CITY OF ELYSIAN, MINNESOTA

CODE OF ORDINANCES

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CITY OF ELYSIAN
LE SUEUR COUNTY, MINNESOTA

ORDINANCE NO. 94/19

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE CITY OF ELYSIAN, LE SUEUR COUNTY, STATE OF MINNESOTA, REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE POLITICAL SUBDIVISION DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES, AND DECLARING AN EMERGENCY.

WHEREAS, the present general and permanent ordinances of the political subdivision are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs; and

WHEREAS, the Acts of the Legislature of the State of Minnesota empower and authorize the political subdivision to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

WHEREAS, the Legislative Authority of the Political Subdivision has authorized a general compilation, revision and codification of the ordinances of the Political Subdivision of a general and permanent nature and publication of such ordinance in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE CITY OF ELYSIAN:

Section 1. The general ordinances of the Political Subdivision as revised, amended, restated, codified, and compiled in book form are hereby adopted as and shall constitute the "Code of Ordinances of the City of Elysian, Le Sueur County, State of Minnesota."

Section 2. Such Code of Ordinances as adopted in Section 1 shall consist of the following Titles:

I: General Provisions
III: Administration
V: Public Works
VII: Traffic Code
IX: General Regulations
XI: Business Regulations
XIII: General Offenses
XV: Land Usage

Section 3. All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.

Section 4. Such Code shall be deemed published as of the day of its adoption and approval by the Legislative Authority and the Clerk of the Political Subdivision is hereby authorized and ordered to file a copy of such Code of Ordinances in the Office of the Clerk.

Section 5. Such Code shall be in full force and effect as provided in Section 6, and such Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded, and approved and that any public hearings and notices thereof as required by law have been given.

Section 6. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality and shall take effect at the earliest date provided by law.

Adopted by the City Council this 9th day of September, 2019.

____
Tom McBroom
Mayor

ATTEST:

____
Lorri Kopischke
City Administrator

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§ 10.01 TITLE OF CODE.

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

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

§ 10.02 RULES OF INTERPRETATION.

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

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

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

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

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

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

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

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

COUNTY. The County of LaSueur, Minnesota.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

PERSON.

(a) Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee or receiver.

(b) Whenever used in any clause prescribing and imposing a penalty, the terms ***PERSON*** or ***WHOEVER***, as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

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

SHALL. The act referred to is mandatory.

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

STATE. The State of Minnesota.

SUBCHAPTER.

(a) A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading.

(b) Not all chapters have ***SUBCHAPTERS***.

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

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 SEVERABILITY.

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

§ 10.07 REFERENCE TO OTHER SECTIONS.

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

§ 10.08 REFERENCE TO OFFICES.

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

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention and the provisions shall have the same

effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 OFFICIAL TIME.

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

§ 10.11 REASONABLE TIME.

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

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

§ 10.12 ORDINANCES REPEALED.

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

§ 10.13 ORDINANCES UNAFFECTED.

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

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until

the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

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

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

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

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

(A) All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws.

(B) This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code.

(C) The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.18 COPIES OF CODE.

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

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

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

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

§ 10.20 ENFORCEMENT.

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

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

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

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

(E) Every licensee, owner, resident or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the City Administrator or any other authorized city officer or employee only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these

provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses or city service to the property. Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the City Administrator to object to the termination before it occurs, subject to appeal of the City Administrator's decision to the City Council at a regularly scheduled or special meeting.

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

§ 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.

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

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

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

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

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

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

§ 10.99 GENERAL PENALTY AND ENFORCEMENT.

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

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

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

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

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

TITLE III: ADMINISTRATION

Chapter

30. OFFICERS, EMPLOYEES AND ORGANIZATIONS

31. FINANCE AND REVENUE; FUNDS

32. SPECIAL ASSESSMENTS

CHAPTER 30: OFFICERS, EMPLOYEES AND ORGANIZATIONS

Section

Officers and Organizations

30.01 Planning Commission
30.02 Clerk and Treasurer positions combined
30.03 Mayor and City Council salaries

Employment Policies

30.15 Employment and licensee background checks

OFFICERS AND ORGANIZATIONS

§ 30.01 PLANNING COMMISSION.

(A) (1) The Commission shall consist of five members appointed by the Council as follows: one member shall be a member of the City Council, who is appointed for a one-year term; and four members, who are residents of the city, are appointed by the Council for a three-year term. Every three years, two members of the Commission shall be reappointed by the City Council or City Council shall appoint new members.

(2) The City Council member shall be appointed to serve until such time as a successor is appointed by the City Council. Any Commissioner position that shall become vacant shall be filled by the City Council for the unexpired term of office and, upon the expiration of any term of office, the member appointed to the position for which the term has expired shall continue to serve until such time as a successor is appointed and qualified to assume office. Compensation for members of the Commission shall be determined by the City Council.

(B) The duties and responsibilities of the Planning Commission shall be as follows:

(1) Adopt rules for the operation of the Commission, including rules pertaining to the election of officers;

(2) Conduct meetings, open to the public and in conformity with the state's Open Meeting Law, being M.S. §§ 13D.01 et seq., as they may be amended from time to time as such times deemed appropriate by the Commission;

(3) Maintain permanent minutes and records of Commission meetings and proceedings and file such records with the City Administrator;

(4) Advise the City Council regarding planning matters and assist the City Council in the maintenance of a Comprehensive Land Use Plan; and

(5) Perform the reviews and make the recommendations as may be requested or required by the City Council.
(Ord. 24, passed 2-10-2014)

§ 30.02 CLERK AND TREASURER POSITIONS COMBINED.

(A) The offices of City Clerk and City Treasurer shall be combined, pursuant to M.S. § 412.591, as it may be amended from time to time, into the office of "Clerk-Treasurer", which shall be referred to as "City Administrator".

(B) The duties of the City Treasurer as prescribed by statute shall be performed by the incumbent of the new "Office of City Administrator".
(Ord. 48/03, passed 12-29-2003)

§ 30.03 MAYOR AND CITY COUNCIL SALARIES.

(A) The Mayor shall receive a salary of $175 per month for serving as Mayor and performing all duties associated with the office and $75 for each special, emergency, and workshop meeting attended.

(B) Each member of the City Council shall receive a salary of $125 per month for serving on the Council and performing all duties associated with the office and $75 for each special, emergency, and workshop meeting attended.
(Ord. 83/16, passed 7-11-2016; Ord. 102/22, passed 5-9-2022)

EMPLOYMENT POLICIES

§ 30.15 EMPLOYMENT AND LICENSEE BACKGROUND CHECKS.

(A) *Applicants for city employment.*

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

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

(a) Employment positions:

1. All regular part-time, full-time employees or volunteers of the city and other positions that work with children or vulnerable adults; and

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

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

1. The grounds and reasons for the denial;

2. The applicant complaint and grievance procedure set forth in M.S. § 364.06, as it may be amended from time to time;

3. The earliest date the applicant may reapply for employment; and

4. All competent evidence of rehabilitation will be considered upon reapplication.

(B) *License background checks applicants for city licenses.*

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

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

(a) City licenses:

1. Rental licenses;

2. Vendor licenses;

3. On- and off-sale licenses for beverage alcohol; and

4. Any other license for which a background check is required by city ordinance.

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

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

1. The grounds and reasons for the denial;

2. The applicant complaint and grievance procedure set forth in M.S. § 364.06, as it may be amended from time to time;

3. The earliest date the applicant may reapply for the license; and

4. All competent evidence of rehabilitation will be considered upon reapplication.
(Ord. 78/15, passed 3-9-2015; Ord. 78/15A, passed 8-10-2015)

CHAPTER 31: FINANCE AND REVENUE; FUNDS

Section

Storm Water Utility Fund

31.01 Storm Water Utility Fund

Fire Service Fee

31.15 Fire service fee

STORM WATER UTILITY FUND

§ 31.01 STORM WATER UTILITY FUND.

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

HEAVY DENSITY. A parcel of land, the surface of which is covered by between 67% to 100% impervious surface.

IMPERVIOUS SURFACE. Any surface which does not provide vertical drainage of water, including, but not limited to, roofs, buildings, concrete, bituminous surfaces, surface concrete pavers and gravel.

LIGHT DENSITY. A parcel of land, the surface of which is covered by between 0% to 33% impervious surface.

MEDIUM DENSITY. A parcel of land, the surface of which is covered by between 34% to 66% impervious surface.

RESIDENTIAL EQUIVALENT FACTOR (REF). The volume of runoff generated by a one-third acre lot covered by no more than 33% impervious surface.

(B) *Environmental utility; fees.*

(1) *Purpose and establishment.*

(a) A municipal environmental utility for the city is hereby established. The environmental utility shall be operated pursuant to M.S. § 444.075, as it may be amended from time to time.

(b) Revenues derived from the environmental shall be dedicated to:

1. The administration, planning, analysis, installation, construction, operation, maintenance and replacement of public drainage systems;

2. The administration, planning, implementation, construction and maintenance of storm water best management practices (BMPs) to reduce the introduction of sediment and other pollutants into local water resources; and

3. Other education, engineering, inspection, monitoring, testing and enforcement activities as necessary to maintain compliance with local, state and federal storm water requirements.

(2) *Fees.*

(a) To calculate the environmental utility fee, the residential equivalent factor (REF) for each parcel's storm water runoff contribution classification shall be multiplied by that parcel's size and then multiplied by the storm water drainage rate:

Fee = REF x Acreage x Rate

(b) The city shall determine the REF for each parcel of property within the city based upon the amount of impervious area on the property and other factors reasonably affecting the amount of storm water runoff from each parcel of property.

1. The REF classifications used by the city shall be as follows:

Class	***Storm Water Land Use Classification***	***REF***
1	Vacant, parks and cemeteries	0.0
2	One- and two-family residential	1.0
3	Light density (up to 1/3 impervious)	1.0
4	Medium density (1/3 to 2/3 impervious)	2.0
5	Heavy density (over 2/3 impervious)	3.0

2. For the purpose of calculating environmental utility fees, actual acreage shall be used, except for those parcels used for one- and two-family dwellings. All parcels used for one- and two-family dwellings shall be calculated using one-third of an acre regardless of their actual size.

(c) The city shall reduce the fee charged if the landowner shows that some or all of the storm water runoff generated by the parcel does not enter the storm water management system maintained by the city. The fee shall be reduced by the percentage of water diverted into other storm water management, detention facilities or retention facilities, but in no case shall it be reduced below the fee charged for a light density parcel of equal size.

(d) Each parcel less than one-third of an acre in size shall be charged a minimum fee. The minimum fee shall be equal to the fee charged to parcels used for one- and two-family dwellings.

(e) The environmental utility rate shall be reviewed from time to time by the City Council as the rate shall be made a part of the city's fee schedule.
(Ord. 79/15, passed 4-13-2015)

FIRE SERVICE FEE

§ 31.15 FIRE SERVICE FEE

(A) *Purposes and intent*. This section is adopted for the purpose of authorizing the City of Elysian to charge for fire service as authorized by M.S. §§ 366.011, 366.012 and 415.01.

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

FIRE PROTECTION CONTRACT. A contract between the city and a town or other city for the city to provide fire service.

FIRE SERVICE. Any deployment of firefighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life or property in an area threatened by fire. It also includes the deployment of firefighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.

FIRE SERVICE CHARGE. The charge imposed by the city for receiving fire service.

MOTOR VEHICLE. Any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes semi-trailers. It does include snowmobiles, all-terrain vehicles, utility vehicles, and the like.

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

(C) *Parties affected.*

(1) Owners of property within the city who receive fire services.

(2) Anyone who receives fire service as a result of a motor vehicle accident or fire within the city.

(3) Owners of property in towns or cities to which the city provides fire service pursuant to a fire protection contract.

(D) *Rates*. The rates for these services shall be as follows:

(1) Fire Call: $750;

(2) Motor Vehicle Accident: $750.

(E) *Billing and collection*.

(1) Parties requesting and receiving fire services may be billed directly by the city. Additionally, if the party receiving fire services did not request services, but a fire, motor vehicle accident, or other situation exists which, at the discretion of the fire department personnel in charge requires fire service, the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains the debt of the party receiving the fire service.

(2) Parties billed for the fire service will have 90 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the city will send a notice of delinquency.

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

(4) If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before October 15 of each year, certify the unpaid fire service charge to the County Auditor in which the recipient of the service owns real property for collection with property taxes. The County Auditor is responsible for remitting to the city all charges collected on behalf of the city. The city must give the property owner notice of its intent to certify the unpaid fire service charge by September 15.

(5) False alarms will be billed as a fire call.

(F) *Mutual aid agreement*. When the City Fire Department provides fire service to another fire department pursuant to a mutual aid agreement, the billing will be determined by the mutual aid agreement.

(G) *Application of collection to budget*. All collected fire charges will be city funds and may be used to offset the expenses of the City Fire Department in providing fire service as the City Administrator deems necessary.
(Ord. 98/20, passed 7-13-2020)

CHAPTER 32: SPECIAL ASSESSMENTS

Section

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32.04 Methods of assessment
32.05 Assessment rates
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32.07 Deferred or delayed assessments
32.08 Deferment interest
32.09 Assessment considerations

§ 32.01 POLICY GOALS.

The goals of the city's special assessment policies and procedures are to:

(A) Provide a stable, cost effective and continuing source of funding within the financial capacity of the city to accommodate infrastructure needs for new development, redevelopment and maintenance within the community;

(B) To be responsive to community needs and desires for health, safety, welfare, accessibility and mobility provided by new infrastructure and the maintenance of existing assets;

(C) Provide for and ensure the consistent, uniform, fair and equitable treatment, insofar as it is practical, lawful and possible, of all property owners in regard to the assessment of cost for benefits to properties for the qualifying improvements listed in M.S. Ch. 429, as it may be amended from time to time;

(D) Provide the City Council and staff with guidelines and methods to efficiently distribute infrastructure costs to benefitting properties in an equitable and consistent manner thereby enhancing the value of their property by assigning a proportionate value of the improvements to the properties deriving from the improvements;

(E) Provide a comprehensive, well-constructed and well-maintained infrastructure which services individual properties and takes advantage of economies of regional scale and flexibility in the timing of infrastructure development;

(F) To provide an effective tool for the management of municipal resources and to support a highly functional and well-maintained system of infrastructure which promotes economic development and growth, fosters a sense of pride throughout the community and facilitates the development and adoption of short- and long-range capital improvement plans by identifying the magnitude and sources of funding available; and

(G) Special assessments provide a means of levying charges for public services against property otherwise exempt from taxation.
(Ord. 80/15, passed 9-14-2015)

§ 32.02 INTRODUCTION.

