and (e) of this section or a landscape plan signed by a registered landscape architect which meets the intent of section 129-8 but varies quantities and sizes of plant materials.

(Code 2004, pt. 3, § 33.07; Ord. No. 86-956, 7-10-1986; Ord. No. 86-972, 8-21-1986; Ord. No. 89-1177, 12-21-1989; Ord. No. 93-1337, 6-3-1993; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 33.07, 12-18-2023; Ord. No. 24-2568, § 33.07, 11-18-2024)

Sec. 129-8. Fences.

(a) *Purpose.* The purpose of this section is to promote a pleasant physical environment and to protect the public and private property within the city by regulating the location, height, type of construction, and maintenance of all fences.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Boundary fence means any fence parallel to the property line.

Farm fence means a fence located on a property zoned FR or AG and constructed to contain domestic farm animals.

Fence means any partition, structure, wall, or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard. The term "fence" shall not include naturally growing shrubs, trees or other foliage.

Privacy fence means any fence used for screening of outdoor living areas and for enclosures where restricted visibility or protection is desired.

(c) *Permit required.* No fence shall be erected or substantially altered without securing a permit from the building official. All such permits shall be issued upon a written application which shall set forth the type of fence to be constructed, the material to be used, height, and exact location of the fence. A fee shall be paid with each application.

(d) *Location of fences.*

- (1) Fences, when constructed to enclose any lot or tract of land, shall be located in such a way that the entire fence shall be on the property of the owner. Posts and framework shall be placed within the property lines of the owner and the actual fencing material, such as wire, lumber, pickets, etc., shall be placed on the side of the fence which faces the street or the adjacent property.
- (2) No fences shall be allowed or constructed on street rights-of-way. Fences may, by permit, be placed on public utility easements so long as the structures do not interfere in any way with existing underground or over ground utilities. Further, the city or any utility company having authority to use such easements shall not be liable for repair or replacement of such fences in the event they are moved, damaged or destroyed by virtue of the lawful use of said easement.

(e) *Construction and maintenance.*

- (1) Every fence shall be constructed in a skilled manner and of substantial material reasonably suited to the purpose for which the fence is to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition which would constitute a public nuisance or a dangerous condition. If such a fence is allowed to become and remain in such condition, the building official is authorized to notify the owners of such fences of the condition and allow owner or owners ten days in which to repair or demolish the fence.

- (2) Electric fences are prohibited except for farm fences as described in subsection (j) of this section.
- (3) No barbed wire or barbed wire fences shall be allowed on private property in residential zones, except for farm fences as described in subsection (j) of this section. No barbed wire or barbed wire fences shall be allowed on private property in business or industrial zones where the property lines of such property abut lots or parcels adjacent to residential districts.
- (4) All fences shall be constructed in conformity with the wind, stress, foundation, structural and other requirements of the state building code.

(f) *Setback and height limitations for residential districts.* In all single- and two-family residential districts, fences, except as allowed for special purpose fences, shall have the following setbacks and height limitations:

- (1) Front yard setback: maximum height of four feet above ground level in front of the front face of the residential structure.
- (2) Corner side yard setback.
 - a. Maximum height of four feet above ground level when placed at the property line.
 - b. Maximum height of six feet above ground level when placed with a minimum setback of one foot.
- (3) Side yard along interior lot lines: maximum height of six feet above ground level.
- (4) Rear yard setback.
 - a. Maximum height of six feet above ground level for fences along rear yards not adjacent or fronting on public right-of-way.
 - b. Fences adjacent or fronting on public right-of-way shall have a maximum height of four feet above ground level when placed at the property line.
 - c. Fences adjacent or fronting on public right-of-way that are placed with a minimum setback of one foot shall have a maximum height of six feet above ground level.
- (5) On corner lots, no fence greater than 30 inches in height shall be permitted within the intersection sight distance triangle that is not 75 percent transparent.

(g) *Commercial and industrial fences.* In business and industrial zones, fences may not exceed seven feet in height above the ground level, and the use of barbed wire is prohibited, except that the top one foot of any fence along side or rear lot lines in these zones may be constructed of barbed wire. Barbed wire is also

permitted for the top one foot of fences in industrial zones when fronting a public street and placed no closer than the parking setback. Barbed wire shall not be permitted adjacent to any residential district.

(h) *Special purpose fences.*

- (1) Fences for special purpose and fences differing in construction, heights, or location, may be permitted in any multifamily residential, commercial or industrial district in the city, only by issuance of a conditional use permit approved by the city council after a recommendation by the planning commission, and upon evidence that such special purpose fence is necessary to protect, buffer, or improve the premises for which such fence is intended. Conditional use permits are not required for fences surrounding recreational areas, such as tennis courts or baseball fields, on publicly owned properties.
- (2) Fences higher than six feet and up to ten feet in height may be permitted in any single- or two-family residential district in the city, only by issuance of a conditional use permit approved by the city council after a recommendation by the planning commission, and meets at least one of the following criteria.
 - a. Said fence is built for screening and noise attenuation and is placed on private property adjacent to county, state or federally designated roadways in the rear or corner side yard.
 - b. Due to unusual topography a taller fence is necessary to provide adequate screening from neighboring properties. The fence height shall be the minimum necessary to achieve six feet of screening. The additional fence height beyond six feet shall be no greater than the difference in grade between the subject lot and the neighboring lot.
- (3) The approval of special purpose fences may include stipulations as to the material, height, construction detail, or location of such special purpose fences.

(i) *Nonconforming fences.* All existing fences, at the time of the adoption of this section, which are not in violation of this section and are not located within a public right-of-way or easement, but which violate other sections of this Code, may be continued to be maintained and to exist but may not be replaced, if destroyed or removed, to the extent that the violations be continued.

(j) *Farm fences.*

- (1) Farm fences must be set back at least 50 feet from any property line abutting a residential zoned property, excluding properties zoned AG and FR.
- (2) No electric fence shall be located closer than 300 feet from any residentially zoned property and shall be clearly designated as an electrified fence by the installation of one by one foot square sign stating "This Fence is Electrified." Electric fences are limited to no more than 12 volts DC. Such electrification

shall be installed so as to not have current going through said fence except on an intermittent basis. Current shall not remain on longer than three seconds.

- (3) Farm fences with a maximum height of four feet may use barbed wire, so long as they are set back at least 300 feet from residential properties, other than those zoned AG and FR.

(Code 2004, pt. 3, § 33.08; Ord. No. 90-1184, 2-1-1990; Ord. No. 95-1572, 9-21-1995; Ord. No. 97-1672, 9-4-1997; Ord. No. 98-1725, 6-25-1998; Ord. No. 08-2164, 8-7-2008; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022; Ord. No. 22-2502, 5-16-2022; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 33.08, 12-18-2023)

Sec. 129-9. Tree preservation.

- (a) *Standards of preservation during construction or grading.*

- (1) *Intent.* Developments, structures, utilities, and all other site activities must be designed, installed, and constructed so that the maximum number of trees are preserved on all lots or parcels. Flexibility of city standards shall be considered, when possible, to ensure the preservation of the maximum number of trees.

- (2) *Tree preservation plan required.* To minimize tree loss and to mitigate tree removal on wooded lots or parcels with trees, a tree preservation plan must be submitted for approval along with application for any excavation permit, grading permit, building permit, conditional use permit, site plan or plat approval. All site activity associated with the proposed permit or plat must be in compliance with the approved tree preservation plan.

- (3) *Replacement.*

- a. *General.* All significant trees removed or damaged through activities described in this section must be replaced on-site with approval of the zoning administrator, or in the form of payment of a fee to the city reforestation fund in an amount established by the city council. Additional replacement trees shall be required as determined by the zoning administrator when trees of any size are removed in violation of this part, or when trees have been impacted by failing to comply with the tree preservation plan. Trees required by the approved landscape plan will be credited to replacement tree requirements if all the requirements of this part have been fulfilled. This requirement may be waived by the zoning administrator upon determination that the maximum tree replacement requirement shall apply.
 - b. *Nonresidentially zoned property.* In nonresidentially zoned districts, the total number of replacement trees shall not exceed eight trees per acre. The removal of trees on public right-of-way in commercial or industrial

zoning districts; conducted by or on behalf of a governmental agency in pursuance of its lawful activities or functions, will be exempt from this replacement.

- c. *On residentially zoned lots.* On public right-of-way in residential zoning districts and on residentially zoned lots exceeding one acre in size, the total number of replacement trees shall not exceed eight trees per acre of upland. On residentially zoned lots less than one acre in size, a one to one replacement of all trees will be required for the first seven trees removed from the lot.
- (4) *Tree preservation plan.* The tree preservation plan must be prepared by a registered architect, landscape architect or forester. The plan must include a scaled drawing or survey, including the following information:
- a. A tree inventory indicating size, species, location and condition of all significant trees and clumps of non-significant trees within the limits of the proposed activity; also, location of existing and proposed structures, improvements, utilities and existing and proposed contours.
 - b. Specific disease control, if applicable, and protection techniques that will be utilized to minimize disturbance to all trees remaining on site.
 - c. A reforestation plan indicating size, species, location, and planting specifications of all street and yard trees and all replacement trees.
 - 1. The reforestation plan shall utilize a variety of tree species with emphasis on native species when possible.
 - 2. Replacement trees shall be a minimum 2 ½ inches in diameter if deciduous, or six feet in height if coniferous.
 - d. Financial guarantee. All installations of trees required by the tree preservation plan or as a penalty for failing to comply with the tree preservation ordinance or plan must be completed at the time of request for a certificate of occupancy if issued between May 15 and October 15, unless dates have been modified by the zoning administrator to accommodate unseasonable weather. A certificate of occupancy requested after October 15 and before May 15 may be issued with a cash deposit submitted by the builder in an amount required by the zoning administrator to guarantee installation of landscaping. Property owners/contractors/developers required to install replacement trees because of unauthorized removal or disturbance of existing trees on undeveloped parcels must submit a cash deposit in an amount required by the zoning administrator to guarantee installation of landscaping.
- (5) *Approval.* Tree preservation plans must receive approval of the zoning administrator.

- (6) *Inspection and enforcement.* Prior to commencement of site grading or excavation, the site shall be staked and fenced for tree protection per the approved tree preservation plan. Construction activities shall cease until compliance with the tree preservation plan has been achieved. Violations of this section or tree preservation or forestry management plan are considered a misdemeanor. Each day is considered a separate offense.
- (b) *Tree removal on lots without construction or grading permits.*
- (1) *Limitations; exception.* The number of trees removed from privately owned land shall be limited to two significant trees per year, unless an approved forest management plan has been obtained. Trees removed because they are an obstruction to traffic or power lines, or trees removed because they pose a hazard to structures or sewer systems shall be excluded from these requirements.
- (2) *Forest management plan.* An approved forest management plan will be required if more than two significant trees per year are removed. At a minimum, the plan must include the following information:
- a. A scaled map designating all forested areas and existing and proposed uses of such areas.
 - b. Location of all existing structures, roads, utilities, and driveways on the site.
 - c. A written narrative describing specific activities and reasons for developing the plan, and how these actions and activities will affect the forest. Specific examples include, but are not limited to, better forest management (thinning or removal of dead or diseased trees), improved wildlife habitat, recreational use, outdoor education, and trails.
 - d. Tree replacement may also be required as part of the forest management plan. Tree replacement, as outlined in subsection (a)(3) of this section, shall be required if trees are removed without obtaining an approved approval for a forest management plan.
 - e. Forest management plans must be approved by the zoning administrator.
- (Code 2004, pt. 3, § 33.09; Ord. No. 93-1337, 6-3-1993; Ord. No. 97-1653, 4-17-1997; Ord. No. 99-1771, 3-4-1999; Ord. No. 99-1785, 4-15-1999; Ord. No. 20-2447, 7-20-2020)

Sec. 129-10. Home occupations.

(a) *Intent.* In order to provide peace, quiet, and domestic tranquility within all residential neighborhoods, within the city, and in order to guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard and other possible effects of commercial uses being conducted in residential areas.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Home occupation means any business, occupation, profession, or commercial activity that is conducted or petitioned to be conducted from property that is zoned for residential use. Home occupations must be conducted by a resident of the property. General farming and gardening activities are not considered home occupations and are not regulated by this section.

(c) *Standards.* All home occupations shall comply with the following standards, unless specifically permitted through a conditional use permit:

- (1) All activities associated with a home occupation shall be conducted between the hours of 7:00 a.m. and 10:00 p.m.
- (2) Home occupation may have one wall sign per dwelling which may not exceed 2.5 square feet.
- (3) There shall be no exterior storage of any materials related to the business including business equipment, merchandise, inventory or heavy equipment, including materials located on trailers. One fully enclosed utility trailer associated with the home occupation is permitted.
- (4) The area set aside for home occupations shall not exceed 20 percent of the total floor area of such residence.
- (5) In all residential districts other than farm residential and residential estate districts, the area set aside for home occupations if in an accessory structure is limited to 300 square feet while maintaining the minimum garage space required in the zoning district. In the farm residential and residential estate districts, the area set aside for home occupations if in an accessory structure is limited to 800 square feet while maintaining the minimum garage space required in the zoning district.
- (6) Permitted home occupations may include the employment of one person not residing on the premises in the performance of the occupation.
- (7) The use of mechanical equipment other than is usual for purely domestic or hobby purposes is prohibited.
- (8) Off-street parking requirements of section 129-13 must be provided.
- (9) Merchandise shall not be regularly or openly displayed or offered for sale within the residence.
- (10) The operation of any wholesale or retail business is not permitted, unless it is conducted entirely by mail or by occasional home invitation.

- (11) Any home occupation or activity which produces noise or obnoxious odors, vibrations, glare, fumes, fire hazard, or electric interference detectable to normal sensory perception beyond the property line is prohibited.
- (12) Vehicles above 12,000 GVW shall not be stored, operated, or maintained in residential districts, excluding farm residential and residential estate districts. In farm residential and residential estate districts, one vehicle greater than 12,000 GVW is permitted.
- (13) A home occupation must normally involve fewer than four customers entering daily.
- (14) Home occupation is served by delivery trucks no larger than 25,000 GVW.
- (d) *Prohibited uses.* Prohibited uses in all zoning districts are as follows:
 - (1) Auto repair/body shop.
 - (2) Auto sales.
- (e) *Conditional uses.* Conditional uses in farm residential and residential estate districts for properties greater than or equal to three acres in size and prohibited in all other districts are as follows:
 - (1) Blacksmithing, welding, or similar uses that may create noise, odors, or vibration.
 - (2) Equipment rental of heavy equipment that includes, but is not limited to, skidloaders, excavators, trailers or lifts. Equipment shall not be observed from the right-of-way or neighboring properties.
 - (3) Landscaping and lawn maintenance.
 - (4) Small engine repair.
- (f) *Conditional use permits.* Conditional use permits shall be considered under section 101-4.
- (g) *Garage sales or sales of household items.* Garage sales or sales of household items are permitted without special permit, provided they meet the following standards:
 - (1) Garage sales last no longer than three days and sales of individual household items last no longer than 15 days.
 - (2) Sales are held no more than twice yearly.
 - (3) Sales are conducted on the owner's property. Multiple-family sales are permitted if they are held on the property of one of the participants.
 - (4) No goods purchased for resale may be offered for sale.
 - (5) No consignment goods may be offered for sale.

- (6) All directional and advertising signs shall be freestanding and removed after completion of the sale.
- (7) All directional and advertising signs shall be placed on private property and shall have the owner's permission.
- (8) No directional or advertising sign may be larger than two feet by three feet. (Code 2004, pt. 3, § 33.10; Ord. No. 87-1007, 2-19-1987; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 33.10, 12-18-2023; Ord. No. 25-2581, 7-21-2025)

Sec. 129-11. Permitted encroachments, yards.

For the purpose of this chapter, the following shall be considered as permitted encroachments within the yards indicated:

- (1) Decks 30 inches or greater in height or attached to the home; balconies; open terraces; marques; flues; sills; lintels; pilasters; cornices; gutters; open canopies; open porches not enclosed by walls, screens, windows, or doors; and awnings; are permitted to encroach by up to 25 percent of the required setbacks in the front, side, and rear yard.
- (2) Yard lights and name plate signs in residential districts, provided such lights and signs are three feet or more from all lot lines. Lights for illuminating parking and loading areas or yards for safety and security purposes may be provided where necessary, provided that the glare is not visible from public right-of-way or adjacent residential property.
- (3) Unenclosed gazebos, covered shelters, pools, and pool platforms located in the rear yard are permitted with a minimum ten-foot setback from the side and rear lot lines. Any portion of a pool platform greater than ten feet in distance from the pool shall be regulated as a deck under subsection (a) of this section rather than as a pool platform.
- (4) Recreation equipment, picnic tables, arbors, trellises, pergolas, outdoor living rooms, outdoor eating facilities, patios, pool deck surrounds and aprons, detached decks less than 30 inches in height and laundry drying equipment are permitted in the rear yard with a minimum five-foot setback from the side and rear lot lines.
- (5) Chimneys, flag poles, sidewalks, fences, landscaping, posts and similar amenities are permitted encroachments in any location.
- (6) Cantilevers may encroach, by up to two feet of the required setback, in the front, rear, and side yards.
- (7) Window wells are permitted encroachments with a minimum two-foot setback from the side and rear property lines.

- (8) Encroachments in any yard that abut a public or private street, shall be considered as permitted encroachments, as outlined above, except that no encroachment shall be permitted within present or proposed street right-of-way lines.
 - (9) On corner lots, in any district, encroachments are not permitted in excess of 30 inches above the curbline in the intersection sight distance triangle that is not 75 percent transparent.
- (Code 2004, pt. 3, § 33.11; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2498, 3-21-2022; Ord. No. 22-2502, 5-16-2022)

Sec. 129-12. Traffic control.

The traffic generated by any use shall be channeled and controlled in a manner that will avoid congestion on public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic.

- (1) *Regulation.* Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of commercial and industrial areas shall, to the extent possible, be forward moving with no backing into streets. On corner lots, no structure or other materials shall be placed within the intersection sight distance triangle between the height of 2½ and ten feet above the centerline grade of the intersecting street that is not 75 percent transparent.
 - (2) *Access drives and access.*
 - a. A number and type of access drives onto arterial or collector streets may be controlled and limited in the interest of public safety and efficient traffic flow.
 - b. Access drives onto county and state highways shall require a review by the county or state engineer who shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.
 - c. Access drives to principal structures which traverse wooded, steep, or open fields shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles.
 - d. All lots or parcels shall have an approved direct access for emergency service vehicles along the frontage of the lot or parcel from a publicly dedicated street.
 - (3) *Vacated streets.* Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of said vacated area shall not be affected by such proceedings.
- (Code 2004, pt. 3, § 33.12; Ord. No. 89-1173, 12-21-1989; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2502, 5-16-2022)

Sec. 129-13. Parking.

Any off-street parking space in connection with existing buildings or structures, on the effective date of the ordinance from which this subpart is derived, shall not be removed, enlarged or altered, except in conformance with the requirements of this subpart. In connection with any building or structure which is to be erected or substantially altered and which require off-street parking spaces, off-street parking spaces shall be provided in accordance with the following regulations. No change in use is permitted until the required number of parking stalls are furnished. The following requirements are designed to provide adequate off-street parking space for passenger automobiles of patrons, occupants or employees:

(1) *Size.*

- a. Stall and aisle dimensions shall be constructed to the following minimum specifications listed below. Parallel parking is subject to zoning administrator approval.

<i>Parking Angle</i>	<i>Stall Width Including Striping</i>	<i>Stall Length</i>	<i>Aisle Width</i>
90 degrees	9 feet	18 feet	24 feet
60 degrees	9 feet	23 feet	15 feet
45 degrees	9 feet	25 feet	12 feet
Parallel	9 feet	23 feet	12 feet

- b. Accessible parking spaces shall meet the dimensional requirements of the state accessibility code.
- c. All off-street parking areas shall be striped between stalls. Directional arrows shall be used on one-way traffic lanes.
- d. Traffic safety islands may be required to maintain a safe and orderly flow of traffic within the parking lot or driveways.

(2) *Access.*

- a. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to parking spaces.
- b. All off-street parking facilities shall be provided with appropriate means of vehicular access to a street, alley, or a driveway, in a manner which will least interfere with traffic movements.
- c. All parking areas shall have vehicular access to it by a street or driveway, containing all-weather, hard-surfaced pavement. No driveway access across public property, or at the curblin of a private street, shall have a width exceeding 24 feet for single-family residential lots with less

than 70 feet of frontage, 30 feet for lots with 70 or more feet of frontage and multifamily developments, or 36 feet for commercial/industrial, exclusive of curb returns.

- (3) *Yards.*
- a. Off-street parking and driveways shall not be permitted within any front yard, corner side yard, side yard, or rear yard minimum setbacks established for parking and driveways.
 - b. Parking spaces required for single or two family dwelling units shall be located on the same lot as the dwelling served.
- (4) *Computation of parking spaces.* When determination of the number of parking spaces required by ordinance results in a requirement of a fractional space, any fraction of one-half or less may be dropped, while a fraction in excess of one-half shall be counted as one parking space.
- (5) *Collective parking provisions for nonresidential uses.* Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements of each use and if all regulations governing the location of accessory parking spaces in relation to the use served are observed, but no parking space, or portion thereof, shall serve as a required space for more than one use unless otherwise authorized in this subpart.
- (6) *Repair and service.*
- a. No motor vehicle repair work of any kind shall be permitted in parking lots.
 - b. No merchandise shall be sold in conjunction with any parking facilities unless such facilities are located within a completely enclosed building.
- (7) *Design, maintenance, and installation.* All open off-street parking areas or areas traveled by vehicles shall be of four-inch Minnesota Department of Transportation (MnDOT) Class 5 base and a minimum two-inch bituminous surface.
- (8) *Required parking spaces.* Off-street parking spaces accessory to designated uses shall be provided as follows:
- a. Single-family dwellings: at least one parking space for each dwelling, plus one additional parking space for each two roomers or lodgers accommodated.
 - b. Two-family dwellings: two for each dwelling unit.
 - c. Apartments: one space per studio apartment, 1½ spaces per one-bedroom apartment, and two spaces per unit for all other units. Half of the required parking stalls must be underground.

- d. Townhouses: two garage spaces per unit, plus one space for each three units for guest parking. Guest parking may include on-street parking spaces on private roads.
- e. Automobile repair: four parking spaces, plus two parking spaces per service bay. The outside storage of cars as a permitted or conditional use in the applicable zoning district may occupy the required four parking spaces.
- f. Banks: at least one parking space for each 400 square feet of floor area.
- g. Boarding and roominghouses: at least two parking spaces, plus one parking space for each three persons for whom living accommodations are provided.
- h. Bowling alleys: at least five parking spaces for each alley, plus one space for every 400 square feet of area not used as a bowling alley.
- i. Brewery: at least one parking space for each 500 square feet of manufacturing floor area and one parking space for each 2,000 square feet of warehousing floor area.
- j. Business and professional offices or public administration buildings: at least one parking space for each 250 square feet of floor area.
- k. Child care facility, not including group family daycare: at least one parking space for each 300 square feet of floor area.
- l. Drive-through businesses.
 - 1. Pharmacies with one drive-through lane shall provide stacking space for at least five vehicles, and pharmacies with two or more drive-through lanes shall provide stacking space for at least three vehicles per lane, as measured from and including the last pick-up station, window, or the like. Stacking spaces shall not interfere with parking spaces or traffic circulation.
 - 2. Banks containing one drive-through lane shall provide stacking space for at least six vehicles, and banks containing two or more drive-through lanes shall provide stacking space for at least four vehicles per lane, as measured from and including the last pick-up station, window, or the like. Stacking spaces shall not interfere with parking spaces or traffic circulation.
 - 3. Coffee shops containing one drive-through lane shall provide stacking space for at least ten vehicles, and coffee shops containing two or more drive-through lanes shall provide stacking space for at least six vehicles per lane, as measured from and including the last pick-up station, window, or the like. Stacking spaces shall not interfere with parking spaces or traffic circulation.

4. All other uses. Businesses with one drive-through lane shall provide stacking space for at least six vehicles, and businesses with two or more drive-through lanes shall provide stacking space for at least six vehicles per lane, as measured from and including the last pick-up station, window, or the like. Stacking spaces shall not interfere with parking spaces or traffic circulation.
5. General requirements.
 - (i) A fence or screen of acceptable design not over six feet in height or less than four feet shall be constructed along the property line abutting a residential zoning district and such fence or screen shall be adequately maintained.
 - (ii) If canopies cover the drive-through area, any support columns shall be constructed with the same design and materials as those used on the building.
 - (iii) Sites with drive-through service shall be designed in a manner that allows drivers not using the drive-through, or wishing to exit the drive-through area, to bypass the drive-through lane.
- m. Establishments handling the sale and consumption of food and refreshment on the premises: at least one parking space for each 100 square feet of floor area, excluding bar area and kitchen area, one parking space for each 40 square feet of bar area and one parking space for each 200 square feet of kitchen area. If no dining area is provided, at least one parking space for each 275 square feet of public pick-up area.
- n. Event centers, auditoriums, private clubs, lodges, and other places of assembly (not places of worship): parking spaces equal in number to one-half the seating capacity plus employee parking.
- o. Fitness centers: one space for each 300 square feet of floor area.
- p. Furniture and appliance stores, motor vehicle sales, stores for repair of household equipment, or furniture: at least one parking space for each 600 square feet of floor area.
- q. Hospitals: at least two parking spaces per bed.
- r. Hotels: at least one space for each guest room.
- s. Libraries and museums: at least one parking space for each 500 square feet of floor area.
- t. Manufacturing, fabricating, and processing plants not engaged in retail trade: at least one parking space for each 500 square feet of floor area.
- u. Medical and dental clinics: at least one space for each 150 square feet of floor area.

- v. Motels: at least one parking space for each dwelling unit, plus one space per employee.
- w. Movie theaters: at least one parking space for each four seats in the theater.
- x. Places of worship: at least one parking space for each four seats in accordance with design capacity of the main auditorium.
- y. Recreational buildings or community centers: spaces in adequate number as determined by the zoning administrator.
- z. Schools, elementary, junior high, public or private: at least three parking spaces per classroom, plus necessary spaces for student drop off; may be reduced at zoning administrator discretion.
- aa. Schools, high school, public or private: one per four students based on the design capacity. This requirement may be reduced at the zoning administrator's discretion to reflect facility use and/or parking policy. Adequate space shall be allowed for the dropping off and/or picking up of students as determined by the zoning administrator.
- bb. Self-storage facility: minimum of five spaces.
- cc.
 - 1. Senior housing: 1½ spaces per independent living apartment unit other than studio apartments. Studio apartments require one space per unit. Half of the parking spaces for independent living is underground.
 - 2. Parking for assisted living and memory care units: At least one parking stall space per two units.
- dd. Supermarkets, discount houses, mail order outlets, retail stores and other stores with high customer volume: at least one parking space for each 200 square feet of floor area, for the first 100,000 square feet, plus one per 350 square feet of floor area thereafter. The number of parking spaces provided shall not exceed the minimum requirement by more than ten percent. The zoning administrator may expand the parking requirements if the applicant demonstrates, in documented form, a demand which is different than required based on the specifics of the proposed use.
- ee. Taproom: at least one parking space for each 40 square feet of taproom/bar area.
- ff. Undertaking establishments and funeral homes: at least one space for every 28 square feet of area devoted to funeral services or display area, plus one parking space per employee.
- gg. Warehouse and storage establishments and freight terminals: at least one off-street parking space for each 2,000 square feet of floor area or one parking space for every two employees, whichever is greater.

- hh. Other uses: parking spaces on the same basis as required for the most similar use.
 - ii. Reduced parking. When demonstrated to the satisfaction of the zoning administrator that the number of parking spaces required by this section would not be needed for the particular use in question, a reduced number of parking spaces may be approved subject to the following:
 - 1. The request for reduction shall be accompanied by supporting data specifically applying to the particular use in question.
 - 2. The applicant must provide each of the following:
 - (i) A detailed parking plan demonstrating that the parking otherwise required by this section can be provided on the site within ordinance design standards; and
 - (ii) The parking area must meet the setback, dimension, and maneuverability standards of this ordinance and the stormwater management rules; and
 - (iii) An agreement in recordable form, approved as to form and content by the city attorney, executed by the property owner, which agreement provides that the owner, on behalf of themselves and their heirs, successors, and assigns, will not use the area identified for expansion parking for any use except landscaping or to cause compliance with the off-street parking requirements of this Code.
 - 3. The city may order installation of previously excepted parking spaces at any time when, in the city's judgment, conditions indicate the need for such parking, and the property owner shall comply with such order.
- (9) *Residential (R-1, R-1A, R-1AA, R-1B, R-2, DF) on-site parking requirements.*
- a. Parking and storage shall be limited to operable vehicles registered and licensed to the occupants of the dwelling unit and their guests only.
 - b. Parking or storage of vehicles shall be permitted in the front and corner side yard on paved driveways only. Total combined area of paved driveways shall not exceed 45 percent of the combined areas of the front yard and corner side yard, except that in no case shall the width of a paved driveway beyond the public right-of-way, exceed 36 feet for homes with garages 36 feet in width or less or 45 feet for homes with garages in excess of 36 feet in width, with the exception that a paved driveway may extend ten feet beyond the exterior side wall of the garage as long as required side yard setbacks are maintained for a length of not to exceed 20 feet from the front face of the garage.

- c. Provided area has an access drive, storage of vehicles shall be permitted in the side yard subject to required driveway setback.
- d. Parking in the rear yard is limited to:
 - 1. Passenger vehicles parked on paved driveways extending to a detached garage located in the rear yard which serves as the sole garage for the residence;
 - 2. Recreational vehicles, boats, truck toppers, and trailers parked in the rear yard on paved or unpaved surfaces subject to the driveway setbacks;
 - 3. Collector vehicles parked on paved or unpaved surface for a maximum of two years bearing collector vehicles license plates appearing operable, and screened from all four sides by a six-foot-high solid fence installed with the required fence permit from the city. The two-year timeframe will commence as soon as a collector vehicle has been observed and documented and will not be extended even if the vehicle is removed from the rear yard for consecutive days or if the vehicle is replaced with another collector vehicle.
- e. All existing parking and storage of vehicles not in compliance with the provisions of this subpart shall be brought into compliance within one year of the date of its adoption, except those lots which did not have a paved driveway at the time of adoption shall not be required to pave.
- f. For the purpose of this section, these standards shall apply to all detached single-family residential lots approved under the city's DF (Development Flex) and RF (Residential Flex) zoning districts.

(10) *Parking structures.*

- a. Parking structures shall meet parking setbacks for the applicable district.
- b. Any signage placed on the parking structure may result in the reduction or forfeiture of signage permitted on the principal building.
- c. Parking structures must be constructed of at least two exterior materials. The material and color of the parking structure shall be compatible with the principal building.
- d. Parking structures shall have no more than three levels of parking above grade. The parking structure shall not exceed the height of the principal building.

(Code 2004, pt. 3, § 33.13; Ord. No. 85-898, 8-15-1985; Ord. No. 86-956, 7-10-1986; Ord. No. 88-1071, 2-18-1988; Ord. No. 89-1163, 10-19-1989; Ord. No. 91-1243, 1-17-1991; Ord. No. 01-1889, 1-18-2001; Ord. No. 03-1990, 8-21-2003; Ord. No.

05-2062, 10-20-2005; Ord. No. 06-2099, 6-1-2006; Ord. No. 07-2148, 9-6-2007; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022; Ord. No. 22-2514, 12-19-2022; Ord. No. 23-2535, § 33.13, 12-18-2023; Ord. No. 24-2568, § 33.13, 11-18-2024)

Sec. 129-14. Overhead doors and loading spaces.

In connection with any building or structure, which requires the receipt or distribution of materials or merchandise by trucks or other similar vehicles, there shall be off-street loading spaces provided. The following standards apply to all loading spaces and overhead doors, regardless of purpose, excluding residential garages:

(1) *Location.*

- a. Overhead doors and loading spaces shall attempt to be placed primarily in the designated rear yard, and secondarily in the designated side yard. When more than one frontage exists, the zoning administrator shall determine the frontage with the least significant impact, at which an overhead door may be directed.
- b. An overhead door may be placed in the front yard and face a public right-of-way when approved by the zoning administrator. Screening/buffer may be required through berming, trees, or fencing as determined by the zoning administrator.
- c. The only time a loading space may be located in the front yard is when there exists more than one frontage on a public right-of-way and the loading space is located on the frontage determined by the zoning administrator to have the least significant impact. Additional landscaping and earth berming will be required as determined by the zoning administrator to reduce the visual impact of the loading space.
- d. When loading spaces are adjacent to a residential district, screening/buffer shall be provided through berming, trees, or fencing as determined by the zoning administrator.
- e. No above grade loading spaces shall be located facing a public right-of-way.

(2) *Access.* Each required overhead door and loading space shall be designed with appropriate means of vehicular access to/from a street or drive aisle in a manner which will least interfere with traffic circulation. Overhead door access shall be subject to approval by the city engineer.

(3) *Architecture.* Overhead doors and loading spaces should be designed to be compatible with the principal structure. Architectural techniques are encouraged to reduce the visual impacts an overhead door may have on adjacent properties or roadways.

(Code 2004, pt. 3, § 33.14; Ord. No. 89-1132, 4-20-1989; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022)

Sec. 129-15. Preservation of natural drainageways.**(a) *Waterways.***

- (1) The natural drainage system shall be used as far as is feasible for storage and flow of runoff. Stormwater drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of stormwater to marshlands or swamps shall be considered for existing or planned surface drainage, provided such diversion is in compliance with state law and all necessary easements have been obtained. Marshlands and swamps used for stormwater shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage, and construction cost. Pretreatment of runoff and dewatering operations must be provided before discharging to any surface water.
- (2) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten-year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
- (3) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
- (4) The banks of the waterway shall be protected with permanent vegetation.
- (5) The banks of the waterway should not exceed five feet horizontal to one foot vertical in gradient.
- (6) The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
- (7) The bed of the waterway should be protected with turf, sod, or rip-rap. If turf or sod will not function properly, rip-rap shall be used. Rip-rap, in conformity with engineering specifications, shall consist of MnDOT 3601 material Class A with filter blanket Type 1.
- (8) If the flow velocity in the waterway is such that erosion of the turf side wall will occur and said velocity cannot be decreased by velocity control structures, then rip-rap shall replace turf on the side walls.

(b) *Sediment control of waterways.*

- (1) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment, control structures shall be incorporated throughout the contributing watershed.
- (2) Temporary pervious sediment traps shall be constructed according to standard details per plan requirements. Such structures would serve as temporary sediment control features during the construction stage of

development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 100-year storm.

- (3) Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water or stream.

(Code 2004, pt. 3, § 33.16; Ord. No. 10-2203, 5-20-2010; Ord. No. 20-2447, 7-20-2020)

Sec. 129-16. Building relocation.

To maintain a high standard of residential development in the city and to protect residential areas from deleterious effects through ensuring that both new and relocated buildings from within the city limits or from other areas outside of the city, building relocation shall meet specified requirements.

- (1) Each relocation of a residence or residential accessory building shall require a conditional use permit from the city council and all such buildings shall conform with and be situated in a properly zoned area in accordance with all of the provisions of this part and the city building code. Commercial and industrial buildings shall not be moved.
- (2) Application for a permit to move a building shall be accompanied by written consent and approval of at least 50 percent of the property owners within the said 350 feet of said lot.
- (3) The application may be granted or rejected by the city council after a public hearing before the planning commission.

(Code 2004, pt. 3, § 33.18; Ord. No. 20-2447, 7-20-2020)

Sec. 129-17. Curbing.

(a) All driving areas and parking areas which are accessory to multiple-family, commercial, planned commercial, planned industrial business park, or high use institutional developments, shall be bounded by a B6-12 concrete curb and gutter. The term "high use institutional development" shall include hospitals, schools, public buildings, and similar uses.

(b) All driving areas and parking areas which are accessory to industrial or low use institutional developments shall contain a B6-12 concrete curb and gutter on the portions of such areas which front on a public right-of-way extending back to the building wall. Concrete curb and gutter or curb only may be required on the perimeter of any other driving or parking areas where necessary for drainage or traffic control. The term "low use institutional developments" shall include churches, parks, private clubs, and similar uses.

(c) The city may exempt curbing:

- (1) Where the parking lot directly abuts a sidewalk which is sufficiently higher than the grade of the parking lot to substitute for the curbing requirements;
or
- (2) Where the city has approved future expansion of the parking lot.

(d) Curbing shall be required around islands in pavement.

(e) Curb cuts and ramps for the handicapped shall be installed as required by state law.

(f) Construction shall be in accordance with curbing specifications on file in the office of the city engineer.

(Code 2004, pt. 3, § 33.19; Ord. No. 85-898, 8-15-1985; Ord. No. 87-1016, 4-1-1987; Ord. No. 20-2447, 7-20-2020)

Sec. 129-18. Buffer yard flexibility.

(a) The 100-foot side and rear yard setback for buildings in specified commercial, industrial and multifamily residential districts adjacent to residential uses may be reduced to as narrow as 25 feet with the installation of a seven-foot fence constructed of solid maintenance-free materials and installation of additional plant material as specified in the following table:

<i>Setback</i>	<i>Minimum Spacing of Additional 8' Conifer Trees</i>	<i>Minimum Spacing of Additional 2.5" Overstory Trees</i>
75—99 feet	20 feet	None required
50—74 feet	15 feet	30 feet
25—49 feet	12 feet	20 feet

(b) To determine the number of additional trees required, the length of the building at the reduced setback shall be divided by the minimum spacing of additional trees. Trees required under this section do not count towards the landscaping requirements under section 129-7. Existing trees may be utilized under this section, subject to zoning administrator approval.

(c) All mechanical equipment shall meet a 50-foot setback or be roof-mounted and screened from view.

(Code 2004, pt. 3, § 33.20; Ord. No. 86-937, 4-3-1986; Ord. No. 20-2447, 7-20-2020; Ord. No. 24-2568, § 33.20, 11-18-2024)

Sec. 129-19. Noise abatement standards.

Homes constructed southeast and northeast of the county airport that are bounded by 85th Avenue, 35W, 95th Avenue and the airport and bounded by 101st Avenue, Naples Street, 109th Avenue and Radisson Road, shall incorporate the following standards for construction:

- (1) Use of two-inch by six-inch studs or better for all exterior wall cavity construction to be shown on building plans.
- (2) All exterior building elements shall meet the following minimum sound transmission class (STC) values:
 - a. Walls: 40 STC;
 - b. Roof: 40 STC;
 - c. Windows: 30 STC;
 - d. Doors: 20 STC.

Manufacturer's STC rating for each window, door, and skylight shall be attached to the building plans. Upon approval of the building official, typical

two-inch by six-inch walls and truss roofs constructed in accordance with the state building code and the state model energy code shall be considered as conforming with this requirement.

- (3) All homes shall incorporate the following acoustical design features which shall be shown on the building plans.
- a. A mechanical ventilation system shall be installed that will provide the minimum air circulation and fresh-air supply requirements as required in the state building code for the proposed occupancy without the need to open any exterior doors or windows.
 - b. The perimeter of all exterior windows and door frames shall be sealed airtight to the exterior wall construction.
 - c. Fireplaces shall be equipped with well-fitted chimney cap devices.
 - d. All ventilation ducts, except range hoods, connecting interior space to outdoors shall be provided with a bend such that no direct line of sight exists from exterior to interior through the vent duct.
 - e. Doors and windows shall be constructed so that they are close-fitting. Weather stripping seals shall be incorporated to eliminate all edge gaps.
 - f. All penetrations through exterior walls by pipes, ducts, conduits and the like shall be caulked airtight to the exterior construction.
- (Code 2004, pt. 3, § 33.21; Ord. No. 94-1543, 2-16-1995; Ord. No. 05-2053, 10-18-2005; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 33.21, 12-18-2023)

Sec. 129-20. Standards for rear yard chickens.

- (a) All chicken operations must be registered by the property owner with the city prior to placement. The city council will establish a fee for the one-time registration.
- (b) Registration process consists of a site and building plan with location and specifics of coop, pen or run, and coop setbacks.
- (c) Not more than six hens are allowed. No roosters are allowed.
- (d) Coop (and covered run) is limited to not more than 60 square feet.
- (e) Shelters or coops shall be in the rear yard only and located at least five feet from side or rear lot lines.
- (f) Shelters or coops shall be at least 30 feet from all homes on adjacent properties.
- (g) All runs must be fenced unless the entire rear yard is fenced. Chickens are not allowed to run free.
- (h) Chicken waste must be removed from the coop so as to not cause a nuisance and be properly disposed of. On-site composting is prohibited.

- (i) Slaughtering and processing of the chickens must be done off site.
 - (j) Failure to comply with these standards will result in need for removal of birds and structure.
 - (k) Structure must be removed and site restored if keeping of chickens is discontinued for more than 12 months.
 - (l) If the home is within a managed community and has a home ownership association the association management must also sign off on the placement of the chickens.
- (Code 2004, pt. 3, § 33.22; Ord. No. 15-2320, 8-6-2015; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2514, 12-19-2022)

Sec. 129-21. Rooftop equipment.

All rooftop facilities shall either be:

- (1) Screened from the eye level view of adjoining properties by use of exterior walls; or
 - (2) Painted to match or complement the building structure; or
 - (3) Incorporated into an architectural design, as approved by the zoning administrator.
- (Code 2004, pt. 3, § 33.23; Ord. No. 20-2447, 7-20-2020)

Sec. 129-22. Donation drop-off boxes.

Donation drop-off boxes are allowed in all commercial and industrial districts and at institutional uses in residential districts, subject to the following standards:

- (1) Boxes are to be located in rear or side yards.
 - (2) Boxes must be screened from three sides by an enclosure constructed of materials consistent with the principal buildings.
- (Code 2004, pt. 3, § 33.24; Ord. No. 20-2447, 7-20-2020)

Sec. 129-23. Standards for accessory dwelling units.

(a) *Generally.* Accessory dwelling units (ADUs) must comply with the following standards:

- (1) Either the home or the accessory dwelling unit shall be occupied by the owner of the property. Owner occupancy requirement shall be recorded to the property.
- (2) Utilities for the home and ADU shall not be separately metered and water and sewer shall be connected to the same lines as the home.

- (3) Home and accessory dwelling unit together must have at least three off-street parking spaces that can be directly accessed. Parking spaces may be garage spaces or paved, outside parking spaces. A parking space located on a driveway in front of a garage cannot meet the requirement.
 - (4) ADUs may not include more than two bedrooms.
 - (5) Occupancy of the ADU is limited to up to two adult individuals, whether related or unrelated, and the parents and children of each, if any, residing in the same dwelling unit and maintaining a common residence with no more than one person per 150 square feet.
 - (6) No home occupations involving outside customers coming to the property shall occur in the accessory dwelling unit.
 - (7) No more than one accessory dwelling unit permitted per property.
 - (8) Accessory dwelling units must meet all architectural standards of the zoning district, including any standards established by conditional use permit in the Development Flex zoning district and be consistent in color and material to the home.
 - (9) The home and accessory dwelling unit are considered separate dwellings for the purposes of rental licensing and a rental license is required when either the home or accessory dwelling unit is occupied by someone other than the owner of the property or a member of the owner's family.
 - (10) The home and the accessory dwelling unit must remain on the same parcel. The parcel may not be divided through any means, including, but not limited to, filing of a plat, a waiver of platting, or a common interest community.
 - (11) Accessory dwelling units must be located on a permanent foundation.
- (b) *Standards for attached ADUs.* Attached ADUs must comply with the following standards:
- (1) Allowed as a permitted use in the R-1, R-1A, R-1AA, R-1B, RE, FR, and DF districts when accessory to a single-family home with an administrative permit.
 - (2) Must meet living space setbacks.
 - (3) No more than one door may be located on the front façade of the home unless designed in a manner to minimize the visibility from the street of the second door, subject to zoning administrator approval.
 - (4) Maximum size of 50 percent of the finished square footage of the primary residence or 960 square feet, whichever is less in the R-1, R-1A, R-1AA, R-1B, and DF districts. Maximum size of 50 percent of the finished square footage of the primary residence or 1200 square feet, whichever is less in the RE and FR districts.

- (5) Noise abatement standards of 129-19 apply to attached ADUs if located southeast or northeast of the county airport or within 500 feet of any arterial roadway.
 - (6) The home and ADU are considered a two-family home for the purpose of application of the state residential code unless the home and the ADU are connected by a passageway at least 40 inches in width without a door.
- (c) *Standards for detached ADUs.* Detached ADUs must comply with the following standards:
- (1) Allowed as a conditional use in the R-1, R-1A, and R-1AA, and a permitted use with an administrative permit in the RE and FR districts.
 - (2) Must be located in the rear yard.
 - (3) Maximum size of 50 percent of the finished square footage of the primary residence, 25 percent of the square footage of the rear yard, or 960 square feet, whichever is less in all zoning districts except RE and FR. Maximum size of 50 percent of the finished square footage of the primary residence, 25 percent of the square footage of the rear yard, or 1,200 square feet, whichever is less in the RE and FR districts.
 - (4) Detached accessory dwelling units are not permitted on properties with detached accessory buildings, unless the ADU is constructed as part of the same structure as the accessory building.
 - (5) The footprint of accessory dwelling unit and any attached or detached accessory structures may not total more than 1,200 square feet in size in the R-1, R-1A, R-1AA zoning districts, 2,000 square feet in the RE district, and 3,000 square feet in the FR district. If an accessory dwelling unit is located above a garage, the footprint of the accessory dwelling unit and the garage is counted once, not one time for the garage and one time for the accessory dwelling unit.
 - (6) The detached accessory dwelling unit shall be architecturally compatible with the principal structure.
 - (7) Must meet a ten-foot setback from side and rear lot lines in the R-1, R-1A, and R-1AA districts, 20-foot setback from side lot lines and 30 feet from rear lot lines in RE and FR districts.
 - (8) The detached accessory dwelling unit must be at least 15 feet from the principal structure.
 - (9) The accessory dwelling unit shall not exceed the height of the principal building.
- (Code 2004, pt. 3, § 33.25; Ord. No. 21-2489, 12-20-2021)

Secs. 129-24—129-49. Reserved.

**ARTICLE II. RESOURCE RECOVERY/SOLID WASTE TRANSFER
STATION FACILITIES*****Sec. 129-50. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Citizen's dropoff means a facility which provides for disposal of materials not collected by waste haulers. In general, vehicles will be unloaded by hand at such a facility. The design will depend on the waste materials anticipated but will typically include large portable containers into which waste can be deposited.

Disposal means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any water, including groundwater.

Dropoff or buy-back center for recyclables means a facility where recyclable material, such as, but not limited to, glass, paper, metal containers, plastics and corrugated cardboard can be brought for temporary storage prior to delivery to a processing facility or market.

Hazardous waste means any hazardous waste as defined in M.S.A. § 116.06, subd. 11, and any substance identified as a hazardous waste pursuant to rules adopted by the state pollution control agency under M.S.A. § 116.07; and any hazardous waste as defined in the Resource Conservation and Recovery Act, under 42 USC 6903, which is listed or has the characteristics identified under 42 USC 6921, not including any hazardous waste the regulation of which has been suspended by an act of Congress.

Household hazardous waste means waste generated from household activity that exhibits the characteristics of or that is listed as hazardous waste under the state pollution control agency rules but does not include waste from commercial, industrial or agricultural activities that is generated, stored or present in a household.

Household hazardous waste program means a program to collect or receive household quantities of hazardous waste materials from residential sources and arrange for transportation of these materials to permitted hazardous treatment, storage or disposal facilities.

***State law reference**—Recycling of solid waste, M.S.A. ch. 116F, M.S.A. § 115A.551 et seq.

Recycling facility means a site used to separate, process, modify, convert, or otherwise prepare solid waste so that component materials or substances may be beneficially used or reused as raw materials.

Solid waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials resulting from industrial, commercial, mining, and agricultural operations, and from community activities but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

Solid waste generation means the act or process of producing solid waste.

Solid waste management means the systematic control of the collection, source separation, storage, transportation, processing, treatment, and disposal of solid waste.

Treatment means, when used in connection with solid waste, any method, technique, or process so as to render such solid waste safe for transport, amenable for recycling, amenable for storage, or reduced in volume.

Wetland means any designated state department of natural resources wetland or U.S. Army Corps of Engineers Wetland.

Yard waste composting means controlled microbial degradation of garden wastes, leaves, lawn cuttings and prunings are generated at residential or commercial properties to yield a humus-like product.

Yard waste composting facility means a site used to compose yard waste materials, including all structures or processing equipment used to control drainage; collect and treat leachate; and storage areas for the incoming waste, the final product and residuals resulting from the composting process.

(Code 1980, § 10-92; Code 2004, § 62-151; Ord. No. 88-1063, 2-4-1988; Ord. No. 91-1273, 1-9-1992)

Sec. 129-51. Intent.

Thousands of tons of solid waste are handled each year within the county. In order to protect the environment, quality of life, and maintain efficient solid waste management, these materials must be delivered to a resource recovery facility or

transfer station as designated by the county pursuant to M.S.A. §§ 115A.80—115A.893 or recycled through a variety of recovery mechanisms in a safe, proper, and efficient manner. Therefore, the purposes of this article are to ensure that:

- (1) Solid waste transfer station facilities are sited in a manner consistent with the public health, safety, and welfare;
 - (2) Other types of solid waste facilities are sited in a manner consistent with public health, safety, and welfare;
 - (3) The impact to adjoining properties and the community, in general, are minimized to the greatest extent reasonably possible.
- (Code 1980, § 10-90; Code 2004, § 62-152; Ord. No. 88-1063, 2-4-1988)

Sec. 129-52. Facilities defined; prohibitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Solid waste transfer facility means a building, structure, or use of land devoted, or intended to be devoted, primarily for collection of solid waste from refuse packer trucks, individual residents and businesses which can be deposited into transfer vehicles designed to haul waste over long distances. Any such transfer facility must be an intermediate phase in the treatment of solid waste, and after the solid waste has been deposited into transfer vehicles, it shall be transported from this site.

(b) In addition to any such transfer facility, a resource recovery facility shall be any building, structure, or use of land devoted, or intended to be devoted to receiving certain types of solid waste from county haulers, residents, or businesses for special programs, including citizens' drop-off, an intermediate recycling processing facility, a composting facility, a drop-off or buy-back center for recyclables, or a household hazardous waste program.

(c) However, under no circumstances are the following allowed:

- (1) A facility which is intended to receive and/or transfer hazardous waste received in mixed loads of waste from residential or commercial sources.
 - (2) A disposal facility, as defined in M.S.A. § 115A.03.
- (Code 1980, § 10-91; Code 2004, § 62-153; Ord. No. 88-1063, 2-4-1988; Ord. No. 91-1273, 1-9-1992)

Sec. 129-53. Conditional use permit requirements and approval criteria.

Resource recovery/solid waste transfer facilities may be permitted only as a conditional use within the Heavy Industrial (I-2) Zoning District and shall be subject to all appropriate provisions of this article. Yard waste drop-off facilities

shall not be considered a resource recovery/solid waste transfer station facility as regulated by this article. The council shall consider and make findings with respect to the following criteria:

- (1) The proposed resource recovery/solid waste transfer facility is developed and operated in accordance with all applicable local, state and federal laws, rules and regulations regarding, but not limited to, groundwater pollution, water quality, air pollution, noise, odors, or vibration;
 - (2) The proposed resource recovery/solid waste transfer buildings and/or uses shall be located no closer than 50 feet of any state department of natural resources designated wetland or body of water and be designed and operated according to the applicable rules and regulations of the state department of natural resources;
 - (3) The proposed resource recovery/solid waste transfer buildings shall be located no lower than two feet above the HUD 100-year floodplain as determined by the FEMA west of T.H. 65 and by the city engineer east of T.H. 65;
 - (4) Sufficient safeguards against spills, fires, and explosions are established to protect the public health, safety and welfare to the greatest extent reasonably possible utilizing uniform building code, uniform fire code, and federal hazardous waste regulations as standards, if otherwise applicable to the proposed use;
 - (5) The proposed site for resource recovery/solid waste transfer facilities shall be developed in such a way so as to provide for opaque screening and landscaping to minimize the negative visual impacts from such a facility on any adjacent property;
 - (6) The proposal is consistent with all applicable codes and regulations of this Code;
 - (7) The proposal shall be consistent with the city adopted comprehensive plan;
 - (8) The proposed site for resource recovery/solid waste transfer facilities be developed in such a way so as to provide for adequate off-site access defined as a minimum of a two-lane, nine-ton roadway with turning lanes; and
 - (9) The proposed site shall be reviewed using section 101-4(a).
- (Code 1980, § 10-93; Code 2004, § 62-154; Ord. No. 88-1063, 2-4-1988; Ord. No. 95-1564, 7-6-1995)

Sec. 129-54. Conditional use permit application procedures; revocation, suspension.

- (a) *Procedure.* The procedure for obtaining a conditional use permit is as follows:
 - (1) The applicant shall meet with the zoning administrator to explain the applicant proposals, learn the procedures, and obtain an application form.

- (2) The applicant shall file the completed application form together with the required exhibits with the zoning administrator and shall pay a filing fee as established by action of the city council. All applications for a conditional use permit must be received in the planning and economic development department 30 days prior to a planning commission meeting.
 - (3) The zoning administrator shall transmit the application to the planning commission and shall notify all property owners within 1,000 feet of the outer boundaries of the property in question.
 - (4) The zoning administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in a legal newspaper, not less than ten days and not more than 30 days prior to such hearing.
 - (5) The planning commission shall hold the public hearing and determine possible adverse effects of the proposed conditional use and determine what additional requirements may be necessary to reduce such adverse effects and recommend to the city council one of three actions: approval, denial, or conditional approval.
 - (6) The planning commission shall transmit, within 60 days, its recommendation to the city council for its official action.
 - (7) The city council shall take appropriate action on the request for conditional use permit within 60 days of receiving the recommendations by the planning commission. If it grants a conditional use permit, the city council may impose conditions, including time limits it considers necessary to protect the public health, safety, and welfare, and such conditions may include a time limit for the use to exist or operate.
- (b) *Required application and exhibits for a conditional use permit.*
- (1) Conditional use permit application.
 - (2) Application fee.
 - (3) Property owner's listing/labels within 1,000 feet of the subject site.
 - (4) A narrative of proposed activities.
 - (5) A certified survey showing the following information of a preliminary site plan, a preliminary grading/drainage plan, a preliminary landscape plan, and preliminary building elevation plans.
 - (6) Any other information as required by the city.
- (c) *Revocation /suspension of conditional use permits.*
- (1) Where a conditional use permit has been issued pursuant to provisions of this article, such permit shall become null and void without further action by the planning commission or city council unless construction or uses com-

mences within one year of the date of granting such conditional use. Permitted activities of a conditional use permit shall expire if the specific use is discontinued for more than 12 consecutive months.

- (2) If the applicant violates any of the conditions set forth in the permit, the city council shall have the authority to revoke the conditional use permit following a public hearing. Any order issued pursuant to this article may include a suspension or revocation of the conditional use permit issued under this article, and shall state with reasonable specificity the nature of the violation and specify a time for compliance. Any violation of this article shall be considered a misdemeanor.

(Code 1980, § 10-94; Code 2004, § 62-155; Ord. No. 88-1063, 2-4-1988; Ord. No. 91-1273, 1-9-1992)

Sec. 129-55. Final site plan application and procedure.

(a) *Site plan submission and review.* All building construction and land improvements shall be accompanied by a complete site plan, showing the proposed building, the proposed use of the balance of the property, and any anticipated development phasing. The plan shall show waste disposal, water supply, drainage, ingress and egress, landscaping, screening, and other supportive and pertinent data. Distances to surrounding buildings must also be shown on the site plan. All building permits shall be approved by the zoning administrator following the administrator's review of the site plan for conformity with the city's present development codes and comprehensive plan. The zoning administrator, in the administrator's discretion, may submit the application to the administrative review committee for site plan review. The committee shall also consider the proposed development in terms of its conformity with the city's present development code and comprehensive land use plan. The zoning administrator, with the concurrence of the administrative review committee, may refer the building permit application to the planning commission and city council for its review and approval.

(b) *Plans required.*

- (1) *Certificate of survey.* The certificate of survey shall be drawn at a scale of one inch equals 50 feet, 100 feet, or 200 feet. The certificate of survey shall indicate all existing structures and site improvements.
- (2) *Site plan.* The site plan shall be drawn at a scale of one inch equals 50 feet, 100 feet, or 200 feet. The submission may be composed of one or more sheets and drawings and shall include the location of all proposed buildings and their proposed uses; location of driveways and parking areas; indicate front, rear and side yard setbacks proposed and approved by the community development department; location of all easements, width and purposes; location and size of existing public improvements adjacent to the lot site, excluding sanitary sewer, water main, and storm drainage; location and size

of existing buildings and structures on site and within the distance of 100 feet of the site; existing zoning and land use; location of refuse areas; location of outdoor storage areas; locations and specifications of signs; location and type of lighting.

- (3) *Landscape plan.* The landscape plan shall be prepared at a scale of one inch equals 50 feet and in accordance with the requirements of section 129-7.
- (4) *Grading and drainage plan.* The grading and drainage plan shall be drawn at a scale of one inch equals 50 feet, 100 feet, or 200 feet, and shall contain the following information:
 - a. Existing and proposed grades with a minimum of two-foot contour intervals to a known sea level datum;
 - b. Sufficient spot elevations on all proposed hard surface areas;
 - c. Estimated runoff of the area based upon ten-year and 100-year storm events;
 - d. Provisions to carry runoff to the nearest adequate outlet, such as a storm drain, natural drainageway, or street;
 - e. Location of any proposed ponding areas, indicating the size and depth of the pond and amount of acre feet of water to be stored;
 - f. Finished floor elevations of all buildings;
 - g. Identification of soil conditions by type and location, including identification of the water table, and suitability of soil for proposed development;
 - h. Identification of any areas located within a flood hazard zone as identified by the city's floodplain maps.
- (5) *A topographic map.* The topographic map shall be drawn at a scale of one inch equals 100 feet and shall contain the following information: two-foot contour intervals to a known sea level datum; identification of watercourses, rock outcroppings, and other significant land features. USGS datum shall be used for mapping.
- (6) *Floor plans and elevations.* All floor plans and elevations shall be drawn to a legible scale and include the following information:
 - a. Floor plans indicating square footage and dimensions of all proposed rooms and areas identifying the proposed uses;
 - b. Elevations of the proposed building, identifying exterior treatment materials to be used, and color of paint.
- (7) *Transportation plan.* The transportation plan shall indicate the manner in which all long haul trucks and/or household hazardous waste haulers are

anticipated to enter/exit to and from the site. Such plan shall indicate required truck routings, county/local road designations/impacts, and projected daily trip generations.

(c) *Preparation of plans.*

- (1) Site and landscape plans shall be prepared under the supervision of a landscape architect, architect, or land planner.
- (2) The grading and drainage plan shall be prepared by a registered engineer.
- (3) Floor plans and building elevations shall be prepared by a registered architect or registered engineer.

(d) *Narrative.* A narrative explaining the estimated solid waste proposed to be disposed of, treated, transported, and the time, frequency or rate of which such waste is proposed to be disposed of, treated, transported or stored.

(e) *Time limitations.* If final site plan approval is not granted within a one-year period from the time of the approval of the conditional use permit application, the proposal shall be declared null and void and the applicant will have to refile a preliminary plan and conditional use permit application with the planning and economic development department.

(Code 1980, § 10-95; Code 2004, § 62-156; Ord. No. 88-1063, 2-4-1988; Ord. No. 91-1273, 1-9-1992)

Sec. 129-56. Standards.

The following standards are required for resource recovery/solid waste transfer station facilities:

- (1) *Zoning.* The property must be zoned I-2 Heavy Industrial or I-2A Heavy Industrial.
- (2) *Minimum lot size.* The minimum lot size shall be seven acres. A transfer station can also be collocated with other uses.
- (3) *Transfer station building setbacks.* Transfer station building setbacks are as follows:
 - a. Front yard setback: 150 feet.
 - b. Side yard setback: 100 feet.
 - c. Rear yard setback: 100 feet or 50 feet if adjacent to an airport property.
- (4) *Ancillary building setbacks.*
 - a. Front yard setback: 100 feet.
 - b. Side yard setback: 100 feet or 50 feet if adjacent to an airport property.
 - c. Rear yard setback: 100 feet or 50 feet if adjacent to an airport property.

- (5) *Building height.* The building height shall be 50 feet from the ground level. All buildings shall be sprinkled and contain other fire and life safety standards denoted in NFPA 101 and subject to metropolitan airport commission regulations.
- (6) *Parking and driveways.*
- a. Parking and driveways may be constructed to within the following minimum setbacks of property line:
 1. Front yard/corner site yard setback: 50 feet.
 2. Side yard setback: 50 feet.
 3. Rear yard setback: 50 feet.
 - b. Concrete curbing shall be required along all parking/driveway areas. All parking/driveway areas shall be either concrete or asphalt surfaces.
- (7) *Landscaping.* All landscaping requirements shall meet the provisions of section 129-7, including the following:
- a. Underground irrigation shall be required for all front yards and corner side yards, not left in a natural vegetative condition.
 - b. Traffic safety islands and/or general parking islands, where deemed appropriate, shall be landscaped.
 - c. Minimum plant sizes shall be increased to the following:

Overstory trees	3½-inch caliper ball and burlap
Ornamental trees	3-inch caliper ball and burlap
Conifer trees	15 feet high
Shrubs	3 feet high
 - d. The entire site perimeter shall be screened with landscaping. Such screening can occur anywhere within the parking setbacks and can be achieved by any combination of natural vegetation, new landscaping, berming, or fencing. Newly created site perimeter screening areas shall be designed to achieve year round screening using conifers, evergreen shrubbery, berms, fencing, or a combination thereof.
- (8) *Storage.* Outdoor storage of materials shall be permitted if approved as part of a conditional use permit. All outdoor storage areas to be delineated by permanent fencing.
- (9) *Lighting.* Lighting shall not be directed on another lot or obscure driver's vision on public streets. No freestanding light fixture shall be higher than 20 feet, unless additional pole heights are authorized by separate CUP approval. Such fixtures shall be approved by the planning department and shall be

shielded downlit style. Off-street parking areas shall be illuminated to an average of one footcandle at eye level over the entire surface of the parking area during operating hours.

(10) *Mechanical/electrical equipment.* Equipment on the roof or ground, such as heating, air conditioning, transformers, shall be screened on all sites such as not to be visible from public streets or adjoining property.

(11) *Architectural control.*

- a. All buildings erected shall be a type of construction, as defined in the uniform building code.
- b. Any building shall be constructed so that all exterior sides shall be surfaced equivalent to the front building elevation as determined by the zoning administrator.
- c. Exterior wall surfaces of all building shall be primarily faced with brick, stone, pre-cast panel, cast-in-place panel, architectural concrete in combination with other permitted materials, or glass.
- d. Use of modern metal paneling materials or equivalent shall be considered for exterior wall surfaces provided such materials are used in conjunction with other materials listed in this section. Use of modern metal paneling materials or its equivalent shall not exceed 35 percent of any individual wall surface.
- e. The building design should exhibit architectural control, which seeks to be creative and maximize architectural uniqueness. In addition, the city is desirous of such building design, which will enhance energy conservation and attempt to use active or passive solar design.
- f. All building design and exterior wall surface materials shall be reviewed and approved by the community development department.

(Code 1980, § 10-96; Code 2004, § 62-157; Ord. No. 88-1063, 2-4-1988; Ord. No. 01-1897, 4-5-2001)

Sec. 129-57. Inspections.

(a) For the purpose of enforcing the provisions of this article, any holder of a conditional use permit pursuant to this article shall:

- (1) Furnish information relating to the operation of the resource recovery/solid waste transfer facilities upon the reasonable request of the city manager or fire chief.
- (2) Allow the city manager, fire chief, or other duly authorized city personnel free access to the resource recovery/solid waste transfer facilities at any reason-

able time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this article or other applicable local, state or federal laws, rules or regulations.

- (3) Allow the city manager, fire chief, or other duly authorized city personnel access to records concerning the operation of the resource recovery/solid waste transfer facility.

(b) The existence of any violation of local, state or federal laws, rules or regulations may result in a public hearing for such violations and the identification and implementation of additional safeguards to prevent future violations.

(Code 1980, § 10-97; Code 2004, § 62-158; Ord. No. 88-1063, 2-4-1988)

Sec. 129-58. Notice of spills, leaks, explosions, fires or accidents.

In the event of a spill, leak, explosion, fire or accident occurs at the resource recovery/solid waste transfer station facility which requires notification of the state pollution control agency, pursuant to M.S.A. § 115.061 or which threatens the public health, safety or welfare, then the owner or operator of the facility shall also notify the city manager and the fire chief as soon as reasonably possible after the spill, leak, explosion, fire or accident becomes known. Failure to report such incidents as required shall constitute a misdemeanor.

(Code 1980, § 10-98; Code 2004, § 62-159; Ord. No. 88-1063, 2-4-1988)

Secs. 129-59—129-89. Reserved.

ARTICLE III. HAZARDOUS WASTE TREATMENT FACILITIES

Sec. 129-90. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Disposal means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Hazardous waste means any hazardous waste as defined in M.S.A. § 116.06, subd. 11, and any substance identified as a hazardous waste pursuant to rules adopted by the state pollution control agency under M.S.A. § 116.07 and any hazardous waste as defined in the Resource Conservation and Recovery Act, under 42 USC 6903, which is listed or has the characteristics identified under 42 USC 6921, not including any hazardous waste the regulation of which has been suspended by act of Congress.

Hazardous waste generation means the act or process of producing hazardous waste.

Hazardous waste management means the systematic control of the collection, source separation, storage, transportation, processing, treatment and disposal of hazardous waste.

Manifest means the form used for identifying the quantity, composition and origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.

Sludge means any solid, semisolid or liquid waste generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.

Solid waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, 42 USC 2011 et seq.

Storage means, when used in connection with hazardous waste, the containment within a building of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

Treatment means, when used in connection with hazardous waste, any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. The term "treatment" includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(Code 1980, § 10-72; Code 2004, § 34-191; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

Sec. 129-91. Intent.

Millions of gallons and thousands of cubic feet of hazardous waste are handled in the metropolitan area each year. In order to protect the environment and quality of

life, these materials must be disposed of in a safe and proper manner. If the city is selected as a site for a hazardous waste facility, it is incumbent upon the city to ensure proper management of these materials. Therefore, the purposes of this article are to ensure that:

- (1) Hazardous waste facilities are sited in a manner consistent with the public health, safety and welfare;
- (2) The risks to adjoining properties and the community, in general, are minimized to the greatest extent reasonably possible; and
- (3) The decisions with regard to the siting of hazardous waste facilities are made in an objective fashion.

(Code 1980, § 10-70; Code 2004, § 34-192; Ord. No. 765, 10-21-1982)

Sec. 129-92. Requirements; restrictions.

For the purposes of this article, a hazardous waste facility shall be a building, structure or use of land devoted, or intended to be devoted, primarily for changing by any method, technique or process, including neutralization, the physical, chemical or biological character of any waste material, so as to neutralize such material or render it nonhazardous, safer for transport, amenable for recovery, storage, or reduced in bulk. Any facility must be an intermediate phase in the treatment of hazardous waste, and after the waste has been treated, it shall be transported from this site. However, under no circumstances are the following allowed:

- (1) A facility which manufactures hazardous materials from components of nonhazardous materials;
- (2) A disposal facility, as defined in M.S.A. § 115A.03;
- (3) No outside storage of hazardous waste at any time; and
- (4) A facility for the treatment of hazardous waste, which is clearly subordinate, incidental and related to the principal structure, building or use of land, and is located on the same lot as the principal structure, building or use.

(Code 1980, § 10-71; Code 2004, § 34-193; Ord. No. 765, 10-21-1982)

Sec. 129-93. Conditional use permit requirements and approval criteria.

Hazardous waste facilities may be permitted only as a conditional use within the heavy industrial zoning district, and shall be subject to all appropriate provisions of this article and approved only if consistent with all of the following objectives:

- (1) The proposed hazardous waste facility is developed and operated in accordance with all applicable local, state and federal laws, rules and regulations.
- (2) The hazardous waste facility is developed and operated in such a manner so as to minimize the possibility of groundwater pollution to the greatest extent

possible in order to maintain the chemical, physical and biological integrity of the nation's waters, in order to achieve and maintain a level of water quality which provides for the protection and propagation of fish, shellfish, wildlife, plant life and for recreation in and on the water.

- (3) The proposed hazardous waste facility is developed and operated in such a manner so as to minimize air pollution to the greatest extent possible.
- (4) The proposed hazardous waste facility is located no closer than 1,500 feet of any HUD floodplain, shoreland, wetland, body of water, or groundwater recharge area or aquifer, in order to protect potential drinking water sources.
- (5) Sufficient safeguards against spills, fires, and explosions are established to protect the public health, safety and welfare to the greatest extent possible.
- (6) The proposed site for hazardous waste facilities is developed in such a way so as to provide for opaque screening and landscaping to minimize the negative visual impacts from such a facility on any adjacent property.
- (7) The proposal is consistent with all applicable codes and regulations of this Code.
- (8) The proposal is consistent with the comprehensive plan.
(Code 1980, § 10-73; Code 2004, § 34-194; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

Sec. 129-94. Conditional use permit application procedures.

(a) Prior to the submittal of a conditional use permit application, the developers or owners of the proposed facility shall meet with the zoning administrator to review all applicable ordinances, regulations and future plans for the area adjacent to the property being developed.

(b) The developers or owners of the proposed facility shall prepare preliminary drawings in accordance with the regulations of section 129-99 and submit the same to the zoning administrator, 60 days prior to the public hearing.

(c) Upon staff approval of the application for hazardous waste facilities, the application will be scheduled for review by the administrative review committee.

(d) The application for the conditional use permit will then be scheduled for a public hearing before the planning commission.

(e) The notice for public hearing shall be published in the official newspaper at least ten days, but not more than 20 days, prior to the public hearing, at which time the item will be heard. Notices will also be sent during this time period to property owners within 1,000 feet of the subject property.

(f) The planning commission shall hold a public hearing on the proposed conditional use permit. Following the public hearing, the planning commission shall, within 90 days, submit in writing, to the city council, its report, its findings, and its recommendation as to the appropriateness of the proposed development and shall recommend approval, modifications, postponement or disapproval, based upon the criteria set forth in sections 129-92 and 129-93.

(g) The application for the conditional use permit shall be scheduled for a city council meeting.

(h) The city council shall consider the application pursuant to sections 129-92 and 129-93 and shall approve, disapprove, postpone or modify the proposal.

(i) After city council approval of the application for a conditional use permit and the approval of the preliminary plans, the owners or developers shall file final plans with the planning and economic development department. The final plans shall be processed in the same manner as the conditional use permit and preliminary plans. A certified copy of the conditional use permit shall be recorded in the office of the county recorder or registrar of titles, pursuant to M.S.A. § 462.3595, subd. 4.

(j) Should the city council disapprove the application for a conditional use permit and preliminary plans, the owners or developers may prepare another preliminary plan and resubmit to the zoning administrator.

(Code 1980, § 10-74; Code 2004, § 34-195; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

Sec. 129-95. Changes in plans.

(a) *Major changes.* If the applicant proposes major changes in the final site plan that are inconsistent with the preliminary site plan, these changes can only be made by resubmission of a new preliminary site plan and new conditional use permit application to the zoning administrator and rescheduling of a new public hearing before the planning commission, and reviewal again by the city council. The following constitute major changes:

- (1) Increase in the size of the proposed structure or development;
- (2) Change in architectural design or style;
- (3) Increase in the height of the building;
- (4) A major modification to the landscape plan;
- (5) A significant reduction in proposed open space and buffering;
- (6) A change in the development schedule;
- (7) Change in road location or standards; and
- (8) Other changes as determined to be major by the city council.

(b) *Minor changes.* The city council may, in its discretion, permit minor deviations from the preliminary site plan, which do not change the concept or intent of the proposed development as previously approved.

(Code 1980, § 10-75; Code 2004, § 34-196; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

Sec. 129-96. Time limitations.

If final approval is not granted within a 12-month period from the time of the approval of the conditional use permit application and preliminary plans, the proposal shall be declared null and void and the applicant will have to refile a preliminary plan and conditional use permit application with the zoning administrator.

(Code 1980, § 10-76; Code 2004, § 34-197; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

Sec. 129-97. Standards.

The following standards are required for hazardous waste treatment facilities:

- (1) *Zoning.* The property must be zoned I-2 Heavy Industrial or I-2A Heavy Industrial.
- (2) *Setbacks.* Minimum setbacks from property line, major roads, and other buildings, shall be 200 feet. Minimum setbacks from any residential structure shall be one-half mile.
- (3) *Lot size; lot coverage; building height.* Minimum lot size shall be ten acres; maximum lot coverage shall be 25 percent; maximum area for parking shall be 25 percent; maximum building height shall be 40 feet; building materials shall be concrete, wood, or brick; and no metal buildings shall be allowed.
- (4) *Landscape area.* Minimum landscape area shall be 50 percent.
- (5) *Screening.* The entire site shall be opaquely screened so that the building or parking or storage areas cannot be seen from a public street.
- (6) *Minimum plant sizes.* Shade trees shall be 3½-inch caliber; small trees shall be three-inch caliber; flowering trees shall be three-inch caliber; shrubs shall be three feet in height; and coniferous trees shall be 12 to 15 feet in height.
- (7) *Water migration; ponding.* No migration of water overland shall be permitted beyond the property lines. All ponding of water shall be contained on the site and provisions made to contain all water runoff outside or inside of the facility and shall not be discharged into the municipal sanitary sewer system or any stormwater system or ditch.

- (8) *Parking areas.* Concrete curbs shall be required along all parking areas. All parking areas shall be concrete surfaces.
- (9) *Storage.* No outdoor storage shall be permitted.
(Code 1980, § 10-77; Code 2004, § 34-198; Ord. No. 765, 10-21-1982)

Sec. 129-98. Recordkeeping.

The operators of the hazardous waste facility shall maintain records of all hazardous waste identified or listed which is treated, disposed of or stored and the manner in which such waste is to be treated, stored or disposed of. The operators of the facility shall submit a quarterly report to the city council, identifying the treatment, storage or disposal of all such waste received by the facility.
(Code 1980, § 10-78; Code 2004, § 34-199; Ord. No. 765, 10-21-1982)

Sec. 129-99. Preliminary plans required.

(a) *Maps.* The applicant shall submit maps of the area within one-half mile of the exterior property lines of the proposed site, and including the proposed site, which show:

- (1) All dwelling units, other principal buildings and structures and streets;
- (2) All significant topographical features;
- (3) All surface water;
- (4) Wetlands;
- (5) All sanitary sewer systems;
- (6) All stormwater management systems; and
- (7) All wells.

(b) *Engineering certification.* The applicant shall submit an engineering certification for the proposed site and the area within one-half mile of the proposed site concerning the following factors:

- (1) Depth to seasonally high water table;
- (2) Soil drainage, composition, thickness in permeability;
- (3) Flooding, groundwater recharge areas, aquifers and floodplains;
- (4) Depth to bedrock; and
- (5) Prevailing wind conditions.

(c) *State and county certification.* The applicant shall submit certification from the state pollution control agency, county health board, metropolitan council, state environmental quality board, state waste management board, and the Environmental

Protection Agency that the use for the proposed site is in compliance with the appropriate local, state and federal laws, rules and regulations governing air quality standards, water quality standards, and wastewater standards.

(d) *Narrative.* The applicant shall submit a narrative explaining the estimated composition, quantities and concentrations of any hazardous waste identified or listed by this article, or combinations of any such hazardous waste and any other solid waste, proposed to be disposed of, treated, transported, or stored and the time, frequency or rate of which such waste is proposed to be disposed of, treated, transported or stored.

(e) *Preliminary site plan.* The preliminary site plan shall be drawn at a scale of one inch equals 50 feet. The submission may be composed of one or more sheets and drawings and shall include:

- (1) Location of all proposed buildings and their proposed uses;
- (2) Location of driveway and parking areas;
- (3) Front, rear and side yard setbacks;
- (4) Square footage and dimensions of all proposed buildings; and
- (5) Location of all easements width and purpose.

(f) *Landscape plan.* The landscape plan shall be drawn at a scale of one inch equals 50 feet and shall contain the following information:

- (1) Areas for berming, sodding and screening;
- (2) Location of proposed plantings, identifying materials as shade tree, flowering tree, coniferous tree or shrubs;
- (3) Location of any existing vegetation; and
- (4) Location of any trees to be removed.

(g) *Grading and drainage plan.* A grading and drainage plan shall be drawn at a scale of one inch equals 100 feet and shall contain the following information:

- (1) Existing and proposed grades with a minimum of two-foot contour intervals to a known sea level datum;
- (2) Spot elevations on all proposed hard surface areas;
- (3) Estimated runoff of the area based upon ten-year and 100-year storms;
- (4) Location of proposed ponding areas indicating the size and depth of the pond, and amount of acre feet of water to be stored; and
- (5) Finish floor elevations of all buildings.