(A) A special assessment is a levy on a property to defray the cost of public improvements. M.S. Ch. 429, as it may be amended from time to time, grants cities the authority to use special assessments as a mechanism to finance a broad range of public improvements. The special assessments exist to assign as much cost as reasonable to those properties receiving a direct benefit from a public improvement project, thereby reducing the reliance on the general tax levy.

(B) Assessing the property owner for the benefit(s) received from the public improvement prevents or minimizes the possibility that a property owner will reap a financial profit from the improvement at the expense of taxpayers. Special assessments are a valuable tool to cities in that the public improvement costs are assigned to benefitting properties.

(C) While the special assessment goals, policies and procedures have been identified herein, the City Council has the authority to deviate from this policy when the rationale in equity arises or when the law or statutes require the deviation.
(Ord. 80/15, passed 9-14-2015)

§ 32.03 DEFINITIONS.

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

ACCESS. A vehicular or pedestrian approach or entry to or exit from property. Properties shall be considered to have ***ACCESS*** to underground utility improvements when they directly abut and there is reasonable access available.

ADJACENT OR ABUTTING PROPERTY. A property directly adjacent to public improvements.

ADJUSTED AREA. An area of a benefitted property that has been modified by an adjustment factor to more accurately represent the actual benefit the property receives from an improvement, compared

to other properties in the assessment area. Any adjustment must be approved by the Council. Design parameters which may be applied to determine the adjustment factor include, but are not limited to: trip generation; storm water runoff coefficients; water or sanitary sewer use; needed fire flow; or zoning or future land use.

ADJUSTED FRONTAGE. The assessable front footage of a benefitted property modified by an adjustment factor to more accurately represent the true benefits that property receives from an improvement, when compared to other properties in the assessment area. The adjustment will be based on the improvement design parameters applicable to that parcel, as approved by the City Council. This is useful for flag lots or other improved properties that have little direct frontage adjacent to the improvement and access is available directly to and from the improvement area. Design parameters which may be used to determine the adjustment factor include, but are not limited to: lot area comparison to surrounding lots to calculate equivalent front footage; trip generation; storm water runoff coefficients; water or sanitary sewer use; needed fire flow; or zoning or future land use.

ASSESSABLE AREA. The total area of the benefitted properties, when using an area-based assessment.

ASSESSABLE FOOTAGE. The total front footage of all of the benefitted properties, calculated by using the front footage method.

ASSESSED COST. Those costs of public improvements which have been determined to benefit specific properties. The ***ASSESSED COST*** will be equal to the project cost minus the city cost. Project costs eligible for assessment include all costs associated with the improvements, including, but not limited to, land acquisition, demolition, construction, administration, engineering, legal, financing and other costs. The financing charges include, but are not limited to, financial consultant's fees, bond counsel attorney's fees and capitalized interest.

ASSESSMENT RATE. Determined and annually adopted by the City Council. The Council adopts a unit rate which is associated with a single building lot, as defined by city code. The industrial rate is calculated by multiplying the residential unit rate by 1.2, then dividing by 75, which is the minimum frontage of a residential lot defined by city code. Commercial and multi-family properties are assessed on a front footage basis, while residential is assessed on a unit basis. If a residential property has frontage allowing for a future lot split, then the second lot would be assessed. The commercial rates are 1.0 times greater than residential rates due to the increased use of the improvement.

ASSESSMENT UNIT. Front footage, area or unit.

BENEFIT. The increase in property value as a result of a public improvement including, but not limited to, a street, sidewalk, trail, curb and gutter, water main, sanitary sewer, storm sewer, park or street landscaping.

COMMERCIAL PROPERTY. Property located within the city limits that is zoned C-1, C-2 or C-3 and identified as such on the city's official zoning map.

DEFERMENT. A process of postponing the collection of the cost of public improvements and funding them as a system cost with the intention of collecting at a later date.

DRIVEWAY APPROACH. The area which lies between the existing pavement and the right-of-way line, curb cut to curb cut.

FRONT FOOTAGE. The distance measured along the right-of-way line directly abutting an improvement.

INDUSTRIAL PROPERTY. Property located within the city limits that is zoned I and identified as such on the city's official zoning map.

LOT. A separate parcel, tract or area of land undivided by any public street or private road, which has been established by plat, metes and bounds subdivision, or as otherwise permitted by law, and which is occupied by or intended to be developed for and occupied by a principal building or group of buildings and accessory buildings, or utilized for a principal use and uses accessory thereof, including such open spaces and yards as are designed and arranged or required by the city's Zoning Code for the building, use or development.

(1) ***CORNER LOT.*** A lot situated at the junction of and abutting on two or more intersecting streets.

(2) ***DOUBLE FRONTAGE LOT.*** If a parcel, other than a corner lot, comprises frontage on two or more streets and is eligible for subdivision, then an adjusted front frontage assessment will be charged along each street. For ***DOUBLE FRONTAGE LOTS*** lacking the necessary depth for subdivision, only a single adjusted front frontage will be computed.

(3) ***IRREGULARLY SHAPED LOT.*** Those lots abutting curved streets, cul-de-sacs or other lots where there is more than five feet of difference in length between the front and back lot lines.

(4) ***RECTANGULAR LOT.*** A lot with less than five feet difference in length between the front and back lot lines.

(5) ***SPECIAL CASE LOT RESIDENTIAL.*** A lot which may not directly abut the improvement shall be assessed on a per unit basis, if the improvement can be assessed.

(6) ***SPECIAL CASE LOT COMMERCIAL.*** A lot which accesses the improvement, but may have little or no real properties fronting the improvement. Adjusted frontage shall be considered.

PUBLIC IMPROVEMENT. Improvements as allowed by state statute that provides a special benefit to properties, including, but not limited to, streets, sidewalks, trails, curb, gutter, sanitary sewer systems, storm sewer systems, water treatment and distribution systems.

RESIDENTIAL PROPERTY. Real property located within the city limits which is identified as such on the city's official zoning map as R-1, R-2 or as a PUD.

SPECIAL ASSESSMENT. A legal process whereby the benefitted property is charged back all or a portion of the cost of public improvements.

STANDARDS FOR SURFACE IMPROVEMENTS. Those standards for surface improvements which have been established in the city's engineering standards.

STREET. A public right-of-way which affords primary means of access to abutting property and shall also include avenue, highway, road or boulevard.

(1) ***STREET, ARTERIAL.*** A street which serves, or is designed to serve, heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

(2) ***STREET, COLLECTOR.*** A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to an arterial street.

(3) ***STREET, CUL-DE-SAC.*** A minor street with only one outlet and having an appropriate turn-around for the safe and convenient reversal of traffic movement.

(4) ***STREET, LOCAL.*** A street intended to serve primarily as an access to abutting properties.

(5) ***STREET, PAVEMENT.*** The wearing or exposed surface of the roadway used by vehicular traffic.

(6) ***STREET, WIDTH.*** The width of the right-of-way, measured at right angles to the centerline of the street, the distance between the right-of-way lines of a street.

STREET TREATMENTS.

(1) ***CRACK SEAL AND SEAL COAT.*** Crack sealing involves patching and sealing cracks in the roadway this followed by seal coating, which involves spraying the road with oil and covering it with a layer of small rock. ***CRACK SEALING AND SEAL COATING*** generally are considered routine roadway maintenance. The recommended interval is four to eight years with the first application about five to ten years after new roadway construction.

(2) ***FULL RECONSTRUCTION.*** Reconstructing a roadway consists of completely removing the existing road, underlying gravel and sand base material beneath the section, or updating the road to meet design standards such as width and drainage. This is often done in conjunction with utility repairs/replacement and is generally done on roadways that exhibit signs of major distress, such as rutting, cracking and potholes.

(3) ***MILL AND OVERLAY.*** Consists of grinding off the upper layer off asphalt (typically one inches to three inches) and replacing it with a new layer of asphalt. This is generally done on roadways that have a fair amount of cracking and other surface distress, usually at about 60% of the street's life cycle. This is considered a structural improvement which will renew the street surface and extended its useful life.

(4) ***PARTIAL RECONSTRUCTION OF A ROADWAY.*** Consists of completely removing the existing road and underlying gravel and sand base material, and construction of a new road section. This may also include correcting any poor base material beneath the section, or updating the road to meet design standards such as width and drainage. ***PARTIAL RECONSTRUCTION*** is often done in conjunction with utility repairs/replacement, and generally done on roadways exhibiting signs of major distress such as rutting, cracking and potholes. To be considered a ***PARTIAL RECONSTRUCT*** under this policy, a majority of existing concrete curb and gutter must be salvaged.

(5) ***REHABILITATE/PAVEMENT REPLACEMENT.*** Rehabilitating a roadway consists of grinding up the existing asphalt and mixing it with a portion of the underlying gravel base (typically, four inches to eight inches). This combination of bituminous and gravel is then used as the new road base and a new asphalt surface is paved over this. This is generally done on roadways that have a significant amount of distress. This can be a good alternative to reconstructing a road if the existing road base appears to be structurally sufficient.

SYSTEM COST. The portion of the assessable cost that benefits properties whose assessments are deferred because they qualify for Green Acres status, are located outside of the city limits or are unable to make use of the improvements due to factors beyond the property owner's control. The city may reimburse itself for such system costs from the benefitted properties when the basis for the deferral is no longer valid.

UNIT. Includes, but is not limited to: a household; a parcel/lot; water or sewer main length and size; sidewalk or trail length; width and depth or infiltration area per parcel/lot.
(Ord. 80/15, passed 9-14-2015)

§ 32.04 METHODS OF ASSESSMENT.

All single-dwelling residential properties will be assessed by unit. Multiple-dwelling and commercial properties will be assessed by front foot.

(A) *Residential unit method.* This method is used for single dwelling residential properties. A ***UNIT*** shall be defined as one buildable lot consistent with the city's building ordinances:

(1) *Corner lots.* A lot located at a street intersection having both front and side lot footage shall be assessed per unit. If a property abuts both streets and only one street is being improved, then the lot will be assessed 50% of the per unit basis;

(2) *Double frontage lots.* A lot with access to two separate non-intersecting streets, but not a corner lot may be assessed for any street improvement to which it has direct access;

(3) *Irregularly shaped lots.* Shall be assessed per unit;

(4) *Rectangular lot.* Shall be assessed per unit; and

(5) *Special case lot residential.* Shall be assessed on a per unit basis if the improvement can be reasonably accessed.

(B) *Commercial/multi-family front footage method.* This method is used for multi-family and commercial properties. The commercial rates are computed by taking the residential unit rate, dividing it by 75 (minimum residential lot width) and multiplying it by 1.0 (commercial properties are assessed at 1.0 times the residential rate).

(1) *Corner lots.* Lots located at a street intersection having both front and side-lot footage adjacent to improvements shall be assessed for both sides. No assessment would occur for an unimproved side.

(2) *Double frontage lot.* A lot with access to two separate non-intersecting or intersecting streets, but not a corner lot, may be assessed for any street improvement to which it has direct access.

(3) *Irregularly shaped lots.* For cul-de-sacs, or other lots where there is more than five feet of difference in length, the front footage shall be calculated using an average or other equitable means such as adjusted frontage.

(4) *Rectangular lots.* Lots with less than five feet of difference in length between the front and back lot lines shall be assessed based on front feet.

(5) *Special case lot commercial.* A lot which accesses the improvement, but may have little or no real property fronting the improvement, shall be assessed in a fair and equitable manner consistent with surrounding properties fronting the improvement. Adjusted frontage shalt be considered.

(C) *Industrial front footage method.* This method is used for industrial properties. The industrial rates are computed by taking the residential unit rate, dividing it by 75 (minimum residential lot width) and multiplying it by 1.2 (industrial properties are assessed at 1.2 times the residential rate).

(1) *Corner lot.* Lots located at a street intersection having both front and side lot footage adjacent to improvements shall be assessed for both sides. No assessment would occur for an unimproved side.

(2) *Double frontage lot.* A lot with access to two separate non-intersecting or intersecting streets, but not a corner lot, may be assessed for any street improvement which it has direct access.

(3) *Irregularly shaped lots.* For cul-de-sacs, or other lots where there is more than five feet of difference in length, the front footage shall be calculated using an average or other equitable means such as adjusted frontage.

(4) *Rectangular lots.* Lots with less than five feet of difference in length between the front and back lot lines shall be assessed based on front feet.

(5) *Special case lot industrial.* A lot which accesses the improvement, but may have little or no real property fronting the improvement, shall be assessed in a fair and equitable manner consistent with surrounding properties fronting the improvement, adjusted frontage shall be considered.
(Ord. 80/15, passed 9-14-2015)

§ 32.05 ASSESSMENT RATES.

The assessment rates under this chapter, (baseline 2014), shall be, and hereby are, adopted and made a part of the city's fee schedule. The City Council shall, on an annual basis, or with each feasibility study, review the fee schedule and determine if revisions or changes should be made.

(A) *Public street improvement assessments.*

	Residential per Unit	***Commercial/ Multi-Family/ Institutional per Front Foot***	***Industrial per Front Foot***
Full reconstruction	$TBD	$TBD	$TBD
Mill and overlay	$TBD	$TBD	$TBD
Partial reconstruction	$TBD	$TBD	$TBD
Rehabilitate/pavement replacement	$TBD	$TBD	$TBD
Storm drainage	$TBD	Case by case	Case by case

(B) *Utility improvement assessments.*

	Residential/Domestic	***Larger Services***
Sewer service w/new main construction	$TBD	Case by case
Sewer service w/tap to existing main	Case by case	Case by case
Water service w/tap to existing main	Case by case	Case by case
Water service w/new main construction	$TBD	Case by case

(C) *Notes to tables.*

(1) Residential is assumed one inch to one and one-half inch water service line and all others will be assessed based on actual construction.

(2) Sewer services are assumed four inches or six inches service line and all others will be assessed based on actual construction.
(Ord. 80/15, passed 9-14-2015)

§ 32.06 PAYMENT OF SPECIAL ASSESSMENTS.

(A) *All properties.* Special assessments for all classifications of properties shall be paid over a term set by the City Council not to exceed 15 years through certification to property taxes. Interest rates may vary, but shall be set no more than 2% above the average interest rate on the bond sale for the project. If there is no bond sale, the interest rate will be fixed by resolution of the City Council. The increased rate covers administration and collection of the assessments over the life of the repayment period.