(h) *Floor plans and elevations.* All floor plans and elevations shall be drawn to a legible scale and include the following information:

- (1) Floor plans indicating square footage and dimensions of all proposed rooms and areas within the structure, identifying the proposed uses for each room; and
- (2) Elevations of the proposed building, identifying exterior treatment, such as materials to be used and the color of the paint.

(Code 1980, § 10-79; Code 2004, § 34-200; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

Sec. 129-100. Final plans required.

(a) *Final site plan.* A final site plan shall be prepared at a scale of one inch equals 50 feet and shall contain the following information:

- (1) Location of proposed buildings;
- (2) Location of proposed driveways and parking areas;
- (3) Front, rear, and side yard setbacks; and
- (4) Square footage of all proposed buildings.

(b) *Final landscape plan.* A final landscape plan shall be drawn at a scale of one inch equals 50 feet and shall contain the following:

- (1) Plant types (botanical and common names), number, location, size, and method of installation;
- (2) Areas to be sodded;
- (3) Location of existing vegetation;
- (4) Location of trees to be removed.

(c) *Final grading and drainage plan.* A final grading and drainage plan shall be drawn at a scale of one inch equals 100 feet and shall contain the following information:

- (1) Existing and proposed grades with a minimum of two-foot contour intervals to a known sea level datum;
- (2) Sufficient spot elevations on all proposed hard surface areas;
- (3) Estimated runoff of the area based upon ten-year and 100-year storms;
- (4) Location of any proposed ponding areas, indicating the size and depth of the pond and amount of acre feet of water to be stored;
- (5) Finish floor elevations of all buildings; and
- (6) Identify soils by type and location, including identification of the water table, and suitability of soil for the proposed development.

(d) *Final floor plans.* Final floor plans, construction drawings and elevations shall be drawn to a legible scale and shall include the following information:

- (1) Plans indicating square footage, dimension, and uses of all proposed areas within the building; and
- (2) Elevations of the proposed building, identifying exterior treatment, such as materials to be used and the color of the paint.

(Code 1980, § 10-80; Code 2004, § 34-201; Ord. No. 765, 10-21-1982)

Sec. 129-101. Inspections.

For the purpose of enforcing the provisions of this article, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous waste shall furnish information relating to such waste upon request of the following persons: city building official; zoning administrator; police chief; city manager; or the fire chief. Such persons at all reasonable times shall have access to and the right to copy all records relating to such waste.

- (1) Any duly authorized city personnel shall be allowed at any reasonable time to enter any establishment or other place where hazardous wastes are or have been stored, treated, or transported from.
- (2) Any duly authorized city personnel shall be allowed to inspect and obtain samples from any person of any such waste and samples of any containers or labeling for such containers.
- (3) Any duly authorized city personnel can at any time, without prior consent, inspect the site for the possibility of any leakage, spills or violations of any local, state or federal law, rules or regulations.
- (4) Any records, reports, or information obtained by the city shall be made available to the public.
- (5) The existence of any violation of local, state or federal laws, rules or regulations shall require the closing of such facility until it has been determined by public hearing the reasons for such violations and the identification and implementation of additional safeguards to prevent future violations.

(Code 1980, § 10-81; Code 2004, § 34-202; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

Sec. 129-102. Requirements of compliance orders.

Any order issued pursuant to this article may include a suspension or revocation of the conditional use permit issued under this article, and shall state with reasonable specificity the nature of the violation and specify a time for compliance. Any violation of this article shall be considered a misdemeanor.

(Code 1980, § 10-82; Code 2004, § 34-203; Ord. No. 765, 10-21-1982)

Sec. 129-103. Monitoring analysis and testing.

(a) If the administrator, as designated by the city manager, determines that the presence of any unauthorized hazardous wastes are being stored, treated, or disposed of, the administrator may demand that the facility be closed within eight hours upon written notice.

(b) If the administrator determines that the release of any materials from a hazardous waste facility or site may present a substantial hazard to human health or the environment, the administrator may issue an order requiring the owner or operator of the facility to conduct such monitoring, testing, analysis and reporting with respect to such facility or site as the administrator deems reasonable to ascertain the nature and extent of such hazard, including spills, leaks, explosions and fire.

(c) If the administrator determines that the owner or operator is unable to conduct monitoring, testing and analysis, or reporting satisfactory to the administrator and if the administrator deems any such action carried out by the owner or operator to be unsatisfactory or if the administrator cannot initially determine that there is an owner or operator who is able to conduct such monitoring, testing or reporting, the administrator may:

- (1) Conduct monitoring, testing or analysis, which the administrator deems reasonable, to ascertain the nature and extent of the hazard associated with the site concerned; or
- (2) Authorize the state or a local authority or other person to carry out any such action; and
- (3) Require the owner or operator to pay for the cost of monitoring, testing or analysis done by outside agencies, or individuals.

(Code 1980, § 10-83; Code 2004, § 34-204; Ord. No. 765, 10-21-1982)

Sec. 129-104. Notice of spills, leaks, explosions, fires or accidents.

In the event of any spill, leak, explosion, fire or accident, the owner or operator of the facility is required, within a one-hour time period, to notify the following individuals: city manager, fire chief, police chief, metropolitan council, state waste management board, county health department, and state pollution control agency. Failure to report such incidents within the one-hour period shall constitute a misdemeanor.

(Code 1980, § 10-84; Code 2004, § 34-205; Ord. No. 765, 10-21-1982)

Sec. 129-105. General findings.

As a prerequisite to the approval of the application for the conditional use permit, the city council shall find that the evidence presented established that:

- (1) Safe and adequate access to the facility for general, service, and emergency purposes will be provided from nonresidential major thoroughfares, and will not require the use of any residential collector or residential local streets.

- (2) The operation of the facility will not produce fumes, odors, noise, dust, smoke or gases which will adversely affect nearby properties.
 - (3) The types of soil under and within one-quarter of a mile of all portions of the proposed site to be used for storage, treatment, loading and handling of hazardous materials, as well as under all paved surfaces or roads leading to the facilities, shall not have a natural percolation rate in excess of 0.75 gallons per day per square foot.
 - (4) All surface water, groundwater, sanitary sewer systems, and stormwater systems will be protected so as to minimize to the greatest extent the probability of contamination by hazardous waste.
 - (5) The use of the proposed site for hazardous waste treatment will not endanger the public health or safety, or substantially reduce the value of adjoining or nearby property.
- (Code 1980, § 10-85; Code 2004, § 34-206; Ord. No. 765, 10-21-1982)

Chapter 130—132

RESERVED

CD130:1

Chapter 133

SIGNS

- Sec. 133-1. Purpose; intent.
- Sec. 133-2. Definitions.
- Sec. 133-3. Nonconforming signs.
- Sec. 133-4. Prohibited signs.
- Sec. 133-5. General requirements and standards for permitted signs.
- Sec. 133-6. Permitted signs—No permit required.
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- Sec. 133-10. Permits.
- Sec. 133-11. Removal.
- Sec. 133-12. Temporary signs.
- Sec. 133-13. Enforcement.
- Sec. 133-14. Notice of public hearing signs.
- Sec. 133-15. Substitution.

Sec. 133-1. Purpose; intent.

(a) The purpose of this chapter is to protect and promote the public health, safety, and general welfare of the citizens of the city through the establishment of a comprehensive and impartial set of regulations governing the erection, display, and use of signs serving as a visual media to persons on public or private properties within the city.

(b) These regulations are intended to:

- (1) Preserve and protect property values and civic beauty, and not allow signs which detract from this objective due to excess size, height, number, visual impact, undesirable location, maintenance (or lack thereof), spacing, or illumination.
- (2) Provide for signs which are compatible with their surroundings and appropriate to the type of activity to which they pertain.
- (3) Control signs which invade privacy, constitute a public nuisance, or increase the likelihood of accidents by distracting attention or obstructing vision.
- (4) Establish standards which will permit businesses a reasonable and equitable opportunity for effective communication, but will avoid excessive and unreasonable visual competition among sign displays.
- (5) Allow a reasonable freedom of choice, while promoting a concern for the visual amenities on those persons designing, displaying, erecting, or utilizing signs in the city.
- (6) Assure that the public health, safety, and general welfare of the citizens of the city is preserved.

(Code 2004, pt. 3, § 34.01; Ord. No. 85-877, 5-16-1985; Ord. No. 20-2447, 7-20-2020)

Sec. 133-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Billboards means a sign located on premises other than where the establishment, product, service, or activity is located, manufactured, or sold, offered, displayed or conducted.

Canopy means a roof-like structure projecting from and attached to a building.

Display window means a window in a business establishment used to display wares or services.

Establishment means:

- (1) A distinct business entity situated in a single building;

- (2) A distinct business entity located in a structure attached to other similar structures by common walls and ceilings or floors, or attached by means of an enclosed arcade;
- (3) A distinct business entity contained within a single structure and not separated by walls or other physical barrier, but distinct because of its existence as a single lease space and operation by a separate entrepreneur, or by its singularity of purpose carried on by a single proprietor or separate proprietors.

Highway 65/Main Street Interchange District means a district for purposes of allowing additional signage in a specified area, described as all commercially zoned property located within 1,200 feet of the Centerline of Highway 65 and between 600 feet south of the Centerline of 121st Avenue and 600 feet north of the Centerline of 129th Avenue.

Major shopping center commercial complex means a retail area or commercial complex, including sports or entertainment facilities which comprise at least 100,000 square feet of occupied building area or complex area. The square footage will be based only on facility space utilized by occupants or patrons.

Nonconforming sign means a sign which lawfully existed at the time of the adoption of this part, which does not conform to the requirements hereof.

Regional recreation complex means a defined group of adjacent and related athletic and recreation facilities within the regional recreation zone with a combined area of at least 100 acres.

Regional shopping center/commercial complex means a retail area or commercial complex, including sports or entertainment facilities which comprise at least 500,000 square feet of occupied building area or complex area. The square footage will be based only on facility space utilized by occupants or patrons.

Roofline means, in structures with a flat roof, the top line of the coping; in structures with pitched roofs, the intersection of the outside wall with the roof.

Sign means any letters, words, symbols, poster, picture, device reading matter, or representation in the nature of a message, announcement, visual communication, or advertisement whether printed, painted, posted, affixed, constructed, or displayed for the purpose of information or communication. The term "sign" includes sign structural supports, uprights, bracing and framework. The term "sign" shall specifically include architectural or graphic features which are intrinsically associated with a particular product, good, service, business, firm corporation, or profession.

Sign, abandoned, means a sign which no longer correctly advertises a bona fide business, lessor, lessee, owner, activity, use, product, or service available on the premises where the sign is displayed for a continuous period of three months.

Sign, banner, means a flexible piece of cloth, nylon, canvas, plastic, or similar material upon which copy, images, branding, colors and the like may be located.

Sign, changeable copy, means a sign designed to permit an immediate change of copy which may be other than the name of the business such as readerboards and billboards.

Sign, directional, means a sign, the primary function of which is to provide location directions.

Signs, electronic readerboard, means a sign which uses artificial lights as an integral part of the message. The message is changed by electronic means, not manually.

Sign, feather, means a freestanding temporary sign consisting of a piece of flexible cloth, plastic or other similar material that is attached lengthwise to a single pole and designed to flutter/wave in the wind.

Sign, flashing, means any illuminated sign that has artificial light or color which is not maintained at a constant intensity or color when such sign is in use. A flashing sign shall not include electronic readerboard signs, providing the sign is in compliance with section 133-7.

Sign, freestanding, means a sign that is supported by upright braces or posts placed in the ground, rather than affixed to any part of the building.

Sign, gross surface area of, means that physical area of the sign constituted as the face upon which the advertisement is borne. The gross surface area shall be that area enclosed within the smallest rectangle needed to encompass completely all letters, insignias or symbols of the sign, including horizontal spacing between letters, insignias or symbols, and including the physical area constituting the face of the sign. This shall be determined using one side of a double-faced sign. Architectural columns or significant architectural features constructed on the front of a building as determined by the zoning administrator may be subtracted from the area calculated for allowable square footage for a permitted sign.

Sign, identification, means any sign, the primary function of which is to identify an establishment located upon the premises where such is located, or to which such sign is affixed.

Sign, illuminated, means any sign that is lighted by artificial means.

Sign, monument style, means a freestanding sign that contains a solid or enclosed base and where the sign support posts is/are not visible. Base shall be constructed of materials that are consistent with and complementary to the building. Width of base to be a minimum of two-thirds the width of sign face.

Sign, noncommercial, means a sign not bearing a message advertising a business, profession, commodity, service, or entertainment. The term "noncommercial signs" includes, but is not limited to, signs bearing messages concerning political, religious, social, ideological, public service, and informational topics.

Sign, portable, means a sign so designed as to be movable from one location to another and not permanently attached to the ground or to any immobile structure.

Sign, projecting, means a sign which is affixed perpendicular to the wall of a building or other structure and extends outward from that building wall or structure more than 18 inches.

Sign, roof, means a sign erected or attached in whole or in part upon the roof of a building, or a non-freestanding sign which projects above the roofline of a respective building.

Sig, structure means the supports, uprights, bracing and framework for a sign, including the sign surface itself. In the case of a wall sign, the sign surface constitutes the sign structure. In the case of a sign structure consisting of two or more signs, where the interior angle formed between any of the sides exceeds 15 degrees, each side shall be considered a separate sign structure.

Sign, temporary, means a sign which is erected or displayed for a limited period of time.

Sign, wall, means a sign which is affixed upon and parallel to the wall of a building.

Wall graphic means visual artistic representations, symbols, and affiliations with state, federal, or international organizations.

(Code 2004, pt. 3, § 34.02; Ord. No. 86-934, 6-5-1986; Ord. No. 88-1078, 4-21-1988; Ord. No. 94-1502, 2-17-1994; Ord. No. 97-1637, 2-6-1997; Ord. No. 99-1822, 11-18-1999; Ord. No. 00-1870, 9-21-2000; Ord. No. 07-2119, 5-17-2007; Ord. No. 08-2174, 12-18-2008; Ord. No. 20-2447, 7-20-2020; Ord. No. 23-2535, § 34.02, 12-18-2023)

Sec. 133-3. Nonconforming signs.

(a) The zoning administrator shall order the removal of any sign erected or maintained in violation of the law as it existed prior to the date of adoption of the ordinance from which this subpart is derived, except as provided herein. Removal shall be in accordance with section 133-11.

(b) Whenever the use of a nonconforming sign or an abandoned sign has been discontinued for a period of 12 months, such use shall not thereafter be resumed unless in conformance with this subpart.

(c) All nonconforming signs not otherwise prohibited by the provisions of this chapter shall be removed or shall be altered to conform to the provisions of this chapter

- (1) When the nature of the business conducted on the premises changes and the sign is changed or modified either in shape, size, or legend excluding the legend on changeable copy signs; or
- (2) When the name of the business changes or the sign is changed or modified either in shape, size, or legend; or
- (3) The sign is moved, enlarged or altered in a way which would increase its nonconformity; or
- (4) When the sign is damaged by any means to an extent of more than 50 percent of its replacement cost at time of damage, unless a sign permit application has been applied for within 180 days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this chapter.

(d) Permanent signs which lawfully existed and which do not meet the monument sign requirements of this chapter shall be allowed to continue in use unless required to be modified by site plan improvements or conditional use permit requirements. (Code 2004, pt. 3, § 34.03; Ord. No. 86-934, 6-5-1986; Ord. No. 94-1502, 2-17-1994; Ord. No. 20-2447, 7-20-2020)

Sec. 133-4. Prohibited signs.

The following signs are prohibited:

- (1) Signs that, by reason of position, shape or color, would interfere with the proper function of a traffic sign or signal.
- (2) Signs within a public right-of-way, except for signs installed by governmental subdivisions.
- (3) Signs within an easement, except for signs installed by governmental subdivisions or approved by the holder of the easement.
- (4) Signs that resemble any official marker erected by a governmental agency or that displays such words as "stop" or "danger," which are not erected by legal authority.
- (5) Flashing signs, including indoor signs, which are visible from the public streets.
- (6) Signs or displays with rotating beams or beacons of flashing illumination.
- (7) Signs or sign structures that obstruct any window, door, fire escape, stairway or opening intended to provide ingress or egress for any building structure.
- (8) Balloons, inflatables and stringers.

- (9) Sign posters, that are tacked or posted on trees, fences, utility posts, or other such supports.
 - (10) Portable signs, except as provided in section 133-6, unless approved in conjunction with a special event temporary sign permit, as provided in section 133-12.
 - (11) Roof signs, except for individual channel letters, up to three feet in height, on single-story, flat-roofed buildings without visible supports.
 - (12) Billboards, except as provided in section 133-8.
 - (13) All other signs not expressly permitted by this chapter.
 - (14) Projecting signs.
 - (15) Abandoned signs.
 - (16) Signs with rotating or moving parts.
 - (17) Signs placed on or affixed to vehicles or trailers which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property.
 - (18) Signs which have become rotted, unsafe or unsightly.
 - (19) Signs for citywide community events, sponsored by government or nonprofit organizations unless approved in conjunction with a temporary sign permit, as provided in section 133-12.
- (Code 2004, pt. 3, § 34.04; Ord. No. 86-934, 6-5-1986; Ord. No. 90-1232, 10-18-1990; Ord. No. 20-2447, 7-20-2020; Ord. No. 25-2582, § 34.04, 7-21-2025)

Sec. 133-5. General requirements and standards for permitted signs.

- (a) Where a sign is illuminated, the beam of light shall not shine directly upon any part of a residence or into the street.
- (b) No part of any freestanding sign shall be closer than ten feet from any lot line, or from the public right-of-way.
- (c) When electrical signs are installed, their installation shall be subject to inspection by the department of labor and industry.
- (d) It shall be the responsibility of the lessee, licensee, owner, or agent of the owner of the property to keep the ground under and adjacent to the sign free of weeds and litter.
- (e) The construction of all permitted signs shall be in conformance with the provisions of the state building code. All monument signs taller than ten feet require a building permit in addition to a sign permit.

(f) A sign or its structural components shall not move as a result of wind pressure.

(g) The design and color of all signs shall be compatible with the design and color of the building.

(h) The sign height shall be measured from the normal grade of the lot as approved by the zoning administrator.

(i) The owner of a freestanding sign, who intends to sell portions or otherwise condominiumize a freestanding sign, shall first notify the city of the owner's intent to do so and secondly, receive written verification from the city (zoning administrator) that the sign conforms to current sign standards prior to conveying or condominiumizing said sign.

(j) All temporary signs must be maintained and shall be removed if material shows signs of wear, including, but not limited to, fraying, fading, chipping, or physical damage to the sign structure.
(Code 2004, pt. 3, § 34.05; Ord. No. 86-934, 6-5-1986; Ord. No. 94-1502, 2-17-1994; Ord. No. 96-1609, 6-20-1996; Ord. No. 20-2447, 7-20-2020)

Sec. 133-6. Permitted signs—No permit required.

The following signs are permitted and do not require a permit:

- (1) Identification signs for one- and two-family dwellings, provided that such signs are less than two square feet in area, address numbers exempted.
- (2) Pedestrian, vehicular-traffic, and parking directional signs in parking lots, provided such signs are less than eight square feet in area and less than five feet in height, unless located on the building, provided such sign does not constitute a traffic hazard.
- (3) Traffic control signs, noncommercial governmental signs, local notices, railroad crossing signs, and temporary non-advertising safety or emergency signs.
- (4) Signs denoting the architect, engineer, contractor, or owner when placed upon a worksite, which do not exceed an aggregate of 32 square feet in area. Such signs must be removed ten days after completion of construction.
- (5) Copy of message changing on permitted changeable copy signs, including billboards.
- (6) Noncommercial signs of any size and number may be posted on private property with the permission of the property owner beginning 46 days before the state primary in a state general election year until ten days following the state general election.

- (7) Signs or posters painted on or attached to the inside of a display window occupying less than 25 percent of the display window area. This shall include illuminated signs, but not flashing signs.
- (8) Flags.
 - a. Noncommercial flags.
 - b. Corporate flags or other commercial flags provided the flag meets the following criteria:
 1. Flags must be mounted or flown from a ground- or roof-mounted pole and not affixed to the building wall surface.
 2. Flagpoles must be located on the lot occupied by the business for which the flag identifies.
 3. Flagpoles shall be placed with a minimum setback of 15 feet from any property line.
 4. Flag heights shall not exceed 40 feet in height to the highest point of the flag.
 5. Flags shall not exceed 32 square feet in area.
 6. Multiple flagpoles may be located on a lot with each pole supporting one corporate flag. The number of flagpoles allowed on each site is based on front footage of the lot (address side) divided by 50 feet.
- (9) Temporary displays which are erected to celebrate, commemorate or observe a civil or religious holiday, provided such displays are removed within 30 days after the event or holiday.
- (10) Wall graphics are allowed, provided they are not used for advertising, and provided the approval of the zoning administrator has been granted.
- (11) Real estate signs as follows:
 - a. Temporary signs for the purpose of selling or leasing individual lots or buildings, provided that such signs are less than ten square feet for residential property and 32 square feet for other property, have a maximum height of ten feet, unless located on the building, and provided that only one sign is permitted for each property. The signs must be removed within ten days following the lease or sale.
 - b. One sign per building for the purpose of leasing dwelling units or office space in building containing two or more units, provided such signs are limited to five square feet in area.
 - c. One sign for the purpose of announcing or promoting a residential, commercial, or industrial development shall be allowed subject to the following conditions. Each residential project must contain at least six dwellings or lots. The sign must be located at least 130 feet from any preexisting home. The sign must be removed within two years of

issuance of a first building permit in the development or when the particular development is 90 percent sold or rented, whichever is sooner. Each sign shall not exceed the following size limitations:

1. Project area under ten acres: 32 square feet;
 2. Project area over ten acres: 140 square feet.
- (12) One feather sign with a maximum width of 3.5 feet and a maximum height of 18 feet or a banner with a maximum area of 32 square feet is permitted without a temporary sign permit.
- (13) Interim banner signs for new establishments installed in the location of lawfully existing freestanding or wall signs not to exceed the size of the existing signs. Interim banner signs permitted for new establishments until permanent signs are installed or 60 days, whichever is less.
- (Code 2004, pt. 3, § 34.06; Ord. No. 86-934, 6-5-1986; Ord. No. 97-1656, 5-1-1997; Ord. No. 00-1884, 12-21-2000; Ord. No. 20-2447, 7-20-2020)

Sec. 133-7. Permitted signs—Permit required.

(a) *Commercial (B-2, B-3, B-4, B-5, MU, PBD, DF with commercial land uses) and industrial (I-1, I-1A, I-2, I-2A, DF with industrial land uses) districts.*

(1) *Wall signs.*

- a. Single-tenant buildings. There shall not be more than one wall sign for each principal building except that where the building abuts two or more streets, one oriented to each abutting street, shall be permitted, provided that the design of which is approved by the zoning administrator. The gross surface area of a wall sign shall not exceed ten percent of the area of the building wall, including doors and windows, to which the sign is to be affixed or 200 square feet, whichever is smaller.
- b. Multi-tenant buildings shall have wall signs of similar design. Each tenant is allowed one wall sign in accordance with subsection (a)(1)a of this section, except that a tenant space which has its only entrance on a side of the building not abutting a public street shall be allowed one sign meeting the size requirements of subsection (a)(1)a of this section and located on the same wall as the tenant's only entrance. No signage is permitted for tenant entrances immediately adjacent to residentially-zoned property. Future wall sign permits on multi-tenant buildings, including shopping centers, shall be issued only after the building owners have submitted a comprehensive sign plan approved by the zoning administrator. The comprehensive sign plan shall include similar design standards involving sign material, color, style, spacing, and size.
- c. For those buildings that are allowed multiple wall signs, the zoning administrator has the authority to allow individual wall signs that are

larger than 200 square feet in exchange for reducing or removing other wall signage normally allowed by subsections (a)(1)a and b of this section. In no case shall any individual wall sign occupy more than ten percent of that particular building wall area.

- d. Wall signage elements that are proposed on building elevations that have been designed with significant and material architectural enhancements, above those typically required by the zoning ordinance as determined by the zoning administrator, can be measured as separate areas for calculating the gross surface area of the sign.

(2) *Freestanding signs.*

- a. *Commercial (B-2, B-3, B-4, B-5, MU, PBD, and DF with commercial land use).*
 1. Single-tenant buildings and multi-tenant buildings may have one monument sign up to a maximum of 140 square feet in surface area. Monument signs shall not exceed 14 feet in height.
 2. If a multi-tenant building is not a major shopping center/commercial complex but has a linear frontage of at least 400 feet and abuts a street which is at least an arterial street, one additional monument sign is allowed providing that the area of the additional sign does not exceed 140 square feet and the height does not exceed 14 feet. If the second sign is to be located on the same street frontage as the primary sign, the two signs shall be placed no less than 150 feet apart.
 3. Major shopping centers/commercial complexes are allowed a monument sign up to a maximum of 180 square feet in area and a maximum height of 25 feet. Major shopping center complexes are allowed one additional monument sign per arterial street upon which they front. The width of the base may be reduced to 50 percent of the width of the sign with the zoning administrator's approval.
 4. Businesses on adjoining commercial lots may, subject to the approval of the zoning administrator, request one freestanding sign with multiple business identification in exchange for eliminating or relinquishing the rights, by restrictive covenant, to have individual freestanding signs on their own separate lots. Collaborative signage constructed under this section shall be monument style, with a maximum area of 180 square feet and a maximum height of 18 feet.
 5. Multiple buildings on one parcel that have been granted a conditional use permit may be allowed one monument sign for each building constructed on an area which, if platted, would meet all the lot requirements of the zoning ordinance. One monument sign is

allowed up to a maximum of 140 square feet. All signs thereafter are allowed up to a maximum of 90 square feet. Monument signs shall not exceed 14 feet in height.

6. Permitted freestanding signs under previous subsection (a)(2)a.1 through 5 of this section, and located within the Highway 65/Main Street Interchange District as defined by this subpart, shall be allowed to a height of not more than 50 feet and an area of not greater than 180 square feet. Signs permitted under this section shall have a monument-style base constructed of materials that are consistent with the principal building to a minimum height of six feet. Monument base to be a minimum of two-thirds of the width of the sign.
 7. Restaurants providing a drive-through, take-out service may have additional drive-through signs adjacent to the drive-through lanes, providing that the maximum height of the sign is ten feet and the maximum area is 50 square feet.
 8. Readerboards.
 - (i) Signs included within this section must meet all the requirements of this part.
 - (ii) A minimum display time of four seconds for each message within the frame of the sign is required.
 - (iii) All displays must include and utilize an automatic dimming mechanism that allows the display to adjust brightness to accommodate a brighter light intensity during daylight and dimmer light intensity after dusk.
- b. *Industrial (I-1, I-1A, I-2, I-2A, DF with industrial land uses).*
1. Individual structures and multi-tenant buildings are limited to one monument sign up to a maximum of 80 square feet in surface area and have a maximum height of ten feet.
 2. Readerboards.
 - (i) Signs included within this section must meet all the requirements of this subpart.
 - (ii) A minimum display time of four seconds for each message within the frame of the sign is required.
 - (iii) All displays must include and utilize an automatic dimming mechanism that allows the display to adjust the brightness to accommodate a brighter light intensity during daylight and dimmer light intensity after dusk.

(b) *Neighborhood Business District (B-1).*

- (1) *Wall signs.* There shall not be more than one wall sign for each principal building except that where the building abuts two or more streets, one oriented to each abutting street shall be permitted, provided that the design of which is approved by the zoning administrator. The gross surface area of a wall sign shall not exceed ten percent of the area of the building wall, including doors and windows, to which the sign is to be affixed or 64 square feet, whichever is smaller.
- (2) *Freestanding signs.* Each establishment may have one monument sign with a maximum area of 140 square feet. These signs shall not extend more than 14 feet above ground level.

(c) *Residential districts (R-1, R-1B, R-1A, R-1AA, R-2, R-3, R-4, AG, FR, RE, and DF properties with residential land uses).*

- (1) The following zoning districts are allowed one sign per household for a home occupation:
 - a. R-1, R-1A, R-1AA, R-1B, RE, R-4, R-2, and DF properties with residential land uses: one wall sign not to exceed 2.5 square feet.
 - b. FR, AG: one wall sign not to exceed 2.5 square feet or one freestanding sign not exceeding 2.5 square feet in area nor exceeding four feet in height.
- (2) Churches, synagogues, temples and other public places, and residential subdivisions or multifamily complexes may have one monument sign with a maximum area of 36 square feet. Such signs shall not be located more than ten feet above ground level.
- (3) Churches, schools and similar public facilities in residential zoning districts may have an electronic readerboard, provided the requirements of subsection (a)(2)a of this section have been met and the sign is located adjacent to a collector or arterial road as designated in the city's comprehensive plan.
- (4) Churches, schools, fire stations, golf courses or other public buildings may have one wall sign. Said sign shall consist of non-illuminated block letters with a maximum area of 80 square feet.
- (5) Golf courses, golf driving ranges, commercial stables, nurseries, garden supply stores and general farming or garden operations in the FR Farm Residential Zoning District may have one monument style freestanding sign with a maximum area of 36 square feet and a maximum height of ten feet above ground level.

(d) *Area identification signs.* Signs erected for the sole purpose of identifying the name of a recognized commercial or industrial area (not shopping center) shall be permitted in all commercial or industrial districts. Area identification signs are

SIGNS

subject to the approval of the zoning administrator, provided that the monument sign does not exceed 50 square feet in area and 14 feet in height. An accompanying landscape plan is required with this permit. A written statement must also be submitted indicating the party responsible for the maintenance of the sign.

(e) *Planned office district (POD).*

(1) *Monument signs.* One monument sign shall be permitted per lot.

- a. Said sign shall be no greater than 50 square feet in size and stand no higher than ten feet nor longer than 14 feet.
- b. Said sign shall be constructed of the same exterior material as the front of the building and be architecturally compatible with the building.
- c. Said sign may be illuminated internally or by ground lighting only.
- d. Lots occupied and having at least 400 feet frontage on a second public street may be allowed an additional freestanding monument sign along its second public street frontage.

(2) *Wall signs.*

- a. One wall sign shall be permitted per building.
 1. Said signs shall not be greater than 50 square feet in size.
 2. Said signs may be illuminated, if illumination is achieved through shielded illumination, shielded silhouette lighting, or shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters.
- b. No other signs shall be permitted except building safety, address and traffic signs which must be approved by the city on the site plan.

(f) *Regional recreation.*

(1) *Wall signs.*

- a. There shall not be more than one wall sign for each principal building except that, where the building abuts two or more streets, one oriented to each abutting street shall be permitted, provided that the design of which is approved by the zoning administrator. The gross surface area of a wall sign shall not exceed ten percent of the area of the building wall, including doors and window, to which the sign is to be affixed or 200 square feet, whichever is smaller.
- b. For those buildings that are allowed multiple wall signs, the zoning administrator has the authority to allow individual wall signs that are larger than 200 square feet in exchange for reducing or removing other wall signage normally allowed by subsection (f)(1)a of this section. In no case shall any individual wall sign occupy more than ten percent of that particular building wall area.

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- c. Sponsor boards which advertise products or businesses not connected with the site or building on which they are located shall be permitted on Regional Recreation (RR) zoned property. This signage shall meet the requirements of subsection (f)(1)a and b of this section.

(2) *Freestanding signs.*

- a. Each outdoor athletic field and each parking lot is allowed one freestanding sign with a maximum height of eight feet and a maximum area of 32 square feet.
- b. Each entrance to a regional recreation complex from a public road is permitted one freestanding sign with a maximum height of eight feet and a maximum area of eight square feet.
- c. Each intersection of two public roads is permitted one freestanding sign with a maximum height of eight feet and a maximum area of 40 square feet.
- d. Regional recreation complexes are allowed a monument sign up to a maximum of 180 square feet in area and a maximum height of 25 feet. Regional recreational facilities area allowed one additional monument sign per arterial street upon which they front. The width of the base may be reduced to 50 percent of the width of the sign with the zoning administrator's approval.

(Code 2004, pt. 3, § 34.07; Ord. No. 86-934, 6-5-1986; Ord. No. 87-1045, 12-17-1987; Ord. No. 90-1180, 1-18-1990; Ord. No. 90-1212, 7-19-1990; Ord. No. 92-1281, 3-5-1992; Ord. No. 92-1282, 3-5-1992; Ord. No. 94-1502, 2-17-1994; Ord. No. 95-1574, 9-21-1995; Ord. No. 96-1594, 4-18-1996; Ord. No. 97-1637, 2-6-1997; Ord. No. 98-1727, 6-25-1998; Ord. No. 98-1747, 10-15-1998; Ord. No. 98-1755, 11-19-1998; Ord. No. 00-1865, 8-17-2000; Ord. No. 00-1870, 9-21-2000; Ord. No. 06-2095, 5-4-2006; Ord. No. 07-2119, 5-17-2007; Ord. No. 08-2168, 11-6-2008; Ord. No. 13-2271, 8-15-2013; Ord. No. 20-2447, 7-20-2020; Ord. No. 22-2494, 1-19-2022; Ord. No. 24-2568, § 34.07, 11-18-2024)

Sec. 133-8. Billboards.

(a) *Generally.* Outdoor advertising structures and billboards which advertise products or businesses not connected with the site or building on which they are located shall be permitted only on property which is zoned Light Industrial (I-1, I-1A), Heavy Industrial (I-2, I-2A), Planned Business District (PBD), Community Commercial (B-2) or Regional Commercial (B-3).

(b) *Restriction.* Billboards shall be restricted to property adjoining Interstate Highway 35W and U.S. Highway No. 10.

(c) *Size.*

- (1) The maximum gross surface area of a billboard shall be 700 square feet. Two facings per structure shall be the maximum permitted, and double-faced

signs shall be attached back to back with the internal structure or framework concealed. Temporary extensions can extend from the top or sides of the sign to not more than 25 percent of the total area of the primary sign face.

- (2) The billboard shall have a maximum height of 50 feet above the elevation grade of the road to be read to, except that a sign between 50 feet and 65 feet in height may be allowed by conditional use permit, to enable the proposed sign to be fully seen over artificial structures, such as MnDOT sound walls, bridges, etc.

(d) *Location.*

- (1) The minimum linear distance between billboards on the same side of the highway shall be 550 feet.
- (2) The minimum setback from any property line shall be 20 feet.
- (3) The minimum setback at any intersection shall be 100 feet.
- (4) No billboard or structure shall be located within 100 feet of a residential district.

(e) *Design requirements—Generally.*

- (1) All visible sign support columns shall be concealed with approved architectural embellishments.
- (2) The materials used in the sign support embellishments shall be primarily natural stone, brick, approved masonry panels, stucco, or architectural metal. All sign materials and architectural design shall be consistent with the quality and appearance standards suggested by the city's Highway 65 overlay.
- (3) All sign structures shall incorporate the city's logo near the top of the sign support in a design and style as approved by the city.
- (4) A billboard shall require the issuance of a sign permit, pursuant to section 133-10.

(f) *Design requirement—Dynamic (electronic) message signs.*

- (1) Changeable messages must be displayed with minimum time duration of eight seconds. All messages must be complete and cannot carry over or lead into a subsequent message.
- (2) Lighting must be set at the minimum level necessary to provide clear viewing from the right-of-way and must be shielded from side or top view to minimize glare.
- (3) Messages cannot be animated, moving, flashing, scrolling or crawling.

(4) Dynamic signs must contain a public service agreement allowing the city the ability, if the city participates, at no cost to the city, to provide up to 800 eight-second public service messages per month.

(5) Sign must be part of the state's public safety alert system.

(g) *Removal of signs.* It shall be the responsibility of the billboard owner to send written notification to the office of community development when a billboard has been removed from the city.

(h) *Other regulations.* The building inspection department shall order the removal of any billboard or advertising structure erected or maintained in violation of the law as it exists prior to the effective date of the ordinance from which this subpart is derived, as provided in section 133-13. Other advertising structures or billboards existing on the effective date of the ordinance from which this chapter is derived and not conforming to the provisions of this chapter, shall be regarded as nonconforming signs.

(Code 2004, pt. 3, § 34.08; Ord. No. 85-877, 5-16-1985; Ord. No. 86-934, 6-5-1986; Ord. No. 10-2204, 6-17-2010; Ord. No. 20-2447, 7-20-2020)

Sec. 133-9. Off-site directional signs.

(a) Off-site directional signs are limited in wording to include only the name of the organization or business, the distance to same, and a directional arrow. Organizations or businesses utilizing off-site directional signage are limited to permitted or conditional uses currently operating within the existing FR Farm Residential zoning district.

(b) Signs shall be limited to property with frontage along Lexington Avenue, Radisson Road, and Main Street (125th Avenue NE) and be placed only on parcels zoned FR Farm Residential.

(c) Signs shall be a maximum of 15 square feet in area and mounted on an approved sign standard. The sign standard shall not exceed eight feet in height.

(d) No two signs shall be closer together than 300 feet.

(e) There shall be not more than one off-site directional sign permitted for each business or organization.

(f) A permit will be required for all signs. The permit shall give exact location of sign standard, height of same, and the name of the organization or business to be designated on the sign. The permit must be signed by the applicant and the owner of the property on which the standard is to be located. Not more than one sign is permitted per parcel of record. Signs shall have a minimum ten-foot setback from all property lines.

(Code 2004, pt. 3, § 34.09; Ord. No. 86-934, 6-5-1986; Ord. No. 98-1727, 6-25-1998; Ord. No. 20-2447, 7-20-2020)

Sec. 133-10. Permits.

(a) *Sign permits.* No sign shall hereafter be erected, re-erected or altered, including the replacement of the business message, except permitted changeable copy signs, unless a permit for each sign has been obtained, unless no permit is required pursuant to section 133-6. In addition, electrical permits shall be obtained for all electric signs. Application for a sign permit shall be made in writing on forms furnished by the community development department. Such application shall contain the location by street and number of the proposed sign structure, the erector, a scale drawing of the sign indicating material copy, and color location. Maintenance of signs, including repainting without changing the wording, composition, size, or colors; or minor nonstructural repairs, (except electrical repairs) shall not require a permit.

(b) *Sign permit fees.* Permit fees shall be in accordance with a fee schedule as adopted by city council. A double fee shall be charged if a sign is erected without first obtaining a permit for such sign.

(c) *Revocation of permit.* The community development department is authorized to revoke a sign permit upon failure of the holder thereof to comply with any provision of this chapter.

(d) *Expiration of permit.*

(1) A permit shall expire if the sign is not erected within 180 days after issuance and no permit fees or inspection fees for such sign shall be refunded.

(2) A permit shall expire if the use of a sign has been discontinued for a period of 180 days.

(Code 2004, pt. 3, § 34.10; Ord. No. 86-934, 6-5-1986; Ord. No. 20-2447, 7-20-2020)

Sec. 133-11. Removal.