(B) *Timing of payments.* Property owners may elect to make a payment to the city within the time frame established by city resolution. Property owners may choose to make a full or partial payment. No interest shall accrue on the assessment from the adoption of the assessment role until the date specified by city resolution. Unpaid balances will be certified to the county (Le Sueur or Waseca, as applicable) for payment with property taxes before the end of the year in which the assessment hearing was conducted.

(C) *Partial payment.* It should be noted that if only a partial payment is made before certification to the county then the remaining assessment balance shall be paid with interest over the term as established by the City Council. The city will accept no more than two payments of at least $500 each, before the city's certification deadline for the assessment.
(Ord. 80/15, passed 9-14-2015)

§ 32.07 DEFERRED OR DELAYED ASSESSMENTS.

(A) *Scope.* M.S. Ch. 429, as it may be amended from time to time, allows for deferred and delayed assessments. This section is only meant to cover the most frequent cases encountered by the city in past years. State statutes shall govern in all cases.

(B) *Senior citizen, disability, military and other deferrals.*

(1) M.S. § 435.193, as it may be amended from time to time, authorizes the City Council to enact certain deferrals. Therefore, the City Council shall, at its discretion, defer the payment of a special assessment for any homestead property owned by a person for who it would be a hardship to make the payment if the owner is one of the following:

(a) A person 65 years of age or older;

(b) A person retired by virtue of a permanent and total disability;

(c) A member of the state's National Guard or other military reserves ordered into active military service, as defined in M.S. § 190.05, subd. 5b or 5c, as it may be amended from time to time, as stated in the person's military orders, for whom it would be a hardship to make the payments;

(d) A person that is unable to meet payment obligations due to proven financial hardship. M.S. § 273.111, known as the "Green Acres Law", as it may be amended from time to time, requires deferrals for certain agricultural or specialized use property; and/or

(e) M.S. § 429.061, subd. 2, as it may be amended from time to time, allows the City Council to defer special assessments for unimproved property until a designated future year, or until the platting of the property, or the construction of improvements.

(2) In order to determine financial hardship, the City Administrator shall review the applicant's income statement. As a general guideline, a financial hardship deferral is automatically met if household adjusted gross income is at or below 125% of the most recently published federal poverty line issued by the Department of Health and Human Services. This financial hardship guideline is intended to make clear the standard basis for financial hardship and remain non-discriminatory in financial hardship reviews. The City Council may approve deferrals where extenuating circumstances exist. A deferred assessment shall accrue interest and payment of such shall be determined in accordance with division (E) below.

(C) *Deferral of special assessments.* The City Administrator may record the deferment of special assessments where the following conditions are met:

(1) The applicant must be the owner of the property;

(2) The applicant must occupy the property as a principal place of residence;

(3) The applicant's income from all sources does not exceed the low income as established by the U.S. Department Housing and Urban Development as used in determining the eligibility for Section VIII housing;

(4) As to a deferment based upon age or disability, the applicant must apply for the deferment not later than 14 calendar days after the assessment is adopted by the City Council; and

(5) As to a deferment based upon age or disability, the applicant must be 65 years of age or older or retired by virtue of permanent disability.

(D) *Deferment period.* The deferment will be granted for as long as the hardship exists and the conditions aforementioned have been met. The applicant must notify the City Administrator of any change in his or her status that would affect eligibility for deferment.

(E) *Loss of deferment eligibility.* The entire amount of deferred special assessment is due within 60 days after loss of eligibility by the applicant. If the special assessment is not paid within 60 days, the City Administrator shall add thereto interest at the applicable rate for the bond issue for the project. If there is no bond issue for the project, interest will be fixed by resolution of the City Council. The total amount of principal and interest from the due date through December 31 of the following year must be certified to the County Auditor for collection with taxes the following year. If the applicant demonstrates to the satisfaction of the City Council that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the City Council may order that the applicant pay within 60 days a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date (including principal and interest) with the balance thereafter paid according to the terms and conditions of the original special assessment.

(F) *Termination of deferment of special assessments.* The option to defer the payment of special assessments terminates and all amounts accumulated, plus applicable interest, becomes due upon the occurrence of any one of the following:

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

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

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

(4) Determination by the City Council for any reason that there would be no hardship to require immediate or partial payment.
(Ord. 80/15, passed 9-14-2015)

§ 32.08 DEFERMENT INTEREST.

The City Council shall indicate, by resolution, whether interest will accrue and be added to the principal, will be paid annually or will be forgiven while the assessment is deferred, and the number of installments in which assessments are to be paid when the deferral terminates. However, in no event shall the last installment be paid more than 30 years after the assessment was levied.
(Ord. 80/15, passed 9-14-2015)

§ 32.09 ASSESSMENT CONSIDERATIONS.

The Council shall take into account the following additional considerations in determining the special assessment.

(A) Developers proposing projects that will be public infrastructure upon completion shall be completed as a public improvement project and require the developer to petition the city for the

improvement as in accordance with M.S. Ch. 429, as it may be amended from time to time, process. One hundred percent of the total project cost shall be paid by the petitioner(s) unless stipulated otherwise in a developer agreement approved by the City Council.

(B) All properties benefitted from improvements are subject to the special assessment.

(C) The assessment rates listed in § 32.05 of this chapter will change year to year depending on Council rate adjustments. Special assessments can be made for improvements listed in M.S. Ch. 429, as it may be amended from time to time, and are not limited to those listed in this policy.

(D) The special assessment methods described in the policy statement cannot be considered as all inclusive. Unique or unusual circumstances may, at times, justify special consideration. In such situations, the City Council may, from time to time, establish by resolution or as part of a feasibility study, amendments to the assessment policy to cover situations that may have been contemplated in this policy.

(E) Prior to assessment roll adoption, the special assessment levy shall be certified to be at or below that of the benefit received by subject properties. The City Council may consider assessing up to 100% of total project costs or proven benefit, whichever is less, when the cases are warranted.
(Ord. 80/15, passed 9-14-2015)

TITLE V: PUBLIC WORKS

Chapter

50. GARBAGE AND REFUSE

51. WATER

52. SEWERS

CHAPTER 50: GARBAGE AND REFUSE

Section

50.01 City dump

50.99 Penalty

§ 50.01 CITY DUMP.

(A) The city dump shall be opened for public dumping between the hours of 12:30 p.m. and 7:30 p.m. on Tuesday and Saturday of each week.

(B) The dumping of the carcasses of animals, offal and other organic matter subject to fetid or unhealthful decomposition is prohibited.

(C) The dumping of car bodies, used oil and other petroleum products is hereby prohibited.

(D) No person shall use the dump ground for dumping purposes unless he or she has received a special permit from the City Administrator. The permit may be issued by the City Administrator upon payment of $2.50 per year.
(Ord. 8, passed 8-20-1968) Penalty, see § 50.99

§ 50.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating any provision of § 50.01 of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not more than $100 or imprisonment in the county jail for not more than 90 days.
(Ord. 8, passed 8-20-1968)

CHAPTER 51: WATER

Section

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§ 51.01 MUNICIPAL WATER SYSTEM.

The City of Elysian municipal water system, hereinafter called the water system, shall be operated as a public utility and convenience, from which revenue will be derived, subject to the provisions of this chapter.
(Am. Ord. 2, passed 2-13-2017)

§ 51.02 USE OF WATER RESTRICTED TO AUTHORIZED PERSONS.

No person, firm or corporation shall make, construct or install any water service installation or make use of any water service which is connected to the water system except in the manner provided in this chapter.
(Am. Ord. 2, passed 2-13-2017)

§ 51.03 CONNECTION PERMIT REQUIRED.

No connection shall be made to the city water system, or any repair or modification of the connection, unless the City of Elysian has issued a permit therefore. Application for a permit shall be made at the office of the City Administrator on a form furnished by the city by the owner of the premises sought to be connected. The application shall, among other things, state the name of the owner, the street address, the kind of service desired and the application must bear the signature of the applicant. The duly completed and signed application must be accompanied by payment of all connection fees and charges before the same shall be considered by the City Administrator's Office.
(Am. Ord. 2, passed 2-13-2017)

§ 51.04 CODE REQUIREMENTS.

All piping, connections and appurtenances shall be installed and performed strictly in accordance with the Minnesota Plumbing Code. Failure to install and maintain the same in accordance therewith, or failure to have or permit required inspections shall, upon discovery by the city, be grounds for termination of water service to any water consumer.
(Am. Ord. 2, passed 2-13-2017)

§ 51.05 DEFICIENCY OF WATER AND SHUTTING OFF WATER.

The city shall not be liable for any deficiency or failure in the supply of water to consumers, whether occasioned by shutting the water off for the purpose of making repairs of connections, or from any other cause whatsoever. In case of fire, or alarm of fire, or in making repairs, or construction of new works, water may be shut off at any time and kept shut off as long as is necessary.
(Am. Ord. 2, passed 2-13-2017)

§ 51.06 SINGLE METERED SERVICE.

No more than one residence or business building shall be supplied from one service connection or lead for either water or sewage services; any garage portion of the residence or business building may be serviced from the connection or lead and the same shall then continue to constitute a single metered service. In the case of multiple dwelling units where the owner desires more than one meter installed on

a single service, written request shall be made for approval to the City Administrator with the Department of Public Works inspecting and approving the multiple meters.
(Am. Ord. 2, passed 2-13-2017)

§ 51.07 TAPPING OF MAINS.

No person except persons employed or authorized by the city shall tap any distributing main or pipe of the water system, unless approval is given by the City Water Supervisor.
(Am. Ord. 2, passed 2-13-2017)

§ 51.08 REPAIR OF LEAKS AND INSTALLATION AND MAINTENANCE OF SERVICE.

It shall be the responsibility of the consumer or owner to install the individual service pipe, under the supervision of the city, or to pay for all installation costs of the same from the main to, and inside, the home. It is additionally the responsibility of the consumer or owner to maintain, and be solely responsible for, the individual service pipe from main to and including the curb stop and box. In case of a failure upon the part of any consumer or owner to repair any leak occurring in the service pipe or curb stop within 24 hours after verbal or written notice thereof, the water will be shut off. When the waste of water is great, or when damage is likely to result from the leak, the water may be turned off immediately pending repairs. Service lines and curb stop shall be installed pursuant to the city's direction and only with approval from the city.
(Am. Ord. 2, passed 2-13-2017; Am. Ord. 2-18, passed 6-11-2018)

§ 51.09 SERVICE PIPES.

(A) Every service pipe must be laid sufficiently waiving to not allow less than one foot of extra length, and in such manner as to prevent rupture by settlement. The service pipe must be placed no less than seven and a half feet below the surface and in all cases so arranged as to prevent rupture by freezing. Where seven and a half feet cover cannot be provided, service line may be insulated upon inspection and approval by the City Water Supervisor. Service pipes must extend from the curb box to the inside of the building; or, if not taken into a building, then to the hydrant or other fixtures which it is intended to supply. Water service pipe of less than three inches in inside diameter shall conform to the requirements of ASTMB 88 for Seamless Copper Water Tube, Type K, Soft Annealed temper; Polyethylene Pipe as per AWWA C901 and ASTM D3350, or Polyvinyl Chloride Pipe and fittings as per a ASTM D1785, D2241, D2466, D2467 and D2470, or Cross-linked Polyethylene (PEX) pipe as per ASTM F876, ASTM F877, and AWWA C904, NSF/ANSI Standard 61 for potable water distribution, as specified on the proposal or in the special provisions. Water service piping supplied shall include markings indicating the type, pressure class, testing certification, and use for potable water systems.

(B) Tracer wire shall be installed along the length of all non-conductive services with vertical riser to the surface, at curb boxes per Minnesota Rural Water Association Standards.

(C) All underground joints to be mechanical joints on tubing shall be kept to a minimum, which not more than one joint shall be used for service up to 70 feet in length. All joints and connections shall be left uncovered until inspection and approval by the City Water Supervisor and tested and approved at normal water line pressure. Connections with the mains for domestic supply shall be at least one inch.
(Am. Ord. 2, passed 2-13-2017; Am. Ord. 2-18, passed 6-11-2018)

§ 51.10 PRIVATE WATER SUPPLIES.

No water pipe of the water system shall be connected with any pump, well, tank, or piping that is connected with any other source of water supply.
(Am. Ord. 2, passed 2-13-2017)

§ 51.11 USE CONFINED TO PREMISES.

No person shall permit water from the water system to be used for any purpose except upon his own premise unless written consent is obtained from neighbors being affected.
(Am. Ord. 2, passed 2-13-2017)

§ 51.12 CONNECTIONS BEYOND CITY BOUNDARIES.

The City of Elysian will not supply any un-metered water as of February 13, 2017; no additional water users will be serviced outside the city limits.
(Am. Ord. 2, passed 2-13-2017)

§ 51.13 RESTRICTIONS AGAINST SPRINKLING AND OTHER LIMITATIONS OF WATER USE.

All water customers and regulations promulgated by the City Council as limitations in the time and manner of using water and such other applicable regulations promulgated by the City Council affecting the preservation, regulation, and protection of the water supply. At no time may the Elysian Fire Department use or provide water to any property in city limits or outside city limits without prior approval from City Hall. In case of a fire emergency, Fire Department personnel have the authority to obtain water from city hydrants for purposes of fire fighting.
(Am. Ord. 2, passed 2-13-2017)

§ 51.14 DAMAGE TO THE WATER SYSTEM.

No person shall remove or damage any structure, appurtenance, or property of the water system. It is unlawful for any person to willfully or carelessly break, injure, mar, deface, disturb, or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture, or appurtenance of any municipal utility or municipal utility system, or commit any act tending to obstruct or impair the use of any municipal utility.
(Am. Ord. 2, passed 2-13-2017)

§ 51.15 EXCAVATIONS AND WATER CONNECTIONS.

No excavation for the purpose of water connection, or for any other purpose whatsoever, shall be made except upon application to City Hall and after a permit has been duly issued therefore. Any such excavation and any water connection, tapping or curb box installation, shall be made only by persons who have been approved by the City Administration and all costs thereof from the main, including taping, shall be paid for by the person requiring such excavation, either for water use or otherwise. Restoration of any street or public way in which any such excavation is applied for or is made, will be paid by the person requiring the excavating. Restoration quotes will be obtained by the Water Supervisor in order to meet qualifications set by the City Council. For those who desire to be approved for such work may be required to obtain a bond before any person or firm is designated. Each curb stop shall be placed at the city property line.
(Am. Ord. 2, passed 2-13-2017)

§ 51.16 WATER METERS AND HYDRANTS.