(a) The zoning administrator shall remove any sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public. Any cost of removal incurred by the city shall be assessed to the owner of the property on which such sign is located or may be collected in appropriate legal proceedings.

(b) Signs in violation of this subpart placed on public property or in the public right-of-way are subject to immediate removal.

(Code 2004, pt. 3, § 34.12; Ord. No. 86-934, 6-5-1986; Ord. No. 20-2447, 7-20-2020)

Sec. 133-12. Temporary signs.

(a) The purpose of temporary signage is to allow businesses, institutions, and organizations to promote events, products, and services for a limited time through obtainment of a temporary sign permit.

(b) General standards.

- (1) Temporary signage allocations are per parcel.
- (2) Temporary signs must follow all standards under section 133-5.
- (3) Signs allowed under section 133-6 count towards the maximum signage allowed with a temporary sign permit.

(c) Temporary sign permit. Temporary sign permits are intended to allow businesses and institutions to advertise promotions, events, or services for a limited time on their property, subject to the following standards:

- (1) Permits shall be issued for no more than four weeks per calendar year. Permits shall be issued for a period of no less than seven days at a time.
- (2) The number of temporary signs shall be limited to the following maximum number and types of signs:
 - a. Two banners, each measuring no more than 32 square feet.
 - b. Two feather signs, each measuring no more than 3.5 feet wide and 18 feet in height.
 - c. Five H-frame, A-frame, or other freestanding signage, each limited to no more than six square feet in area.

(d) Special event temporary sign permit. Special event temporary sign permits are intended to allow businesses more types of signage for special events or larger promotional activities, subject to the following standards:

- (1) Permits for special events shall be issued for no more than two weeks per calendar year. Permits shall be issued for a period of no less than seven days at a time.
- (2) The number of special event signs shall be limited to the following maximum number and type:
 - a. One portable sign no more than 48 square feet.
 - b. Three banners, each measuring no more than 80 square feet.
 - c. Five feather signs, each measuring no more than 3.5 feet wide and 18 feet in height.
 - d. Five H-frame, A-frame, or other freestanding signage, each measuring no more than six square feet in area.

(e) The fee for temporary sign permits shall be established in accordance with the city's adopted fee schedule. The fee for religious institutions, schools, nonprofit organizations, and government agencies is waived.

(f) The zoning administrator has the authority to allow substitutions or exchanges of the types of signage. In no instance shall the maximum number or square footage of temporary signs be exceeded.

(g) New businesses are allowed two additional weeks of temporary signage.

(h) The zoning administrator shall be authorized to issue a temporary conditional administrative permit to alleviate hardships associated with public road construction projects.

(Code 2004, pt. 3, § 34.13; Ord. No. 86-934, 6-5-1986; Ord. No. 90-1184, 2-1-1990; Ord. No. 92-1279, 2-20-1992; Ord. No. 03-1984, 6-5-2003; Ord. No. 04-2022, 7-15-2004; Ord. No. 20-2447, 7-20-2020; Ord. No. 25-2582, § 34.13, 7-21-2025)

Sec. 133-13. Enforcement.

(a) It shall be the responsibility of the zoning administrator to administer and enforce the provisions of this chapter.

(b) If any provision of this subpart shall be adjudged void or of no effect, for any reason whatsoever, such decision shall not affect the validity of any of the other provisions of this subpart.

(c) It is unlawful for any person or entity to erect, alter, repair, move, equip, or maintain any sign or sign structure or cause or permit the same to be done in violation of any of the provisions of this subpart.

(Code 2004, pt. 3, § 34.14; Ord. No. 86-934, 6-5-1986; Ord. No. 20-2447, 7-20-2020)

Sec. 133-14. Notice of public hearing signs.

(a) Signs shall be posted on sites which are the subject of certain development proposals or zoning amendments to city land use regulations, in addition to other notification procedures in accordance with the following: Announcement signs shall be designed, acquired, maintained, installed, and removed by the city. Materials and procedures necessary to implement this section shall be implemented under the director of community development.

(b) The sign shall be installed on all sites involving the following: proposed amendments to the zoning classification and applications for preliminary plats.

(c) Signs required by this section shall be posted on the site to be visible by the general public at least ten calendar days prior to the public hearing. The signs shall be removed following the public hearing.

(Code 2004, pt. 3, § 34.15; Ord. No. 99-1766, 1-21-1999; Ord. No. 20-2447, 7-20-2020)

Sec. 133-15. Substitution.

Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.

(Code 2004, pt. 3, § 34.16; Ord. No. 20-2447, 7-20-2020)

Appendix A

LOCAL ACTS

Article I. Housing and Redevelopment Authority

[Secs. 1—7. Inapplicable to city.]

Sec. 8. Blaine Housing and Redevelopment Authority.

Sec. 9. Local approval; effective date.

ARTICLE I. HOUSING AND REDEVELOPMENT AUTHORITY***CHAPTER 302—H.F. No. 384**

An act relating to the Cities of Minneapolis and Blaine; permitting the establishment of special service districts in the City of Minneapolis and providing taxing and other authority; authorizing Blaine city council members to serve as a housing and redevelopment authority.

Be it enacted by the legislature of the State of Minnesota:

[Secs. 1—7. Inapplicable to city.]

Sec. 8. Blaine Housing and Redevelopment Authority.

Notwithstanding the limitations on the number of housing and redevelopment commissioners provided by M.S.A. § 462.425, subds. 5 and 6, all the members of the governing body of the City of Blaine may serve as commissioners of the Blaine Housing and Redevelopment Authority at the same time.

The Blaine Economic Development Authority (the "EDA") has been duly organized pursuant to M.S.A. §§ 469.090 to 469.1082, as amended, (the "EDA Act"), as amended, and has all of the powers and duties of an economic development authority under the EDA Act and of a housing and redevelopment authority under the provisions of M.S.A. §§ 469.001 to 469.047 (the "HRA Act").

The legislature of the State of Minnesota has enacted M.S.A. ch. 462C (the "Act") to regulate the planning and implementation of single family housing programs and multifamily housing development and has provided for the financing of such programs and developments pursuant to the terms of the Act.

The city desires to authorize the EDA to exercise the powers in M.S.A. §§ 462C.01 to 462C.10, to develop and administer programs of making or purchasing mortgage or rehabilitation loans to finance the acquisition, construction or rehabilitation of single family housing by low and moderate income persons and families anywhere within its boundaries, or making or purchasing loans to finance multifamily housing developments, upon certain conditions set forth in the Act.

***Editor's note**—Printed in this article is ch. 302 of the Laws of Minnesota (1985). Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform, and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

Accordingly, the EDA is hereby authorized to exercise on behalf of the city, all of the powers conferred by M.S.A. §§ 462C.01 to 462C.10.
(Ord. No. 16-2365, 9-15-2016)

Sec. 9. Local approval; effective date.

Section 8 is effective the day after compliance with M.S.A. § 645.021, subd. 3, by the governing body of the City of Blaine.

Approved June 5, 1985.

Appendix B

ANNEXATIONS AND DETACHMENTS*

[Sec. 1.	Ord. No. 10.]
[Sec. 2.	Ord. No. 34.]
[Sec. 3.	Res. No. 14-044.]

***Editor's note**—Printed in this appendix are ordinances and resolutions annexing or detaching property from the city. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines (when present) have been made uniform, and the same system of capitalization, citations to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

[Sec. 1. Ord. No. 10.]

Ord. No. 10

An ordinance detaching certain lands from the Village of Blaine, Anoka County, Minnesota;

Whereas, the owner of all the property in Lexington third addition according to the plat thereof on file in the office of the register of deeds, Anoka County, Minnesota have petitioned the village council of the Village of Blaine to detach the said addition from the Village of Blaine and to the Village of Lexington.

Whereas, the village council of the Village of Blaine has determined that the detachment will be for the benefit of the village and the land affected.

Whereas, the Village of Lexington intends to annex said addition and make it a part of the Village of Lexington.

Now therefore, the village council of the Village of Blaine do ordain as follows that there be detached from the Village of Blaine the following described territory:

Lexington third addition according to the plat thereof on file in the office of the register of deeds, Anoka County, Minnesota.

[Sec. 2. Ord. No. 34.]

Ord. No. 34

Whereas, the owner of the certain land hereinafter described has petitioned the village council of the Village of Blaine to annex said land to the Village of Blaine.

Whereas, said land is contiguous to the Village of Blaine and is described as follows:

The north one-half of the northeast one-quarter of section five, township 30, range 23, less property transferred for highway purposes, comprising 118 acres, more or less, according to the map or plat thereof on file in the office of the register of deeds, Ramsey County, Minnesota.

Whereas, said land is less than 200 acres in area and is properly conditioned for village government, and

Whereas, it is deemed to be to the best interests of the village and the territory affected that such land be annexed to the village,

Now therefore, the village council of Blaine do ordain:

That the Village of Blaine does hereby annex and the village boundaries are hereby extended to include the following described land:

The north one-half of the northeast one-quarter of section five, township 30, range 23, less property transferred for highway purposes, comprising 118 acres, more or less, according to the map or plat thereof on file in the office of the register of deeds, Ramsey County, Minnesota.

[Sec. 3. Res. No. 14-044.]

Res. No. 14-044

Whereas, certain real property (hereinafter referred to as the "property"), depicted in the map below, [which is incorporated herein by reference,] is approximately 1.23 acres in size, located within the boundaries of the City of Blaine, with a population of zero; and

Whereas, the City of Spring Lake Park has purchased the aforementioned property for use as its public works facility; and

Whereas, the municipal boundary for the Cities of Blaine and Spring Lake Park currently runs through the middle of a building on the property; and

Whereas, the property would be best served by having one set of zoning controls governing its use; and

Whereas, the property abuts real estate along its entire southern border that is located within the City of Spring Lake Park.

Now, therefore, be it resolved:

1. That the City of Blaine and the city of Spring Lake Park jointly request that the office of administrative hearings - municipal boundary adjustments concurrently detach the property from the City of Blaine and annex the same to the City of Spring Lake Park at the earliest possible date.
2. That the joint resolution be submitted to the office of administrative hearings - municipal boundary adjustments for the purposes set forth herein.
3. That the City of Spring Lake Park agrees to be responsible for all costs associated with the annexation, including, but not limited to, the preparation and filing of the resolution and boundary maps with the office of administrative hearings. In addition, the city of Spring Lake Park shall reimburse the city of Blaine for the actual costs associated with the preparation, revision and printing of local city maps in an amount not to exceed \$500.00.
4. That the City of Blaine and the City of Spring Lake Park agree that upon receipt of this resolution, passed and adopted by each party, the office of administrative hearings/municipal boundary adjustments, may review and comment, but shall, within 30 days, order the concurrent detachment and annexation consistent with the terms of this resolution.

Appendix C

FRANCHISES

Article I. Natural Gas Franchise (Minnegasco Company)

- Sec. 1. Definitions.
- Sec. 2. Adoption of franchise.
- Sec. 3. Location, other regulations.
- Sec. 4. Relocations.
- Sec. 5. Indemnification.
- Sec. 6. Vacation of public ways and public grounds.
- Sec. 7. Relocations.
- Sec. 8. Franchise fee.
- Sec. 9. Abandoned facilities.
- Sec. 10. Provisions of ordinance.
- Sec. 11. Limitation on applicability.

Article II. Cable Television Franchise

Division 1. Group W Cable of the North Central Suburbs, Inc.

Division 2. Qwest Broadband Services, Inc., D/B/A Centurylink

- Sec. 1. Short title and definitions.
- Sec. 2. Grant of authority and general provisions.
- Sec. 3. Construction standards.
- Sec. 4. Design provisions.
- Sec. 5. Service provisions.
- Sec. 6. Access channel(s) provisions.
- Sec. 7. Institutional network (I-NET) provisions and related commitments.
- Sec. 8. Operation and administration provisions.
- Sec. 9. General financial and insurance provisions.
- Sec. 10. Sale, abandonment, transfer and revocation of franchise.
- Sec. 11. Protection of individual rights.
- Sec. 12. Unauthorized connections and modifications.
- Sec. 13. Miscellaneous provisions.
- Sec. 14. Publication effective date; acceptance and exhibits.

Article III. Natural Gas Franchise (City of Circle Pines)

- Sec. 1. Definitions.
- Sec. 2. Franchise.
- Sec. 3. Conditions of use.

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- Sec. 4. Relocation.
- Sec. 5. Defense and indemnification.
- Sec. 6. Successors in interest.
- Sec. 7. Franchise fee.
- Sec. 8. Severability.
- Sec. 9. Amendment.
- Sec. 10. Limitation on applicability.
- Sec. 11. Previous franchise superseded.

Article IV. Natural Gas Franchise (Northern States Power Company)

- Sec. 1. Definitions.
- Sec. 2. Franchise.
- Sec. 3. Location, other regulations.
- Sec. 4. Relocation.
- Sec. 5. Vacation of public ways.
- Sec. 6. Indemnification.
- Sec. 7. Change in form of government.
- Sec. 8. Franchise fee.
- Sec. 9. Provisions of ordinance.
- Sec. 10. Amendment.

Article V. Electric Distribution System and Transmission Lines (Anoka Electric Cooperative)

- Sec. 1. Definitions.
- Sec. 2. Franchise.
- Sec. 3. Location, other regulations.
- Sec. 4. Relocations.
- Sec. 5. Indemnification.
- Sec. 6. Successors in interest.
- Sec. 7. Change in form of government.
- Sec. 8. Franchise fee.
- Sec. 9. Limitation on applicability.
- Sec. 10. Severability.
- Sec. 11. Amendment.
- Sec. 12. Previous franchises superseded.

Article VI. Electric Distribution System and Transmission Lines (Northern States Power Company)

- Sec. 1. Definitions.
- Sec. 2. Franchise.
- Sec. 3. Location, other regulations.

APPENDIX C—FRANCHISES

- Sec. 4. Relocations.
- Sec. 5. Vacation of public ways.
- Sec. 6. Indemnification.
- Sec. 7. Change in form of government.
- Sec. 8. Franchise fee.
- Sec. 9. Limitation on applicability.
- Sec. 10. Severability.
- Sec. 11. Amendment.

ARTICLE I. NATURAL GAS FRANCHISE (MINNEGASCO COMPANY)*

The City of Blaine does ordain:

Sec. 1. Definitions.

For purposes of this ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

City. The City of Blaine, County of Anoka, State of Minnesota.

City utility system. Facilities used for providing public utility service owned or operated by city or agency thereof, including sewer, storm sewer, water service, street lighting and traffic signals, but excluding facilities for providing heating, lighting, or other forms of energy.

Commission. The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate gas retail rates now vested in the Minnesota public utilities commission.

Company. CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas ("CenterPoint Energy") its successors and assigns including all successors or assigns that own or operate any part or parts of the gas facilities subject to this franchise.

Gas energy. Gas energy includes both retail and wholesale natural, manufactured or mixed gas.

Gas facilities. Gas transmission and distribution pipes, lines, ducts, fixtures, and all necessary equipment and appurtenances owned or operated by the company for the purpose of providing gas energy for retail or wholesale use.

Notice. A writing served by any party or parties on any other party or parties. Notice to company shall be mailed to CenterPoint Energy, Minnesota Division Vice President, 505 Nicollet Mall, Minneapolis, Minnesota 55402. Notice to the city shall

***Editor's note**—Ord. No. 21-2478, adopted Aug. 16, 2021, repealed the former Art. I, §§ 1—11, and enacted a new Art. I as set out herein. The former Art. I pertained to similar subject matter and derived from Ord. No. 98-1697, adopted March 5, 1998. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform, and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

be mailed to City of Blaine, City Manager, 10801 Town Square Drive NE, Blaine, Minnesota 55449. Any party may change its respective address for the purpose of this article by written notice to the other parties.

Ordinance. This gas franchise ordinance, also referred to as the franchise.

Public ground. Land owned or otherwise controlled by the city for utility easements, park, trail, walkway, open space or other public property, which is held for use in common by the public or for public benefit.

Public way. Any public right-of-way within the city as defined by M.S.A. § 237.162, subd. 3.
(Ord. No. 21-2478, 8-16-2021)

Sec. 2. Adoption of franchise.

2.1. *Grant of franchise.* City hereby grants company, for a period of 20 years from the date this article is passed and approved by the city, the right to import, manufacture, distribute and sell gas energy for public and private use within and through the limits of the city as its boundaries now exist or as they may be extended in the future and also the right to transport gas energy through the limits of the city for use outside of the city limits. For these purposes, company may construct, operate, repair and maintain gas facilities in, on, over, under and across the public ways and public grounds, subject to the provisions of this article. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the city pursuant to an ordinance or permit requirements adopted consistent with state law.

2.2. *Effective date; written acceptance.* This franchise shall be in force and effect from and after the passage of this article and publication as required by law and its acceptance in writing by company.

2.3. *Service and gas rates.* The terms and conditions of service and the rates to be charged by company for gas energy in city are subject to the exclusive jurisdiction of the commission.

2.4. *Publication expense.* Company shall pay the expense of publication of this article.

2.5. *Dispute resolution.* If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30

days after first meeting with the selected mediator, either party may commence an action in district court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity.

2.6. *Continuation of franchise.* If the city and the company are unable to agree on the terms of a new franchise by the time this franchise expires, this franchise will remain in effect until a new franchise is agreed upon, or until 90 days after the city or the company serves written notice to the other party of its intention to allow franchise to expire.

(Ord. No. 21-2478, 8-16-2021)

Sec. 3. Location, other regulations.

3.1. *Location of facilities.* Gas facilities shall be located, constructed, and maintained so as not to interfere with the safety and convenience of ordinary travel along and over public ways and so as not to disrupt normal operation of any city utility system. Gas facilities may be located on public grounds as determined by the city. The location and relocation of gas facilities shall be subject to reasonable regulations of the city consistent with authority granted the city to manage its public ways and public grounds under state law, to the extent not inconsistent with a specific term of this franchise.

3.2. *Street openings.* Company shall not open or disturb the surface of any public way or public ground for any purpose without first having obtained a permit from the city, if required by a separate ordinance, for which the city may impose a reasonable fee, unless the city is receiving a franchise fee pursuant to this article, in which case all permit fees will be waived. Permit conditions imposed on company shall not be more burdensome than those imposed on other public right-of-way users for similar facilities or work. Company may, however, open and disturb the surface of any public way or public ground without a permit if (i) an emergency exists requiring the immediate repair of gas facilities and (ii) company gives telephone, email or similar notice to the city before commencement of the emergency repair, if reasonably possible. Within two business days after commencing the repair, company shall apply for any required permits and pay any required fees.

3.3. *Restoration.* After undertaking any work requiring the opening of any public way or public ground, the company shall restore the public ways or public grounds in accordance with Minn. R. 7819.1100. Company shall restore the public ground to as good a condition as formerly existed, and shall maintain the surface in good condition for six months thereafter. All work shall be completed as promptly as weather permits, and if company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the public ground in the said condition, the city shall have, after demand to company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration of the public ways or public grounds at the expense of

company. Company shall pay to the city the cost of such work done for or performed by the city. The company shall not be required to post a construction performance bond.

3.4. *Avoid damage to gas facilities.* The company must take reasonable measures to prevent the gas facilities from causing damage to persons or property. The company must take reasonable measures to protect the gas facilities from damage that could be inflicted on the gas facilities by persons, property, or the elements. Company must take protective measures when the city performs work near the gas facilities, if given reasonable notice by the city of such work prior to its commencement.

3.5. *Notice of improvements to streets.* The city will give company reasonable written notice of plans for improvements to public ways and public grounds where the city has reason to believe that gas facilities may affect or be affected by the improvement. The notice will contain: (i) the nature and character of the improvements, (ii) the public ways or public grounds upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the city will start the work, and (v) if more than one public way or public grounds is involved, the order in which the work is to proceed. The notice will be given to company a sufficient length of time, considering seasonal working conditions, in advance of the actual commencement of the work to permit company to make any additions, alterations or repairs to its gas facilities the company deems necessary.

3.6. *Mapping information.* If requested by city, the company must promptly provide complete and accurate mapping information for any of its gas facilities in accordance with the requirements of Minn. R. 7819.4000 and 7819.4100. (Ord. No. 21-2478, 8-16-2021)

Sec. 4. Relocations.

4.1. *Relocation in public ways.* The company and city shall comply with the provisions of Minn. R. 7819.3100, with respect to requests for the company to relocate gas facilities located in public ways.

4.2. *Relocation in public grounds.* City may require company at company's expense to relocate or remove its gas facilities from public grounds upon a finding by city that the gas facilities have become or will become a substantial impairment to the existing or proposed public use of the public grounds. Nothing in this section 4.2 shall be construed so as to invalidate or impair any existing company easements in public grounds.

4.3. *Projects with federal funding.* Relocation, removal, or rearrangement of any company gas facilities made necessary because of the extension into or through city of a federally aided highway project shall be governed by the provisions of M.S.A. § 161.46. (Ord. No. 21-2478, 8-16-2021)

Sec. 5. Indemnification.

5.1. *Indemnity of city.* Company shall indemnify and hold the city harmless from any and all liability, on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the gas facilities located in the public ways and public grounds. The city shall not be indemnified for losses or claims occasioned through its own negligence or otherwise wrongful act or omission except for losses or claims arising out of or alleging the city's negligence as to the issuance of permits for, or inspection of, company's plans or work.

5.2. *Defense of city.* In the event a suit is brought against the city under circumstances where this agreement to indemnify applies, company at its sole cost and expense shall defend the city in such suit if written notice thereof is promptly given to company within a period wherein company is not prejudiced by lack of such notice. If company is required to indemnify and defend, it will thereafter have control of such litigation, but company may not settle such litigation without the consent of the city, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the city. The company, in defending any action on behalf of the city, shall be entitled to assert in any action every defense or immunity that the city could assert in its own behalf. This franchise agreement shall not be interpreted to constitute a waiver by the city of any of its defenses of immunity or limitations on liability under M.S.A. ch. 466.

(Ord. No. 21-2478, 8-16-2021)

Sec. 6. Vacation of public ways and public grounds.

The city shall give company at least two weeks prior written notice of a proposed vacation of a public ways or public grounds. The city and the company shall comply with Minn. R. 7819.3200 with respect to any request for vacation.

(Ord. No. 21-2478, 8-16-2021)

Sec. 7. Relocations.

Any change in the form of government of the city shall not affect the validity of this article. Any governmental unit succeeding the city shall, without the consent of company, succeed to all of the rights and obligations of the city provided in this article.

(Ord. No. 21-2478, 8-16-2021)

Sec. 8. Franchise fee.

8.1. *Form.* During the term of the franchise hereby granted, the city may charge the company a franchise fee. The company will administer the collection and payment of franchise fees to city in lieu of permit fees or other fees that may

otherwise be imposed on the company in relation to its operations as a public utility in the city. The franchise fee will be collected on a flat fee basis, or by some other method that is mutually acceptable to both city and company for each retail customer account within the corporate limits of the city. The amount of the fee collected may differ for each customer class. The city will use a formula that provides a stable and predictable amount of fees, without placing the company at a competitive disadvantage. Such fee shall not exceed any amount that the company may legally charge to its customers prior to payment to the city and be consistent with the Minnesota Public Utility Commission's March 23, 2011, order establishing franchise fee filing requirements in Docket No. E,G999/CI-09-970. If the company claims that the city required fee formula is discriminatory or otherwise places the company at a competitive disadvantage, the company will provide a formula that will produce a substantially similar fee amount to the city. If the city and company are unable to agree, the disagreement shall be subject to the dispute resolution provisions of this article.

8.2. *Separate ordinance.* The franchise fee shall be imposed by separate ordinance duly adopted by the city council. The effective date of the franchise fee ordinance shall be no less than 90 days after written notice enclosing a copy of the duly adopted and approved ordinance has been served upon the company by certified mail. The company is not required to collect a franchise fee if the terms of the fee agreement are inconsistent with this franchise or state law, provided the company notifies the city council of the same within the 90-day period.

8.3. *Condition of fee.* The separate ordinance imposing the fee shall not be effective against the company unless it lawfully imposes a fee of the same or substantially similar amount on the sale of energy within the city by any other energy supplier, provided that, as to such supplier, the city has the authority or contractual right to require a franchise fee or similar fee through an agreed-upon franchise.

8.4. *Collection of fee.* The franchise fee shall be payable not less than quarterly during complete billing months of the period for which payment is to be made. The franchise fee formula may be changed from time to time, however, the change shall meet the same notice and acceptance requirements and the fee may not be changed more often than annually. Such fee shall not exceed any amount that the company may legally charge to its customers prior to payment to the city and be consistent with Minnesota Public Utility Commission's March 23, 2011, order establishing franchise fee filing requirements in Docket No. E,G999/CI-09-970. Such fee is subject to subsequent reductions to account for uncollectibles and customer refunds incurred by the company. The company shall not be responsible to pay city fees that company is unable to collect under commission rules or order. The company agrees to make available for inspection by the city at reasonable times all records necessary to audit the company's determination of the franchise fee payments.

8.5. *Continuation of franchise fee.* If this franchise expires and the city and the company are unable to agree upon terms of a new franchise, the franchise fee, if any being imposed by the city at the time this franchise expires, will remain in effect until a new franchise is agreed upon. However, the franchise fee will not remain in effect for more than one year after the franchise expires as stated in section 2.6 of this franchise. If for any reason the franchise terminates, the franchise fee will terminate at the same time.

(Ord. No. 21-2478, 8-16-2021)

Sec. 9. Abandoned facilities.

The company shall comply with M.S.A. § 216D.01 et seq. and Minn. R. 7819.3300 as they may be amended from time to time. The company shall maintain records describing the exact location of all abandoned and retired gas facilities within the public ways and public grounds, produce such records at the city's request and comply with the location requirements of M.S.A. § 216D.04 with respect to all gas facilities, including abandoned and retired facilities, located in public ways and public grounds.

(Ord. No. 21-2478, 8-16-2021)

Sec. 10. Provisions of ordinance.

10.1. *Severability.* Every section, provision, or part of this article is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other city ordinance is inconsistent with the provisions of this article, the provisions of this article shall prevail.

10.2. *Limitation on applicability.* This article constitutes a franchise agreement between the city and company as the only parties. No provisions herein shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third-party beneficiary of this article or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

(Ord. No. 21-2478, 8-16-2021)

Sec. 11. Limitation on applicability.

Either party may propose at any time that this franchise ordinance be amended. Franchise ordinance may be amended at any time by the city passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of company's written consent thereto with the city clerk within 90 days after the effective date of the amendatory ordinance.

(Ord. No. 21-2478, 8-16-2021)

ARTICLE II. CABLE TELEVISION FRANCHISE

DIVISION 1. GROUP W CABLE OF THE NORTH CENTRAL SUBURBS, INC.*

DIVISION 2. QWEST BROADBAND SERVICES, INC., D/B/A CENTURYLINK†

Sec. 1. Short title and definitions.

1.1 *Short title.* This franchise ordinance shall be known and cited as the "CenturyLink Cable Franchise Ordinance."

1.2 *Definitions.*

For purposes of this franchise, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; words in the singular number include the plural; and the masculine gender includes the feminine gender. Unless otherwise expressly stated, words not defined herein or in the city code shall be given the meaning set forth in applicable law and, if not defined therein, the words shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory.

1.2.1 *Actual cost* means the incremental cost to the grantee of materials, capitalized labor and borrowing necessary to install and construct fiber-optic lines, coaxial cable and/or equipment.

***Editor's note**—Ord. No. 83-786, adopted Aug. 18, 1983, granting a cable communications franchise to Group W Cable of the North Central Suburbs, Inc., has not been set out at length herein, but is available for public inspection in the city clerk's office. Subsequently Ord. No. 85-919, adopted December 5, 1985, and Ord. No. 98-1739, adopted August 20, 1998, amended Ord. No. 83-786. Ord. No. 02-1957, adopted Nov. 21, 2002, supersedes any previous cable communications franchise agreement, and is available for public inspection in the city clerk's office. Subsequently Ord. No. 15-2304, §§ 1, 2, adopted February 5, 2015, amended Ord. No. 02-1957. Ord. No. 15-2332, adopted December 3, 2015, was treated as adding art. II, div. 2, at the editor's discretion. Inasmuch as art. II did not contain divisions, and for the purposes of clarity, the provisions of art. II have been included here in as art. II div. 1.

†Editor's note—Ord. No. 15-2332, adopted December 3, 2015, was not specifically amendatory. Said provisions have been treated as adding art. II, div. 2. To preserve the style of this Code, headings and catchlines have been made uniform, and the same system of capitalization, citations to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used.

- 1.2.2 *Affiliate* means any person who owns or controls, is owned or controlled by, or is under common ownership or control with the grantee.
- 1.2.3 *Basic cable service* means the lowest priced tier of cable service that includes the lawful retransmission of local television broadcast signals and any public, educational and governmental access programming required by this franchise to be carried on the basic tier. Basic cable service as defined herein shall not be inconsistent with 47 USC 543(b)(7).
- 1.2.4 *Cable service* or *service* means (1) the one-way transmission to subscribers of (a) video programming or (b) other programming services; and (2) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming services. Cable service shall also include any video programming service for which a franchise from a local government is permitted under state law.
- 1.2.5 *Cable system* or *system* means the facility of the grantee consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service, which includes video programming and which is provided to multiple subscribers within the city, but such term does not include: (1) a facility that only serves to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves subscribers without using any rights-of-way; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of title II of the Communications Act, except that such facility shall be considered a system (other than for purposes of 47 USC 541(c)) if such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (4) an open video system that complies with 47 USC 573; (5) any facilities of any electric utility used solely for operating its electric utility system; or (6) a translator system which receives and rebroadcasts over-the-air signals. A reference to the system in this franchise refers to any part of such system including, without limitation, set top boxes. The foregoing definition of "system" shall not be deemed to circumscribe or limit the valid authority of the city to regulate or franchise the activities of any other communications system or provider of communications service to the full extent permitted by law. "Cable system" or "system" as defined herein shall not be inconsistent with the definitions set forth in applicable law. Any reference to "cable system" or "system" herein, which system is owned or operated by a person or governmental body other than the grantee, shall be defined the same as this section. This definition shall include any facility that is a "cable system" under federal law or a "cable communications system" under state law.

- 1.2.6 *City* means the City of Blaine, Minnesota, a municipal corporation, in the State of Minnesota, acting by and through its city council, or its lawfully appointed designee.
- 1.2.7 *City Code* means the Blaine City Code [of Ordinances], as amended from time to time.
- 1.2.8 *Commission* means the North Metro Telecommunications Commission, a municipal joint powers consortium comprised of the municipalities of Blaine, Centerville, Circle Pines, Ham Lake, Lexington, Lino Lakes and Spring Lake Park, Minnesota. In the event the city lawfully withdraws from the commission, any reference to the commission in this franchise shall thereafter be deemed a reference to the city, and the rights and obligations related thereto shall, where possible, accrue pro rata to the city, pursuant to a transition agreement to be negotiated at such time by and between the city, the commission and the grantee. The total burden of grantee's obligations under this franchise and the grantee's franchise with the other member cities of the commission shall not be increased as a result of any such withdrawal.
- 1.2.9 *CPI* means the annual average of the consumer price index for all urban consumers (CPI-U) for the Minneapolis-St. Paul CMSA, as published by the Bureau of Labor Statistics.
- 1.2.10 *Drop* means the cable that connects the ground block on the subscriber's residence or institution to the nearest feeder cable of the system.
- 1.2.11 *Educational access channel* or *educational channel* means any channel on the system set aside by the grantee for noncommercial educational use by educational institutions, as contemplated by applicable law.
- 1.2.12 *FCC* means the Federal Communications Commission, its designee, and any legally appointed, designated or elected agent or successor.
- 1.2.13 *Franchise* or *cable franchise* means the ordinance from which this division is derived, as may be amended from time to time, any exhibits attached hereto and made a part hereof, and the regulatory and contractual relationship established hereby.
- 1.2.14 *Governmental access channel* or *governmental channel* means any channel on the system set aside by the grantee for noncommercial use by the city or its delegatee.
- 1.2.15 *Grantee* is Qwest Broadband Services, Inc., d/b/a CenturyLink, and its lawful successors, transferees or assignees.
- 1.2.16 *Gross revenues* means any and all revenues arising from or attributable to, or in any way derived directly or indirectly by the grantee or its affiliates, subsidiaries, or parent, or by any other entity that is a cable operator of the system, from the operation of the grantee's system to provide cable services

(including cash, credits, property or other consideration of any kind or nature). Gross revenues include, by way of illustration and not limitation, monthly fees charged to subscribers for any basic, optional, premium, per-channel, or per-program service, or other cable service including, without limitation, installation, disconnection, reconnection, and change-in-service fees; lockout device fees; leased access channel fees; late fees and administrative fees; fees, payments or other consideration received from programmers for carriage of programming on the system and accounted for as revenue under GAAP; revenues from rentals or sales of set top boxes or other equipment; fees related to commercial and institutional usage of the system; advertising revenues; interest; barter; revenues from program guides; franchise fees; and revenues to the system from home shopping, bank-at-home channels and other revenue sharing arrangements. Gross revenues shall include revenues received by an entity other than the grantee, an affiliate or another entity that operates the system where necessary to prevent evasion or avoidance of the grantee's obligation under this franchise to pay the franchise fee. Gross revenues shall not include:

- (1) To the extent consistent with generally accepted accounting principles, actual bad debt write-offs, provided, however, that all or part of any such actual bad debt that is written off but subsequently collected shall be included in gross revenues in the period collected;
- (2) Any taxes on services furnished by the grantee imposed by any municipality, state or other governmental unit, provided that franchise fees shall not be regarded as such a tax;
- (3) FCC regulatory fees;
- (4) Subscriber credits, adjustments or refunds;
- (5) PEG fees; or
- (6) Refundable subscriber deposits.

1.2.17 *Household* means a distinct address in the Qwest Corporation ("QC") network database, whether a residence or small business, subscribing to or being offered cable service. Grantee represents and warrants that it has access to the QC network database and shall demonstrate to the city's reasonable satisfaction how the data required in section 2 are calculated and reported using the QC network database.

1.2.18 *Installation* means the connection of the system from feeder cable to the point of connection with the subscriber set top boxes or other terminal equipment.

1.2.19 *Leased access channel* means channels on the system which are designated or dedicated for use by a person unaffiliated with the grantee pursuant to 47 USC 532.

- 1.2.20 *Lockout device* means an optional mechanical or electrical accessory to a subscriber's terminal, which inhibits the viewing of a certain program, certain channel or certain channels provided by way of the cable system.
- 1.2.21 *Node* means the transition point between optical light transmission (fiber-optic cable) and the transmission of video and data signals being delivered to and received from the subscriber's home.
- 1.2.22 *Noncommercial* means, in the context of PEG channels, that particular products and services are not promoted or sold. This term shall not be interpreted to prohibit a PEG channel operator or programmer from soliciting and receiving voluntary financial support to produce and transmit video programming on a PEG channel, or from acknowledging a contribution.
- 1.2.23 *Normal operating conditions* means those service conditions that are within the control of the grantee. Conditions that are ordinarily within the control of the grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the system. Conditions that are not within the control of the grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions.
- 1.2.24 *North Metro franchise area* means the geographic area consisting of the Minnesota cities of Blaine, Centerville, Circle Pines, Ham Lake, Lexington, Lino Lakes and Spring Lake Park.
- 1.2.25 *North Metro system* means the cable system operated pursuant to this franchise and located in the member municipalities of the commission.
- 1.2.26 *PEG* means public, educational, religious and governmental.
- 1.2.27 *Person* means any individual, partnership, association, joint stock company, joint venture, domestic or foreign corporation, stock or non-stock corporation, limited liability company, professional limited liability corporation, or other organization of any kind, or any lawful successor or transferee thereof, but such term does not include the city or the commission.
- 1.2.28 *Public access channel(s)* means any channels on the system set aside by the grantee for noncommercial use by the general public, as contemplated by applicable law.
- 1.2.29 *Right-of-way* or *rights-of-way* means the surface, air space above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, avenue, boulevard, drive, court, concourse, bridge, tunnel, park, parkway, skyway, waterway, dock, bulkhead, wharf, pier, easement or similar property or waters within the city owned by or under control of the city, or dedicated for general public use by the city, including, but not limited to, any riparian right, which, consistent with the purposes for

which it was created, obtained or dedicated, may be used for the purpose of installing, operating and maintaining a system. No reference herein to a "right-of-way" shall be deemed to be a representation or guarantee by the city that its interest or other right to control or use such property is sufficient to permit its use for the purpose of installing, operating and maintaining the system.

1.2.30 *Right-of-way ordinance* means any ordinance of the city codifying requirements regarding regulation, management and use of rights-of-way in the city, including registration, fees, and permitting requirements.

1.2.31 *Set top box* means an electronic device (sometimes referred to as a receiver) which may serve as an interface between a system and a subscriber's television monitor, and which may convert signals to a frequency acceptable to a television monitor of a subscriber and may, by an appropriate selector, permit a subscriber to view all signals of a particular service.

1.2.32 *State* means the State of Minnesota, its agencies and departments.

1.2.33 *Subscriber* means any person that lawfully receives service via the system with the grantee's express permission. In the case of multiple office buildings or multiple dwelling units, the term "subscriber" means the lessee, tenant or occupant.

1.2.34 *System upgrade* means the improvement or enhancement in the technology or service capabilities made by the grantee to the system as more fully described in section 4.

(Ord. No. 15-2332, 12-3-2015)

Sec. 2. Grant of authority and general provisions.

2.1 *Grant of franchise.* This franchise is granted pursuant to the terms and conditions contained herein and in applicable law. The grantee, the city and the commission shall comply with all provisions of this franchise and applicable law, regulations and codes. Failure of the grantee to construct, operate and maintain a system as described in this franchise, or to meet obligations and comply with all provisions herein, may be deemed a violation of this franchise.

2.1.1 Nothing in this franchise shall be deemed to waive the lawful requirements of any generally applicable city ordinance existing as of the effective date.

2.1.2 Each and every term, provision or condition herein is subject to the provisions of state law, federal law, and local ordinances and regulations. The municipal Code of the city, as the same may be amended from time to time, is hereby expressly incorporated into this franchise as if fully set out herein by this reference. Notwithstanding the foregoing, the city may not unilaterally alter the material rights and obligations of grantee under this franchise.