Except for extinguishment of fires, no person, except authorized city employees shall use water from the water system or permit water to be drawn therefrom, unless the same be metered by passing through a meter supplied or approved by city personnel. No person shall connect, disconnect, take apart, or in any manner change, or cause to be changed, or interfere with any such meter or the action thereof. Water hydrants will be flushed monthly during the summer months on the authority of the Water Superintendent.
(Am. Ord. 2, passed 2-13-2017)

§ 51.17 WATER RATES AND CHARGES.

(A) The Council may, from time to time, set rates by resolution. Such rates shall become effective upon publication of such resolution once in the official newspaper. Water billings will be billed monthly. Payment must be made by the fifth day of each month, except when those occasions on which the fifth day of the month falls on a weekend or legal holiday whereupon the due date shall then be extended to the end of the next working business day.

(B) Payment of all municipal utility service and charges shall be the primary responsibility of the owner of the premises served and shall be billed to him or her unless otherwise contracted for and authorized in writing by the owner and the tenant, as agent for the owner, and consented to by the city.

(C) Each account is hereby made a lien upon the premises served. All accounts which are past due may be certified by the City Administrator to the County Auditor, when authorized by resolution of the City Council, for certification against the tax rolls of the premises for collection of the same. The City Administrator in so certifying shall specify the amount thereof, the description of the premises served, and the name of the owner thereof.
(Am. Ord. 2, passed 2-13-2017)

§ 51.18 RIGHT OF ENTRY.

By applying for or receiving a municipal water service, a customer irrevocably consents and agrees that any city employee acting within the course and scope of his or her employment may enter into and upon the private property of the customer, including dwellings and other buildings, at all reasonable times under the circumstances, for the purpose of inspecting, repairing, reading meters, connecting or disconnecting the municipal water service.
(Am. Ord. 2, passed 2-13-2017)

§ 51.19 DISCONTINUANCE OF SERVICE FOR VIOLATIONS.

Water service may be shut off at any stop box connection whenever:

(A) The owner or occupants of the premises served or any person working on any pipes or equipment thereon which are connected with the water system has violated or threatens to violate any of the provisions of this chapter.

(B) Any charge for water service, meter or financial obligations imposed on the present or former owner or occupant of the premises served is unpaid.

(C) Fraud or misrepresentation by the owner or occupant of the premises served in connection with an application for service.
(Am. Ord. 2, passed 2-13-2017)

§ 51.20 WATER POLICY.

(A) (1) All residences or businesses in or out of the city limits using the water service or with water service available must pay an availability charge even though their water may be turned off for any amount of time. The availability charge is the minimum water bill.

(2) An availability charge is charged to all meter hookups. Availability charge rates will be updated periodically upon City Council approval. An availability charge is billed monthly to all meter hookups as part of the monthly utility billing. Availability charges are placed on billings whether meter is in the building or has been removed or whether or not water usage is occurring. If a business or home has been destroyed or removed, the availability charge will be discontinued until which time the house or business has been replaced. No availability charge will be made to developed property when water is not directly available to property

(B) All property owners serviced by the city water system, must purchase a remote meter. Charge will be made for the cost of the remote and for the installation. A second meter may be purchased at a rate set by the City Council. The second meter will be used for lawn watering, car washing and other uses not considered primary usage. The meter will be installed by a licensed plumber. Water usage will be charged at the regular rate, with gallonage being subtracted from sewer usage charge.

(C) All meters must be kept in good working condition. If repairs are needed to the meters, due to neglect of owner or person occupying residence or business, said repairs will be billed to the owner of residence.

(D) It is a violation to refuse entry to city personnel for the purpose of inspection of meters. Anyone refusing to allow the city employees entry shall be subject to having their water turned off.

(E) Non-payment of sanitary sewer, garbage, and water on rental property is the responsibility of the property owner. All owners of rental property will receive a copy of the monthly billing sent to the renter.

(F) (1) During the months of April through October, any utility bill that is considered delinquent for three months will receive a 10 day notice by mail stating that one-third of the bill must be paid by the stated time or the water service to the property will be shut off at the curb stop. If payment is not received by the due date, the water service is shut off. The water service will remain disconnected until such time as one-third of the balance due is received plus a $50 reconnection fee.

(2) In November, any utility bill that is considered delinquent for three months will receive a 10 day notice by mail stating the bill must be paid by the stated time or the bill will be placed on the property taxes of the following year, after City Council approval.

(G) Residences and businesses will be billed separately unless business and residence is housed within the same building.

(H) All residences or businesses wishing to have their water service temporarily stopped in the fall shall contact the City Administrator for shut off of the water service at least five business days prior to the desired shut off day. The city will then turn the service off at the curb stop. The homeowner is fully responsible and liable for the service line and any infrastructure from the curb stop to the home and additionally responsible for all infrastructure inside the home. The city will not be responsible for draining pipes or the winterizing of lines. In the event of freezing conditions, the homeowner is fully and

completely liable and responsible for any damage done to the service line and any infrastructure from the curb stop to the home. In the spring, when the homeowner desires to have the water service restored to the home, the homeowner shall contact the City Administrator at least five business days prior to the turn on date. The city will then send out a public works worker to have the utility service restored. However, the homeowner must be on site for the turn on event or have a licensed plumber there to verify completion in the event that the homeowner is unavailable to attend. Anyone tampering with the City Water Works are in violation of this chapter.

(I) It is unlawful for any person to make any connection with any municipal utility system without first having applied for and received permission from the City Administrator to make the same.

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

(K) It is unlawful for any person to "jumper" or by means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume un-metered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.
(Am. Ord. 2, passed 2-13-2017)

§ 51.99 PENALTY.

Any violation of this chapter is a misdemeanor punishable by a fine of not more than $1,000 and/or 90 days in jail.
(Am. Ord. 2, passed 2-13-2017)

CHAPTER 52: SEWERS

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GENERAL PROVISIONS

§ 52.001 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for discharges into the city's public sewer system (PSS) and enables the city to comply with all state (Pollution Control Agency) and federal (U.S. Environmental Protection Agency) laws.

(B) The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the PSS which shall interfere with the operation of the facilities or the use or disposal of the sludge; and

(2) To prevent the introduction of pollutants into the PSS which shall pass through the system inadequately treated into receiving waters of the state or the atmosphere or otherwise be incompatible with the system.

(C) This chapter provides for the regulation of discharges into the city's wastewater disposal system through the issuance of permits to certain users and through enforcement of the general requirements for all users, authorizes monitoring and enforcement activities, provides for penalty relief, requires user reporting and provides for the setting of fees necessary to carry out the program established herein.

(D) This chapter shall apply to the city and to all persons outside the city who are, by contract or agreement with the city, users of the city wastewater disposal system.
(Ord. 59-05, passed 6-13-2005)

§ 52.002 DEFINITIONS.

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

ACT. The Federal Water Pollution Control Act, Pub. Law No. 92-500,and the Clean Water Act, Pub. Law No. 95-217, both being 33 U.S.C. §§ 1251 et seq., as amended.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter, in the presence of a nitrification inhibitor, under standard laboratory procedures in five days at 20°C expressed in terms of weight and concentration (milligrams per liter (mg/l)).

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

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

CHEMICAL OXYGEN DEMAND. The quantity of oxygen utilized in the chemical oxidation of organic matter, expressed in milligrams per liter, as determined in accordance with standard laboratory procedure as set out in the latest edition of *Standard Methods of the Examination of Water and Wastewater*.

CITY. The City of Elysian or the City Council of Elysian.

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

DOMESTIC WASTE. Wastes from residential users and from the sanitary conveniences of multiple dwellings, commercial buildings, institutions and industrial facilities.

EPA. The U.S. Environmental Protection Agency.

FLOATABLE OIL. Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

FLOW. The quantity of wastewater expressed in gallons or cubic feet per 24 hours.

GARBAGE. Solid wastes resulting from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage of the meat, fish, fowl, fruit, vegetables and condemned food.

GENERAL PRETREATMENT REGULATIONS. The general pretreatment regulations for existing and new sources of pollution promulgated by EPA under § 307(b) and (c) of the Act, being 33 U.S.C. §§ 1317 et seq. and found at 40 C.F.R. part 403.

GROUND WATER. Water beneath the surface that can be collected with wells, tunnels or drainage galleries or that flows naturally to the earth's surface via seeps or springs.

HIGH STRENGTH WASTE DISCHARGE. Any waste discharge which, in concentration of any given constituent exceeds four times the average 24-hour concentration during normal operation which may, by itself or in combination, with other wastes cause an interference within the PSS. The average 24-hour concentration in the city's wastewater treatment system is 250 mg/l.

INDIRECT DISCHARGE. The introduction of pollutants or wastes into the PSS from any non-domestic source regulated under § 301(b), (c) or (d) of the Act, being 33 U.S.C. §§ 1311 et seq.

INDUSTRIAL DISCHARGE PERMIT or ***PERMIT.*** A permit issued by the city to an industrial user to use the city's disposal system as established herein.

INDUSTRIAL WASTE. Solid, liquid or gaseous wastes, including cooling water (except where exempted by a NPDES permit), resulting from any industrial, manufacturing or business process, or from the development, recovery or processing of a natural resource.

INDUSTRIAL USER. A source of indirect discharge.

INTERFERENCE. A discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the PSS, its treatment processes or operations or its sludge processes, use or disposal and, therefore, is a cause of a violation of any requirement of the city's PSS's NPDES permit or of the prevention of sewage sludge use or disposal with statutory provisions and regulations or permits.

MAY. The act referred to is permissive.

MPCA. The Minnesota Pollution Control Agency.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. Any permit or requirements issued by the Minnesota Pollution Control Agency (MPCA) pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251 et seq.); for the purpose of regulating the discharge of wastewater, industrial wastes or other wastes under the authority of § 402 of the Act, being 33 U.S.C. § 1342.

NOTICE. A notice in writing directed to the owner or other person affected for the time specified by this chapter, stating briefly the condition which is the reason for the notice and the consequences which would result upon failure to comply with the terms of the notice. A ***NOTICE*** shall be deemed given when it is personally served on the person to whom it is directed or is mailed to him or her at his or her last known address.

ORDINANCE. The set of rules contained herein governing the discharge of wastewater to the PSS.

OTHER WASTES. Other substances, except wastewater and industrial wastes.

PERMITTEE. An industrial user authorized to discharge industrial waste into the city's PSS pursuant to an industrial discharge permit.

PERSON. The state or any agency or institution thereof, any municipality, governmental subdivision, public or private corporation, individual, partnership or other entity, including, but not limited to, association, commission or any interstate body, and including any officer or governing or managing body of any municipality, governmental subdivision or public or private corporation, or other entity.

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

PRETREATMENT. The process of reducing the amount of pollutants, eliminating pollutants or altering the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the city's wastewater disposal system. The reduction, elimination or alteration may be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by this chapter.

PRETREATMENT STANDARDS. Standards for industrial groups (categories) promulgated by EPA pursuant to the acts which regulate the quality of effluent discharge to publicly owned treatment works and must be met by all users subject to such standards.

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

PUBLIC SEWER SYSTEM (PSS). The treatment works, as defined by § 212 of the Act, being 33 U.S.C. § 1292, which is owned by the municipality (as defined by § 502(4) of the Act, being 33 U.S.C. § 1362). This includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a PSS treatment plant. The term also means the municipality, as defined in § 502(4) of the Act, being 33 U.S.C. § 1362 which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

PUBLIC UTILITY. The unit of municipal government and its people responsible for the operation of the PSS and this chapter.

RULES. The waste discharge rules for the city's disposal system contained herein.

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

SERVICE. Connection to the public sewer system and the right to the use of its facilities, whether or not the facilities are, in fact, used.

SEWAGE SLUDGE. Solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant.

SEWER. A pipe or conduit for carrying wastewater, industrial waste or other waste liquids.

SEWER SYSTEM. Pipelines or conduits, pumping stations, force mains and all other devices and appliances appurtenant thereto, used for collecting or conducting wastewater.

SHALL. The act referred to is mandatory.

SIC. The Standard Industrial Classification Code (1972) issued by the Executive Office of the President, Office of Management and Budget, for use in the classification of establishments by types of business and the primary and economic activity engaged.

SIGNIFICANT INDUSTRIAL USER. All industrial users subject to categorical pretreatment standards under 40 C.F.R. § 403.6 and 40 C.F.R. Ch. I, Subch. N, and any other industrial user that

discharges an average of 25,000 gallons per day or more of process wastewater to the PSS (excluding sanitary, non-contact cooling and boiler blow down wastewater), contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the PSS treatment plant, or is designated as such by the control authority as defined in 40 C.F.R. § 403.12 on the basis that the industrial user has a reasonable potential for adversely affecting the PSS's operation or for violating any pretreatment standard or requirement in accordance with 40 C.F.R. § 403.8(f)(6). If, upon finding that an industrial user meeting the criteria of this definition has no reasonable potential for adversely affecting the PSS's operation or for violating any pretreatment standard or requirement, the control authority, as defined in 40 C.F.R. § 403.12, may, at any time, on its own initiative or in response to a petition received from an industrial user or PSS and in accordance with 40 C.F.R. § 403.8(f)(6) determine that such industrial user is not a ***SIGNIFICANT INDUSTRIAL USER***.

STATE. The State of Minnesota or its designated agency, the Minnesota Pollution Control Agency (MPCA).

STORM SEWER. (Sometimes termed ***STORM DRAIN***.) A sewer which carries storm and surface water and drainage, but excludes wastewater and industrial wastes, other than unpolluted cooling or process water.

STORM WATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

SUMP PUMP. A pump for disposing of storm drainage.

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

TOTAL TOXIC ORGANICS. The summation of all values greater than 0.01 mg/l of toxic organics listed in § 307(a) of the Act, being 33 U.S.C. §§ 1317 et seq.

UNPOLLUTED WATER. Clean water uncontaminated by industrial wastes, other wastes or any substance which renders the water unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial or recreational use, or to livestock, wild animals, bird, fish or other aquatic life.

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

WASTE TRANSPORT HAULER. An industrial user who transports industrial or domestic waste for the purpose of discharge into the city's PSS.

WASTEWATER. The spent water of a community. Also referred to as ***SEWAGE***. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with any ground water, surface water and storm water that may be present.
(Ord. 59-05, passed 6-13-2005)

§ 52.003 BUILDING SEWERS AND CONNECTIONS.

(A) No person, unless authorized, shall uncover, make any connections with or disturb any public sewer or appurtenance thereof, except in accordance with the applicable provisions of the city code, as amended.

(B) The property owner shall bear all costs and expenses incident to the installation and connection of the building sewer. The owner shall indemnify and hold harmless the city from any loss or damage to the public sewer that may directly or indirectly be occasioned by the installation of the building sewer.