- 2.1.3 This franchise shall not be interpreted to prevent the city from imposing additional lawful conditions, including additional compensation conditions for use of the rights-of-way, should grantee provide service other than cable service.
- 2.1.4 The parties acknowledge that grantee intends that Qwest Corporation ("QC"), an affiliate of grantee, will be primarily responsible for the construction and installation of the facilities in the rights-of-way, constituting the cable communications system, which will be utilized by grantee to provide cable service. Grantee promises, as a condition of exercising the privileges granted by this franchise, that any affiliate of the grantee, including QC, directly or indirectly involved in the construction, management, or operation of the cable communications system will comply with all applicable federal, state and local laws, rules and regulations regarding the use of the city's rights of way. The city agrees that to the extent QC violates any applicable laws, rules and regulations, the city shall first seek compliance directly from QC. In the event, the city cannot resolve these violations or disputes with QC, or any other affiliate of grantee, then the city may look to grantee to ensure such compliance. Failure by grantee to ensure QC's or any other affiliate's compliance with applicable laws, rules and regulations shall be deemed a material breach of this franchise by grantee. To the extent grantee constructs and installs facilities in the rights-of-way, such installation will be subject to the terms and conditions contained herein.
- 2.1.5 No rights shall pass to grantee by implication. Without limiting the foregoing, by way of example and not limitation, this franchise shall not include or be a substitute for:
- (1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the city that may be required by the ordinances and laws of the city;
 - (2) Any permit, agreement, or authorization required by the city for right-of-way users in connection with operations on or in rights-of-way or public property including, by way of example and not limitation, street cut permits; or
 - (3) Any permits or agreements for occupying any other property of the city or private entities to which access is not specifically granted by this franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.
- 2.1.6 This franchise is intended to convey limited rights and interests only as to those rights-of-way in which the city has an actual interest. It is not a warranty of title or interest in any right-of-way; it does not provide the

grantee with any interest in any particular location within the right-of-way; and it does not confer rights other than as expressly provided in the grant hereof.

2.1.7 This franchise does not authorize grantee to provide telecommunications service, or to construct, operate or maintain telecommunications facilities. This franchise is not a bar to imposition of any lawful conditions on grantee with respect to telecommunications, whether similar, different or the same as the conditions specified herein. This franchise does not relieve grantee of any obligation it may have to obtain from the city an authorization to provide telecommunications services, or to construct, operate or maintain telecommunications facilities, or relieve grantee of its obligation to comply with any such authorizations that may be lawfully required.

2.2 *Grant of nonexclusive authority.*

2.2.1 Subject to the terms of this franchise, the city hereby grants the grantee the right to own, construct, operate and maintain a system in, along, among, upon, across, above, over, or under the rights-of-way. The grant of authority set forth in this franchise applies only to the grantee's provision of cable service; provided, however, that nothing herein shall limit the grantee's ability to use the system for other purposes not inconsistent with applicable law or with the provision of cable service; and provided further, that any local, state and federal authorizations necessary for the grantee's use of the system for other purposes are obtained by the grantee. This franchise does not confer any rights other than as expressly provided herein, or as provided by federal, state or local law. No privilege or power of eminent domain is bestowed by this franchise or grant. The system constructed and maintained by grantee or its agents pursuant to this franchise shall not interfere with other uses of the rights-of-way. The grantee shall make use of existing poles and other aerial and underground facilities available to the grantee to the extent it is technically and economically feasible to do so.

2.2.2 Notwithstanding the above grant to use rights-of-way, no right-of-way shall be used by the grantee if the city determines that such use is inconsistent with the terms, conditions, or provisions by which such right-of-way was created or dedicated, or with the present use of the right-of-way.

2.2.3 This franchise and the right it grants to use and occupy the rights-of-way shall not be exclusive and this franchise does not, explicitly or implicitly, preclude the issuance of other franchises or similar authorizations to operate cable systems within the city. Provided, however, that the city shall not authorize or permit itself or another person or governmental body to construct, operate or maintain a cable system on material terms and conditions which are, taken as a whole, more favorable or less burdensome than those applied to the grantee.

2.2.4 This franchise authorizes only the use of rights-of-way for the provision of cable service. Therefore, the grant of this franchise and the payment of franchise fees hereunder shall not exempt the grantee from the obligation to pay compensation or fees for the use of city property, both real and personal, other than the rights-of-way; provided, however, that such compensation or fees are required by city ordinance, regulation or policy and are nondiscriminatory.

2.3 *Lease or assignment prohibited.* No person or governmental body may lease grantee's system for the purpose of providing cable service until and unless such person shall have first obtained and shall currently hold a valid franchise or other lawful authorization containing substantially similar burdens and obligations to this franchise, including, without limitation, a requirement on such person to pay franchise fees on such person's or governmental body's use of the system to provide cable services, to the extent there would be such a requirement under this franchise if the grantee itself were to use the system to provide such cable service. Any assignment of rights under this franchise shall be subject to and in accordance with the requirements of section 10.5.

2.4 *Franchise term.* This franchise shall be in effect for a term commencing on the effective date specified in section 2.10 [2.9] through and including June 30, 2030. The Parties do not waive any rights under Section 626 of the Federal Cable Act and agree that Grantee shall not be required to file an additional Section 626 Letter to preserve its rights to formal proceedings under the Franchise. The Agreements shall remain effective so long as Comcast, including any successors or assigns, continues to operate under the Franchise, including as it may be extended pending the completion of the renewal process. Neither the Commission nor Comcast may terminate the Agreements prior to renewal.

2.5 *Compliance with applicable laws, resolutions and ordinances.*

2.5.1 The terms of this franchise shall define the contractual rights and obligations of the grantee with respect to the provision of cable service and operation of the system in the city. However, the grantee shall at all times during the term of this franchise be subject to the lawful exercise of the police powers of the city, the city's right to adopt and enforce additional generally applicable ordinances and regulations, and lawful and applicable zoning, building, permitting and safety ordinances and regulations. The grant of this franchise does not relieve the grantee of its obligations to obtain any generally applicable licenses, permits or other authority as may be required by this Code, as it may be amended, for the privilege of operating a business within the city or for performing work on city property or within the rights-of-way, to the extent not inconsistent with this franchise. Except as provided below, any modification or amendment to this franchise, or the rights or obligations contained herein, must be within the lawful exercise of

the city's police powers, as enumerated above, in which case the provision(s) modified or amended herein shall be specifically referenced in an ordinance of the city authorizing such amendment or modification. This franchise may also be modified or amended with the written consent of the grantee as provided in section 13.3.

2.5.2 The grantee shall comply with the terms of any city ordinance or regulation of general applicability which addresses usage of the rights-of-way within the city which may have the effect of superseding, modifying or amending the terms of section 3 and/or section 8.5.3; except that the grantee shall not, through application of such city ordinance or regulation of rights-of-way, be subject to additional burdens with respect to usage of rights-of-way that exceed burdens on similarly situated right-of-way users.

2.5.3 In the event of any conflict between section 3 and/or section 8.5.3 and any lawfully applicable city ordinance or regulation which addresses usage of the rights-of-way, the conflicting terms in section 3 and/or section 8.5.3 shall be superseded by such city ordinance or regulation; except that the grantee shall not, through application of such city ordinance or regulation of rights-of-way, be subject to additional burdens with respect to usage of public rights-of-way that exceed burdens on similarly situated right-of-way users.

2.5.4 In the event any lawfully applicable city ordinance or regulation which addresses usage of the rights-of-way adds to, modifies, amends, or otherwise differently addresses issues addressed in section 3 and/or section 8.5.3, the grantee shall comply with such ordinance or regulation of general applicability, regardless of which requirement was first adopted; except that the grantee shall not, through application of such city ordinance or regulation of rights-of-way, be subject to additional burdens with respect to usage of rights-of-way that exceed burdens on similarly situated rights-of-way users.

2.5.5 In the event the grantee cannot determine how to comply with any right-of-way requirement of the city, whether pursuant to this franchise or other requirement, the grantee shall immediately provide written notice of such question, including the grantee's proposed interpretation, to the city. The city shall provide a written response within ten business days of receipt indicating how the requirements cited by the grantee apply. The grantee may proceed in accordance with its proposed interpretation in the event a written response is not received within 13 business days of mailing or delivering such written question.

2.6 *Rules of grantee.* The grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said grantee to exercise its rights and perform its obligations under this franchise and applicable law, and to assure uninterrupted service to each and all of its subscribers; provided that such rules,

regulations, terms and conditions shall not be in conflict with provisions hereto, the rules of the FCC, the laws of the state, the city, or any other body having lawful jurisdiction.

2.7 *Territorial area involved.* This franchise is granted for the corporate boundaries of the city, as they exist from time to time.

2.7.1 *Reasonable build-out of the entire city.* The parties recognize that grantee, or its affiliate, has constructed a legacy communications system throughout the city that is capable of providing voice grade service. The parties further recognize that grantee or its affiliate must expend a significant amount of capital to upgrade its existing legacy communications system and to construct new facilities to make it capable of providing cable service. Further, there is no promise of revenues from cable service to offset these capital costs. The parties agree that the following is a reasonable build-out schedule taking into consideration grantee's market success and the requirements of the state law.

- (1) *Complete equitable build-out.* Grantee aspires to provide cable service to all households within the city by the end of the initial term of this franchise. In addition, grantee commits that a significant portion of its investment will be targeted to areas below the median income in the city.
- (2) *Initial minimum build-out commitment.* Grantee agrees to be capable of serving a minimum of 15 percent of the city's households with cable service during the first two years of the initial franchise term, provided, however that grantee will make its best efforts to complete such deployment within a shorter period of time. This initial minimum build-out commitment shall include deployment equitably throughout the city and to a significant number of households below the medium income in the city. Nothing in this franchise shall restrict grantee from serving additional households in the city with cable service;
- (3) *Quarterly meetings.* Commencing January 1, 2016, and continuing throughout the term of this franchise, grantee shall meet quarterly with the executive director of the commission. At each quarterly meeting, grantee shall present information acceptable to the city/commission (to the reasonable satisfaction of the city/commission) showing the number of households grantee is presently capable of serving with cable service and the number of households that grantee is actually serving with cable service. Grantee shall also present information acceptable to the city/commission (to the reasonable satisfaction of the city/commission) that grantee is equitably serving all portions of the city in compliance with this subsection 2.8.1 [2.7.1]. In order to permit the city/commission to monitor and enforce the provisions of this section and other provisions of this franchise, the grantee shall promptly, upon reasonable demand,

show to the city/commission (to the city/commission's reasonable satisfaction) maps and provide other documentation showing exactly where within the city the grantee is currently providing cable service;

- (4) *Additional build-out based on market success.* If, at any quarterly meeting, grantee is actually serving 27.5 percent of the households capable of receiving cable service, then grantee agrees the minimum build-out commitment shall increase to include all of the households then capable of receiving cable service plus an additional 15 percent of the total households in the city, which grantee agrees to serve within two years from the quarterly meeting; provided, however, the grantee shall make its best efforts to complete such deployment within a shorter period of time. For example, if, at a quarterly meeting with the commission's executive director, grantee shows that it is capable of serving 60 percent of the households in the city with cable service and is actually serving 30 percent of those households with cable service, then grantee will agree to serve an additional 15 percent of the total households in the city no later than two years after that quarterly meeting (a total of 75 percent of the total households). This additional build-out based on market success shall continue until every household in the city is served;
- (5) *Line extension.* Grantee shall not have a line extension obligation until the first date by which grantee is providing cable service to more than 50 percent of all subscribers receiving facilities-based cable service from both the grantee and any other provider(s) of cable service within the city. At that time, the city/commission, in its reasonable discretion and after meeting with grantee, shall determine the timeframe to complete deployment to the remaining households in the city, including a density requirement that is the same or similar to the requirement of the incumbent franchised cable operator.

2.8 *Written notice.* All notices, reports or demands required to be given in writing under this franchise shall be deemed to be given when delivered personally to any officer of the grantee or the city's designated franchise administrator, or 48 hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to city:

City of Blaine
10801 Town Square Drive NE
Blaine, Minnesota 55449
Attention:
City Manager/Administrator

With copies to: Executive Director
North Metro Telecommunications
Commission
12520 Polk Street N.E.
Blaine, MN 55434

And to: Michael R. Bradley
Bradley Hagen & Gullikson, LLC
1976 Wooddale Drive, Suite 3A
Woodbury, MN 55125

If to grantee: Qwest Broadband Services, Inc. d/b/a
CenturyLink
1801 California St., 10th Flr.
Denver, CO 80202
Attn: Public Policy

With copies to: Qwest Broadband Services Inc., d/b/a
CenturyLink
200 S. 5th Street, 21st Flr.
Minneapolis, MN 55402
Attn: Public Policy

Such addresses may be changed by either party upon notice to the other party given as provided in this section.

2.9 *Effective date.* This franchise shall become effective after:

- (1) All conditions precedent to its effectiveness as an ordinance of the city have occurred;
 - (2) All conditions precedent to its execution are satisfied;
 - (3) It has been approved by the city council in accordance with applicable law; and
 - (4) It has been accepted and signed by the grantee and the city in accordance with section 14 (the "effective date").
- (Ord. No. 15-2332, 12-3-2015; Ord. No. 25-2574, §§ 1, 4, 2-19-2025)

Sec. 3. Construction standards.

3.1 *Registration, permits and construction codes.*

- 3.1.1 The grantee shall strictly adhere to all state and local laws, regulations and policies adopted by the city council applicable to the location, construction, installation, operation or maintenance of the system in the city. The city

and/or its delegatee has the right to supervise all construction or installation work performed in the rights-of-way as it shall find necessary to ensure compliance with the terms of this franchise and other applicable provisions of law and regulations.

- 3.1.2 Failure to obtain permits or to comply with permit requirements shall be grounds for revocation of this franchise, or any lesser sanctions provided herein or in any other applicable law, code or regulation.

3.2 *Restoration of rights-of-way and property.* Any rights-of-way, or any sewer, gas or water main or pipe, drainage facility, electric, fire alarm, police communication or traffic control facility of the city, or any other public or private property, which is disturbed, damaged or destroyed during the construction, repair, replacement, relocation, operation, maintenance, expansion, extension or reconstruction of the system shall be promptly and fully restored, replaced, reconstructed or repaired by the grantee, at its expense, to the same condition as that prevailing prior to the grantee's work, to the extent consistent with applicable statutes and rules. It is agreed that in the normal course, with respect to fire and police department facilities and equipment, and water and sewer facilities, and other essential utilities and services, as determined by the city, such restoration, reconstruction, replacement or repairs shall be commenced immediately after the damage, disturbance or destruction is incurred, and the grantee shall take diligent steps to complete the same, unless an extension of time is obtained from the appropriate city agency or department. In all other cases, reconstruction, replacement, restoration or repairs shall be commenced within no more than three days after the damage, disturbance or destruction is incurred, and shall be completed as soon as reasonably possible thereafter. If the grantee shall fail to perform the repairs, replacement, reconstruction or restoration required herein, the city shall have the right to put the rights-of-way, public or private property back into good condition. In the event city determines that the grantee is responsible for such disturbance or damage, the grantee shall be obligated to fully reimburse the city for required repairs, reconstruction and restoration.

3.3 *Conditions on right-of-way use.*

- 3.3.1 Nothing in this franchise shall be construed to prevent the city from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any right-of-way; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating or repairing any sidewalk or other public work.
- 3.3.2 All system transmission and distribution structures, lines and equipment erected by the grantee within the city shall be located so as not to obstruct or interfere with the use of rights-of-way except for normal and reasonable obstruction and interference which might occur during construction and to

cause minimum interference with the rights of property owners who abut any of said rights-of-way and not to interfere with existing public utility installations.

- 3.3.3 The grantee shall, at its sole expense, by a reasonable time specified by the city, protect, support, temporarily disconnect, relocate or remove any of its property when required by the city by reason of traffic conditions; public safety; rights-of-way construction; street maintenance or repair (including resurfacing or widening); change in right-of-way grade; construction, installation or repair of sewers, drains, water pipes, power lines, signal lines, tracks or any other type of government-owned communications or traffic control system, public work or improvement of government-owned utility; right-of-way vacation; or for any other purpose where the convenience of the city would be served thereby. If the grantee fails, neglects or refuses to comply with the city's request, the city may protect, support, temporarily disconnect, relocate or remove the appropriate portions of the system at the grantee's expense for any of the city's incremental costs incurred as a result of the grantee's failure to comply. Except for the city's gross negligence, the city shall not be liable to the grantee for damages resulting from the city's protection, support, disconnection, relocation or removal, as contemplated in the preceding sentence.
- 3.3.4 The grantee shall not place poles, conduits or other fixtures of the system above or below ground where the same will interfere with any gas, electric, telephone, water or other utility fixtures and all such poles, conduits or other fixtures placed in any right-of-way shall be so placed as to comply with all lawful requirements of the city.
- 3.3.5 The grantee shall, upon request of any person holding a moving permit issued by the city, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the person requesting the same. The grantee shall be given not less than ten days' advance written notice to arrange for such temporary wire changes.
- 3.3.6 To the extent consistent with generally applicable city code provisions, rules and regulations, the grantee shall have the right to remove, cut, trim and keep clear of its system trees or other vegetation in and along or overhanging the rights-of-way. However, in the exercise of this right, the grantee agrees not to cut or otherwise injure said trees to any greater extent than is reasonably necessary. All trimming shall be performed at no cost to the city, the commission or a homeowner.
- 3.3.7 The grantee shall use its best efforts to give prior notice to any adjacent private property owners who will be negatively affected or impacted by grantee's work in the rights-of-way.

3.3.8 If any removal, relaying or relocation is required to accommodate the construction, operation or repair of the facilities of a person that is authorized to use the rights-of-way, the grantee shall, after 30 days' advance written notice and payment of all costs by such person, commence action to effect the necessary changes requested by the responsible entity. If multiple responsible parties are involved, the city may resolve disputes as to the responsibility for costs associated with the removal, relaying or relocation of facilities among entities authorized to install facilities in the rights-of-way if the parties are unable to do so themselves, and if the matter is not governed by a valid contract between the parties or any state or federal law or regulation.

3.3.9 In the event the system is contributing to an imminent danger to health, safety or property, as reasonably determined by the city, after providing actual notice to the grantee, if it is reasonably feasible to do so, the city may remove or relocate any or all parts of the system at no expense to the city or the commission other than the city's cost to act on such determination.

3.4 Use of existing poles and undergrounding of cable.

3.4.1 Where existing poles, underground conduits, ducts or wire holding structures are available for use by the grantee, but it does not make arrangements for such use, the city may require, through the established permit, or any other applicable procedure, the grantee to use such existing poles and wire holding structures if the city determines that the public convenience would be enhanced thereby and the terms available to the grantee for the use of such poles and structures are just and reasonable.

3.4.2 The grantee agrees to place its cables, wires or other like facilities underground, in the manner as may be required by the provisions of this Code and city policies, procedures, rules and regulations, as amended from time to time, where all utility facilities are placed underground. The grantee shall not place facilities, equipment or fixtures where they will interfere with any existing gas, electric, telephone, water, sewer or other utility facilities or with any existing installations of the city, or obstruct or hinder in any manner the various existing utilities serving the residents of the city. To the extent consistent with this Code, city policies, procedures, rules and regulations, system cable and facilities may be constructed overhead where poles exist and electric or telephone lines or both are now overhead. However, in no case may the grantee install poles in areas of the city where underground facilities are generally used by the utilities already operating. If the city, at a future date, requires all electric and telephone lines to be placed underground in all or part of the city, the grantee shall, within a reasonable time, similarly move its cables and lines. If the city reimburses or otherwise compensates any person using the rights-of-way for the purpose of defraying the cost of

any of the foregoing, the city shall also reimburse the grantee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the city shall not oppose or otherwise hinder any application for or receipt of such funds on behalf of the grantee.

3.5 Installation of facilities.

3.5.1 No poles, towers, conduits, amplifier boxes, pedestal mounted terminal boxes, similar structures or other wire-holding structures shall be erected or installed by the grantee without obtaining any required permit or other authorization from the city.

3.5.2 No placement of any pole or wire holding structure of the grantee is to be considered a vested fee interest in the rights-of-way or in city property. Whenever feasible, all transmission and distribution structures, lines, wires, cables, equipment and poles or other fixtures erected by the grantee within the city are to be so located and installed as to cause minimum interference with the rights and convenience of property owners.

3.6 Safety requirements.

3.6.1 All applicable safety practices required by law shall be used during construction, maintenance and repair of the system. The grantee agrees, at all times, to employ ordinary and reasonable care and to install and maintain in use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage or injuries to the public or to property. All structures and all lines, equipment and connections in the rights-of-way shall at all times be kept and maintained in a safe condition, consistent with applicable safety codes.

3.6.2 The grantee's construction, operation or maintenance of the system shall be conducted in such a manner as not to interfere with city communications technologies related to the health, safety and welfare of city residents.

3.6.3 The grantee shall install and maintain such devices as will apprise or warn persons and governmental entities using the rights-of-way of the existence of work being performed on the system in rights-of-way.

3.6.4 The grantee shall be a member of the one call notification system (otherwise known as "Gopher State One Call") or its successor, and shall field mark the locations of its underground facilities upon request. Throughout the term of this franchise, the grantee shall identify the location of its facilities for the city or the commission at no charge to the city or the commission.

3.7 Removal of facilities at expiration of franchise. At the expiration of the term for which this franchise is granted, or upon the expiration of any renewal or extension period which may be granted, the city shall have the right to require the

grantee, at the grantee's sole expense: (i) to remove all portions of the system from all rights-of-way within the city; and (ii) to restore affected sites to their original condition, unless grantee, or its affiliate, has a separate authorization from the city to occupy the city's rights-of-way. Should the grantee fail, refuse or neglect to comply with the city's directive, all portions of the system, or any part thereof, may at the option of the city become the sole property of the city, at no expense to the city, or be removed, altered or relocated by the city at the cost of the grantee. The city shall not be liable to the grantee for damages resulting from such removal, alteration or relocation.

(Ord. No. 15-2332, 12-3-2015)

Sec. 4. Design provisions.

4.1 System facilities and equipment.

4.1.1 Grantee shall develop, construct and operate a state-of-the-art cable communications system, constructed in accordance with section 2.8.1 [2.7.1], which shall have at least the following characteristics:

4.1.1.1 A modern design when built, utilizing an architecture that will permit additional improvements necessary for high-quality and reliable service throughout the franchise term, and the capability to operate continuously on a 24-hour a day basis without severe material degradation during operating conditions typical to the Minneapolis/St. Paul metropolitan area;

4.1.1.2 Standby power generating capacity at the headend. The grantee shall maintain standby power generators capable of powering all headend equipment for at least 24 hours. The back-up power supplies serving the system shall be capable of providing power to the system for not less than three hours per occurrence measured on an annual basis according to manufacturer specifications in the event of an electrical outage. The grantee shall maintain sufficient portable generators to be deployed in the event that the duration of a power disruption is expected to exceed three hours;

4.1.1.3 Facilities of good and durable quality, generally used in high-quality, reliable systems of similar design;

4.1.1.4 A system that conforms to or exceeds all applicable FCC technical performance standards, as amended from time to time, which standards are incorporated herein by reference, and any other applicable technical performance standards. Upstream signals shall at all times meet or exceed manufacturers' specifications for successful operation of upstream equipment provided by the grantee or approved for use by the grantee at any subscriber's premises. End of the line performance must meet or exceed FCC specifications at the end of the subscriber drop;

- 4.1.1.5 A system shall, at all times, comply with applicable federal, state and local rules, regulations, practices and guidelines pertaining to the construction, upgrade, operation, extension and maintenance of cable systems, including, by way of example (but not limitation):
 - (1) National Electrical Code, as amended from time to time; and
 - (2) National Electrical Safety Code (NESC), as amended from time to time;
- 4.1.1.6 Facilities and equipment sufficient to cure violations of FCC technical standards and to ensure that grantee's system remains in compliance with the standards specified in subsection 4.1.1.5;
- 4.1.1.7 Such facilities and equipment as necessary to maintain, operate and evaluate the grantee's system for compliance with FCC technical and customer service standards, as such standards may hereafter be amended;
- 4.1.1.8 Status monitoring equipment to alert the grantee when and where back-up power supplies are being used, which capability shall be activated and used on or before the completion of the system upgrade;
- 4.1.1.9 All facilities and equipment required to properly test the system and conduct an ongoing and active program of preventative and demand maintenance and quality control, and to be able to quickly respond to customer complaints and resolve system problems;
- 4.1.1.10 Antenna supporting structures designed in accordance with any applicable governmental building codes, as amended, and painted, lighted and erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration, the Federal Communications Commission and all other applicable codes and regulations;
- 4.1.1.11 Facilities and equipment at the headend allowing the grantee to transmit or cablecast signals in substantially the form received, without substantial alteration or deterioration;
- 4.1.1.12 The grantee shall provide adequate security provisions in its subscriber site equipment to permit parental control over the use of grantee's cable service. The grantee, however, shall bear no responsibility for the exercise of parental controls and shall incur no liability for any subscriber's or viewer's exercise or failure to exercise such controls;
- 4.1.1.13 Facilities and equipment capable of operating within the temperature ranges typical to the climate of the North Metro franchise area over the calendar year;
- 4.1.1.14 The system shall be so constructed and operated that there is no perceptible deterioration in the quality of public, educational, governmental or religious access channel signals after delivery of such signals to the

first interface point with grantee's bi-directional fiber PEG transport line, grantee's headend or the subscriber network, whichever is applicable, as compared with the quality of any other channel on the system. As used in this subsection, "deterioration" refers to delivery that is within the control of the grantee; and

4.1.1.15 The grantee must have TDD/TYY (or equivalent) equipment at the company office, and a publicly listed telephone number for such equipment, that will allow hearing impaired customers to contact the company.

4.1.2 Emergency alert system. At all times during the term of this franchise, grantee shall provide and maintain an emergency alert system ("EAS"), consistent with applicable federal law and regulations including 47 CFR pt. 11, and any State of Minnesota Emergency Alert System Plan requirements. The EAS shall allow authorized officials to override the audio and video signals on all channels to transmit and report emergency information. In the case of any sudden, unforeseen event that has the potential to cause significant damage, destruction, or loss of life, grantee shall make the EAS available without charge and in a manner consistent with any state of Minnesota Emergency Alert System Plan ("plan") for the duration of such sudden, unforeseen event. Grantee shall cooperate with designated state officials to test the emergency override system, for periods not to exceed one minute in duration and not more than once every six months, and upon request by the city, provide verification of compliance with any state plan. The city may identify authorized emergency officials for activating grantee's EAS consistent with the state's plan, and the city may also develop a local plan containing methods of EAS message distribution, subject to applicable laws.

4.1.3 During construction activities related to the system, the grantee shall attempt to identify and take into account the cable service interests of the business community within the city. The grantee shall, in connection with system construction, install conduit adequately sized to address future system rebuilds or system additions, with the intent to obviate the need to reopen the rights-of-way for construction and installation work.

4.1.4 The city may request, as part of the system construction, that the grantee remove from the rights-of-way, at its own expense, its existing equipment, plant and facilities that will not be used in the future, whether activated or not. If any unused or deactivated equipment remains in rights-of-way after such city request and the grantee's reasonable opportunity to remove, the city may remove such plant, facilities and equipment at the grantee's expense. The grantee may appeal any request to remove existing equipment, plant and facilities to the city council and thereby stay city action until a final

decision is issued by the city council. In the event existing facilities, plant and equipment are left underground in the rights-of-way, the city or the commission may require the grantee to provide accurate maps showing the location and the nature of the deactivated or unused facilities, plant and equipment, if such information has not already been provided to the city or the commission.

4.1.5 The grantee shall not assert or otherwise raise any claim before a court of competent jurisdiction or any administrative agency alleging that, as of the effective date of this franchise, the system design and performance requirements set forth in this franchise are unenforceable under or inconsistent with then current applicable laws or regulations, or any orders, rules or decisions of the FCC.

4.2 *Periodic progress reporting.* Following commencement of construction, the grantee shall, upon request of the commission, meet with the commission and provide an update on the progress of the construction.

4.2.1 *Public notification.* Prior to the beginning of the system construction, and periodically during each phase of construction, the grantee shall inform the public and its subscribers, through various means, about:

- (1) The progress of construction;
- (2) Areas where construction crews will be working; and
- (3) Any expected temporary interruptions to existing services which may occur.

4.3 *System maintenance.*

4.3.1 The grantee shall interrupt cable service only for good cause and for the shortest time possible. Such interruption shall occur during periods of minimum use of the system. The grantee shall use its best efforts to provide the commission with at least 24 hours prior notice of a planned service interruption, except for a planned service interruption which will have a minimal impact on subscribers, usually meaning affecting less than 100 subscribers or less than a 15-minute interruption.

4.3.2 Maintenance of the system shall be performed in accordance with the applicable technical performance and operating standards established by FCC rules and regulations. Should the FCC choose to abandon this field and does not preempt the city's entry into this field, the city may adopt such technical performance and operating standards as its own, and the grantee shall comply with them at all times.

4.4 *System tests and inspections; special testing.*

- 4.4.1 Grantee shall perform all tests necessary to demonstrate compliance with the requirements of the franchise and other performance standards established by applicable law or regulation.
- 4.4.2 The city and the commission shall have the right to inspect all construction or installation work performed pursuant to the provisions of the franchise. In addition, the city and/or the commission may require special testing of a location or locations within the system if there is a particular matter of controversy or unresolved complaints regarding system construction, operations or installation work pertaining to such location(s). Such tests shall be limited to the particular matter in controversy. The city and/or the commission shall endeavor to so arrange its request for such special testing so as to minimize hardship or inconvenience to the grantee or to the subscribers of such testing.
- 4.4.3 Before ordering such tests, the grantee shall be afforded 30 days following receipt of written notice to investigate and, if necessary, correct problems or complaints upon which tests were ordered. The city and/or the commission, as applicable, shall meet with the grantee prior to requiring special tests to discuss the need for such and, if possible, visually inspect those locations which are the focus of concern. If, after such meetings and inspections, the city and/or the commission wishes to commence special tests and the 30 days have elapsed without correction of the matter in controversy or resolution of complaints, the tests shall be conducted at the grantee's expense by a qualified engineer selected by the city and/or the commission, as applicable, and the grantee shall cooperate in such testing.
- 4.4.4 Unless otherwise provided in this franchise, tests shall be supervised by the grantee's chief technical authority, or designee, who shall certify all records of tests provided to the city and the commission.
- 4.4.5 The grantee shall provide the city and the commission with at least two business days' prior written notice of, and opportunity to observe, any tests performed on the system as it specifically relates to cable service.
- 4.4.5.1 Test results shall be filed with the city and the commission within 14 days of a written request by the city and/or the commission.
- 4.4.5.2 If any test indicates that any part or component of the system fails to meet applicable requirements, the grantee, without requirement of additional notice or request from the city or the commission, shall take corrective action, retest the locations and advise the city and the commission of the action taken and the results achieved by filing a written report certified by the grantee's chief technical authority, or designee.

4.5 *Drop testing and replacement.* The grantee shall replace, at no separate charge to an individual subscriber, all drops and/or associated passive equipment incapable of passing the full system capacity at the time a subscriber upgrades.

4.6 *FCC reports.* Unless otherwise required by the terms of this franchise, the results of any tests required to be filed by grantee with the FCC or in the grantee's public file, as it relates to cable service pursuant to this franchise, shall upon request of the city or the commission also be filed with the city or the commission, as applicable, within ten days of the request.

4.7 *Lockout capability.* Upon the request of a subscriber, the grantee shall make lockout capability available at no additional charge, other than a charge for a set top box.

4.8 *Types of service.* Any change in programs or services offered shall comply with all lawful conditions and procedures contained in this franchise and in applicable law or regulations.

4.9 *Uses of system.* The grantee shall, upon request of the commission, advise the commission of all active uses of the system, for both entertainment and other purposes, and the commission shall have the right to conduct unannounced audits of such usage.

4.10 *Additional capacity.* The grantee shall notify the city and the commission in writing, in advance of the installation of any fiber optic capacity not contemplated by the initial system design, so that additional fibers may be installed on an actual cost basis for government and institutional use. If the city wishes to request additional fiber, it may notify the grantee within 15 days of receipt of the grantee's notification; provided, however, grantee shall not be required to violate its telecommunications federal or state tariff.

(Ord. No. 15-2332, 12-3-2015)

Sec. 5. Service provisions.

5.1 *Customer service standards.* The grantee shall at all times comply with FCC customer service standards. In addition, the grantee shall at all times satisfy all additional or stricter customer service requirements included in this franchise and any customer service requirements set forth in any ordinance or regulation lawfully enacted by the city, upon 90 days' notice.

5.2 *Video programming.* Except as otherwise provided in this franchise or in applicable law, all programming decisions remain the discretion of the grantee, provided that the grantee notifies the city, the commission and subscribers in writing 30 days prior to any channel additions, deletions or realignments unless otherwise permitted under applicable federal, state and local laws and regulations.

Grantee shall cooperate with the city, and use best efforts to provide all subscriber notices to the commission prior to delivery to subscribers. Location and relocation of the PEG channels shall be governed by sections 6.1.3—6.1.4.

5.3 Regulation of service rates.

5.3.1 The city and/or its delegatee may regulate rates for the provision of cable service, equipment or any other communications service provided over the system to the extent allowed under federal or state law(s). The city reserves the right to regulate rates for any future services to the extent permitted by law.

5.3.2 The grantee shall provide at least 30 days' prior written notice (or such longer period as may be specified in FCC regulations) to subscribers and to the city of any changes in rates, regardless of whether or not the grantee believes the affected rates are subject to regulation, except to the extent such notice requirement is specifically waived by governing law. Bills must be clear, concise and understandable, with itemization of all charges.

5.4 *Sales procedures.* The grantee shall not exercise deceptive sales procedures when marketing services within the city. In its initial communication or contact with a subscriber or a non-subscriber, and in all general solicitation materials marketing the grantee or its services as a whole, the grantee shall inform the non-subscriber of all levels of service available, including the lowest priced and free service tiers. The grantee shall have the right to market door-to-door during reasonable hours consistent with local ordinances and regulations.

5.5 Subscriber inquiry and complaint procedures.

5.5.1 The grantee shall have a publicly listed toll-free telephone number which shall be operated so as to receive general public and subscriber complaints, questions and requests on a 24-hour-a-day, seven days-a-week, 365 days-a-year basis. Trained representatives of the grantee shall be available to respond by telephone to subscriber and service inquiries.

5.5.2 The grantee shall maintain adequate numbers of telephone lines and personnel to respond in a timely manner to schedule service calls and answer subscriber complaints or inquiries in a manner consistent with regulations adopted by the FCC and the city where applicable and lawful. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time under normal operating conditions, measured on a quarterly basis. Under normal operating conditions, the customer will receive a busy signal less than three percent of the time.

5.5.3 Subject to the grantee's obligations pursuant to law regarding privacy of certain information, the grantee shall prepare and maintain written records of all complaints received from the city and the commission and the resolution of such complaints, including the date of such resolution. Such written records shall be on file at the office of the grantee. The grantee shall provide the city and/or the commission with a written summary of such complaints, upon request. As to subscriber complaints, grantee shall comply with FCC record-keeping regulations, and make the results of such record-keeping available to the city and/or the commission, upon request.

5.5.4 Excluding conditions beyond the control of the grantee, the grantee shall commence working on a service interruption within 24 hours after the service interruption becomes known and pursue to conclusion all steps reasonably necessary to correct the interruption. The grantee must begin actions to correct other service problems the next business day after notification of the service problem, and pursue to conclusion all steps reasonably necessary to correct the problem.

5.5.5 The grantee may schedule appointments for installations and other service calls either at a specific time or, at a maximum, during a four-hour time block during the hours of 9:00 a.m. to 8:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturdays. The grantee may also schedule service calls outside such hours for the convenience of customers. The grantee shall use its best efforts to not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If the installer or technician is late and will not meet the specified appointment time, he/she must use his/her best efforts to contact the customer and reschedule the appointment at the sole convenience of the customer. Service call appointments must be met in a manner consistent with FCC standards.

5.5.6 The grantee shall respond to written complaints from the city and the commission in a timely manner, and provide a copy of each response to the city and the commission within 30 days. In addition, the grantee shall respond to all written complaints from subscribers within 30 days of receipt of the complaint.

5.6 *Subscriber contracts.* The grantee shall file with the commission any standard form subscriber contract utilized by grantee. If no such written contract exists, the grantee shall file with the commission a document completely and concisely stating the length and terms of the subscriber contract offered to customers. The length and terms of any subscriber contract(s) shall be available for public inspection during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.

5.7 *Service credit.*

5.7.1 In the event a subscriber establishes or terminates service and receives less than a full month's service, grantee shall prorate the monthly rate on the basis of the number of days in the period for which service was rendered to the number of days in the billing cycle.

5.7.2 If, for any reason, service is interrupted for a total period of more than 24 hours in any 30-day period, subscribers that had interrupted service shall, upon request, be credited pro rata for such interruption.

5.8 *Refunds or credits.*

5.8.1 Any refund checks shall be issued promptly, but not later than either:

5.8.1.1 The subscriber's next billing cycle following resolution of the request or 30 days, whichever is earlier; or

5.8.1.2 The return of the equipment supplied by the grantee if service is terminated.

5.8.2 Any credits for service shall be issued no later than the subscriber's next billing cycle following the determination that a credit is warranted.

5.9 *Late fees.*

Fees for the late payment of bills shall not be assessed until after the service has been fully provided. Late fee amounts on file with the commission shall not be adjusted by the grantee without the commission's prior approval.

5.10 *Notice to subscribers.*

5.10.1 The grantee shall provide each subscriber at the time cable service is installed, and at least every 12 months thereafter, the following materials:

5.10.1.1 Instructions on how to use the cable service;

5.10.1.2 Billing and complaint procedures, and written instructions for placing a service call, filing a complaint or requesting an adjustment (including when a subscriber is entitled to refunds for outages and how to obtain them);

5.10.1.3 A schedule of rates and charges, channel positions and a description of products and services offered;

5.10.1.4 Prices and options for programming services and conditions of subscription to programming and other services; and

5.10.1.5 A description of the grantee's installation and service maintenance policies, subscriber privacy rights, delinquent subscriber disconnect and reconnect procedures and any other of its policies applicable to subscribers.

5.10.2 Copies of materials specified in the preceding subsection shall be provided to the city and the commission upon request.

5.10.3 All grantee promotional materials, announcements and advertising of cable service to subscribers and the general public, where price information is listed in any manner, shall be clear, concise, accurate and understandable.

5.11 Exclusive contracts and anticompetitive acts prohibited.

5.11.1 The grantee may not require a residential subscriber to enter into an exclusive contract as a condition of providing or continuing cable service.

5.11.2 The grantee shall not engage in acts prohibited by federal or state law that have the purpose or effect of limiting competition for the provision of cable service in the city.