(C) No building sewer shall be built, repaired, extended or connected with the public sewer system, except by a plumber duly licensed by the state to perform the work or by any other qualified person. A permit shall be issued only to the person doing the work.

(D) All applications for sewer permits shall be made to the City Administrator by the person employed to do the work. The application shall be accompanied by a plan and drawings showing the proposed work.

(E) Before a permit is given on the application, the city may inspect the premises and the proposed installation to ascertain if the installation is proper and in compliance with local and state laws, ordinances and regulations and that the statements in the application are true. All plumbing installations shall comply with the state's Plumbing Code.

(F) (1) Upon issuance of the permit, the person to whom it is granted may proceed with the work in accordance with the permit granted. The applicant shall notify the City Administrator of the progress of the work at such stages during construction as the city may direct and, in particular, shall notify the city when the building sewer is complete and ready for connection with the public sewer.

(2) The city shall be given an opportunity to inspect the work after it is completed and shall require the work to be done satisfactorily and in compliance with law before excavations are filled.

(G) All connections to the public sewer system shall comply with all current State Plumbing Code standards. All joints and connections shall be gas- and water-tight. The size, slope and depth of the building sewer shall be subject to the approval of the city, but in no event shall the internal diameter be less than four inches, and a slope of one-quarter inch to the foot shall be used whenever practical. Pipe shall be inspected by the city before laid and is subject to approval. The connections of the building

sewer with the public sewer shall be made at the "Y" branch designated for the property, if suitable. Any other location for the connection shall be only as directed by the city.

(H) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer; provided that, the city shall require a written agreement between the property owners as to the share of the costs of construction and maintenance which each shall contribute.

(I) An owner may use old building sewers in connections with new buildings only when they are found, on examination and test by the city, to meet all requirements of this chapter. The property owner shall bear all costs and expenses incident to examination and testing of the old building sewer by the city.

(J) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, the building drain shall be provided with a lifting device approved by the Building Inspector and discharged to the building sewer.

(K) No persons shall make connection of sump pumps, roof downspouts, exterior or interior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(L) All excavations for building sewer installations shall be adequately guarded with barricades and lights and other appropriate warning devices so as to protect the public from hazards. Streets, alleys, sidewalks and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(M) Any new connections to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to, capacity for flow, BOD and suspended solids, as determined by the city or the appropriate city agent.
(Ord. 59-05, passed 6-13-2005) Penalty, see § 52.999

§ 52.004 MAIN AND LATERAL SEWERS.

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

(B) No sanitary or storm sewers shall be constructed in the city (except house or building service sewers), except by the city or others authorized by the city. Any construction of sanitary or storm sewers shall be subject to inspection during construction by the City Engineer and employees of the city. No sewers shall be considered to be a part of the public sewer system unless accepted by the city.

(C) The size, slope, alignment, material of construction, methods to be used in excavation, placing of pipe, jointing, testing, backfilling and other work connected with the construction of sewers shall conform to the requirements of the city.
(Ord. 59-05, passed 6-13-2005) Penalty, see § 52.999

§ 52.005 PROTECTION FROM DAMAGE.

No person shall maliciously, fully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the PSS.
(Ord. 59-05, passed 6-13-2005) Penalty, see § 52.999

§ 52.006 USE OF PUBLIC SEWERS.

(A) It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any wastewater or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(B) Except as set forth in §§ 52.025 through 52.033 of this chapter, it shall be unlawful for any person to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(C) The owner of any building or property which is located in the city, or in any area under the jurisdiction of the city, and from which wastewater is discharged, shall be required to connect to a public sewer at his or her expense within 90 days after service of official notice to do so; provided that, the public sewer is reasonably available for connection. Additionally, if the building or property is used for human occupancy, employment or recreation, the owner shall be required to install at the same time toilet facilities in accordance with the state's Building Code and other ordinances of the city. The city, or its designated agent, shall give the official notice and shall be served upon the owner personally or by certified mail.

(D) In the event an owner shall fail to connect to a public sewer in compliance with a notice given under division (C) above, the city may undertake to have the connection made and shall assess the cost of the connection against the benefitted property, and the assessment shall be a lien against the property. The assessment, when levied, shall bear interest at the rate of 8% per annum and shall be certified to the Auditor of the county in which the land is situated and shall be collected and remitted to the city in the same manner as assessments for local improvements. The rights of the city under this division (D) shall be in addition to any other remedial or enforcement provisions of this chapter.

(E) No person shall discharge or cause to be discharged directly or indirectly any storm water, surface water, ground water, roof runoff, sub-surface drainage, sump pumps, unpolluted cooling or process water to any sanitary sewer unless there is no prudent and feasible alternative and unless as approved by the city.

(F) Storm water and all other unpolluted water shall be discharged to a storm sewer or storm water drainageway; except that, unpolluted cooling or process water shall only be so discharged upon approval by the city and the user may be required to obtain a NPDES permit by the MPCA.
(Ord. 59-05, passed 6-13-2005) Penalty, see § 52.999

§ 52.007 PROHIBITIVE DISCHARGE.

No person shall discharge or cause to be discharged, directly or indirectly, into the PSS any of the following:

(A) Any combustible, flammable or explosive solids, liquids or gases which, by their nature or quantity, shall cause or are likely to cause either alone or by interaction with other substances a fire or explosion or be injurious to the PSS operations. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, fuel oil, lubricating oil, benzene, toluene, xylene, ethers, alcohols and ketones;

(B) Any solids or viscous substances which shall cause or are likely to cause obstruction to the flow in a sewer or interfere with the operation of the wastewater treatment plant. These include grease, animal guts or tissues, bones, hair, hides or fleshings, entrails, feathers, ashes, sand, spent lime, stone or marble dust, metal, glass, grass clippings, rags, spent grains, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, glass grinding and polishing wastes;

(C) Any garbage not properly shredded, as defined in § 52.002 of this chapter. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food on the premises or when served by caterers;

(D) Any wastewater having a pH less than 5.5 or greater than 10 or having any corrosive property that shall or is likely to cause damage or hazard to structures, equipment or employee of the public utility;

(E) Any alkaline wastewater which alone or with others shall or is likely to cause an elevated pH in the treatment plant influent so as to result in an inhibiting effect on the biological process or encrustation to the sewer;

(F) Any noxious or malodorous solids, liquids or gases, which either singly or by interaction with other wastes, shall create or are likely to create a public nuisance or hazard to life or prevent the entry of utility employees into a sewer for its monitoring, maintenance and repair;

(G) Any wastewater which shall or is likely to cause excessive discoloration in treatment plant effluent;

(H) Wastes, other than domestic wastes, that are infectious before discharging into the sewer;

(I) Any wastewater containing toxic or poisonous pollutants in sufficient quantity, either singly or by interaction with other pollutants, that shall or is likely to cause interference or constitute a hazard to humans, including the following at amounts in excess of the specified standards:

Arsenic	0.1 mg/l
Cadmium	0.2 mg/l
Copper	2.0 mg/l
Cyanide	1.0 mg/l
Lead	1.0 mg/l
Mercury	0.01 mg/l
Nickel	1.0 mg/l
Silver	0.2 mg/l
Total chromium	0.5 mg/l
Zinc	3.0 mg/l

(J) Any sludge from an industrial pretreatment facility, except as provided in § 52.009 of this chapter;

(K) Heat in amounts which shall or is likely to inhibit biological activity in the treatment plant resulting in interference or causing damage to the treatment plant, but in no case heat in such quantities that the industrial user's waste temperature is greater than 65°C (150°F) at its point of discharge to the sewer system, or heat causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 40°C (104°F);

(L) Any wastewater containing fat, wax, grease or oil in excess of 100 mg/l that shall or is likely to solidify or become viscous at temperatures between 0° and 65°C and which shall or is likely to cause obstruction to the flow in sewers or other interference to the PSS, including petroleum oil, non-biodegradable cutting oil or products of mineral oil origin;

(M) Quantities of wastewater with concentrations that constitute a high strength waste discharge, as defined in § 52.002 of this chapter;

(N) Any substance which shall cause the PSS to violate its NPDES and/or state disposal system permit or the receiving water quality standards;

(O) Any substance which may cause the PSS's effluent or any other product of the wastewater treatment process such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to

interfere with the reclamation process. In no case, shall a substance discharged to the wastewater disposal system cause the system to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, being 42 U.S.C. §§ 6901 et seq., the Clean Air Act, being 42 U.S.C. §§ 7401 et seq., the Toxic Substances Control Act, being 15 U.S.C. §§ 2601 et seq. or state standards applicable to the sludge management method being used;

(P) Any wastewater containing inert suspended solids or dissolved solids in such quantities that shall or is likely to cause interference with the PSS;

(Q) Radioactive wastes or isotopes of a half-life or concentration that they are in non-compliance with standards issued by the appropriate authority having control over their use and which shall or are likely to cause damage or hazards to the PSS or employees operating it;

(R) Any hazardous waste, unless prior approval has been obtained from the city;

(S) Any waste generated outside the area served by the PSS without prior approval of the city;

(T) Any unpolluted water, including cooling water, rain water, storm water or ground water, unless there is no other prudent or feasible alternative; and/or

(U) Any trucked or hauled wastes or pollutants, except at discharge points designated by the city.
(Ord. 59-05, passed 6-13-2005) Penalty, see § 52.999

§ 52.008 HIGH STRENGTH WASTE DISCHARGES.

No one shall discharge any high strength waste (defined in § 52.002 of this chapter) into the public sewer system unless a permit has been issued by the city. A separate permit must be secured for each separate discharge. The permit will state the specific location of discharge, the time of day the discharge is to occur and the volume of the discharge. If a permit is granted for the discharge, the user shall pay the applicable charges and fees and shall meet such other conditions as required by the city.
(Ord. 59-05, passed 6-13-2005) Penalty, see § 52.999

§ 52.009 PRETREATMENT.

(A) *Compliance with standards.*

(1) Where pretreatment, flow equalizing facilities or interceptors are provided for any water or wastes, they shall be effectively operated and maintained continuously in satisfactory and effective condition by the owner at his or her expense, and shall be available for inspection by the city employees at all reasonable times.

(2) Industrial users shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Industrial users, as

required by their industrial discharge permit, shall submit to the city for review detailed plans showing the pretreatment facilities at least 60 days prior to initiation of construction. The city shall approve the industrial user's pretreatment plans if it appears that the proposed pretreatment facility is capable of meeting all applicable limitations.

(3) The city's review and approval shall in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of these rules. Any subsequent modifications in the pretreatment facilities which shall result in a substantial change in discharge shall be reported to be approved by the city upon a determination that the modified facility is capable of meeting all applicable limitations, prior to the modification of the existing facility.

(4) Residual solids from a pretreatment facility shall not be disposed, directly or indirectly, into the PSS without prior written approval from the city. The disposal method shall be in accordance with local, state and federal requirements. The city shall be notified in writing within ten days of any substantial changes in the residual solids disposal procedures and/or characteristics.

(B) *Trap installations*. Grease, oil and sand traps shall be provided for the proper discharge of waste containing excessive amounts of grease, oil or sand. All trap installations shall be regularly cleaned and maintained for adequate performance.
(Ord. 59-05, passed 6-13-2005) Penalty, see § 52.999

§ 52.010 CONFIDENTIAL INFORMATION.

(A) Information and data on a user obtained from reports, questionnaires, permit applications, permits, monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the NPDES permit, state disposal system permit and/or the pretreatment programs; provided, however, that, such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information.

(C) Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the user.
(Ord. 59-05, passed 6-13-2005)

§ 52.011 SERVICE CHARGES.

(A) Sewer service charges have been established by the City Council.

(B) An account for services will be kept for each user and a separate account for separate premises. Each user will be liable for service to his or her premises. Bills for service will be rendered quarterly and will be due within ten days of their date, but failure of the city to render a bill or of user to receive a bill will not excuse payment. Bills will be mailed to users at the addresses shown on applications of the day of their date. The charge for sewer service may be included on the water bill, but, if so, shall be separately stated thereon. The City Administrator will keep accounts and render the bills receive payment of bills and give receipts therefor.
(Ord. 59-05, passed 6-13-2005)

§ 52.012 ENFORCEMENT.

(A) *Remedies available.*

(1) The city may suspend the sewer system service and/or an industrial discharge permit when the suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment or to the PSS, or would cause the city to violate any condition of its NPDES or state disposal system permit. Any user notified of a suspension of the sewer system service and/or the industrial discharge permit shall immediately stop the discharge. In the event of a failure of the user to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the PSS or endangerment to any individuals. The city shall reinstate the industrial discharge permit and/or the sewer system service upon proof of the elimination of the non-complying discharge.

(2) A detailed written statement submitted by the user describing the causes of the slug or accidental discharge and the measures taken to prevent any future occurrence shall be submitted to the city within five working days of the date of occurrence.

(B) *Revocation of permit.* In accordance with the following procedures, the city may revoke the permit of any user which fails to factually report the wastewater constituents and characteristics of its discharge; which fails to report significant changes in wastewater constituents or characteristics; which refuses reasonable access to the user's premises for the purpose of inspection or monitoring; or for violation of conditions of its permit, this chapter or applicable state and federal regulations.

(C) *Notification of violation.*

(1) Whenever the city finds that any person has violated or is violating this chapter, industrial discharge permit or any prohibition, limitation or requirement contained herein, the city may serve upon the person a written notice stating the nature of the violation.

(2) Within ten days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user.

(D) *Show cause hearing*.

(1) *Notice of hearing*.

(a) If the violation is not corrected by timely compliance, the city may order any user which causes or allows an unauthorized discharge to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the user to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 14 days before the hearing.

(b) Service may be made on any agent or officer of a corporation.

(2) *Hearing officials*. The City Council may itself conduct the hearing and take the evidence or may designate any of its members, administrative law judge or any officer or employee of the Public Works Department to:

(a) Issue in the name of the city notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(b) Take the evidence; and

(c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.

(3) *Transcripts*.

(a) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded.

(b) The transcript, so recorded, shall be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

(4) *Issuance of orders*. After the City Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(E) *Legal action.* If any person discharges wastewater, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements or any order of the city, the City Attorney may commence an action for appropriate legal and/or equitable relief.
(Ord. 59-05, passed 6-13-2005)

PRIVATE WASTEWATER DISPOSAL SYSTEMS

§ 52.025 PUBLIC SANITARY SEWER SYSTEM NOT AVAILABLE.

Where a public sanitary sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this subchapter.
(Ord. 59-05, passed 6-13-2005) Penalty, see § 52.999

§ 52.026 PRIVATE DISPOSAL PERMIT.

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written private disposal permit signed by the city's authorized agent. The application for the permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the city. A permit and inspection fee, as established by the City Council, shall be paid at the time the application is filed.
(Ord. 59-05, passed 6-13-2005) Penalty, see § 52.999

§ 52.027 EFFECTIVE DATE AND INSPECTION.

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the city. Employees of the city may inspect the work at any stage of construction, and the applicant for the permit shall notify the city when the work is ready for final inspection, and no underground portions shall be covered before the final inspection is completed.
(Ord. 59-05, passed 6-13-2005)

§ 52.028 COMPLIANCE.

The type, capacities, location and layout of a private wastewater disposal system shall comply with all requirements of the city and the state. No private wastewater disposal system employing subsurface soil absorption facilities shall be constructed where the area of the lot is less than 40,000 square feet, unless the owner presents evidence to the city demonstrating that special conditions exist which assures

the system shall meet the minimum standards of the state's Individual Sewage Disposal System Code. No septic tank shall be permitted to discharge to any natural outlet.
(Ord. 59-05, passed 6-13-2005) Penalty, see § 52.999

§ 52.029 REMOVAL OF PRIVATE SEPTIC TANKS.

At the time public sewer service is available to a building being served by a private disposal system, the owner shall make the connection to the public sewer and any septic tanks or other private wastewater disposal facilities shall be removed or have sediment removed and backfilled with suitable material approved by the city.
(Ord. 59-05, passed 6-13-2005)

§ 52.030 MAINTENANCE OF PRIVATE DISPOSAL FACILITIES.

The owner shall effectively operate and continuously maintain the private wastewater disposal facilities in a sanitary, satisfactory and effective manner at all times, at the owner's own expense.
(Ord. 59-05, passed 6-13-2005)

§ 52.031 INSPECTION AND RIGHT OF ENTRY.

The employees of the city may enter upon any property having a private wastewater disposal system for the purpose of inspecting the system and making such other investigations and tests as are deemed necessary. Entry shall be made during the daylight hours unless abnormal or emergency circumstances require otherwise.
(Ord. 59-05, passed 6-13-2005)

§ 52.032 LAWS AND REGULATIONS.

The provisions of this subchapter shall be in addition to any requirements established by applicable federal, state or local laws and regulations and shall not be construed to relieve any liability or obligation imposed by such laws and regulations.
(Ord. 59-05, passed 6-13-2005)

§ 52.033 PERMISSION FOR PSS.

Any person operating a private wastewater disposal system who wishes to discharge waste products to the city's PSS resulting from the treatment of domestic wastewater only shall obtain permission from the city prior to the discharge occurring.
(Ord. 59-05, passed 6-13-2005)

INDUSTRIAL DISCHARGE PERMIT

§ 52.045 SCOPE.

(A) Industrial users, or other persons, discharging into the PSS shall obtain an industrial discharge permit pursuant to these rules if notified by the city.

(B) The criteria to be utilized by the city to determine if an industrial discharge permit shall be required include:

(1) An average flow loading greater than 25,000 gallons per operating day;

(2) A pollutant concentration of greater than 50% for one or more regulated pollutants at the point of discharge;

(3) Has properties in the discharge for it to be constituted a prohibited discharge;

(4) Has been pretreated or passed through an equalization tank before discharge;

(5) A hydraulic or organic loading greater than 5% of the average dry weather capacity of the PSS treatment plant;

(6) An industrial process regulated by EPA categorical standards; or

(7) Others as so designated by the city.
(Ord. 59-05, passed 6-13-2005)

§ 52.046 PERMIT APPLICATION.

(A) *Existing significant industrial user.* An existing significant industrial user or other person who is required to obtain an industrial discharge permit shall complete and file with the PSS within three months of notification a permit application in a form obtained from the city. The appropriate permit fee, as set by the City Council, shall accompany the permit application form at the time of application. A user shall have one year from the date of notification by the city to have obtained an industrial discharge permit.

(B) *New significant industrial users.* All new significant industrial users proposing to connect or to commence a new discharge to the wastewater disposal system shall apply for an industrial discharge permit before connection to or discharging into the public sewer system (PSS). The permit application may be obtained from the city. No discharge into the PSS can commence until an industrial discharge permit is received unless the city has ruled that:

(1) An industrial discharge permit is not required; or

(2) A discharge waiver is granted to commence discharge pending final action by the City Council, based upon recommendations made by appropriate city staff.
(Ord. 59-05, passed 6-13-2005)

§ 52.047 INCOMPLETE OR DEFICIENT APPLICATION.

If the permit application is incomplete or otherwise deficient, the city shall advise the applicant of incompleteness or deficiency. An industrial discharge permit shall not be issued until an application is complete.
(Ord. 59-05, passed 6-13-2005)

§ 52.048 ISSUANCE OF INDUSTRIAL DISCHARGE PERMIT.

Within 60 days after receipt of a completed application form from the industrial user, the city shall, upon a determination that the applicant is capable of compliance with the industrial discharge permit conditions and these rules, issue an industrial discharge permit subject to the terms and conditions provided herein.
(Ord. 59-05, passed 6-13-2005)

§ 52.049 PERMIT CONDITIONS.

(A) Industrial discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the City Council.

(B) Permits shall contain the following:

(1) A summary of the penalties and surcharges applicable for violations of the terms of permit as provided in § 52.999 of this chapter;

(2) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the PSS;

(3) Limits on the average and maximum wastewater constituents and characteristics, either in terms of concentrations, mass limitations or other appropriate limits;

(4) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(5) Requirements for installation and maintenance on inspection and sampling facilities;

(6) Requirements for access to the permittee's premises and records;

(7) Requirements for installation, operation and maintenance of pretreatment facilities;

(8) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and self reporting schedule;

(9) Compliance schedules;

(10) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city;

(11) Requirements for notification to the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(12) Requirements for notification of slug discharges as provided in this chapter;

(13) Requirements for the specific location, time, and volume of discharge to the PSS for waste transport haulers;

(14) The requirement for industrial discharge permit transfer as stated herein; and

(15) Other conditions as deemed appropriate by the city to ensure compliance with this chapter. (Ord. 59-05, passed 6-13-2005)

§ 52.050 PERMIT MODIFICATIONS, SUSPENSION AND REVOCATION.

An industrial discharge permit may be modified, suspended or revoked, in whole or in part, by the city during its term for cause, including:

(A) Violation of these rules;

(B) Violation of any terms or conditions of the industrial discharge permit;

(C) Obtaining an industrial discharge permit by misrepresentation or failure to disclose fully all relevant facts;

(D) Amendment of these rules;

(E) A change in the wastewater treatment process which results in the permittee's discharge having a significantly different and negative impact on the process;

(F) A change in the permittee's industrial waste volume or characteristics which the permittee knows or has reason to know shall or is likely to have, either singly or by interaction with other wastes, a negative impact on the treatment process; and

(G) A determination by the city's PSS operator that the permittee's discharge reasonably appears to present an imminent threat to the health or welfare of persons, present an imminent threat to the environment or threaten interference with the operation of the PSS.
(Ord. 59-05, passed 6-13-2005)

§ 52.051 TIME SCHEDULE FOR COMPLIANCE.

Any modifications in the industrial discharge permit shall specify a reasonable time schedule for compliance.
(Ord. 59-05, passed 6-13-2005)

§ 52.052 REFUND OF PERMIT FEE ON SURRENDER OR REVOCATION.

(A) A permittee may surrender an industrial discharge permit to the city prior to the permit's scheduled termination.

(B) In the event that a permit is surrendered or revoked, the permittee shall be refunded a pro rata portion of the permit fee paid.
(Ord. 59-05, passed 6-13-2005)

§ 52.053 PERMIT DURATION.

(A) Permits shall be issued for a specified time period, not to exceed five years.

(B) The user shall apply for permit reissuance a minimum of 180 days prior to the permit's expiration date by filing with the PSS a permit reissuance application.

(C) The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements as identified in this chapter are modified or other just cause exists.

(D) The user shall be informed prior to the effective date of change.

(E) Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
(Ord. 59-05, passed 6-13-2005)

§ 52.054 PERMIT TRANSFER.

(A) Industrial discharge permits are issued to a specific user at a specific location, for a specific operation, except in the case of waste transport haulers.

(B) An industrial discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(C) In the event of a change in the entity owning the industrial discharge facilities for which there is an industrial discharge permit, the prior owner, if feasible, shall notify the PSS and the succeeding owner of the change in ownership and of the provisions of the industrial discharge permit and these rules. The new owner shall submit a new permit application or shall submit to the PSS an executed statement agreeing to be bound by the terms and conditions of the existing industrial discharge permit for the facility, in which case, upon consent of the PSS, the permit shall continue in effect until its expiration date.
(Ord. 59-05, passed 6-13-2005)

§ 52.055 PERMIT FEES.

The industrial discharge permit fee for total waste (million gallons per year) for both initial and reissuance shall be in accordance with the city's fee schedule.
(Ord. 59-05, passed 6-13-2005)

WASTEWATER STRENGTH LIMITATIONS

§ 52.070 FEDERAL PRETREATMENT STANDARDS.

(A) Federal pretreatment standards and general regulations promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the act shall be met by all users which are subject to such standards in any instance where they are more stringent than the limitations in this chapter unless the city has applied for and obtained from the MPCA, approval to modify the specific limits in the federal pretreatment standards.

(B) In all other respects, industrial users subject to pretreatment standards shall comply with all provisions of these rules and any permit issued thereunder, notwithstanding less stringent provisions of the general pretreatment regulations or any applicable pretreatment standard.
(Ord. 59-05, passed 6-13-2005)

§ 52.071 STATE REQUIREMENTS.

State requirements and limitations on discharges shall be met by all users which are subject to the standards in any instance in which they are more stringent than federal requirements and limitations or those in this chapter.
(Ord. 59-05, passed 6-13-2005)

§ 52.072 CITY'S RIGHT OF REVISION.

The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the PSS if deemed necessary to comply with the objectives specified in this chapter.
(Ord. 59-05, passed 6-13-2005)

§ 52.073 DILUTION.

No user shall increase the use of process water, or in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in any local or state requirements or federal pretreatment standards.
(Ord. 59-05, passed 6-13-2005) Penalty, see § 52.999

§ 52.074 SPECIAL AGREEMENTS.

No statement contained in this subchapter, except as promulgated by the EPA, shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern, in accordance with applicable ordinances and any supplemental agreement with the city.
(Ord. 59-05, passed 6-13-2005)

§ 52.075 PRETREATMENT STANDARDS NOTIFICATION.

(A) The city shall notify all affected industrial users of the applicable pretreatment standards, their amendments and reporting requirements in accordance with 40 C.F.R. § 403.12 of the general pretreatment regulations.

(B) A compliance schedule shall be developed between the PSS and the industrial user to ensure that the industrial user complies with local, state and federal limitations in a timely manner as provided by the same section of the general pretreatment regulations.
(Ord. 59-05, passed 6-13-2005)

§ 52.076 REPORTS.

Reports specified in 40 C.F.R. § 403.12 of the general pretreatment regulations shall be submitted to the PSS by affected users.
(Ord. 59-05, passed 6-13-2005)

ACCIDENTAL AND SLUG DISCHARGES

§ 52.090 PREVENTION OF ACCIDENTAL AND SLUG DISCHARGES.

All industrial users shall provide adequate protective procedures to prevent the accidental discharge of any waste prohibited in § 52.007 of this chapter or any waste in violation of an applicable pretreatment standard.
(Ord. 59-05, passed 6-13-2005)

§ 52.091 ACCIDENTAL DISCHARGE.

(A) Accidental discharges of prohibited waste into the PSS, directly or through another disposal system, or to any place from which the waste may enter the PSS, shall be reported to the city by the persons responsible for the discharge, or by the owner or occupant of the premises where the discharge occurred, immediately upon obtaining knowledge of the fact of the discharge. The notification shall not relieve users of liability for any expense, loss or damage to the wastewater disposal system or treatment process, or for any fines imposed on the city on account thereof under any state or federal law. The responsible person shall take immediate action as is reasonably possible to minimize or abate the prohibited discharge.

(B) The responsible person shall send a letter describing the prohibited discharge to the city within seven days after obtaining knowledge of the discharge. The letter shall include the following information:

(1) The time and location of the spill;

(2) Description of the accidentally discharged waste, including estimate of pollutant concentrations;

(3) Time period and volume of wastewater discharged;

(4) Actions taken to correct or control the spill; and

(5) A schedule of corrective measures to prevent further spill occurrences.
(Ord. 59-05, passed 6-13-2005)

§ 52.092 SLUG DISCHARGE.

(A) In the event that an industrial user discharges a slug in such volume or strength that the industrial user knows or has reason to know it shall cause interference in the PSS, the industrial user shall immediately report the same to the city. Within seven days of the discharge, the industrial user shall send a letter to the city describing the slug as specified under accidental discharge. After such a discharge, a plan is required to prevent additional slug or accidental discharges.

(B) This plan shall contain the following at a minimum:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedure for promptly notifying the PSS of slug discharges, as defined under §§ 52.002 and 52.007 of this chapter, with procedures for follow-up written notification within five days;

(4) Procedures necessary to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff and worker training;

(5) Any necessary measures for building containment structures or equipment;

(6) Any necessary measures for controlling toxic organic pollutants (including solvents);

(7) Any necessary procedures and equipment for emergency response; and

(8) Any necessary follow-up practices to limit the damage suffered by the PSS or the environment.
(Ord. 59-05, passed 6-13-2005)

MONITORING

§ 52.105 MONITORING FACILITIES.

(A) When required by the city's permit, the permittee of any property services by a building sewer carrying industrial wastes shall install a suitable control structure, together with such necessary meters and other appurtenances in the building sewer to facilitate observation sampling, flow measurement and measurement of the wastes. The structure and equipment, when required, shall be constructed at the owner's expense in accordance with plans approved by the city and shall be maintained by the owner so as to be safe and accessible at all times.

(B) The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed elsewhere.
(Ord. 59-05, passed 6-13-2005)

§ 52.106 FLOW MEASUREMENTS.

(A) A permittee, when required by permit, shall install and maintain a flow measurement device for instantaneous rate and/or cumulative flow volume determinations. Metered water supply may be used in lieu of flow measurement devices if it can be documented that the water usage and waste discharge are the same, or where a measurable adjustment to the metered supply can be made to determine the waste volume.