5.12 Office availability and payment centers.

5.12.1 The grantee shall install, maintain and operate, throughout the term of this franchise, a single staffed payment center with regular business hours in the North Metro franchise area at a location agreed upon by the commission and the grantee. Additional payment centers may be installed at other locations. The purpose of the payment center(s) shall be to receive subscriber payments. All subscriber remittances at a payment center shall be posted to subscribers' accounts within 48 hours of remittance. Subscribers shall not be charged a late fee or otherwise penalized for any failure by the grantee to properly credit a subscriber for a payment timely made.

5.12.2 The grantee shall, at the request of and at no delivery or retrieval charge to a subscriber, deliver or retrieve electronic equipment (e.g., set top boxes and remote controls).

5.12.3 After consultation with the commission, the grantee shall provide subscribers with at least 60 days' prior notice of any change in the location of the customer service center serving the North Metro system, which notice shall apprise subscribers of the customer service center's new address, and the date the changeover will take place.

(Ord. No. 15-2332, 12-3-2015)

Sec. 6. Access channel(s) provisions.*6.1 Public, educational and government access.*

6.1.1 The commission is hereby designated to operate, administer, promote, and manage PEG access programming on the cable system.

6.1.2 Within 120 days from the effective date, the grantee shall provide 12 channels (the "access channels") to be used for PEG access programming on the basic service tier. The city and commission have the sole discretion to designate the use of each access channel. Grantee shall provide a technically reliable path for upstream and downstream transmission of the access channels, which will in no way degrade the technical quality of the access channels, from an agreed upon demarcation point at the commission's master control center at the commission's office, and from any other designated access providers' locations, to grantee's headend, on which all access channels shall be transported for distribution on grantee's subscriber

network. The access channels shall be delivered without degradation to subscribers in the technical format (e.g. HD or SD) as delivered by the commission and any designated access provider to grantee at each demarcation point at the commission office and at the designated access providers' locations.

- 6.1.2.1 All of the access channels will be made available through a multi-channel display (i.e. a picture in picture feed) on a single TV screen called a "mosaic" (the "North Metro Mosaic"), where a cable subscriber can access via an interactive video menu one of any of the 12 access channels. The North Metro mosaic will be located on channel 16. The 12 access channels will be located at channels 8026—8037. The North Metro mosaic will contain only access channels authorized by the commission.
- 6.1.2.2 Grantee will make available to the commission the ability to place detailed scheduled access channel programming information on the interactive channel guide by putting the commission in contact with the electronic programming guide vendor ("EPG provider") that provides the guide service (currently Gracenote). Grantee will be responsible for providing the designations and instructions necessary to ensure the access channels will appear on the programming guide throughout the city and any necessary headend costs associated therewith. The commission shall be responsible for providing programming information to the EPG provider.
- 6.1.2.3 For purposes of this franchise, the term channel shall be as commonly understood and is not any specific bandwidth amount. The signal quality of the access channels shall be the same as the local broadcast channels, provided such signal quality is delivered to grantee at the access channels' respective demarcation points.
- 6.1.2.4 Grantee will provide, at no cost to the commission, air time on non-access channels during periods in which ample unsold/unused air time on such channels exists for city public service announcements (PSAs). The commission will provide a 30-second PSA prior to the start of each month on a mutually agreed-upon schedule.
- 6.1.2.5 In the event grantee makes any change in the cable system and related equipment and facilities or in its signal delivery technology, which requires the city or commission to obtain new equipment in order to be compatible with such change for purposes of transport and delivery of the access channels to the grantee's headend, grantee shall, at its own expense and free of charge to the city, the commission, or its designated entities, purchase such equipment as may be necessary to facilitate the cablecasting of the access channels in accordance with the requirements of the franchise.

- 6.1.2.6 Neither the grantee nor the officers, directors, or employees of the grantee is liable for any penalties or damages arising from programming content not originating from or produced by the grantee and shown on any public access channel, education access channel, government access channel, leased access channel, or regional channel.
- 6.1.2.7 Within 120 days of a written request from the commission, grantee shall make available as part of basic service to all subscribers a PEG access video-on demand (PEG-VOD) service and maintain a PEG-VOD system. The PEG-VOD system shall be connected by the grantee such that:
- 6.1.2.7.1 25 hours of programming per member city of commission, or such greater amount as may be mutually agreed to by the parties, as designated and supplied by the city, commission, or its designated access provider to the grantee may be electronically transmitted and/or transferred and stored on the PEG-VOD system; and
- 6.1.2.7.2 A database of that programming may be efficiently searched and a program requested and viewed over the PEG-VOD system by any subscriber in the city; and
- 6.1.2.7.3 Programming submitted for placement on the PEG-VOD system, shall be placed on and available for viewing from the PEG-VOD system within 48 hours of receipt of said programming;
- 6.1.2.7.4 The hardware and software described in subsection 6.1.2.8, shall be in all respects of the same or better technical quality as the hardware and software utilized by grantee in the provision of any other video on demand services offered over the cable system, and shall be upgraded at grantee's cost, when new hardware or software is utilized on grantee's cable system for other video on demand services. Grantee shall provide reasonable technical assistance to allow for proper use and operation when encoding hardware or software is installed and/or upgraded at city's facilities.
- 6.1.2.8 To ensure compatibility and interoperability, the grantee shall supply and maintain all necessary hardware and software to encode, transmit and/or transfer government access programming from the city to the PEG-VOD system. The city shall be responsible for all monitoring of any equipment provided under this section, and notifying grantee of any problems. Grantee shall provide all technical support and maintenance for the equipment provided to the city by grantee under this section. After notification of any equipment problems, grantee shall diagnose and resolve the problem within 48 hours. Major repairs which cannot be repaired within the 48 hour timeframe shall be completed within seven days of notice, unless, due to force majeure conditions, a longer time is

required. "Major repairs" are those that require equipment to be specially obtained in order to facilitate the repairs. The quality of signal and the quality of service obtained by a subscriber utilizing the PEG-VOD service shall meet or exceed the quality standards established for all other programming provided by the grantee and as established elsewhere in this franchise agreement.

The commission shall have the right to rename, reprogram or otherwise change the use of these channels at any time, in its sole discretion, provided such use is noncommercial and public, educational, governmental or religious in nature. Nothing herein shall diminish any rights of the city and the commission to secure additional PEG channels pursuant to M.S.A. § 238.084, which is expressly incorporated herein by reference.

- 6.1.3 The access channels, including the North Metro mosaic channel, shall not be relocated without the consent of the commission. If the commission agrees to change the channel designation for access channels, the grantee must provide at least three months' notice to the city and the commission prior to implementing the change, and shall reimburse the commission and/or PEG entity for any reasonable costs incurred for: (i) purchasing or modifying equipment, business cards and signage; (ii) any marketing and notice of the channel change that the commission reasonably determines is necessary; (iii) logo changes; and (iv) promoting, marketing and advertising the channel location of the affected access channels during the 12-month period preceding the effective date of the channel change. Alternatively, the grantee may choose to supply necessary equipment itself, provided such equipment is satisfactory to the commission or PEG entity.
- 6.1.4 In the event the grantee makes any change in the system and related equipment and facilities or in signal delivery technology, which change directly or indirectly causes the signal quality or transmission of PEG channel programming or PEG services to fall below technical standards under applicable law, the grantee shall, at its own expense, provide any necessary technical assistance, transmission equipment and training of PEG personnel, and in addition, provide necessary assistance so that PEG facilities may be used as intended, including, among other things, so that live and taped programming can be cablecasted efficiently to subscribers.
- 6.1.5 Subject to section 6.1.2.1, all PEG channels shall be transmitted in the same format as all other basic cable service channels and shall be carried on the basic service tier and shall be provided to all cable subscribers regardless of the tier or package of cable service subscribed to by the subscriber.
- 6.1.6 Except as otherwise provided in this franchise, the commission shall be responsible for any necessary master control switching of PEG signals and institutional network.

6.2 *PEG support obligations.*

6.2.1 Grantee shall pay a PEG fee of \$3.16/subscriber/month from the effective date until the franchise renews. Starting with the 2016 calendar year, the city may elect to increase this fee based on the incumbent's cable franchise PEG support obligation, or the consumer price index. Any such election must be made in writing to the franchisee no later than September 1 prior to the year in which the increase shall apply. In no event shall the monthly per subscriber fee be in an amount different from the incumbent cable provider. The PEG fee may be used for operational or capital support of PEG programming. The PEG fee may be itemized on the subscriber billing statements per applicable law. The grantee shall apply one PEG fee on the master account for services to non-dwelling bulk accounts (such as hotels, motels, prisons and hospitals). The grantee shall calculate PEG fees on a pro rata basis for bulk accounts in residential multiple dwelling unit ("MDU") buildings in the following manner: if the bulk rate for basic cable service is one-third of the current residential rate, then a pro-rated PEG fee shall be added to the bulk bill for an MDU building in an amount equal to one-third of the current PEG fee. If the bulk rate for basic cable service is raised in any MDU building, the pro-rated PEG fee in that building shall be recalculated and set based on the foregoing formula, regardless of any cap on per subscriber PEG fee amounts. Payments for the PEG fee pursuant to this subsection shall be made quarterly based on actual receipts from the prior quarter on the same schedule as franchise fee payments.

6.2.2 The grantee shall provide the fiber-optic or other cabling and other electronics, equipment, software and other materials necessary to transport all PEG signals from their origination point to and from the commission's master control to the appropriate subscriber network channel, including channels provided discretely. Grantee shall provide the aforementioned cabling, electronics, equipment, software and other materials at no cost to the city, the commission, and the North Metro media center. This equipment shall include one encoder for each access channel.

6.3 *Regional channel 6.* The grantee shall designate standard VHF channel 6 for uniform regional channel usage to the extent required by state law.

6.4 *Leased access channels.* The grantee shall provide leased access channels as required by federal and state law.

6.5 *PEG obligations.* Except as expressly provided in this franchise, the grantee shall not make any changes in PEG support or in the transmission, reception and carriage of PEG channels and equipment associated therewith, without the consent of the city and/or the commission.

6.6 *Costs and payments not franchise fees.* The parties agree that any costs to the grantee and payments from the grantee associated with the provision of support for PEG access, pursuant to sections 6 and 7 do not constitute and are not part of a franchise fee and fall within one or more of the exceptions to 47 USC 542. If the incumbent franchised cable operator agrees to provide any support of the access channels in excess of the amount identified above or to any payment in support of any other PEG-related commitment after the effective date of this franchise, the commission, in its reasonable discretion, after meeting with the grantee, will determine whether grantee's PEG fee should be changed. If grantee is required to pay any additional PEG fee, such amount must be based upon a per subscriber/per month fee.

(Ord. No. 15-2332, 12-3-2015)

Sec. 7. Institutional network (i-net) provisions and related commitments.

7.1 *Twin cities metro PEG interconnect network.* Grantee shall provide a discrete, non-public, video interconnect network, from an agreed upon demarcation point at the commission's master control center at the commission's office, to grantee's headend. The video interconnect network shall not exceed 50 Mbps of allocated bandwidth, allowing PEG operators that have agreed with grantee to share (send and receive) live and recorded programming for playback on their respective systems. Where available the grantee shall provide the video interconnect network and the network equipment necessary, for the high-priority transport of live multicast HD/SD video streams as well as lower-priority file-sharing. Grantee shall provide 50 Mbps bandwidth for each participating PEG entity to send its original programming, receive at least two additional multicast HD/SD streams from any other participating PEG entity, and allow the transfer of files. Each participating PEG entity is responsible for encoding its own SD/HD content in suitable bit rates to be transported by the video interconnect network without exceeding the 50 Mbps of allocated bandwidth.

7.2 *Cable service to public buildings.* Grantee shall, at no cost to the city or commission, provide basic service and expanded basic service (currently Prism Essentials) or equivalent package of cable service and necessary reception equipment to up to seven outlets at the commission office and at each member city hall and to each independent school district, except Blaine High School, at the current locations located in the commission area that originates PEG programming. Grantee shall, at no cost to the city, provide basic service and expanded basic service (currently Prism Essentials) or equivalent package of cable service and necessary reception equipment to up to three outlets at all other government buildings, schools and public libraries located in the city where grantee provides cable service, so long as these government addresses are designated as a household and no other cable communications provider is providing complementary service at such location. For purposes of this subsection, "school" means all state-accredited K—12 public, and

private schools. Outlets of basic and expanded basic service provided in accordance with this subsection may be used to distribute cable services throughout such buildings; provided such distribution can be accomplished without causing cable system disruption and general technical standards are maintained. Such outlets may only be used for lawful purposes. Blaine High School will be provided the functionality to monitor PEG signals through a mutually agreeable alternate technology at the expense of the grantee.

(Ord. No. 15-2332, 12-3-2015)

Sec. 8. Operation and administration provisions.

8.1 *Administration of franchise.* The city's designated cable television administrator, or his/her designee, shall have continuing regulatory jurisdiction and supervision over the system and the grantee's operation under the franchise. The city may issue such reasonable rules and regulations concerning the construction, operation and maintenance of the system, as are consistent with the provisions of this franchise and law.

8.2 *Delegated authority.* The city may appoint a citizen advisory body or a joint powers commission, or may delegate to any other body or person authority to administer the franchise and to monitor the performance of the grantee pursuant to the franchise. The grantee shall cooperate with any such delegatee of the city.

8.3 Franchise fee.

8.3.1 During the term of the franchise, the grantee shall pay quarterly to the city or its delegatee a franchise fee in an amount equal to five percent of its gross revenues.

8.3.2 Any payments due under this provision shall be payable quarterly. The payment shall be made within 30 days of the end of each of grantee's fiscal quarters together with a report showing the basis for the computation. The city or the commission shall have the right to require further supporting information for each franchise fee payment.

8.3.3 All amounts paid shall be subject to audit and recomputation by [the] city and/or the commission, and acceptance of any payment shall not be construed as an accord that the amount paid is in fact the correct amount. The grantee shall be responsible for providing the city and/or the commission all records necessary to confirm the accurate payment of franchise fees. The grantee shall maintain such records for five years, unless in the grantee's ordinary course of business specific records are retained for a shorter period, but in no event less than three years. If an audit discloses an overpayment or underpayment of franchise fees, the city and/or the commission shall notify the grantee of such overpayment or underpayment. The city's/commission's audit expenses shall be borne by the city/commission unless the audit determines that the payment to the city should be increased by more than

five percent in the audited period, in which case the reasonable costs of the audit shall be borne by the grantee as a cost incidental to the enforcement of the franchise. Any additional amounts due to the city as a result of the audit shall be paid to the city within 30 days following written notice to the grantee by the city/commission of the underpayment, which notice shall include a copy of the audit report. If the recomputation results in additional revenue to be paid to the city, such amount shall be subject to a ten percent annual interest charge. If the audit determines that there has been an overpayment by the grantee, the grantee may credit any overpayment against its next quarterly payment.

8.3.4 In the event any franchise fee payment or recomputation amount is not made on or before the required date, the grantee shall pay, during the period such unpaid amount is owed, the additional compensation and interest charges computed from such due date, at an annual rate of ten percent.

8.3.5 Nothing in this franchise shall be construed to limit any authority of the city to impose any tax, fee or assessment of general applicability.

8.3.6 The franchise fee payments required by this franchise shall be in addition to any and all taxes or fees of general applicability. The grantee shall not have or make any claim for any deduction or other credit of all or any part of the amount of said franchise fee payments from or against any of said taxes or fees of general applicability, except as expressly permitted by law. The grantee shall not apply nor seek to apply all or any part of the amount of said franchise fee payments as a deduction or other credit from or against any of said taxes or fees of general applicability, except as expressly permitted by law. Nor shall the grantee apply or seek to apply all or any part of the amount of any of said taxes or fees of general applicability as a deduction or other credit from or against any of its franchise fee obligations, except as expressly permitted by law.

8.4 *Access to records.* To the extent such documents are related to grantee's compliance with this franchise or applicable law (the burden to allege and, if so alleged, the initial burden to demonstrate that such requested documents are not related to grantee's compliance with this franchise or applicable law shall be the grantee's), the city/commission shall have the right to inspect or copy any records or documents maintained by grantee (or maintained by an affiliate on behalf of the grantee, to the extent that review of such record or document maintained by the affiliate on behalf of the grantee is necessary in order for the city/commission to enforce compliance with this franchise) upon reasonable notice and during grantee's administrative office hours, or require grantee to provide copies of records and documents within a reasonable time, on a confidential and proprietary basis, to the extent such records and documents otherwise qualify as nonpublic, confidential, trade secret or proprietary pursuant to applicable law. Upon the city's/commission's

request, the grantee shall provide to the city and/or the commission copies of any records or documents that cannot be reasonably argued pursuant to applicable law to be nonpublic, confidential, trade secret or proprietary.

8.5 Reports and maps to be filed with city.

8.5.1 The grantee shall file with the city, at the time of payment of the franchise fee, a report of all gross revenues in a form and substance as required by the city or the commission.

8.5.2 The grantee shall prepare and furnish to the city or the commission, at the times and in the form prescribed, such other reports with respect to grantee's operations pursuant to this franchise as the city or the commission may require. The city and the commission shall use their best efforts to protect proprietary or trade secret information all consistent with state and federal law.

8.5.3 If required by the city and/or the commission, the grantee shall make available to the city and/or the commission the maps, plats and permanent records of the location and character of all facilities constructed, including underground facilities, and grantee shall upon request make available to the city and the commission updates of such maps, plats and permanent records annually if changes have been made in the system.

8.6 Periodic evaluation.

8.6.1 The city may require evaluation sessions at any time during the term of this franchise, upon 15 days written notice to the grantee.

8.6.2 Topics which may be discussed at any evaluation session may include, but are not limited to, application of new technologies, system, programming offered, access channels, facilities and support, municipal uses of cable, subscriber rates, customer complaints, amendments to this franchise, judicial rulings, FCC rulings, line extension policies and any other topics the city deems relevant.

8.6.3 As a result of a periodic review or evaluation session, upon notification from city, grantee shall meet with city and undertake good faith efforts to reach agreement on changes and modifications to the terms and conditions of the franchise which are legally, economically, and technically feasible.

(Ord. No. 15-2332, 12-3-2015)

Sec. 9. General financial and insurance provisions.

9.1 Performance bond.

9.1.1 At the time the franchise becomes effective and until such time as the construction of the system the grantee shall furnish a bond to the commission, in a form and with such sureties as are reasonably acceptable to the

commission, in the amount of \$500,000.00. Upon such completion of all system the bond shall be reduced to \$50,000.00. This bond will be conditioned upon the faithful performance by the grantee of its franchise obligations and upon the further condition that in the event the grantee shall fail to comply with any law, ordinance or regulation governing the franchise, there shall be recoverable jointly and severally from the principal and surety of the bond any damages or loss suffered by the city or the commission as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the grantee, plus a reasonable allowance for attorneys' fees and costs, up to the full amount of the bond, and further guaranteeing payment by the grantee of claims, liens and taxes due the city or the commission which arise by reason of the construction, operation, or maintenance of the system. The rights reserved by the city and the commission with respect to the bond are in addition to all other rights the city and the commission may have under the franchise or any other law. The commission may, from year to year, in its sole discretion, reduce the amount of the bond.

- 9.1.2 The time for grantee to correct any violation or liability shall be extended by commission if the necessary action to correct such violation or liability is, in the sole determination of commission, of such a nature or character as to require more than 30 days within which to perform, provided grantee provides written notice that it requires more than 30 days to correct such violations or liability, commences the corrective action within the 30-day cure period and thereafter uses reasonable diligence to correct the violation or liability.
- 9.1.3 In the event this franchise is revoked by reason of default of grantee, city shall be entitled to collect from the performance bond that amount which is attributable to any damages sustained by [the] city as a result of said default or revocation.
- 9.1.4 Grantee shall be entitled to the return of the performance bond, or portion thereof, as remains 60 days after the expiration of the term of the franchise or revocation for default thereof, provided the city or the commission has not notified grantee of any actual or potential damages incurred as a result of grantee's operations pursuant to the franchise or as a result of said default.
- 9.1.5 The rights reserved to the city or the commission with respect to the performance bond are in addition to all other rights of the city and the commission whether reserved by this franchise or authorized by law, and no action, proceeding or exercise of a right with respect to the performance bond shall affect any other right the city and the commission may have.

9.2 Letter of credit.

9.2.1 Within 30 days of the effective date of this franchise, the grantee shall deliver to the commission an irrevocable and unconditional letter of credit, that is effective as of the effective date, in a form and substance acceptable to the commission, from a national or state bank approved by the commission, in the amount of \$25,000.00.

9.2.2 The letter of credit shall provide that funds will be paid to the city upon written demand of the city, and in an amount solely determined by the city in payment for penalties charged pursuant to this section, in payment for any monies deemed by the city to be owed by the grantee to the city and/or the commission, as applicable, after notice and opportunity to pay any such monies, pursuant to its obligations under this franchise, or in payment for any damage incurred by the city or the commission as a result of any acts or omissions by the grantee pursuant to this franchise.

9.2.3 In addition to recovery of any monies owed by the grantee to the city, or the commission or damages to the city, the commission or any person as a result of any acts or omissions by the grantee pursuant to the franchise, the city and/or the commission in its sole discretion may charge to and collect from the letter of credit the following penalties:

9.2.3.1 For failure to timely construction pursuant to section 2.8 [2.7], unless the city or the commission approves the delay, the penalty shall be \$500.00 per day for each day, or part thereof, such failure occurs or continues.

9.2.3.2 For failure to provide data, documents, reports or information or to cooperate with city or the commission during an application process or system review or as otherwise provided herein, the penalty shall be \$250.00 per day for each day, or part thereof, such failure occurs or continues.

9.2.3.3 15 days following notice from the city or the commission of a failure of grantee to comply with construction, operation or maintenance standards, the penalty shall be \$250.00 per day for each day, or part thereof, such failure occurs or continues.

9.2.3.4 For failure to provide the services and the payments required by this franchise, including, but not limited to, the implementation and the utilization of the PEG access channels, the penalty shall be \$250.00 per day for each day, or part thereof, such failure occurs or continues.

9.2.3.5 For grantee's breach of any written contract or agreement with or to the city or the commission, the penalty shall be \$250.00 per day for each day, or part thereof, such breach occurs or continues.

- 9.2.3.6 For failure to comply with the reasonable build-out provisions and for economic redlining in violation of section 2.8 [2.7] and 11.1 and 47 USC 541(a)(3): \$500.00 per day for each day or part thereof that such violation continues.
- 9.2.3.7 For failure to comply with any of the provisions of this franchise, or other city ordinance or regulation for which a penalty is not otherwise specifically provided pursuant to this subsection 9.2.3, the penalty shall be \$250.00 per day for each day, or part thereof, such failure occurs or continues.
- 9.2.4 Each violation of any provision of this franchise shall be considered a separate violation for which a separate penalty can be imposed; provided, however, that grantee will not be charged under more than one penalty provision for each separate violation.
- 9.2.5 Whenever the city or the commission determines that the grantee has violated one or more terms, conditions or provisions of this franchise, or for any other violation contemplated in subsection 9.2.3, a written notice shall be given to grantee informing it of such violation. At any time after 30 days (or such longer reasonable time which, in the determination of the city or the commission, is necessary to cure the alleged violation) following local receipt of notice, provided the city or its designee finds that the grantee remains in violation of one or more terms, conditions or provisions of this franchise, in the sole opinion of the city or the commission, the city or the commission may draw from the letter of credit all penalties and other monies due the city or the commission from the date of the local receipt of notice.
- 9.2.6 Prior to drawing on the letter of credit, the city or the commission shall give grantee written notice that it intends to draw, and the grantee may, within seven days thereafter, notify the city or the commission in writing that there is a dispute as to whether a violation or failure has in fact occurred. Such written notice by the grantee to the city or the commission shall specify with particularity the matters disputed by grantee. Any penalties shall continue to accrue, but the city or the commission may not draw from the letter of credit during any appeal pursuant to this subsection 9.2.6. The city or the commission shall hear grantee's dispute within 60 days and the city or the commission, as appropriate, shall render a final decision within 60 days thereafter. Withdrawal from the letter of credit may occur only upon a final decision.
- 9.2.7 If said letter of credit or any subsequent letter of credit delivered pursuant thereto expires prior to 30 months after the expiration of the term of this franchise, it shall be renewed or replaced during the term of this franchise to provide that it will not expire earlier than 30 months after the expiration of

this franchise. The renewed or replaced letter of credit shall be of the same form and with a bank authorized herein and for the full amount stated in subsection 9.2.1.

- 9.2.8 If the city or the commission draws upon the letter of credit or any subsequent letter of credit delivered pursuant hereto, in whole or in part, the grantee shall replace or replenish to its full amount the same within ten days and shall deliver to the commission a like replacement letter of credit or certification of replenishment for the full amount stated in section 9.2.1 as a substitution of the previous letter of credit. This shall be a continuing obligation for any withdrawals from the letter of credit.
- 9.2.9 If any letter of credit is not so replaced or replenished, the city or the commission may draw on said letter of credit for the whole amount thereof and use the proceeds as the city or the commission determines in its sole discretion. The failure to replace or replenish any letter of credit may also, at the option of the city or the commission, be deemed a default by the grantee under this franchise. The drawing on the letter of credit by the city or the commission, and use of the money so obtained for payment or performance of the obligations, duties and responsibilities of the grantee which are in default, shall not be a waiver or release of such default.
- 9.2.10 The collection by the city or the commission of any damages, monies or penalties from the letter of credit shall not affect any other right or remedy available to it, nor shall any act, or failure to act, by the city or the commission pursuant to the letter of credit, be deemed a waiver of any right of the city or the commission pursuant to this franchise or otherwise.

9.3 *Indemnification of city.*

- 9.3.1 The city and its officers, boards, committees, commissions, elected and appointed officials, employees, volunteers and agents shall not be liable for any loss or damage to any real or personal property of any person, or for any injury to or death of any person, arising out of or in connection with grantee's construction, operation, maintenance, repair or removal of the system, or as to any other action of grantee with respect to this franchise.
- 9.3.2 Grantee shall indemnify, defend, and hold harmless the city and its officers, boards, committees, commissions, elected and appointed officials, employees, volunteers and agents from and against all liability, damages and penalties which they may legally be required to pay as a result of the city's or the commission's exercise, administration or enforcement of the franchise.
- 9.3.3 Nothing in this franchise relieves a person from liability arising out of the failure to exercise reasonable care to avoid injuring the grantee's facilities while performing work connected with grading, regarding or changing the line of a right-of-way or public place or with the construction or reconstruction of a sewer or water system.

- 9.3.4 The grantee shall not be required to indemnify the city for negligence or misconduct on the part of the city or its officers, boards, committees, commissions, elected or appointed officials, employees, volunteers or agents, including any loss or claims.
- 9.3.5 Grantee shall contemporaneously with this franchise execute an indemnity agreement in the form of exhibit A, which shall indemnify, defend and hold the city and commission harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses arising out of the actions of the city and/or commission in granting this franchise. This obligation includes any claims by another franchised cable operator against the city and/or commission that the terms and conditions of this franchise are less burdensome than another franchise granted by the city or that this franchise does not satisfy the requirements of applicable state law(s).

9.4 *Insurance.*

- 9.4.1 As a part of the indemnification provided in section 9.3, but without limiting the foregoing, grantee shall file with the commission at the time of its acceptance of this franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy, including broadcaster's/cablecaster's liability and contractual liability coverage, in protection of the grantee, the commission, the city and its officers, elected and appointed officials, boards, commissions, commissioners, agents, employees and volunteers for any and all damages and penalties which may arise as a result of this franchise. The policy or policies shall name the city and the commission as an additional insured, and in their capacity as such, city and commission officers, elected and appointed officials, boards, commissions, commissioners, agents, employees and volunteers. The broadcaster's/cablecaster's liability coverage specified in this provision shall be subject to section 9.3 above regarding indemnification of the city.
- 9.4.2 The policies of insurance shall be in the sum of not less than \$1,000,000.00 for personal injury or death of any one person, and \$2,000,000.00 for personal injury or death of two or more persons in any one occurrence, \$1,000,000.00 for property damage to any one person and \$2,000,000.00 for property damage resulting from any one act or occurrence.
- 9.4.3 The policy or policies of insurance shall be maintained by grantee in full force and effect during the entire term of the franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of grantee or for other reasons, except after 60 days advance written notice have been provided to

the commission. The grantee shall not cancel any required insurance policy without submission of proof that the grantee has obtained alternative insurance satisfactory to the city which complies with this franchise.

9.4.4 All insurance policies shall be with sureties qualified to do business in the state, with an A-1 or better rating of insurance by Best's Key Rating Guide, Property/Casualty Edition, and in a form approved by the city.

9.4.5 All insurance policies shall be available for review by the city and the commission, and the grantee shall keep on file with the commission certificates of insurance.

9.4.6 Failure to comply with the insurance requirements of this section shall constitute a material violation of this franchise.

(Ord. No. 15-2332, 12-3-2015)

Sec. 10. Sale, abandonment, transfer and revocation of franchise.

10.1 *City's right to revoke.*

10.1.1 In addition to all other rights which city has pursuant to law or equity, city reserves the right to commence proceedings to revoke, terminate or cancel this franchise, and all rights and privileges pertaining thereto, if it is determined by [the] city that:

10.1.1.1 Grantee has violated material provisions(s) of this franchise; or

10.1.1.2 Grantee has attempted to evade any of the provisions of the franchise; or

10.1.1.3 Grantee has practiced fraud or deceit upon the city or the commission. City may revoke this franchise without the hearing required by section 10.2.2 if grantee is adjudged a bankrupt.

10.2 *Procedures for revocation.*

10.2.1 The city shall provide the grantee with written notice of a cause for revocation and the intent to revoke and shall allow grantee 30 days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the franchise. In the notice required herein, the city shall provide the grantee with the basis for revocation.

10.2.2 The grantee shall be provided the right to a public hearing affording due process before the city council prior to the effective date of revocation, which public hearing shall follow the 30-day notice provided in subsection 10.2.1. The city shall provide the grantee with written notice of its decision together with written findings of fact supplementing said decision.

10.2.3 Only after the public hearing and upon written notice of the determination by the city to revoke the franchise may the grantee appeal said decision with an appropriate state or federal court or agency.

10.2.4 During the appeal period, the franchise shall remain in full force and effect unless the term thereof sooner expires or unless continuation of the franchise would endanger the health, safety and welfare of any person or the public.

10.3 *Continuity of service.* Grantee may not abandon the system or any portion thereof without having first given three months written notice to the city. The grantee may not abandon the system or any portion thereof without compensating the city for all costs incident to removal of the system if required by the city pursuant to section 10.4.

10.4 *Removal after abandonment, termination or forfeiture.*

10.4.1 In the event of termination or forfeiture of the franchise or abandonment of the system, the city shall have the right to require the grantee to remove all or any portion of the system from all rights-of-way and public property within the city, consistent with section 3.8 [3.3.8] (removal of facilities at expiration of franchise).

10.4.2 If the grantee has failed to commence removal of the system, or such part thereof as was designated by the city, within 30 days after written notice of the city's demand for removal is given, or if the grantee has failed to complete such removal within 12 months after written notice of the city's demand for removal is given, the city shall have the right to apply funds secured by the letter of credit and performance bond toward removal and/or declare all right, title and interest to the system to be in the city with all rights of ownership including, but not limited to, the right to operate the system or transfer the system to another for operation by it.

10.5 *Sale or transfer of franchise.*

10.5.1 No sale or transfer of the franchise, or sale, transfer or fundamental corporate change of or in grantee, including, but not limited to, a fundamental corporate change in grantee's parent corporation or any entity having a controlling interest in grantee, the sale of a controlling interest in the grantee's assets, a merger, including the merger of a subsidiary and parent entity, consolidation or the creation of a subsidiary or affiliate entity, shall take place until a written request has been filed with the city requesting approval of the sale, transfer or corporate change and such approval has been granted or deemed granted, provided, however, that said approval shall not be required where grantee grants a security interest in its franchise and/or assets to secure an indebtedness. Upon notice to the city, grantee may undertake legal changes necessary to consolidate the corporate or partnership structures of its system provided there is no change in the controlling

interests which could materially alter the financial responsibilities for the grantee; provided however, grantee must seek approval of any transaction constituting a transfer under state law.

10.5.2 Any sale, transfer, exchange or assignment of stock in grantee, or grantee's parent corporation or any other entity having a controlling interest in grantee, so as to create a new controlling interest therein, shall be subject to the requirements of this section. The term "controlling interest" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

10.5.3 The grantee shall file, in addition to all documents, forms and information required to be filed by applicable law, the following:

10.5.3.1 All contracts, agreements or other documents that constitute the proposed transaction and all exhibits, attachments or other documents referred to therein which are necessary in order to understand the terms thereof.

10.5.3.2 A list detailing all documents filed with any state or federal agency related to the transaction including, but not limited to, the MPUC, the FCC, the FTC, the FEC, the SEC or MnDOT. Upon request, grantee shall provide city with a complete copy of any such document; and

10.5.3.3 Any other documents or information related to the transaction as may be specifically requested by the city.

10.5.4 The city shall have such time as is permitted by federal law in which to review a transfer request.

10.5.5 The grantee shall reimburse the city and/or the commission for all the reasonable legal, administrative, and consulting costs and fees associated with the city's/commission's review of any request to transfer. Nothing herein shall prevent the grantee from negotiating partial or complete payment of such costs and fees by the transferee. Grantee may not itemize any such reimbursement on subscriber bills, but may recover such expenses in its subscriber rates.

10.5.6 In no event shall a sale, transfer, corporate change or assignment of ownership or control pursuant to subsections 10.5.1 or 10.5.2 be approved without the grantee remaining, or (if other than the current grantee) transferee becoming a signatory to this franchise and assuming or continuing to have all rights and obligations hereunder.

10.5.7 In the event of any proposed sale, transfer, corporate change or assignment pursuant to subsection 10.5.1 or 10.5.2, the city shall have the right to purchase the system for the value of the consideration proposed in such transaction. The city's right to purchase shall arise upon [the] city's receipt of notice of the material terms of an offer or proposal for sale, transfer,

corporate change or assignment, which grantee has accepted. Notice of such offer or proposal must be conveyed to [the] city in writing and separate from any general announcement of the transaction.

10.5.8 The city shall be deemed to have waived its right to purchase the system pursuant to this section only in the following circumstances:

10.5.8.1 If city does not indicate to grantee in writing, within 60 days of receipt of written notice of a proposed sale, transfer, corporate change or assignment as contemplated in section 10.5.7, its intention to exercise its right of purchase; or

10.5.8.2 It approves the assignment or sale of the franchise as provided within this section.

10.5.9 No franchise may be transferred if the city and/or the commission determine the grantee is in noncompliance of the franchise unless an acceptable compliance program has been approved by [the] city or the commission. The approval of any transfer of ownership pursuant to this section shall not be deemed to waive any rights of the city or the commission to subsequently enforce noncompliance issues relating to this franchise.

10.5.10 Any transfer or sale of the franchise without the prior written consent of the city shall be considered to impair the city's assurance of due performance. The granting of approval for a transfer or sale in one instance shall not render unnecessary approval of any subsequent transfer or sale for which approval would otherwise be required.

(Ord. No. 15-2332, 12-3-2015)

Sec. 11. Protection of individual rights.

11.1 *Discriminatory practices prohibited.* Grantee shall not deny service, deny access, or otherwise discriminate against subscribers (or group of potential subscribers) or general citizens on the basis of income, race, color, religion, national origin, sex, age, status as to public assistance, affectional preference or disability. Grantee shall comply at all times with all other applicable federal, state and city laws.

11.2 *Subscriber privacy.*

11.2.1 No signals, including signals of a Class IV channel, may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. Such written permission shall be for a limited period of time not to exceed one year which may be renewed at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the subscriber without

penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV channel activity planned for the purpose of monitoring individual viewing patterns or practices.

11.2.2 No lists of the names and addresses of subscribers or any lists that identify the viewing habits of subscribers shall be sold or otherwise made available to any party other than to grantee or its agents for grantee's service business use or to [the] city for the purpose of franchise administration, and also to the subscriber subject of that information, unless grantee has received specific written authorization from the subscriber to make such data available. Such written permission shall be for a limited period of time not to exceed one year which may be renewed at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever.

11.2.3 Written permission from the subscriber shall not be required for the conducting of system wide or individually addressed electronic sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in subsection 11.2.2.

(Ord. No. 15-2332, 12-3-2015)

Sec. 12. Unauthorized connections and modifications.

12.1 *Unauthorized connections or modifications prohibited.* It shall be unlawful for any firm, person, group, company, corporation or governmental body or agency, without the express consent of the grantee, to make or possess, or assist anybody in making or possessing, any unauthorized connection, extension or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the system or to receive services of the system without grantee's authorization.

12.2 *Removal or destruction prohibited.* It shall be unlawful for any firm, person, group, company or corporation to willfully interfere, tamper with, remove, obstruct, or damage, or assist thereof, any part or segment of the system for any purpose whatsoever, except for any rights the city may have pursuant to this franchise or its police powers.

12.3 *Penalty.* Any firm, person, group, company or corporation found guilty of violating this section may be fined not less than \$20.00 and the costs of the action nor more than \$500.00 and the costs of the action for each and every subsequent offense. Each continuing day of the violation shall be considered a separate occurrence.

(Ord. No. 15-2332, 12-3-2015)

Sec. 13. Miscellaneous provisions.

13.1 *Franchise renewal.* Any renewal of this franchise shall be performed in accordance with applicable federal, state and local laws and regulations.

13.2 *Work performed by others.* All applicable obligations of this franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of this franchise, however, in no event shall any such subcontractor or other performing work obtain any rights to maintain and operate the system or provide cable service. The grantee shall provide notice to the city of the name(s) and address(es) of any entity, other than grantee, which performs substantial services pursuant to this franchise.

13.3 *Amendment of franchise ordinance.* The grantee and the city may agree, from time to time, to amend this franchise. Such written amendments may be made subsequent to a review session pursuant to section 8.6 or at any other time if the city and the grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws. Provided, however, nothing herein shall restrict the city's exercise of its police powers or the city's authority to unilaterally amend franchise provisions to the extent permitted by law.

13.4 *Compliance with federal, state and local laws.*

13.4.1 If any federal or state law or regulation shall require or permit city or grantee to perform any service or act or shall prohibit city or grantee from performing any service or act which may be in conflict with the terms of this franchise, then as soon as possible following knowledge thereof, either party shall notify the other of the point in conflict believed to exist between such law or regulation. Grantee and city shall conform to state laws and rules regarding cable communications not later than one year after they become effective, unless otherwise stated, and to conform to federal laws and regulations regarding cable as they become effective.

13.4.2 In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this franchise, the provision shall be read to be preempted to the extent and for the time, but only to the extent and for the time, required or necessitated by law. In the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the city or the commission.