(B) Meters and flow records shall be maintained at the permittee's expense in good operating condition at all times. The permittee shall notify the city in writing within five days in the event that the permittee becomes aware that the meter or flow recorder has failed to accurately register the flow. The permittee shall also notify the city of the permittee's intention to alter the installation of a meter or flow recorder so as to affect the accurate recording of industrial waste entering the PSS.
(Ord. 59-05, passed 6-13-2005)

§ 52.107 SELF-MONITORING ANALYSES.

(A) All measurements, tests and analyses of the characteristics of water and wastes as outlined in the permit shall be determined in accordance with guidelines established in 40 C.F.R. part 136 and 40 C.F.R. § 403.12(g) of the general pretreatment regulations.

(B) Representative samples of a permittee's industrial waste shall be collected on a normal operating day and in accordance with guidelines listed in industrial user's permit. Industrial users subject to pretreatment standards shall sample in accordance with the pretreatment standards. Self-monitoring point(s) for industrial users who are not subject to pretreatment standards shall be at a location and at a frequency as specified in the permit.
(Ord. 59-05, passed 6-13-2005)

§ 52.108 SELF-MONITORING REPORTS.

(A) A condition of the industrial user's permit shall include the completion and submittal of accurate routine self-monitoring reports to the city in a form subscribed to by the city. The nature and frequency of routine reporting shall be based upon the requirements specified by the user's permit application form.

(B) Except in the case of waste transport haulers, reports shall be required as follows:

(1) Less than one million gallons total waste discharged per year, semi-annually;

(2) Between one and ten million gallons, quarterly; and

(3) Greater than ten million gallons, bi-monthly.

(C) The city may modify the above reporting schedule for a particular permittee based on the permittee's industrial waste characteristics. Permittees subject to pretreatment standards shall submit reports to the PSS in accordance with the applicable pretreatment standards.
(Ord. 59-05, passed 6-13-2005)

§ 52.109 INSPECTION AND SAMPLING.

(A) The city may conduct such tests as are necessary to enforce this chapter, and employees of the city may enter upon any property for the purpose of taking samples, obtaining information or conducting surveys or investigations relating to such enforcement. Entry shall be made during operating hours unless circumstances require otherwise. In all cases where tests are conducted by the city for the purpose of determining whether the user is in compliance with regulations, the cost of the tests shall be charged to the user and added to the user's sewer charge. In those cases where the city determines that the nature or volume of a particular user's wastewater requires more frequent than normal testing, the city may charge the user for the tests, after giving the user ten days' written notice of its intention to do so and the cost thereof shall be added to the user's sewer charge.

(B) (1) Duly authorized employees of the city, MPCA and EPA bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. Those employees shall have no authority to inquire into any processes, except as is necessary to determine the kind and source of the discharge to the PSS.

(2) While performing the necessary work on private properties referred to in this section, the authorized employees of the city shall observe all safety rules applicable to the premises established by the company.

(C) (1) Duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds an easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the PSS lying within the easement.

(2) All entry and subsequent work, if any, on the easement shall be done in all accordance with the terms of the easement pertaining to the private property involved.
(Ord. 59-05, passed 6-13-2005)

§ 52.110 TESTING PROCEDURES.

Testing procedures for the analysis of pollutants for permit applications and routine self-monitoring shall conform to the guidelines established in 40 C.F.R. part 136 and 40 C.F.R. § 403.12(g) of the federal pretreatment regulations.
(Ord. 59-05, passed 6-13-2005)

§ 52.111 REPORT AND MONITORING DISCREPANCIES.

A permittee shall be notified in writing by the city of a significant discrepancy between the permittee's routine, self-monitoring records and the PSS's monitoring results within 30 days after the receipt of the reports and monitoring results. The permittee shall then have ten working days to reply in writing to the notification. If mutual resolution of the discrepancy is not achieved, additional sampling shall be performed by city employees. Samples may be split between the permittee's laboratory or agent and the PSS's laboratory for analysis.
(Ord. 59-05, passed 6-13-2005)

§ 52.112 WASTEWATER DISCHARGE RECORDS.

Wastewater discharge records of a permittee shall be kept by the permittee for a period of not less than three years. The permittee shall provide the city reasonable access to these records during normal business hours. A permittee, subject to an applicable pretreatment standard, shall maintain all records required by 40 C.F.R. § 403.12(n) of the general pretreatment regulations.
(Ord. 59-05, passed 6-13-2005)

§ 52.999 PENALTY.

(A) *Administrative fines*. Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, shall be fined in an amount not to exceed $1,000 per violation. Each day on which non-compliance shall occur or continue shall be deemed a separate and distinct violation. The assessments may be added to the user's next scheduled sewer service charge. Unpaid charges, fines and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute the fines must file a request for the city to reconsider the fine within ten days of being notified of the fine.

(B) *Criminal penalties*. Any person violating this chapter shall be guilty of a misdemeanor.

(C) *Costs*. In addition to the penalties provided herein, the city may recover court costs, court reporter's fees and other expenses of litigation by an appropriate action against the person found to have violated this chapter or the orders, rules, regulations and permits issued hereunder.

(D) *Costs of damage.* Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of the violation. The city may add to the user's charges and fees the costs assessed for any cleaning, repair or replacement work caused by the violation or discharge. Any refusal to pay the assessed costs shall constitute a violation of this chapter.

(E) *Falsifying information.* Any person who knowingly makes false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or industrial discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, upon conviction, be punished by a fine or by imprisonment, or by both.
(Ord. 59-05, passed 6-13-2005)

TITLE VII: TRAFFIC CODE

Chapter

70. TRAFFIC AND PARKING

71. RECREATION AND TOY VEHICLES

72. PARKING SCHEDULES

CHAPTER 70: TRAFFIC AND PARKING

Section

General Provisions

70.01 Snow and ice removal
70.02 Exhibition driving
70.03 Sidewalk usage
70.04 Speed limits

Parking

70.15 Restrictions and regulations
70.16 Definitions

70.99 Penalty

GENERAL PROVISIONS

§ 70.01 SNOW AND ICE REMOVAL.

(A) *Weather conditions.*

(1) Snow and ice control operations will be conducted only when weather conditions do not endanger the safety of city employees and equipment.

(2) Factors that may delay snow and ice control operations include, but are not limited to, severe cold, significant winds and limited visibility.

(B) *Parking restrictions during winter months.*

(1) At three inches of snow accumulation or more a snow emergency shall be deemed to exist in the city because of snow, freezing rain, sleet, ice, snowdrifts or other natural phenomena which create or are likely to create hazardous road conditions or impede the free movement of fire, health, police,

emergency or other vehicular traffic, or otherwise endanger the safety and welfare of the community. At three inches of snow accumulation or more, no parking or leaving cars on any street or avenue will be allowed between the hours of 5:00 a.m. and 10:00 a.m.

(2) Notwithstanding the above, parking in the Central Business District shall be prohibited between the hours of 2:00 a.m. and 7:00 a.m. between the dates of November 15 and April 15.

(C) *Impoundment.*

(1) *Vehicle removal.* If any vehicle is stopped, parked, abandoned or left unattended, the same may be moved or may be impounded in accordance with the terms of this section at the expense of the owner thereof.

(2) *Reclaiming vehicles.*

(a) As soon as practicable after the removal of the vehicle parked in violation of the provisions of this section, the Public Works Director shall notify the Chief of Police or law enforcement agency responsible for the enforcement of this section of the removal of the vehicle and, within 24 hours after the notification, the Chief of Police or law enforcement agency responsible for the enforcement of this section shall notify, in writing, the person known to be the owner of the vehicle by the registration thereon, the following facts:

1. A general description together with the license number; and

2. The approximate time and the reason for the removal and the place from which removed.

(b) The aforesaid notice from the Chief of Police or law enforcement agency responsible for the enforcement of this section to the vehicle owner shall be addressed to the registered owner and shall be deposited with postage prepaid in the United States mail at the city, as soon as practicable after receipt by the Chief of Police or law enforcement agency responsible for the enforcement of this section of aforesaid notice from the Public Works Director.

(c) Before any vehicle so removed and stored shall be reclaimed, the owner or other claimant shall satisfactorily identify himself or herself and establish his or her right, title or interest in or to the vehicle, and right to possession thereof and shall further pay all costs or charges in connection with the removal and storage of the vehicle and notice thereof.

(d) The payment of the charges shall not relieve the owner or the person responsible for the violation from the payment of any fine or penalty for violation of the provisions of this or any other applicable ordinance of the city. It shall be unlawful for any person to reclaim the vehicle so removed and stored without first paying all of the costs, charges and/or penalties.
(Ord. 70/11, passed 10-10-2011) Penalty, see § 70.99

§ 70.02 EXHIBITION DRIVING.

(A) Exhibition driving of any motor vehicle, snowmobile or all-terrain vehicle upon any public street, alley, sidewalk, parking lot or other public property within the city is hereby declared to be a public nuisance is prohibited.

(B) ***EXHIBITION DRIVING*** is defined as driving which is not the result of an emergency and which involves any of the following:

(1) Driving of a motor vehicle, snowmobile or all-terrain vehicles in a manner as to cause acceleration of the vehicle which causes the squealing or screeching which causes squealing or screeching sounds to be made by the tires of the vehicle;

(2) Driving of a motor vehicle, snowmobile or all-terrain vehicle in a manner as to cause the throwing of sand, gravel, snow or any other material upon the surface of the road, street, alley, sidewalk, parking lot or public right-of-way or public property by the tires of the vehicle;

(3) Driving of a motor vehicle, snowmobile or all-terrain vehicle in a manner as to cause the rapid or heavy or unreasonable acceleration of a motor vehicle, snowmobile or all-terrain vehicle which causes loud or prolonged or disturbing engine or muffler noise to emit from the vehicle;

(4) Driving of a motor vehicle, snowmobile or all-terrain vehicle in a manner as to cause rubber marks to be left upon the pavement of the road, street, alley, sidewalk, parking lot or other public right-of-way or public property by the tires of the vehicle regardless of whether or not the driving also causes squealing or screeching sounds to be made by the tires and regardless of whether the driving causes loud, prolonged or disturbing engine or muffler noise to emit from the vehicle;

(5) Driving of a motor vehicle, snowmobile or all-terrain vehicle in a manner as to cause the sudden and unreasonable braking of the vehicle which causes squealing or screeching or other sound by the tires of the vehicle;

(6) Driving of a motor vehicle, snowmobile or all-terrain vehicle in a manner as to cause the sudden and unreasonable braking of the vehicle which causes the throwing or displacement of sand, gravel or other material upon the road, street, alley, sidewalk, parking lot or other public right-of-way or public property by the tires of the vehicle; and/or

(7) Driving of a motor vehicle, snowmobile or all-terrain vehicle in a manner as to cause the fishtailing of the vehicle, regardless of whether the driving causes squealing or screeching sounds made by the tires and regardless of whether the driving causes loud, prolonged or disturbing engine or muffler noise.

(Ord. 21, passed 12-11-1978) Penalty, see § 70.99

§ 70.03 SIDEWALK USAGE.

The use of the sidewalks of the city by motor vehicles, snowmobiles, bicycles or motorcycles or any other type of vehicular motorized traffic is hereby prohibited. This restriction shall apply to the use of the sidewalks for either parking or moving vehicles, as defined herein.
(Ord. 10, passed 10-11-1971) Penalty, see § 70.99

§ 70.04 SPEED LIMITS.

(A) The definitions of motor vehicle and motorcycle shall be governed by the provision of M.S. Ch. 169, as it may be amended from time to time, known as the "Highway Traffic Regulation Act".

(B) The speed limit for motor vehicles and motorcycles within the village limits of the village is 20 mph.
(Ord. I, passed 8-20-1968) Penalty, see § 70.99

PARKING

§ 70.15 RESTRICTIONS AND REGULATIONS.

(A) *Parking restrictions.* No person shall park any vehicle contrary to the following:

(1) Signs which have been erected as required by law and by order of the City Council; and/or

(2) Provisions of division (B) below.

(B) *Parking regulations.*

(1) *General.* No person shall park any vehicle or permit it to remain, whether attended or unattended, in any of the following places:

(a) On any curb, crosswalk or sidewalk;

(b) Along any curb line marked with yellow paint;

(c) Within any intersection;

(d) Within ten feet of a fire hydrant;

(e) Within any safety zone or loading zone marked or designated by the Council;

(f) Double parking;

(g) Blocking any driveway or alleyway or parking within six feet of any driveway or alleyway;

(h) Within 50 feet of a railway crossing;

(i) In excess of a designated time limit; and/or

(j) On the wrong side of the street.

(2) *Parallel parking*. On all streets, cars shall be parked parallel, to the curb or edge of the roadway within 12 inches to the right-hand curb or margin of the street.

(3) *No parking, stopping or standing zones*. Except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic-control device, no person shall stop or park his or her vehicle in an established no stopping or standing zone. No vehicle shall be parked in a no parking zone during hours when parking is prohibited; except that, a vehicle may be parked temporarily in the zone for the purpose of forming a funeral procession or any event receiving prior authorization by the City Council.

(4) *Vehicle weight*. No vehicles having a gross vehicle weight in excess of 15,000 pounds or exceeding 25 feet in length may park on any city street between the hours of 2:00 a.m. and 5:00 a.m.

(5) *Abandoned vehicles*. All abandoned vehicles found within the city limits shall be regulated pursuant to M.S. §§ 168B.01 through 168B.13, as they may be amended from time to time; except that, a motor vehicle is considered abandoned when it has remained for a period in excess of five days on public property, illegally parked or lacking vital component parts, or has remained for a period in excess of three days on private property without consent of the owner or person having custody of the premises, or in an inoperable condition such that the vehicle has no substantial potential further use consistent with the usual functions.
(Ord. 19, passed - -) Penalty, see § 70.99

§ 70.16 DEFINITIONS.

(A) Any term used in § 70.15 of this chapter, and defined in M.S. § 169.011, as it may be amended from time to time, pertaining to highway traffic regulations, has the meaning given it by that section.

(B) The provisions contained in § 70.15 of this chapter are enacted in accordance with M.S. §§ 169.04 and 412.221, subd. 6, as they may be amended from time to time.
(Ord. 19, passed - -)

§ 70.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any violation of § 70.01(B)(1) of this chapter shall be deemed a misdemeanor level offense and punishable by imprisonment of up to 90 days and/or $1,000 fine.

(2) Any violation of § 70.01(B)(2) of this chapter shall be deemed a misdemeanor level offense and punishable by imprisonment of up to 90 days and/or $1,000 fine.

(C) Any person violating any provisions of § 70.02 of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed $500 or by imprisonment in the county jail for a period not to exceed 90 days or both.