13.4.3 If any term, condition or provision of this franchise or the application thereof to any person or circumstance (including the city, the grantee and the commission) shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or provision to persons or circumstances (including the city, the grantee and the commission) other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and complied with provided the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. In the event such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on grantee and city without further action by the city.

13.4.4 The city and the grantee shall, at all times during the term of this franchise, including all extensions and renewals hereof, comply with applicable federal, state and local laws and regulations.

13.5 *Nonenforcement by city.* Grantee shall not be relieved of its obligations to comply with any of the provisions of this franchise by reason of any failure or delay of [the] city to enforce prompt compliance. [The] city may only waive its rights hereunder by expressly so stating in writing. Any such written waiver by [the] city of a breach or violation of any provision of this franchise shall not operate as or be construed to be a waiver of any subsequent breach or violation.

13.6 *Rights cumulative.* All rights and remedies given to [the] city and the commission by this franchise or retained by [the] city or the commission herein shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter available to the city and the commission, at law or in equity, and such rights and remedies shall not be exclusive, but each and every right and remedy specifically given by this franchise or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by the city and the commission and the exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy.

13.7 *Grantee acknowledgment of validity of franchise.* The grantee acknowledges that it has had an opportunity to review the terms and conditions of this franchise and that under current law grantee believes that said terms and conditions are not unreasonable or arbitrary, and that grantee believes city has the power to make the terms and conditions contained in this franchise.

13.8 *Force majeure.* The grantee shall not be deemed in default of provisions of this franchise or this code where performance was rendered impossible by war or riots, labor strikes or civil disturbances, floods or other causes beyond the grantee's control, and the franchise shall not be revoked or the grantee penalized for such noncompliance, provided that the grantee, when possible, takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible, under the circumstances, with the franchise without unduly endangering the health, safety and integrity of the grantee's employees or property, or the health, safety and integrity of the public, the rights-of-way, public property or private property.

13.9 *Governing law.* This franchise shall be governed in all respects by the laws of the state.

13.10 *Captions and references.*

13.10.1 The captions and headings of sections throughout this franchise are intended solely to facilitate reading and reference to the sections and provisions of this franchise. Such captions shall not affect the meaning or interpretation of this franchise.

13.10.2 When any provision of this Code is expressly mentioned herein, such reference shall not be construed to limit the applicability of any other provision of this Code that may also govern the particular matter in question.

13.11 *Rights of third parties.* This franchise is not intended to, and shall not be construed to, grant any rights to or vest any rights in third parties, unless expressly provided herein.

13.12 *Merger of documents.* This franchise, and the attachments hereto, constitute the entire franchise agreement between the city and the grantee, and supersede all prior oral or written franchises, drafts and understandings.
(Ord. No. 15-2332, 12-3-2015)

Sec. 14. Publication effective date; acceptance and exhibits.

14.1 *Publication.* This franchise shall be published in accordance with applicable local and state law.

14.2 *Acceptance.*

14.2.1 Grantee shall accept this franchise within 60 days of its enactment by the city council and the enactment of a franchise on substantially similar terms by the other member municipalities of the commission, unless the time for acceptance is extended by the city. Such acceptance by the grantee shall be deemed the grant of this franchise for all purposes; provided, however, this franchise shall not be effective until all city ordinance adoption procedures are complied with and all applicable timelines have run for the adoption of a

city ordinance. In the event acceptance does not take place, or should all ordinance adoption procedures and timelines not be completed, this franchise and any and all rights granted hereunder to the grantee shall be null and void.

14.2.2 Upon acceptance of this franchise, the grantee and the city shall be bound by all the terms and conditions contained herein. The grantee agrees that this franchise is not inconsistent with applicable law or regulations at the time it is executed.

14.2.3 Grantee shall accept this franchise in the following manner:

14.2.3.1 This franchise will be properly executed and acknowledged by grantee and delivered to [the] city.

14.2.3.2 With its acceptance, grantee shall also deliver any performance bond and insurance certificates required herein that are due but have not previously been delivered.

14.3 *Binding acceptance.* This franchise shall bind and benefit the parties hereto and their respective authorized heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns.

(Ord. No. 15-2332, 12-3-2015)

EXHIBIT A INDEMNITY AGREEMENT

INDEMNITY AGREEMENT made this day of _____, _____ 2015, by and between Qwest Broadband Services, Inc., a Delaware Corporation, party of the first part, hereinafter called "CenturyLink," and the city of _____, a Minnesota Municipal Corporation, party of the second part, hereinafter called "city" and the North Metro Telecommunications Commission, a Minnesota Municipal Joint Powers entity, hereinafter called "commission."

WITNESSETH:

WHEREAS, the city of _____ has awarded to Qwest Broadband Services, Inc. a franchise for the operation of a cable communications system in the city of _____; and

WHEREAS, the city has required, as a condition of its award of a cable communications franchise, that it and the commission be indemnified with respect to all claims and actions arising from the award of said franchise.

NOW THEREFORE, in consideration of the foregoing promises and the mutual promises contained in this agreement and in consideration of entering into a cable television franchise agreement and other good and valuable consideration, receipt of which is hereby acknowledged, CenturyLink hereby agrees, at its sole cost and expense, to fully indemnify, defend and hold harmless the city and the commission, its officers, boards, commissions, employees and agents against any and all claims,

suits, actions, liabilities and judgments for damages, cost or expense (including, but not limited to, court and appeal costs and reasonable attorneys' fees and disbursements assumed or incurred by the city in connection therewith) arising out of the actions of the city and commission in granting a franchise to CenturyLink. This includes any claims by another franchised cable operator against the city that the terms and conditions of the CenturyLink franchise are less burdensome than another franchise granted by the city or that the CenturyLink franchise does not satisfy the requirements of applicable federal, state, or local law(s). The indemnification provided for herein shall not extend or apply to any acts of the city or commission constituting a violation or breach by the city or commission of the contractual provisions of the franchise ordinance, unless such acts are the result of a change in applicable law, the order of a court or administrative agency, or are caused by the acts of CenturyLink.

The city or commission shall give CenturyLink reasonable notice of the making of any claim or the commencement of any action, suit or other proceeding covered by this agreement. The city and commission shall cooperate with CenturyLink in the defense of any such action, suit or other proceeding at the request of CenturyLink. The city and commission may participate in the defense of a claim, but if CenturyLink provides a defense at CenturyLink's expense then CenturyLink shall not be liable for any attorneys' fees, expenses or other costs that city or commission may incur if it chooses to participate in the defense of a claim, unless and until separate representation is required. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest, in accordance with the Minnesota Rules of Professional Conduct, between the city or the commission and the counsel selected by CenturyLink to represent the city and/or the commission, Century Link shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by the city or the commission in defending itself with regard to any action, suit or proceeding indemnified by CenturyLink. Provided, however, that in the event that such separate representation is or becomes necessary, and city or the commission desires to hire a counselor any other outside experts or consultants and desires CenturyLink to pay those expenses, then city and/or the commission shall be required to obtain CenturyLink's consent to the engagement of such counsel, experts or consultants, such consent not to be unreasonably withheld. Notwithstanding the foregoing, the parties agree that the city or commission may utilize at any time, at its own cost and expense, its own attorney or outside counsel with respect to any claim brought by another franchised cable operator as described in this agreement.

The provisions of this agreement shall not be construed to constitute an amendment of the cable communications franchise ordinance or any portion thereof but shall be in addition to and independent of any other similar provisions contained in the cable communications franchise ordinance or any other agreement of the parties hereto. The provisions of this agreement shall not be dependent or

conditioned upon the validity of the cable communications franchise ordinance or the validity of any of the procedures or agreements involved in the award or acceptance of the franchise, but shall be and remain a binding obligation of the parties hereto even if the cable communications franchise ordinance or the grant of the franchise is declared null and void in a legal or administrative proceeding.

It is the purpose of this agreement to provide maximum indemnification to the city and the commission under the terms set out herein and, in the event of a dispute as to the meaning of this indemnity agreement, it shall be construed, to the greatest extent permitted by law, to provide for the indemnification of the city and the commission by CenturyLink. This agreement shall be a binding obligation of and shall inure to the benefit of, the parties hereto and their successors and assigns, if any.

QWEST BROADBAND SERVICES, INC.

Dated: _____, 2015

By: _____

Its: _____

STATE OF LOUISIANA

PARISH OF OUACHITA

The foregoing instrument was acknowledged before me this day of ____ 2015, by _____, the _____ of Qwest Broadband Services, Inc., a Delaware Corporation, on behalf of the corporation.

NOTARY PUBLIC

Print Name: _____

Bar Roll #/Notary ID #: _____

My Commission Expires: _____

CITY OF BLAINE MINNESOTA

By: _____

Its: _____

Department Head Responsible

For Monitoring Contract

Approved as to form: _____

City Attorney _____

NORTH METRO TELECOMMUNICATIONS COMMISSION

By: _____

Its: _____

(Ord. No. 15-2332, 12-3-2015)

ARTICLE III. NATURAL GAS FRANCHISE (CITY OF CIRCLE PINES)*

18-2401

Amending Appendix C of the Code of Ordinances, Natural Gas Franchise, (City of Circle Pines) granting to the city of Circle Pines, a municipal corporation, its successors and assigns, a nonexclusive franchise to construct, operate, repair and maintain facilities and equipment for the transportation, distribution, manufacture and sale of gas energy for public and private use and to use public ways and public grounds and to use the public grounds and public ways of the city for such purposes.

The City of Blaine does ordain:

Sec. 1. Definitions.

1.1. *City.* The City of Blaine, county of Anoka, State of Minnesota.

1.2. *City utility system.* Facilities used for providing nonenergy related public utility service owned and operated by the city or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting, or other forms of energy.

1.3. *Company.* City of Circle Pines, a municipal corporation, by and through its public utilities commission, its successors, and assigns, including successors and assignees of those portions of the company that constitute any part or parts of the gas facilities subject to this franchise.

1.4. *Effective date.* The date on which the ordinance becomes effective under section 2.2.

***Editor's note**—Printed in this article is Ord. No. 18-2401, adopted March 15, 2018, which superseded and replaced Ord. No. 98-1711, adopted May 21, 1998. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform, and the same system of capitalization, citations to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

1.5. *Gas.* Natural gas, manufactured gas, mixture of natural gas and manufactured gas or others forms of gas energy.

1.6. *Gas facilities.* Gas transmission and distribution pipes, mains, lines, ducts, fixtures, and all necessary facilities, equipment and appurtenances owned, operated or otherwise used by the company for the purpose of providing gas energy for public use.

1.7. *Non-betterment cost.* Costs incurred by the company from relocation, removal or rearrangement of gas facilities that do not result in an improvement to the facilities.

1.8. *Notice.* A writing served by a party or parties on another party or parties. Notice to the company shall be mailed to City Administrator, City of Circle Pines, 200 Civic Heights Circle, Circle Pines, MN 55014. Notice to city shall be mailed to the City Manager, City of Blaine, 10801 Town Square Drive NE, Blaine, MN 55449.

1.9. *Public ways.* Any street, alley, or other public right-of-way within the city.

2.0. *Public grounds.* Land owned or otherwise controlled by the city for parks, open space or similar public purpose.

Sec. 2. Franchise.

2.1. *Grant of franchise.* The city grants the company, for a period of 20 years from the effective date, the right to import, manufacture, transport, distribute and sell gas for public and private use within and through the limits of the city. This right includes the provision of gas that is manufactured by the company or its affiliates and delivered by the company, gas purchased and delivered by the company, or purchased from another source by retail customer and delivered by the company. For these purposes, the company may construct, operate, repair, and maintain gas facilities, in, on, over, under and across the public way and public ground subject to the provisions of this ordinance. The company may do all things reasonably necessary or customary to accomplish these purposes, subject to other applicable ordinances, permit requirements and further provisions of this ordinance.

2.2. *Effective date.* This franchise is effective from and after its acceptance by the company. Written acceptance by the company must be filed with the city clerk within 90 days after publication of this notice.

2.3. *Nonexclusive franchise.* This ordinance does not grant an exclusive franchise.

2.4. *Publication expense.* The expense of publication of this ordinance must be paid by the company.

2.5. *Default; dispute resolution.* If the city or the company asserts that the other party is in default in the performance of any obligation hereunder, the complaining party must notify the other party in writing of the default and the desired remedy. Representatives of the parties must promptly meet and attempt in good faith to

negotiate a resolution of the dispute. If the dispute is not resolved within 30 days after service of the notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of the mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the mediator, either party may commence an action in district court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity.

Sec. 3. Conditions of use.

3.1. *Location of facilities.* Gas facilities must be located, constructed, installed, and maintained so as not to interfere with the city utility system or the safety and convenience of ordinary travel along and over public ways. Gas facilities must be located on public grounds as determined by the city. The company's construction, reconstruction, operation, repair, maintenance and location of gas facilities is subject to other ordinances and regulations of the city.

3.2. *Field locations.* Upon request by the city, the company must provide field locations for any of its gas facilities within the period of time required by state law.

3.3. *Permit required.* The company may not open or disturb the surface of any public way or public ground without first having obtained a permit from the city, for which the city may impose a reasonable fee. The permit conditions imposed on the company may not be more burdensome than those imposed on other non-city utilities for similar facilities or work. The company must obtain the permit according to the procedures and requirements stated in Blaine Code, chapter 70, article I, section 70-3. The company may, however, open and disturb the surface of any public way or public ground without a permit if (i) an emergency exists requiring the immediate repair of gas facilities and (ii) the company gives notice to the city before, if possible, commencement of the emergency repair. On the next business day after commencing the repair, the company must apply for any required permits and pay the required fees.

3.4. *Restoration.* After completing work requiring the opening of a public way of public ground, the company must restore the same, including paving and its foundation, to the condition formerly existing and maintain the same in good condition for two years thereafter. The work must be completed as promptly as weather permits. If the company does not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and restore the public way or public ground, the city may, after demand to the company to cure and the passage of a reasonable period of time not exceeding five calendar days following the demand, make the restoration at the expense of the company. The company must pay to the city the cost of such work done for or performed by the city, including administrative

expense and overhead, plus ten percent of cost and administrative expense. This remedy is in addition to any other remedies available to the city for noncompliance with this section.

3.5. *Company protection of gas facilities in public ways.* The company must take reasonable measures to prevent the gas facilities from causing damage to persons and property. The company must take reasonable measures to protect the gas facilities from damage that could be inflicted on the facilities by persons, property, or the elements. The company must take protective measures when the city performs work near gas facilities, if given reasonable notice by the city of such work prior to its commencement.

3.6. *Notice of improvements.* The city must give the company reasonable notice of plans for improvements to public ways or public ground where the city has reason to believe that gas facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements; (ii) the public ways or public grounds upon which the improvements are to be made; (iii) the extent of the improvements; (iv) the time when the city will start the work; and, (v) if more than one public way or public ground is involved, the order in which the work is to proceed. The notice must be given to the company a sufficient length of time in advance of the actual commencement of the work to permit the company to make any necessary additions, alterations or repairs to its gas facilities. If streets are at a final width and grade and the city has installed underground sewer and water mains and service connections to the property line abutting the streets prior to a permanent paving or resurfacing of such streets, and the company's main is located under such street, the city may require the company to install gas service connections prior to such paving or resurfacing, if it is apparent that gas service will be required during the five years following the paving or resurfacing.

Sec. 4. Relocation.

4.1. *Relocation of gas facilities in public ways.* If the city determines to vacate a public way or public ground for a city improvement project, or to grade, re-grade or change the alignment of any public way or public ground or construct or reconstruct any city utility system in any public way or public ground, the city may order the company to relocate its gas facilities located therein. The company must relocate its gas facilities at its own expense. The city must give the company reasonable notice of plans to vacate for a city improvement project, grade, re-grade, or change the line of any public way or to construct or reconstruct any city utility system. City may order company to relocate permanently its mains, services, and other property located in said public way. If any subsequent relocation is required because of the extension of a city utility system to a previously un-served area, the city may require the company to make the subsequent relocation at its expense. If a relocation is ordered within five years of a prior relocation of the same gas facilities, which was made at company expense, the city shall reimburse the company for non-betterment

costs on a time and material basis. Nothing in this ordinance requires the company to relocate, remove, replace or reconnect its facilities at the company's expense where such relocation, removal, replacement or reconstruction is solely for the convenience of the city and is not reasonably necessary for the construction or reconstruction of a public way or city utility system or other city improvement.

4.2. *Relocation of gas facilities in public ground.* The city may require the company, at the company's expense, to relocate gas facilities within or remove gas facilities from public ground upon a finding by city that the gas facilities have become or will become a substantial impairment of the public use or enjoyment to which the public ground is or will be put. The provisions of this section 4.2 apply only to gas facilities constructed in reliance on this franchise and the company does not waive its rights under an easement or prescriptive right in the public ground.

4.3. *Vacation of public ways.* The city must give the company at least two weeks' notice of a proposed vacation of a public way. Except where required for a city street or other improvement project, or other improvement project or as otherwise provided in section 4.2, the vacation of a public way, after the installation of gas facilities, does not deprive the company of its rights to operate and maintain the gas facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to company by the city. The city is not liable to the company for failure to specifically preserve a right-of-way in the manner permitted by law.

4.4. *Project with state or federal funding.* Relocation, removal or rearrangement of any gas facilities made necessary because of the extension into or through the city of a federally aided highway project shall be governed by the provisions of M.S.A. § 161.46.

Sec. 5. Defense and indemnification.

5.1. *Terms.* The company will defend, indemnify, keep, and hold the city free and harmless from any and all liability on account of injury to persons or damage to property caused by the construction, maintenance, operation, repair, inspection, or issuance of permits relating to the gas facilities. The city will not be indemnified by the company for losses or claims in which the city is determined to be negligent, except for losses or claims arising out of or alleging the city's negligence as to the issuance of permits for, or inspection of, the company's plans or work. The city will not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by the company, and such performance is nevertheless ordered or directed by the city after notice to the city of the company's determination. The city will not indemnify the company nor contribute towards costs, fees or damages incurred by the company, arising out of claims by third parties against the company.

5.2. *Litigation.* If a suit is brought against the city under circumstances where the agreement in section 5 to indemnify applies, the company at its sole cost and expense will defend the city in such suit if notice thereof is promptly given to the company within a reasonable period. If the company is required to indemnify and defend, it will thereafter have control of such litigation, but the company may not settle such litigation without the consent of the city, which consent will not be unreasonably withheld. This section is not as to third parties a waiver of any defense or immunity otherwise available to the city; and the company, in defending any action on behalf of the city is entitled to assert in any action every defense or immunity that the city could assert in its own behalf.

Sec. 6. Successors in interest.

This ordinance and the rights and obligations conferred hereby, is binding on and inures to the benefit of the city and its successors and permitted assigns. This ordinance and the franchise it confers may not be assigned by the company without the written consent of the city.

Sec. 7. Franchise fee.

7.1. *Separate ordinance.* During the term of the franchise hereby granted, and in addition to other fees being imposed or that the city has the right by statute to impose on the company, the city may require a franchise fee to be paid by the company. The franchise fee must be imposed by a separate ordinance by the city council, which ordinance may not be adopted until at least 60 days after notice enclosing such proposed ordinance has been served upon the company by certified mail. A fee imposed under this section does not become effective until 60 days after notice enclosing the adopted ordinance has been served upon the company by certified mail.

7.2. *Calculation of fee.* The city may impose the franchise fee: (i) as a percentage of gross revenues received by the company for its operations within the city; or (ii) as a flat fee per customer based on metered service to retail customers within the city or on some other reasonable basis; or (iii) as a fee based on units of gas delivered to any class of retail customers within the corporate limits of the city. The formula for a franchise fee based on units of gas delivered may incorporate both commodity and demand units. The method of imposing the franchise fee, the percent of revenue rate, the flat rate and the per unit rate may differ for each customer class.

7.3. *Collection of the fee.* The franchise fee will be payable not less often than quarterly, and based on any of the alternative formulas described in section 7.2 during complete billing months of the period for which payment is to be made. The franchise fee formula may be changed by ordinance from time to time; however, each change must meet the same notice requirements and may not be made more often than annually. The fee may not exceed any amount that the company may legally

charge to its customers prior to payment to the city, by imposing a surcharge equivalent to such fee in its rates for gas service. The company may pay the city the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles or customer refunds. The company agrees to make available for inspection by the city at reasonable times all records necessary to audit the company's determination of the franchise fee payments.

7.4. *Continuation of franchise fee.* If this franchise expires and the city and the company are unable to agree upon terms of a new franchise, the franchise fee, if any, being imposed by the city at the time this franchise expires, will remain in effect until a new franchise is agreed upon.

Sec. 8. Severability.

If any portion of this franchise is found to be invalid for any reason whatsoever the validity of the remainder will not be affected.

Sec. 9. Amendment.

This ordinance may be amended at any time by the city. An amendatory ordinance becomes effective upon the filing of the company's written consent thereto.

Sec. 10. Limitation on applicability.

This ordinance constitutes a franchise agreement between the city and the company. No provision of this franchise inures to the benefit of any third person, including the public at large, so as to constitute any such person as a third-party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action for any person not a party hereto.

Sec. 11. Previous franchise superseded.

This franchise supersedes and replaces any previous gas franchise granted to the company or its predecessor.

Introduced and read this first day of March, 2018.

Passed by the city council of the City of Blaine this 15th day of March, 2018.

Signed by:

Tom Ryan, Mayor

Date

Attested by:

Catherine Sorensen, CMC, City Clerk

Date

ARTICLE IV. NATURAL GAS FRANCHISE (NORTHERN STATES POWER COMPANY)*

Ord. No. 98-1710

Amending Appendix C of the Code of Ordinances, Natural Gas Franchise (Northern States Power Co.) granting to Northern States Power Company, a Minnesota corporation, its successors and assigns, a nonexclusive franchise to construct, operate, repair and maintain facilities and equipment for the transportation, distribution, manufacture and sale of gas energy for public and private use and to use public ways and public grounds of the city for such purposes; and prescribing certain terms and conditions thereof.

The City of Blaine does ordain:

Sec. 1. Definitions.

1.1. *City.* The City of Blaine, County of Anoka, State of Minnesota.

1.2. *City utility system.* Facilities used for providing nonenergy related public utility service owned and operated by the city or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting, or other forms of energy.

1.3. *Commission.* The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government that preempts all or part of the authority to regulate gas retail rates now vested in the Minnesota Public Utilities Commission.

1.4. *Company.* Northern States Power Company, a Minnesota corporation, its successors and assigns.

1.5. *Gas facilities.* Gas transmission and distribution pipes, mains, regulators and necessary appurtenances owned, operated or otherwise used by company for the purpose of providing natural gas, manufactured gas or other form of gaseous energy for public use.

***Editor's note**—Printed in this article is Ord. No. 98-1710, adopted May 21, 1998. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform, and the same system of capitalization, citations to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

1.6. *Non-betterment cost.* Costs incurred by company from relocation, removal or rearrangement of gas facilities that do not result in an improvement to the gas facilities.

1.7. *Notice.* A writing served by any party or parties on any other party or parties. Notice to company shall be mailed to President, NSP Gas, 825 Rice Street, St. Paul, Minnesota 55117. Notice to the city shall be mailed to the City Manager, City of Blaine, 9150 Central Ave. NE, Blaine, MN 55434. Either party may change its respective address for the purpose of this ordinance by written notice to the other party.

1.8. *Effective date.* The date on which the ordinance becomes effective under section 2.2.

1.9. *Public way.* Any street, alley, walkway or other public right-of-way within the city.

1.10. *Public ground.* Land owned by the city for parks, open space or similar purpose, which is held for use in common by the public.

Sec. 2. Franchise.

2.1. *Grant of franchise.* City grants company, for a period of 20 years from the date of passage of this ordinance, the nonexclusive right to transmit and furnish gas energy for light, heat, power and other purposes for public and private use within and through the limits of the city as its boundaries now exist or as they may be extended in the future. For these purposes, company may construct, operate, repair, and maintain gas facilities in, on, over, and under and across the public ways and public grounds of city, subject to the provisions of this ordinance. Company may do all things reasonably necessary or customary to accomplish these purposes, subject however, to such reasonable regulations as may be imposed by the city pursuant to ordinance and to the further provisions of this franchise agreement.

2.2. *Effective date; written acceptance.* This franchise shall be in force and effect from and after its passage and acceptance by company, and its publication as required by law. An acceptance by company must be filed with the city clerk within 90 days after publication.

2.3. *Service and rates.* The service to be provided and the rates to be charged by company for gas service in city are subject to the jurisdiction of the commission.

2.4. *Publication expense.* The expense of publication of this ordinance shall be paid by the company.

2.5. *Dispute resolution.* If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party must notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to

negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of the mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in district court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

Sec. 3. Location, other regulations.

3.1. *Location of facilities.* Gas facilities shall be located, and constructed, so as not to interfere with the safety and convenience of ordinary travel along and over public ways and so as not to disrupt normal operation of any city utility system previously installed therein. Gas facilities shall be located on public grounds as determined by the city. Company's construction, reconstruction, operation, repair, maintenance and location of gas facilities shall be subject to other reasonable regulations of the city to the extent not inconsistent with the terms of this franchise agreement. Company may abandon underground gas facilities in place, provided at city's request company removes abandoned metal pipe interfering with a city improvement project if such metal pipe is uncovered as part of the city improvement project.

3.2. *Field locations.* Company shall provide field locations for its underground gas facilities within city consistent with the requirements of M.S.A. ch. 216D.

3.3. *Street openings.* Company shall not open or disturb the paved surface of any public way or public ground for any purpose without first having obtained permission from the city, for which the city may impose a reasonable fee. Any permit conditions imposed on company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb the paved surface of any public way or public ground without permission from the city where an emergency exists requiring the immediate repair of gas facilities. In such event, company shall notify the city by telephone to the office designated by the city as soon as practicable. Not later than the second working day thereafter, company shall obtain any required permits and pay any required fees.

3.4. *Restoration.* After undertaking any work requiring the opening of a public way or public ground, company shall restore the same, including paving and its foundation, to as good a condition as formerly existed and shall maintain any paved surface in good condition for two years thereafter. The work shall be completed as promptly as weather permits and if the company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the public way or public ground, in the said condition, the city shall have, after demand to the company to cure and the passage of a reasonable period of time following the

demand, but not to exceed five days, the right to make the restoration at the expense of the company. Company shall pay to the city the cost of such work done for or performed by the city, including its administrative expense and overhead, plus ten percent additional as liquidated damages. This remedy shall be in addition to any other remedies available to the city for noncompliance with this section 3.4.

3.5. *Protection of gas facilities.* Nothing in this ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging gas facilities while performing any activity.

3.6. *Notice of improvements.* The city must give the company reasonable notice of plans for improvements to public ways or public ground where the city has reason to believe that gas facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements; (ii) the public ways or public grounds upon which the improvements are to be made; (iii) the extent of the improvements; (iv) the time when the city will start the work; and, (v) if more than one public way or public ground is involved, the order in which the work is to proceed. The notice must be given to the company a sufficient length of time in advance of the actual commencement of the work to permit the company to make any necessary additions, alterations or repairs to its gas facilities.

3.7. *Major facilities.* Before company constructs any new structure or converts any existing structure for the manufacture or storage of gas, company shall first obtain the approval of the structure and the location thereof with the city. Such approval by the city shall not be unreasonably withheld.

Sec. 4. Relocation.

4.1. *Relocation of gas facilities in public ways.* Except as provided in section 4.4, if the city determines to vacate a public way for a city improvement project, or at city's cost to grade, re-grade or change the line of any public way or construct or reconstruct any city utility system in any public way, city may order the company to relocate its gas facilities located therein if relocation is reasonably necessary to accomplish the city's proposed public improvement. Company shall relocate its gas facilities at its own expense. The city shall give the company reasonable notice of plans to vacate for a city improvement project, or to grade, re-grade, or change the line of any public way or to construct or reconstruct any city utility system. If a relocation is ordered within five years of a prior relocation of the same gas facilities, which was made at company expense, the city shall reimburse company for non-betterment costs on a time and material basis provided that if any subsequent relocation is required because of the extension of a city utility system to a previously unserved area, company may be required to make the subsequent relocation at its expense. Nothing in this ordinance requires the company to relocate, remove, replace or reconstruct its facilities at the company's expense where such relocation,

removal, replacement or reconstruction is solely for the convenience of the city and is not reasonably necessary for the construction or reconstruction of a public way or city utility system or other city improvement.

4.2. *Relocation of gas facilities in public ground.* Except as may be provided in section 4.4, city may require company, at company's expense, to relocate or remove its gas facilities from public ground upon a finding by city that the gas facilities have become or will become a substantial impairment of the existing or proposed public use of the public ground.

4.3. *No waiver.* The provisions of section 4 apply only to gas facilities constructed in reliance on a franchise and company does not waive its rights under an easement or prescriptive right, or state or county permit.

4.4. *Project with federal funding.* Relocation, removal or rearrangement of any gas facilities made necessary because of the extension into or through the city of a federally aided highway project shall be governed by the provisions of M.S.A. § 161.46 as supplemented or amended. It is understood that the right herein granted to company is a valuable right. City shall not order company to remove or relocate its gas facilities when a public way is vacated, improved or realigned because of a renewal or redevelopment plan which is financially subsidized in whole or in part by the federal government or any agency thereof, unless the reasonable non-betterment costs of such relocation and the loss and expense resulting therefrom are first paid to company, but the city need not pay those portions of such for which reimbursement to it is not available.

Sec. 5. Vacation of public ways.

The city shall give company at least two weeks' prior written notice of a proposed vacation of a public way. Except where required for a city improvement project, the vacation of any public way, after the installation of gas facilities, shall not operate to deprive company of its rights to operate and maintain such gas facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to company. In no case, however, shall city be liable to company for failure to specifically preserve right-of-way under M.S.A. § 160.29.

Sec. 6. Indemnification.

6.1. *Indemnity of the city.* Company shall indemnify, keep and hold the city free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the gas facilities located in the public ways and public grounds. The city shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the city's negligence as to the issuance of permits for, or inspection of, company's plans or work. The city shall not be indemnified if the injury or damage results from the

performance in a proper manner of acts reasonably deemed hazardous by company, and such performance is nevertheless ordered or directed by city after notice of company's determination.

6.2. *Defense of the city.* In the event a suit is brought against the city under circumstances where this agreement to indemnify applies, the company at its sole cost and expense will defend the city in such suit if written notice thereof is promptly given to the company within a period wherein company is not prejudiced by lack of such notice. If company is required to indemnify and defend, it will thereafter have control of such litigation, but company may not settle such litigation without the consent of the city, which consent will not be unreasonably withheld. This section is not as to third parties a waiver of any defense or immunity otherwise available to the city; and the company, in defending any action on behalf of the city is entitled to assert in any action every defense or immunity that the city could assert in its own behalf.

Sec. 7. Change in form of government.

Any change in the form of government of the city shall not affect the validity of this ordinance. Any governmental unit succeeding the city shall, without the consent of company, succeed to all of the rights and obligations of the city provided in this ordinance.

Sec. 8. Franchise fee.

8.1. *Separate ordinance.* During the term of the franchise hereby granted, and in lieu of any permit fee or other fees being imposed on company, the city may require a franchise fee to be paid by the company. The franchise fee must be imposed by a separate ordinance adopted by the city council, which ordinance may not be adopted until at least 60 days after notice enclosing such proposed ordinance has been served upon the company by certified mail. A fee imposed under this section does not become effective until at least 60 days after notice enclosing the adopted ordinance has been served upon the company by certified mail.

8.2. *Calculation of fee.* The total amount collected annually as a franchise fee shall not exceed what is estimated by company to be two percent of the total annual revenues at the time the fee is to commence less any sales tax and franchise fee, from the sale or delivery of gas energy within the city through meters measuring such gas service. The city may impose the franchise fee: (i) as a percentage of gross revenues received by the company for its operations within the city; or (ii) as a flat fee per customer based on metered service to retail customers within the city or on some other reasonable basis; or (iii) as a fee based on units of gas delivered to any class of retail customers within the corporate limits of the city. The formula for a franchise fee based on units of gas delivered may incorporate both commodity and demand units. The method of imposing the franchise fee, the percent of revenue

rate, the flat rate and the per unit rate may differ for each customer class to the extent that the total annual franchise fee amount estimated by company to be collected from any non-residential customer class shall not, as a percentage of the total revenues estimated by company, less any sales tax and franchise fee from said non-residential customer class, exceed the percentage estimated by company to be collected from the residential customer class.

8.3. *Collection of the fee.* The franchise fee will be payable quarterly, and based on any of the alternative formulas described in section 8.2 during complete billing months of the period for which payment is to be made. The franchise fee formula may be changed by ordinance from time to time; however, each change must meet the same notice requirements and may not be made more often than annually. The fee may not exceed any amount that the company may legally charge to its customers prior to payment to the city, by imposing a surcharge equivalent to such fee in its rates for gas service. The company may pay the city the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles or customer refunds. The time and manner of collecting the franchise fee is subject to the approval of the public utilities commission, which the company agrees to use best efforts to obtain. The company agrees to make available for inspection by the city at reasonable times all records necessary to audit the company's determination of the franchise fee payments.

Sec. 9. Provisions of ordinance.

9.1. *Severability.* Every section, provision, or part of this ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other city ordinance conflicts with the provisions of this ordinance, the provisions of this ordinance shall prevail.

9.2. *Limitation on applicability.* This ordinance constitutes a franchise agreement between the city and the company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person, including the public at large, so as to constitute any such person as a third-party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

Sec. 10. Amendment.

This ordinance may be amended at any time by the city passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of the company's written consent thereto with the city clerk within 90 days after the effective date of the amendatory ordinance.

Introduced and read in full this 16th day of April, 1998.

Passed by the Blaine City Council this 21st day of May, 1998.

/s/ _____
Tom Ryan, Mayor

Attest:

/s/ _____
Joyce Twistol, CMC, City Clerk

ARTICLE V. ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES (ANOKA ELECTRIC COOPERATIVE)*

Ord. No. 98-1698

An ordinance granting to Anoka Electric Cooperative, a Minnesota corporation, its successors and assigns, permission to construct, operate, repair and maintain in the City of Blaine, Minnesota, an electric distribution system and transmission lines, including necessary poles, lines, fixtures and appurtenances, for the furnishing of electric energy to the city, its inhabitants, and others, and to use the public ways and public grounds of the city for such purposes.

The City of Blaine does ordain:

Sec. 1. Definitions.

1.1. *City*. The City of Blaine, County of Anoka, State of Minnesota.

1.2. *City utility system*. Facilities used for providing nonenergy related public utility service owned or operated by the city or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting, or other forms of energy.

1.3. *Commission*. The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government that preempts all or part of that authority to regulate electric retail rates now vested in the Minnesota Public Utilities Commission.

***Editor's note**—Printed in this article is Ord. No. 98-1698, adopted March 5, 1998. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform, and the same system of capitalization, citations to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

1.4. *Company.* Anoka Electric Cooperative, a Minnesota corporation, its successors, and assignees of that portion of the company that constitutes any part of the electric facilities subject to the franchise.

1.5. *Electric facilities.* Electric transmission and distribution substations, towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned, operated or otherwise used by the company for the purpose of providing electric energy for public use.

1.6. *Notice.* A writing served by any party or parties on any other party or parties. Notice to the company shall be mailed to the President and CEO, Anoka Electric Cooperative, 14601 Ramsey Blvd., Ramsey, MN 55303. Notice to city shall be mailed to the City Manager, City of Blaine, 9150 Central Ave. NE, Blaine, MN 55434. Either party may change its respective address for the purpose of this ordinance by written notice to the other party.

1.7. *Effective date.* The date on which the ordinance becomes effective under section 2.2.

1.8. *Public ways.* Any street, alley, or other public rights-of-way within the city.

1.9. *Public grounds.* Land owned by the city for parks, open space or similar purpose, which is held for use in common by the public.

Sec. 2. Franchise.

2.1. *Grant of franchise.* The city grants the company, for a period of 20 years from the effective date, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of the city as its boundaries now exist or as they may be extended in the future. This right includes electric energy that is (i) generated and delivered by the company, (ii) generated by others and purchased and delivered by the company, or (iii) generated by others, purchased from others by the retail customer and delivered by the company. For these purposes, the company may construct, operate, repair and maintain electric facilities in, on, over, under and across the public ways and public grounds subject to the provisions of this ordinance. Company may do all things reasonably necessary or customary to accomplish these purposes, subject to other applicable ordinances, permit procedures, and to the further provisions of this ordinance.

2.2. *Effective date; written acceptance.* This franchise shall be effective from and after its acceptance by the company. Written acceptance by the company must be filed with the city clerk within 90 days after publication of this ordinance.

2.3. *Service rates and area.* The service to be provided and the rates to be charged by company for electric service in city currently are subject to the jurisdiction of the board of directors of the company. The area within the city in which the company may provide electric service currently is subject to the provisions of the M.S.A. §§ 216B.37—.40.

2.4. *Publication expense.* The expense of publication of this ordinance shall be paid by the company.

2.5. *Dispute resolution.* If the city or the company asserts that the other party is in default in the performance of any obligation hereunder, the complaining party must notify the other party in writing of the default and the desired remedy. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days after service of the notice, the parties may jointly select a mediator to facilitate negotiation. The parties will share equally the fees and expenses of the mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in district court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity.

Sec. 3. Location, other regulations.

3.1. *Location of facilities.* Electric facilities must be located, constructed, installed, and maintained so as not to interfere with the safety and convenience of ordinary travel along and over public ways. Electric facilities must be located on public grounds as determined by the city. The company's construction, reconstruction, operation, repair, maintenance, and location of electric facilities shall be subject to other ordinances and regulations of the city.

3.2. *Field locations.* Upon request by the city, the company must provide field locations for any of its underground electric facilities consistent within the period of time required by state law or city ordinance, whichever is shorter.

3.3. *Permit required.* The company may not open or disturb the surface of any public way or public ground without first having obtained a permit from the city, for which the city may impose a reasonable fee. Permit conditions imposed on the company must not be more burdensome than those imposed on other utilities for similar facilities or work. The company may, however, open and disturb the surface of any public way or public ground without permission from the city if (i) an emergency exists requiring the immediate repair of electric facilities and (ii) the company gives notice to the city before, if possible, commencement of the emergency repair. On the next business day after commencing the repair, the company must apply for any required permits and pay any required fees.

3.4. *Restoration.* After completing any work requiring the opening of any public way or public ground, the company must restore the same, including paving and its foundation, to the condition formerly existing and maintain the same in good condition for two years thereafter. The work must be completed as promptly as weather permits. If the company does not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and restore the public way or public ground, the city may, after demand to the company to cure and the passage of a reasonable period of time, but not to exceed five days, make the restoration at the expense of the company. The company must pay to the city the cost of such work done for or performed by the city, including administrative expense and overhead, plus ten percent of cost and administrative expense. This remedy is in addition to any other remedies available to the city for noncompliance with this section.

3.5. *Shared use of poles.* The company must make space available on its poles, towers or, upon timely request by the city for city fire, water utility, police or other city utility system whenever such use will not interfere with the use of such poles, towers, by the company, by another electric utility, by a telephone utility, or by any cable television company or other form of communication company. The city must pay for any added cost incurred by the company because of such city use. Any such attachment or use shall be in accordance with the national electric safety code.

3.6. *Company protection of electric facilities.* The company must take reasonable measures to prevent the electric facilities from causing damage to persons or property. The company must take reasonable measures to protect the electric facilities from damage that could be inflicted by persons, property, or the elements. The company must take protective measures when the city performs work near the electric facilities, if given reasonable notice by the city of such work prior to its commencement.

3.7. *Notice of improvements.* The city must give the company reasonable notice of plans for improvements to public ways or public ground where the city has reason to believe that electric facilities may affect or be affected by the improvement. The notice must contain; (i) the nature and character of the improvements, (ii) the public ways and public grounds upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the city will start the work, and (v) if more than one public way or public ground is involved, the order in which the work is to proceed. The notice must be given to the company a sufficient length of time in advance of the actual commencement of the work to permit the company to make any necessary additions, alterations or repairs to its electric facilities.

3.8. *Tree trimming.* The company may trim or selectively spray with approved herbicides, all trees and shrubs in the public ways and public grounds of the city interfering with the proper construction, operation, repair and maintenance of any

electric facilities, provided that the company must save the city harmless from any liability arising therefrom, and will be subject to permit or other reasonable regulations by the city.

Sec. 4. Relocations.

4.1. *Relocation of electric facilities in public ways.* If the city determines to vacate a public way or public ground for a city improvement project, or to grade, regrade or change the alignment of any public way or public ground, or construct or reconstruct any city utility system in any public way, or construct or reconstruct any city utility system in any public way, the city may order the company to relocate its electric facilities located therein. The company must relocate its electric facilities at its own expense. The city must give the company reasonable notice of plans to vacate for a city improvement project, or to grade, regrade, or change the alignment of any public way or to construct or reconstruct any city utility system. If any subsequent relocation is required because of the extension of a city utility system to a previously unserved area, the company may be required to make the subsequent relocation at its own expense. Any relocation of same electric facilities within five years shall be reimbursed by the city to the company to cover non-betterment expenses. Nothing in this ordinance requires the company to relocate, remove, replace or reconnect its facilities at the company's expense where such relocation, removal, replacement or reconstruction is solely for the convenience of the city and is not reasonably necessary for the construction or reconstruction of a public way or city utility system or other city improvement.

4.2. *Relocation of electric facilities in public ground.* The city may require the company to relocate or remove its electric facilities from public ground upon a finding by city that the electric facilities have become or will become a substantial impairment of the public use or enjoyment to which the public ground is or will be put. The relocation or removal will be at the company's expense. The provisions of section 4 apply only to electric facilities constructed in reliance on this franchise and the company does not waive its rights under an easement or prescriptive right, or state or county permit.

4.3. *Vacation of public ways.* The city must give the company at least two weeks' notice of the proposed vacation of a public way. Except where required for a city street or other improvement project, or otherwise provided in section 4.2, the vacation of any public way, after the installation of electric facilities, does not deprive the company of its rights to operate and maintain such electrical facilities until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to company by the city. The city is not liable to the company for failure to specifically preserve a right-of-way, under M.S.A. § 160.29.

4.4. *Projects with federal funding.* Relocation, removal, or rearrangement of any company facilities made necessary because of the extension into or through city of a federally aided highway project shall be governed by the provisions of M.S.A. § 161.46.

4.5. *Liability.* Nothing in this ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging electric facilities while performing any activity.

Sec. 5. Indemnification.

5.1. *Terms.* The company will defend, indemnify, keep and hold the city free and harmless from any and all liability on account of injury to persons or damage to property caused by the construction, maintenance, operation, repair, inspection, the issuance of permits, or the operation of the electric facilities located in the city. The city shall not be indemnified by the company for losses or claims in which the city is determined to be negligent, except for losses or claims arising out of or alleging the city's negligence as to the issuance of permits for, or inspection of, the company's plans or work. The city will not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by company, and such performance is nevertheless ordered or directed by the city after notice to the city of the company's determination.

5.2. *Litigation.* If a suit is brought against the city under circumstances where the agreement in section 5.1 to indemnify applies, the company at its sole cost and expense will defend the city in such suit if notice thereof is promptly given to the company within a reasonable period. If the company is required to indemnify and defend, it will thereafter have control of such litigation, but the company may not settle such litigation without the consent of the city, which consent will not be unreasonably withheld. This section is not as to third parties a waiver of any defense or immunity otherwise available to the city; and the company, in defending any action on behalf of the city is entitled to assert in any action every defense or immunity that the city could assert in its own behalf.

Sec. 6. Successors in interest.

This ordinance and the rights and obligations conferred hereby, is binding on and inures to the benefit of the city and its successors and on the company and its successors and permitted assigns. This ordinance and the franchise it confers may not be assigned by the company without the written consent of the city.

Sec. 7. Change in form of government.

Any change in the form of government of the city shall not affect the validity of this ordinance. Any governmental unit succeeding the city shall, without the consent of the company, succeed to all of the rights and obligation of the city provided in this ordinance.

Sec. 8. Franchise fee.

8.1. *Separate ordinance.* During the term of the franchise hereby granted, and in addition to other fees being imposed or that the city has the right by statute to impose on the company, the city may require a franchise fee to be paid by the company. The franchise fee must be imposed by a separate ordinance, which ordinance may not be adopted until at least 60 days after notice enclosing such proposed ordinance has been served upon the company by certified mail. The fee does not become effective until 60 days after notice enclosing the adopted ordinance has been served upon the company by certified mail.

8.2. *Calculation of fee.* The city may impose the franchise fee: (i) as a percentage of gross revenues received by the company for its operations within the city; or (ii) as a flat fee per customer based on metered service to retail customers within the city or on some other reasonable basis; or (iii) as a fee based on units of energy delivered to any class of retail customers within the corporate limits of the city. The formula for a franchise fee based on units of energy delivered may incorporate both commodity and demand units. The method of imposing the fee, the percent of revenue rate, the flat rate and the per unit rate may differ for each customer class. The design of said fees shall be consistently and equally applied by the city to all utility providers operating within the city in order to prohibit any unfair advantage for one company over another as a result of the imposition of said fees. Electric energy sales for the purpose of providing fuel for vehicles shall be exempt from this ordinance.

8.3. *Collection of the fee.* The franchise fee will be payable not less often than quarterly and based on any of the alternative formulas described in section 8.2 during complete billing months of the period for which payment is to be made. The franchise fee formula may be changed by ordinance from time to time; however, each change must meet the same notice requirements and may not be made more often than annually. The fee may not exceed any amount that the company may legally charge to its customers prior to payment to the city, by imposing a surcharge equivalent to such fee in its rates for electric service. The company may pay the city the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles or customer refunds. The time and manner of collecting the franchise fee is subject to the approval of the board of directors of the company. The company agrees to make available for inspection by the city at reasonable times all records necessary to audit the company's determination of the franchise fee payments.

8.4. *Continuation of franchise fee.* If this franchise expires and city and the company are unable to agree to terms of a new franchise, the franchise fee, if any, being imposed by the city at the time this franchise expires, will remain in effect until a new franchise is agreed upon.

Sec. 9. Limitation on applicability.

This ordinance constitutes a franchise agreement between the city and the company. No provision of this franchise inures to the benefit of any third person, including the public at large, so as to constitute any such person as a third-party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action for any person not a party hereto.

Sec. 10. Severability.

If any portion of this franchise is found to [be] invalid for any reason whatsoever, the validity of the remainder will not be affected.

Sec. 11. Amendment.

This ordinance may be amended at any time by the city. An amendatory ordinance becomes effective upon filing of the company's written consent thereto.

Sec. 12. Previous franchises superseded.

This franchise supersedes any previous electric franchise granted to the company or its predecessors.

Introduced and read in full this fifth day of February, 1998.

Passed by the Blaine City Council this fifth day of March, 1998.

Attest:

/s/ _____
Joyce Twistol, CMC, City Clerk

Council action: 98-107

Dated: March 5, 1998

Published: March 13, 1998

/s/ _____
Jane Daniels, Mayor Pro Tem

**ARTICLE VI. ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION
LINES (NORTHERN STATES POWER COMPANY)***

Ord. No. 98-1699

An ordinance granting to Northern States Power Company, a Minnesota corporation, its successors and assigns, permission to construct, operate, repair and

***Editor's note**—Printed in this article is Ord. No. 98-1699, adopted March 5, 1998. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines

maintain in the city of Blaine, Minnesota, an electric distribution system and transmission lines, including necessary poles, lines, fixtures and appurtenances, for the furnishing of electric energy to the city, its inhabitants, and others, and to use the public ways and public grounds of the city for such purposes.

The City of Blaine does ordain:

Sec. 1. Definitions.

For purposes of this ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

- 1.1. *City*. The City of Blaine, County of Anoka, State of Minnesota.
- 1.2. *City utility system*. Facilities used for providing nonenergy related public utility service owned or operated by the city or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting, or other forms of energy.
- 1.3. *Commission*. The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government that preempts all or part of the authority to regulate electric retail rates now vested in the Minnesota Public Utilities Commission.
- 1.4. *Company*. Northern States Power Company, a Minnesota corporation, its successors, and assignees.
- 1.5. *Electric facilities*. Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned, operated or otherwise used by the company for the purpose of providing electric energy for public use.
- 1.6. *Non-betterment costs*. Cost incurred by company from relocation, removal or rearrangement of electric facilities that do not result in an improvement to the electric facilities.
- 1.7. *Notice*. A writing served by any party or parties on any other party or parties. Notice to the company shall be mailed to the General Counsel, Law Department, Northern States Power Company, 414 Nicollet Mall, Minneapolis, MN 55401. Notice to city shall be mailed to the City Manager, City of Blaine, 9150 Central Ave. NE, Blaine, MN 55434. Either party may change its respective address for the purpose of this ordinance by written notice to the other party.
- 1.8. *Effective date*. The date on which the ordinance becomes effective under section 2.2.

have been made uniform, and the same system of capitalization, citations to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

1.9. *Public way.* Any street, alley, walkway, or other public rights-of-way within the city.

1.10. *Public ground.* Land owned by the city for parks, open space or similar purpose, which is held for use in common by the public.

Sec. 2. Franchise.

2.1. *Grant of franchise.* City grants company, for a period of 20 years from the date of passage of this ordinance, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of the city as its boundaries now exist or as they may be extended in the future. For these purposes, the company may construct, operate, repair and maintain electric facilities in, on, over, under and across the public ways and public grounds of city subject to the provisions of this ordinance. Company may do all things reasonably necessary or customary to accomplish these purposes, subject however to such reasonable regulations as may be imposed by the city pursuant to ordinance and to the further provisions of this franchise agreement.

2.2. *Effective date; written acceptance.* This franchise shall be in force and effect from and after its passage and its acceptance by the company, and its publication as required by law. An acceptance by the company must be filed in writing with the city clerk within 90 days after publication of this ordinance.

2.3. *Service rates and area.* The service to be provided and the rates to be charged by company for electric service in city currently are subject to the jurisdiction of the public utilities commission. The area within the city in which the company may provide electric service currently is subject to the provisions of the M.S.A. § 216B.40.

2.4. *Publication expense.* The expense of publication of this ordinance shall be paid by the company.

2.5. *Dispute resolution.* If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party must notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will share equally the fees and expenses of the mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in district court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

Sec. 3. Location, other regulations.

3.1. *Location of facilities.* Electric facilities shall be located, and constructed, so as not to interfere with the safety and convenience of ordinary travel along and over public ways and so as not disrupt normal operation of any city utility system previously installed therein. Electric facilities shall be located on public grounds as determined by city. Company's construction, reconstruction, operation, repair, maintenance, and location of electric facilities shall be subject to other reasonable regulations of the city. Under this franchise agreement the city does not relinquish its police power regulatory authority and company does not relinquish its eminent domain authority. Company may abandon underground electric facilities in place provided at city's request company removes abandoned metal conduit or concrete enclosed conduit interfering with a city improvement project if such conduit is uncovered as part of the city improvement project.

3.2. *Field locations.* The company shall provide field locations for its underground electric facilities within city consistent with the requirements of M.S.A. ch. 216D.

3.3. *Street openings.* Company shall not open or disturb the paved surface of any public way or public ground for any purpose without first having obtained permission from the city, for which the city may impose a reasonable fee. Any conditions imposed on the company must not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb the paved surface of any public way or public ground without permission from the city where an emergency exists requiring the immediate repair of electric facilities. In such event, company shall notify city by telephone to the office designated by the city as soon as practicable. Not later than the second working day thereafter, company shall obtain any required permits and pay any required fees. In the event that there is no franchise fee imposed pursuant to section 8.1, the city retains the right to charge a permit fee.

3.4. *Restoration.* After undertaking any work requiring the opening of any public way or public ground, company must restore the same, including paving and its foundation, to as good a condition as formerly existed and shall maintain any paved surface in good condition for two years thereafter. The work must be completed as promptly as weather permits and if the company does not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the public way or public ground in the said condition, the city shall have, after demand to the company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration at the expense of company. Company shall pay to the city the cost of such work done for or performed by the city, including its administrative expense and overhead, plus ten percent additional as liquidated damages. This remedy shall be in addition to any other remedy available to the city for noncompliance with this section 3.4.

3.5. *Shared use of poles.* The company must make space available on its poles, towers, for city fire, water utility, police or other city facilities whenever such use will not interfere with the use of such poles or towers, by company, by another electric utility, by a telephone utility, or by any cable television company or other form of communication company. In addition, city shall pay for any added cost incurred by company because of such city use.

3.6. *Notice of improvements.* The city must give company reasonable notice of plans for improvements to public ways or public grounds where the city has reason to believe that electric facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements; (ii) the public ways and public grounds upon which the improvements are to be made; (iii) the extent of the improvements; (iv) the time when the city will start the work; and (v) if more than one public way or public ground is involved, the order in which the work is to proceed. The notice must be given to company a sufficient length of time in advance of the actual commencement of the work to permit company to make any necessary additions, alterations or repairs to its electric facilities.

3.7. *Tree trimming.* The company may trim all trees and shrubs in the public ways and public grounds of the city interfering with the proper construction, operation, repair and maintenance of any electric facilities installed hereunder; provided that company must save city harmless from any liability arising therefrom, and subject to permit or other reasonable regulations by city.

3.8. *Company protection of electric facilities.* Nothing in this ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging electric facilities while performing any activity.

Sec. 4. Relocations.

4.1. *Relocation of electric facilities in public ways.* Except as provided in section 4.4, if the city determines to vacate a public way for a city improvement project, or at the city's cost to grade, regrade or change the line of any public way, or construct or reconstruct any city utility system in any public way, the city may order company to relocate its electric facilities located therein if relocation is reasonably necessary to accomplish the city's proposed public improvement. Company shall relocate its electric facilities at its own expense. The city must give the company reasonable notice of plans to vacate for a city improvement project, or to grade, regrade, or change the line of any public way or to construct or reconstruct any city utility system. If a relocation is ordered within five years of a prior relocation of the same electric facilities, which was made at company expense, the city shall reimburse company for non-betterment costs on a time and material basis. If any subsequent relocation is required because of the extension of a city utility system to a previously unserved area, company may be required to make the subsequent relocation at its own expense. Nothing in this ordinance requires the company to relocate, remove,

replace or reconstruct at its own expense its electric facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the city and is not reasonably necessary for the construction or reconstruction of a public way or city utility system or other city improvement.

4.2. *Relocation of electric facilities in public ground.* Except as may be provided in section 4.4, the city may require the company, at the company's expense, to relocate or remove its electric facilities from public ground upon a finding by city that the electric facilities have become or will become a substantial impairment of the existing or proposed public use of the public ground.

4.3. *No waiver.* The provisions of section 4 apply only to electric facilities constructed in reliance on a franchise and the company does not waive its rights under an easement or prescriptive right, or state or county permit.

4.4. *Projects with federal funding.* Relocation, removal, or rearrangement of any electric facilities made necessary because of the extension into or through city of a federally aided highway project shall be governed by the provisions of M.S.A. § 161.46 as supplemented or amended. It is understood that the right herein granted to the company is a valuable right. The city shall not order the company to remove or relocate its electric facilities when a public way is vacated, improved or realigned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the federal government or any agency thereof, unless the reasonable non-betterment costs of such relocation and the loss and expense resulting therefrom are first paid to company, but the city need not pay those portions of such for which reimbursement to it is not available.

Sec. 5. Vacation of public ways.

The city must give the company at least two weeks' prior written notice of the proposed vacation of a public way. Except where required for a city improvement project, the vacation of any public way, after the installation of electric facilities, shall not operate to deprive company of its rights to operate and maintain such electrical facilities until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to company. In no case, however, shall the city be liable to the company for failure to specifically preserve a right-of-way, under M.S.A. § 160.29.

Sec. 6. Indemnification.

6.1. *Indemnity of the city.* Company shall indemnify, keep and hold the city free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the electric facilities located in the public ways and public grounds. The city shall not be indemnified for losses or claims occasioned through its own negligence, except for losses or claims arising out of or

alleging the city's negligence as to the issuance of permits for, or inspection of, company's plans or work. The city shall not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by company, and such performance is nevertheless ordered or directed by the city after notice of company's determination.

6.2. *Defense of the city.* In the event a suit is brought against the city under circumstances where this agreement to indemnify applies, company at its sole cost and expense will defend the city in such suit if written notice thereof is promptly given to company within a period wherein company is not prejudiced by lack of such notice. If company is required to indemnify and defend, it will thereafter have control of such litigation, but company may not settle such litigation without the consent of the city, which consent will not be unreasonably withheld. This section is not as to third parties a waiver of any defense or immunity otherwise available to the city; and company, in defending any action on behalf of the city is entitled to assert in any action every defense or immunity that the city could assert in its own behalf.

Sec. 7. Change in form of government.

Any change in the form of government of the city shall not affect the validity of this ordinance. Any governmental unit succeeding the city shall, without the consent of company, succeed to all of the rights and obligation of the city provided in this ordinance.

Sec. 8. Franchise fee.

8.1. *Separate ordinance.* During the term of the franchise hereby granted, and in lieu of any permit fee or other fees being imposed on company, the city may impose on company a franchise fee for each customer classification not to exceed an amount determined by collecting the amounts indicated below from each customer in the designated company customer classification for metered service at each and every customer location.

<i>Customer Classification</i>	<i>Amount per Month</i>
Residential	\$1.25
Small C & I and Municipal	\$4.00
With No Demand Charge	
Small C & I and Municipal	\$10.00
With Demand Charge	
Large C & I	\$65.00

The franchise fee shall be imposed by a separate ordinance duly adopted by the city council, which ordinance shall not be adopted until at least 60 days after written notice enclosing such proposed ordinance has been served upon the company by certified mail. The fee shall not become effective until at least 60 days after written

notice enclosing such adopted ordinance has been served upon company by certified mail. Section 2.5. shall constitute the sole remedy for solving disputes between company and the city in regard to the interpretation of, or enforcement of, the separate ordinance. No action by the city to implement a separate ordinance will commence until this ordinance is effective. A separate ordinance which imposes a lesser franchise fee on the residential class of customers than the amount set forth in the above fee schedule shall not be effective against company unless the fee imposed on each other customer classification is reduced proportionately by the same percentage as the reduction represented by the lesser fee on the residential class. The payment of a franchise fee as provided by this section 8.1. does not relieve company from paying fees to city unrelated to the installation, ownership or operation of electric facilities, such as building permit fees.

8.2. *Terms defined.* For the purpose of this section 8, the following definitions apply:

8.2.1. *Customer classification* shall refer to the classes listed on the fee schedule and as defined or determined in company's electric tariffs on file with the commission.

8.2.2. *Final order* refers to an order of the commission changing company's electric service rates for one or more of the company's customer classifications, if the order is not an interim order and the time for appeal on such order has expired or all proceedings relating to an appeal have been exhausted.

8.2.3. *Fee schedule.* Refers to the schedule in section 8.1 setting forth an amount per month for various customer classes.

8.3. *Collection of the fee.* The franchise fee shall be payable quarterly, and shall be based on the amount collected by company during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for metered service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for metered service in excess of the amounts specifically permitted by this section 8. No franchise fee shall be payable by company if company is legally unable to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in company's applicable rate for electric service. Company may pay the city the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. The time and manner of collecting the franchise fee is subject to the approval of the commission, which company agrees to use its best efforts to obtain. Company agrees

to make its records available for inspection by the city at reasonable times provided that the city and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers.

8.4. *Conditions on the fee.* The separate ordinance imposing the fee shall not be effective against company unless it lawfully imposes and the city quarterly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of energy within the city by any other energy supplier; provided that, as to such a supplier, the city has the authority to require a franchise fee or to impose a tax. The "same or greater equivalent amount" shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by comparing as to similar customers, the percentage of the annual bill represented by the amount collected for the franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling, or lighting, as well as to the supply of energy needed to run machinery and appliances on premises located within or adjacent to the city, but shall not apply to energy sales for the purpose of providing fuel for vehicles.

8.5. *Permitted adjustments.* If following effective date of this franchise the commission by final order approves a change in company's electric rates resulting in a general rate increase for one or more customer classifications, company shall calculate and send to the city a letter setting forth the amount, as a percentage, of authorized increase for each classification of customer with 60 days after company receives the final order. The amount of the franchise fee that may be imposed by the city, may be increased from the fee schedule in section 8.1 by an amount not to exceed the percentage for the applicable customer classification stated in company's letter times each monthly amount set forth in the fee schedule. In this manner the franchise fee collected or permitted to be collected from each class of customer can increase by the same percentage as company's electric rate increases. During the period where the city has imposed a franchise fee by separate ordinance under section 8.1, there is no waiver of the right to impose the amendment if the city does not seek an increase in any franchise fee immediately after any such letter from company and, if the city so chooses, the city can combine the percentages derived from more than one rate case, to the extent not previously applied by the city, in setting the amount of the franchise fee, so that the city is not prejudiced by delaying any action to impose or increase the franchise fee.

Sec. 9. Limitation on applicability.

This ordinance constitutes a franchise agreement between the city and the company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person, including the public at large, so as to constitute

any such person as a third-party beneficiary of the agreements or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

Sec. 10. Severability.

Every section, provision, or part of this ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other city ordinance conflicts with the provisions of the ordinance, the provisions of this ordinance shall prevail.

Sec. 11. Amendment.

This ordinance may be amended at any time by the city passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon filing of the company's written consent thereto with the city clerk within 60 days after the effective date of the amendatory ordinance.

Introduced and read in full this fifth day of February, 1998.

Passed by the Blaine city council this fifth day of March, 1998.

Attest:

/s/ _____
Joyce Twistol, CMC, City Clerk

Dated: March 5, 1998

Published: March 13, 1998

Council action: 98-109

CODE COMPARATIVE TABLE

1963 CODE

The following table gives the location within the Code of sections of the 1963 Code.

1963 Code Section	Code Section	1963 Code Section	Code Section
4.01	34-168	7.12(H)	14-81
4.02	34-140	7.12(I)	14-81
4.04	34-202	7.13	14-2
5.01	22-396	7.14	14-28
5.02	22-396	7.15	14-29
5.03	22-397	8.01	14-187
5.04	22-398	8.02	14-1
5.05	22-399	8.03	14-188
7.01	14-1	11-1	42-1
7.02	14-27	13A.02	62-74
7.03	14-106	13A.03	62-100
7.04(A)	14-134	13A.03(A)	62-75
7.04(B)	14-136	13A.03(B)	62-75
7.04(C)	14-134	13A.03(C)	62-75
—	14-187	13A.03(D)	62-75
7.04(D)	14-136	13A.03(E)	62-50
7.04(E)	14-136	13A.03(F)	62-98
7.04(F)	14-136	13A.03(F)(1)	62-99
7.04(G)	14-2	13A.04	62-77
7.05	14-135	13A.05	62-76
7.06	14-49	22.01	10-40
7.07	14-50	22.02	10-41
7.08	14-51	22.03	10-42
7.09(A)	14-3	22.04	10-43
7.09(B)	14-3	22.05	10-44
7.09(C)	14-50	22.06	10-45
7.10	14-107	37.01	18-19
7.11(A)	14-108	37.02	18-20
7.11(B)	14-1	37.04	18-408
7.11(C)	14-108	37.041	18-411
7.11(D)	14-108	—	18-412
7.11(E)	14-108	—	18-413
7.11(F)	14-108	37.043	18-413
7.12(B)(1)	14-76	37.044	18-409
7.12(B)(2)	14-76	37.045	18-414
7.12(B)(3)	14-76	37.046	18-415
7.12(C)	14-77	37.047	18-415
7.12(D)	14-77	37.048	18-415
7.12(E)(1)	14-79	37.049	18-410
7.12(E)(3)	14-79	37.55	70-1
7.12(F)	14-80	37.58	18-21
7.12(G)	14-78	37.62	18-31

BLAINE CITY CODE

1963 Code Section	Code Section	1963 Code Section	Code Section
37.63	18-26	48.04(P)	18-177
37.65	18-30	48.04(R)	18-176
37.66	18-30	48.05(A)	18-208
37.67	18-30	48.05(B)	18-208
37.68	18-30	48.05(C)	18-208
37.75	46-3	48.05(D)	18-210
—	46-4	48.05(E)	18-210
37.76	46-4	48.05(F)	18-209
37.78	18-23	49.01	86-1
37.79	18-24	49.02	86-2
37.81	18-25	49.03	86-39
37.83	18-27	49.03(a)	86-9
37.88	18-29	49.03(b)	86-9
37.89	18-31	49.03(c)	86-9
37.821	18-28	49.03(d)	86-109
37.892	18-31	49.04	86-41
37.893	18-31	50.01	86-251
37.894	18-31	50.01(d)	86-255
37.895	18-31	50.02	86-252
38.896	18-31	50.03	86-253
39.05	18-32	50.04	86-188
41.01	18-33	50.05	86-40
41.02	18-33	50.07	86-74
41.18	18-33	50.08	86-218
45.02	18-230	50.09	86-217
45.03	18-232	50.10	86-219
45.04	18-231	50.12	86-4
45.05	18-229	50.13	86-221
45.06	18-288	50.14	86-8
45.07	18-289	—	86-274
45.08	18-290	50.15	86-275
45.10	18-291	50.16	86-276
45.12	18-260	50.17	86-276
45.13	18-262	50.18	86-276
48.01	18-112	50.19	86-254
48.02	18-144	50.20	86-254
48.03	18-145	51.01(a)	86-323
48.04	18-113	51.01(b)	86-323
48.04(A)	18-175	51.01(c)	86-302
48.04(B)	18-174	51.02(1)	86-301
48.04(C)	18-174	51.02(2)	86-301
48.04(D)	18-175	51.02(3)	86-301
48.04(E)	18-175	51.02(4)	86-301
48.04(F)	18-175	51.02(5)	86-301
48.04(G)	18-175	51.02(6)	86-189
48.04(H)	18-114	51.021	86-134
48.04(I)	18-114	51.03	86-3
48.04(J)	18-175	52.01	86-109
48.04(K)	18-175	52.02	86-42
48.04(M)	18-115	52.03	86-133

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1963 Code Section	Code Section	1963 Code Section	Code Section
52.04	86-186	73.02	54-53
52.05	86-185	74.01	54-52
52.06	86-187	75.01	2-116
52.07	86-132	83.05	50-2
52.09	86-10	86A.01	34-3
56.06	86-73	86A.02	34-3
57.01	46-1	86A.03	34-3
—	46-2	93.01	50-324
57.02(B)	46-3	—	50-325
57.02(C)	46-4	93.02	50-329
57.02(D)	46-4	93.03	50-327
57.02(E)	46-4	93.04	50-328
57.02(F)	46-4	93.05	50-326
57.02(H)	46-5	99.05	50-205
57.02(I)	46-34	101.01	50-150
57.06(A)	46-31	101.05	50-153
57.06(B)	46-32	101.06	50-154
57.06(C)	46-32	101.07	50-152
57.07	46-33	101.11	50-151
62.01	34-140	101.12	50-155
—	34-203	108.01	50-1
62.02	34-171	109B.01	50-266
62.03	34-174	109C.01	90-22
62.04	34-172	109C.02	90-23
62.06	34-170	109C.03	90-24
—	34-204	109C.04	90-20
—	34-205	110.01	2-23
—	34-206	110.02	2-24
62.07	34-173	111.01	2-21
63.01	50-154	111A.01	2-22
63.02	22-1	113.01	26-2
63.03	22-1	113.02	26-2
63.04	22-1	114A.01	2-81
63.05	22-1	114A.02	2-82
66.01	22-108	114A.03	2-84
66.02	22-109	114A.04	2-85
—	22-111	114A.05	2-83
69.01	70-27	114A.06	2-86
69.02	70-28	114A.07	2-80
69.03	70-28	124.01	34-140
69.04	70-29	—	34-141
72.01	54-21	124.03	34-142
72.02	54-22		
72.03	54-23		
72.04	54-24		
72.05	54-21		
72.06	54-21		
72.07	54-21		
72.08	54-21		
72.09	54-21		

CODE COMPARATIVE TABLE

1980 CODE

The following table gives the location within the Code of sections of the 1980 Code.

1980 Code Section	Code Section	1980 Code Section	Code Section
1-1	1-1	4-75	10-45
1-2	1-2	4-90	22-261
1-4	1-3	4-91	22-263
1-5	1-3	4-92	22-264
1-6	1-8	4-93	22-262
1-7	1-6	4-94	22-265
1-8	1-7	4-95	22-266
1-9	1-7	5-1	14-1
2-1	2-23	5-2	14-27
2-2	2-24	5-3	14-28
2-3	2-21	5-4	14-29
2-4	2-22	5-5	14-2
2-5	26-2	5-6	14-134
2-6	26-2	5-7	14-135
2-7	26-1	5-8	14-136
2-8	2-52	5-9	14-106
2-9	2-217	5-10	14-3
2-10	26-3	5-11	14-107
2-30	2-81	5-12	14-108
2-31	2-82	5-13	14-187
2-32	2-84	5-14	14-188
2-33	2-85	5-15	14-49
2-34	2-83	5-16	14-50
2-35	2-86	5-17	14-51
2-36	2-80	5-18	14-109
2-41	2-186	5-19	14-30
2-42	2-187	5-20	14-110
2-44	2-188	5-31	14-76
2-45	2-189	5-32	14-77
4-3	22-1	5-33	14-78
4-4	22-1	5-34	14-79
4-5	22-1	5-35	14-80
4-6	22-1	5-36	14-81
4-20	70-27	5-50	14-215
4-21	70-28	5-51	14-1
4-22	70-28	5-52	14-217
4-23	70-29	5-53	14-219
4-70	10-40	5-54	14-218
4-71	10-41	5-55	14-216
4-72	10-42	5-58	14-4
4-73	10-43	5-59	14-1
4-74	10-44	5-60	14-4

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1980 Code Section	Code Section	1980 Code Section	Code Section
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6-2	18-20	6-131	18-209
6-3	18-21	6-132	18-210
6-4	18-31	6-141	18-230
6-5	18-31	6-142	18-232
6-7	18-31	6-143	18-231
6-8	18-31	6-144	18-229
6-9	18-31	6-145	18-260
6-16	18-23	6-146	18-288
6-17	18-24	6-147	18-289
6-18	18-25	6-148	18-290
6-19	18-26	6-150	18-291
6-21	18-27	6-152	18-262
6-22	18-28	6-161	18-359
6-23	18-29	6-162	18-357
6-24	18-30	6-163	18-362
6-25	34-3	6-165	18-360
6-26	34-3	6-166	18-361
6-27	34-3	6-167	18-358
6-28	18-22	7-1	30-19
6-40	18-408	7-2	30-20
6-41	18-409	8-1	2-116
6-42	18-411	8-2	2-146
6-43	18-412	8-3	2-147
6-44	18-413	8-4	2-148
6-45	18-414	8-5	2-149
6-46	18-415	8-10	78-20
6-47	18-410	8-11	78-19
6-51	18-32	8-12	78-21
6-56	34-1	8-13	78-22
6-60	18-33	8-14	78-23
6-61	18-33	8-15	78-24
6-100	34-47	8-16	78-25
6-101	34-48	8-17	78-26
6-102	34-49	8-18	78-27
6-103	34-51	8-19	78-28
6-104	34-52	8-20	78-29
6-105	34-53	8-31	66-1
6-110	18-112	9-1	38-1
6-111	18-144	9-2	38-2
6-112	18-145	9-3	38-3
6-113	18-114	9-4	38-4
6-114	18-113	9-15	38-27
6-115	18-174	9-16	38-30
6-116	18-174	9-17	38-29
6-117	18-174	9-18	38-28
6-118	18-175	10-1	62-19
6-119	18-176	10-2	62-20
6-121	18-177	10-3	62-21

CODE COMPARATIVE TABLE

1980 Code Section	Code Section	1980 Code Section	Code Section
10-4	62-22	11-1	42-1
10-40	62-74	11-2	34-2
10-41	62-75	11-3	34-2
10-42	62-76	11-20	90-19
10-43	62-77	11-21	90-22
10-44	62-50	11-22	90-23
10-45	62-98	11-23	90-24
10-46	62-99	11-24	90-25
10-47	62-100	11-25	90-20
10-50	34-140	11-30	34-107
10-51	34-141	11-32	34-108
10-52	34-142	11-33	34-109
10-60	34-168	11-34	34-110
10-61	34-202	11-35	34-111
10-62	34-203	11-36	34-112
10-63	34-171	11-37	34-113
10-64	34-173	11-47	34-236
10-65	34-174	11-48	34-239
10-66	34-172	11-49	34-240
10-67(a)	34-204	11-50	34-237
10-67(b)	34-204	11-52	34-238
10-67(c)	34-205	11-53	34-241
10-67(d)	34-206	11-60	34-26
10-68	34-170	11-61	34-25
10-69	34-169	11-62	34-28
10-70	129-91	11-63	34-27
10-71	129-92	11-64	34-29
10-72	129-90	11-80	50-234
10-73	129-93	11-81	50-235
10-74	129-94	11-82	50-236
10-75	129-95	11-103	50-53
10-76	129-96	11-104	50-52
10-77	129-97	11-105	50-55
10-78	129-98	11-107	50-54
10-79	129-99	11-120	18-83
10-80	129-100	11-121	18-81
10-81	129-101	11-122	18-84
10-82	129-102	11-123	18-82
10-83	129-103	12-1	46-1
10-84	129-104	12-2	46-2
10-85	129-105	12-3	46-31
10-90	129-51	12-4	46-32
10-91	129-52	12-5	46-33
10-92	129-50	12-6	46-3
10-93	129-53	12-7	46-4
10-94	129-54	12-8	46-4
10-95	129-55	12-9	46-4
10-96	129-56	12-10	46-4
10-97	129-57	12-11	46-5
10-98	129-58	12-13	46-34

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1980 Code Section	Code Section	1980 Code Section	Code Section
12-36	46-55	15-116	22-142
12-50	46-57	15-117	22-143
12-51	46-58	15-118	22-144
12-52	46-59	15-119	22-145
12-53	46-60	15-120	22-178
12-54	46-61	15-121	22-179
13-1	50-1	15-122	22-146
13-2	50-2	15-123	22-180
13-3	50-205	15-126	22-138
13-4	50-266	15-127	22-137
13-5(a)	50-324	15-128	22-181
13-5(b)	50-325	15-200	22-23
13-6	50-329	15-201	22-50
13-7	50-327	15-202	22-51
13-8	50-328	15-203	22-52
13-9	50-326	15-204	22-53
13-40	50-150	15-205	22-54
13-41	50-153	15-206	22-54
13-42	50-154	15-207	22-55
13-43	50-155	15-208	22-56
13-44	50-152	15-209	22-57
13-45	50-151	15-210	22-58
13-60	50-179	15-211	22-61
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14-265	14-4	18-381	18-112
18-1	18-23	18-382	18-113
18-2	18-24	18-383	18-114
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18-5	18-27	18-402	18-145
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30-65	30-60	34-283	34-109
30-66	30-61	34-284	34-110
30-67	30-62	34-285	34-111
30-68	30-63	34-286	34-112
30-69	30-64	34-287	34-113
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30-71	30-66	34-322	34-141
34-1	34-1	34-323	34-142
34-61	34-3	34-341	34-168
34-62	34-3	34-342	34-169
34-63	34-3	34-343	34-170
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34-154	34-51	34-411	34-241
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34-192	129-91	34-414	34-238
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34-196	129-95	34-462	34-262
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34-200	129-99	34-483	34-292
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38-34	38-4	46-153	46-59
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38-63	38-29	50-1	50-1
38-64	38-30	50-2	50-2
38-70	38-49	50-3	50-3
38-71	38-50	50-51	50-52
38-72	38-51	50-53	50-53
38-73	38-52	50-54	50-54
38-74	38-53	50-55	50-55
38-75	38-54	50-71	50-84
38-76	38-55	50-72	50-85
38-77	38-56	50-73	50-86
38-78	38-57	50-74	50-87
38-79	38-58	50-111	50-150
38-80	38-59	50-112	50-151
38-81	38-60	50-113	50-152
38-82	38-61	50-114	50-153
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38-96	38-84	50-116	50-155
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54-34	54-24	70-50	70-36
54-71	54-52	70-60	70-61
54-72	54-53	70-61	70-62
54-73	54-54	70-62	70-63
54-74	54-55	70-63	70-64
54-75	54-56	70-64	70-65
54-76	54-57	70-65	70-66
54-77	54-58	70-66	70-67
54-89	54-59	70-67	70-68
54-90	54-77	70-68	70-69
54-91	54-78	70-69	70-70
54-92	54-79	70-70	70-71
54-93	54-80	70-71	70-72
54-94	54-81	70-72	70-73
54-95	54-82	70-73	70-74
62-31	62-19	70-74	70-75
62-32	62-20	70-75	70-76
62-33	62-21	70-76	70-77
62-34	62-22	70-77	70-78
62-71	62-50	70-78	70-79
62-91	62-74	70-79	70-80
62-92	62-75	70-80	70-81
62-93	62-76	70-81	70-82
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62-122	62-99	70-84	70-85
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62-153	129-52	70-88	70-89
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62-156	129-55	70-91	70-92
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75-95	74-104	86-2	86-1
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75-132	74-134	86-10	86-302
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The following table shows the location within the Charter and Code, either in the text or notes following the text, of references to the Minnesota Statutes Annotated (M.S.A.).

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***Note**—The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

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