(D) Any person convicted of a violation of § 70.03 of this chapter may be punished by a fine of not more than $300 or imprisonment in the county jail for not more than 90 days.

(E) Any person violating any provision of § 70.04 of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $100 or imprisonment in the county jail for not more than 90 days, plus costs of prosecution in either case.

(F) (1) Any person violating any restrictions or regulations stated in § 70.15 of this chapter shall be subject to a fine not to exceed $100.

(2) The Sheriff's Department shall enforce the provisions of § 70.15 of this chapter. During a fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the Sheriff's Department or any deputized person may direct traffic as conditions require, notwithstanding provision of § 70.15 of this chapter and the state traffic laws.

(3) Any person found in violation of a provision of § 70.15 of this chapter is guilty of a petty misdemeanor and shall be punished by a fine of up to $100.
(Ord. 19, passed - -; Ord. I, passed 8-20-1968; Ord. 10, passed 10-11-1971; Ord. 21, passed 12-11-1978; Ord. 70/11, passed 10-10-2011)

CHAPTER 71: RECREATION AND TOY VEHICLES

Section

Golf Carts

71.01 Adoption of state law
71.02 Definitions
71.03 Use of city streets and roadways
71.04 Issuing officers
71.05 Permit requirements
71.06 Rights and duties; requirements
71.07 Assumption of liability

Snowmobiles and ATVs

71.20 Definitions
71.21 Prohibited acts
71.22 Enforcement

71.99 Penalty

GOLF CARTS

§ 71.01 ADOPTION OF STATE LAW.

Except as herein specifically addressed or modified, the provisions of M.S. § 169.045, as it may be amended from time to time, are hereby incorporated by reference.
(Ord. 65/09, passed 7-13-2009)

§ 71.02 DEFINITIONS.

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

GOLF CART. Any vehicle designed for use primarily on a golf course and any golf cart type vehicle designed for use on a city street or roadway.

MOTORIZED. Any golf cart type vehicle propelled by any gas or electric motor.
(Ord. 65/09, passed 7-13-2009)

§ 71.03 USE OF CITY STREETS AND ROADWAYS.

(A) The state has authorized the use of motorized golf carts on designated roadways within the city on streets under its jurisdiction and authorized by the City Council through its ordinances.

(B) The City Council sees the need to limit the availability of access to city streets and roadways, using motorized golf carts, to persons who are aged 16 or older and who have a valid and current driver's license.
(Ord. 65/09, passed 7-13-2009)

§ 71.04 ISSUING OFFICERS.

(A) The City Council shall determine the streets or roadways of operation and the hours of operation if more restrictive than the state statute and deemed necessary for public safety reasons.

(B) The City Administrator shall authorize the issuance of all permits and may recommend the denial of a permit if the applicants driving status is revoked, suspended or cancelled for prior violations. The City Administrator shall collect a fee, as determined by the Council, for the issued permit.
(Ord. 65/09, passed 7-13-2009)

§ 71.05 PERMIT REQUIREMENTS.

(A) (1) Application for a permit shall be made in a form supplied by the city and shall contain the information listed below.

(2) All permits shall be issued for a specific golf cart.

(3) The permit shall be issued with a specific license number; the applicant is responsible for obtaining self adhesive numbers at least three inches tall and applying them to both sides of that specific golf cart.

(B) All motorized golf cart owners must provide liability insurance at all times when operating on a public street or roadway. A certificate of insurance must be submitted at the time of permit application.

(C) The make, model number, serial number and year of the motorized golf cart is required.

(D) The applicant shall supply a current driver's license showing the name, address and age. The driver's license shall be photocopied for the city records.

(E) The golf cart shall be inspected by the City Administrator to ascertain that it has head lights, rear lights, including brake lights, rearview mirror and an authorized slow moving vehicle sign.

(F) The permit shall be issued for a calendar year (January 1 through December 31) and may be renewed annually and a fee paid.
(Ord. 65/09, passed 7-13-2009)

§ 71.06 RIGHTS AND DUTIES; REQUIREMENTS.

(A) Motorized golf carts must display the slow moving vehicle emblem provided for in M.S. § 169.522, as it may be amended from time to time, when operating on a public street or roadway.

(B) Every operator of a motorized golf cart has all the rights and duties applicable to the drivers of any other vehicle under the provisions of M.S. Ch. 169, as it may be amended from time to time, except when these provisions cannot be reasonably applied to motorized golf carts and except as otherwise provided in M.S. § 169.045, subd. 7, as it may be amended from time to time.

(C) Motorized golf carts may be operated only on streets and roadways designated on the permit authorized by the City Council.

(D) Motorized golf carts may not be operated on state highways or county highways. Drivers may cross, at right angles, any highway intersecting a designated street or roadway.

(E) Motorized golf carts may not be driven on any portion of the DNR State Trail. Drivers may cross the trail where it intersects approved streets or roadways.

(F) (1) Hours of operation shall be from sunrise through sunset.

(2) Operation of a golf cart shall not be permitted during inclement weather or when visibility is impaired by weather, smoke, fog or at any time wherein there is insufficient light to clearly see persons and vehicles on the street at a distance of 500 feet.

(G) The number of occupants allowed in a golf cart is limited to those that can be safely seated in the provided seating.

(H) Children must be properly seated while the golf cart is in motion and may not be transported in a negligent manner.

(I) Golf carts are not permitted to be driven on any sidewalks in the city.

(J) If a licensed motorized golf cart is disabled through mechanical failure or the need for repairs, the permit may be temporarily transferred to another golf cart for a seven-day period following verification of mechanical condition and insurance coverage by the City Administrator.
(Ord. 65/09, passed 7-13-2009) Penalty, see § 71.99

§ 71.07 ASSUMPTION OF LIABILITY.

Nothing in this subchapter shall be construed as an assumption of liability by the city for injuries to persons or property which may result from the operation of any motorized golf cart by a permit holder or the failure by the Sheriff to revoke a permit.
(Ord. 65/09, passed 7-13-2009)

SNOWMOBILES AND ATVS

§ 71.20 DEFINITIONS.

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

ALL-TERRAIN VEHICLE. A three- or four-wheeled motorized vehicle designed for on the road and off the road use.

CITY. The City of Elysian or its officers or employees authorized to perform the functions to which there is reference.

COMMISSIONER. The Commissioner of Natural Resources acting directly or through his or her authorized agent.

OPERATOR. Every person who operates or is in actual physical control of a snowmobile or all-terrain vehicle.

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

REGISTER. The act of assigning a registration number to a snowmobile or all-terrain vehicle.

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

SNOWMOBILE. A self-propelled vehicle designed for travel on snow or ice steered by skis or runners.
(Ord. 29, passed 4-13-1987)

§ 71.21 PROHIBITED ACTS.

(A) It shall be unlawful to operate a snowmobile or all-terrain vehicle upon County Road 11 or Main Street within the city at any time, except for direct crossing of the streets.

(B) It shall be unlawful to drive an all-terrain vehicle upon any portion of the state's Department of Natural Resources Trail situated within the city limits.

(C) All persons driving or operating a snowmobile or all-terrain vehicle must obey all traffic regulations.

(D) It shall be unlawful to drive a snowmobile or all-terrain vehicle within the city limits at any time without driver's license and/or safety certificate as otherwise required by state statutes.
(Ord. 29, passed 4-13-1987) Penalty, see § 71.99

§ 71.22 ENFORCEMENT.

This subchapter may be enforced by any conservation officer employed by the state's Department of Natural Resources or any other duly qualified peace officer within the state.
(Ord. 29, passed 4-13-1987)

§ 71.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating any provision of §§ 71.01 through 71.07 of this chapter shall be guilty of a petty misdemeanor.

(C) Any violation of §§ 71.20 through 71.22 of this chapter shall be a misdemeanor punishable by no more than a $700 fine or 90 days in jail.
(Ord. 29, passed 4-13-1987; Ord. 65/09, passed 7-13-2009)

CHAPTER 72: PARKING SCHEDULES

Schedule

I. Prohibited/restricted parking

SCHEDULE I. PROHIBITED/RESTRICTED PARKING.

Street/Location	***Prohibition/Restriction***	***Penalty***
City Fire Hall	No parking at any time, for a distance of 150 feet on both sides of the street, except for the following exceptions: (a) firefighters may park there during the time of a fire call; (b) vehicles may park there for periods not to exceed 1 hour for the purpose of unloading	Fine not to exceed $100
East side of First Street West, between the alley in Block 1, Roots Addition, to the intersection of Park Street and First Street West	No parking	Misdemeanor; and, upon conviction thereof, punished by a fine of not more than $700 or imprisonment in the county jail for not more than 90 days, plus the costs of prosecution in either case
Fifth Street, from Park Avenue South to the intersection of Fifth Street with State Highway No. 60	No parking between the hours of 2:00 a.m. and 8:00 a.m.	Misdemeanor; and, upon conviction thereof, punished by a fine of not more than $100 or imprisonment in the county jail for not more than 90 days, plus the costs of prosecution in either case
Main Street	When snow in any measurable amount accumulates during a 24-hour period, there shall be no parking from 2:00 a.m. until 6:00 a.m.	Fine not to exceed $100
Main Street North to Park Street or First Street West	No parking on either side of the road	Fine not to exceed $100
Park Street from Third Street East to Second Street East	No parking on either side	Fine not to exceed $100

Street/Location	***Prohibition/Restriction***	***Penalty***
West side of First Street West from Main Street to Frank Street	No parking	Misdemeanor; and, upon conviction thereof, punished by a fine of not more than $700 or imprisonment in the county jail for not more than 90 days, plus the costs of prosecution in either case

(Ord. 19, passed - -; Ord. 11, passed 4- -1969; Ord. 28, passed 7-8-1985)

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. HEALTH AND SANITATION; NUISANCES

92. PARKS AND RECREATION

93. FAIR HOUSING

94. DOMESTIC ABUSE PROTECTION

95. PREDATORY OFFENDER RESIDENCY RESTRICTIONS

96. NATIVE PLANTS

CHAPTER 90: ANIMALS

Section

General Provisions

90.01 Definitions
90.02 Dogs and cats
90.03 Non-domestic animals
90.04 Farm animals
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90.07 Barking/crying/whining dogs
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Keeping Chickens

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GENERAL PROVISIONS

§ 90.01 DEFINITIONS.

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

ANIMAL. Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

(1) ***DOMESTIC ANIMALS.*** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(2) ***FARM ANIMALS.*** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equine family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, ratitae (ostriches and emus), farm raised cervidae (caribous and mule deer), llamas and alpacas and other animals associated with a farm, ranch, or stable.

(3) ***NON-DOMESTIC ANIMALS.*** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(d) Any member or relative of the rodent family including any skunk (whether or not de-scented), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

AT LARGE. Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

CAT. Both the male and female of the felidae species commonly accepted as domesticated household pets.

DOG. Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

OWNER. Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

RELEASE PERMIT. A permit issued by the Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the City Administrator in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established in the Ordinance Establishing Fees and Charges adopted pursuant to § 33.01, as it may be amended from time to time.

§ 90.02 DOGS AND CATS.

(A) *Running at large prohibited.* It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs or Cats Prohibited."

(B) *License required.*

(1) All dogs over the age of six months kept, harbored, or maintained by their owners in the city, shall be licensed and registered with the city. Dog licenses shall be issued by the City Administrator upon payment of the license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 33.01 of this code, as that ordinance may be amended from time to time. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.

(2) It shall be the duty of each owner of a dog subject to this section to pay to the City Administrator the license fee established in the Ordinance Establishing Fees and Charges adopted pursuant to § 33.01, as it may be amended from time to time.

(3) Upon payment of the license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 33.01 of this code, as that ordinance may be amended from time to time, the City Administrator shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Administrator. A charge shall be made for each duplicate tag in an amount established in the Ordinance Establishing Fees and Charges adopted pursuant to § 33.01, as it may be amended from time to time. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.

(4) The licensing provisions of this division (B) shall not apply to dogs whose owners are nonresidents temporarily within the city, nor to dogs brought into the city for the purpose of participating in any dog show. If the animal owned is a service animal which is capable of being properly identified as from a recognized school for seeing eye, hearing ear, service or guide animals, and the owner is a blind or deaf person, or a person with physical or sensory disabilities, then no license shall be required.

(5) The funds received by the City Administrator from all dog licenses and metallic tags fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 33.01 of this code, as that ordinance may be amended from time to time, shall first be used to defray any costs incidental to the enforcement of this chapter; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

(C) *Cats*. Cats shall be included as controlled by this division insofar as running-at-large, pickup, impounding, boarding, licensing and proof of anti-rabies vaccine is concerned. All other provisions of this section shall also apply to cats unless otherwise provided.

(D) *Vaccination.*

(1) All dogs and cats kept harbored, maintained, or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for:

(a) Rabies - with a live modified vaccine; and

(b) Distemper.

(2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Administrator, the Animal Control Officer or a police officer, the owner shall present for examination the required certificate(s) of

vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the City Administrator or officer. Failure to do so shall be deemed a violation of this section.
Penalty, see § 90.99

§ 90.03 NON-DOMESTIC ANIMALS.

Except as provided in M.S. § 346.155, as it may be amended from time to time, it shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.
Penalty, see § 90.99

§ 90.04 FARM ANIMALS.

Farm animals shall only be kept in an agricultural district of the city, or on a residential lot of at least ten acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

§ 90.05 IMPOUNDING.

(A) *Running at large.* Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or police officer shall not enter the property of the owner of an animal found running at large or the owner of an unlicensed animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

(B) *Biting animals.* Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the city pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies,

and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

(C) *Reclaiming*. For the purposes of this section regular business day means a day during which the establishment having custody of the animal is open to the public at least four consecutive hours between 8:00 a.m. and 7:00 p.m. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under § 90.11 in which case it shall be kept for seven regular business days or the times specified in § 90.11, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(1) Payment of the release fee and receipt of a release permit as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 33.01 of this code, as that ordinance may be amended from time to time.

(2) Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and

(3) If a dog is unlicensed, payment of a regular license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 33.01 of this code, as that ordinance may be amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

(D) *Unclaimed animals*. At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may dispose of the unclaimed animal in a manner permitted by law. Any money collected under this section shall be payable to the City Administrator.
Penalty, see § 90.99

§ 90.06 KENNELS.

(A) *Definition of kennel*. The keeping of three or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a "kennel"; except that a fresh litter of pups may be kept for a period of three months before that keeping shall be deemed to be a "kennel."

(B) *Kennel as a nuisance*. Because the keeping of three or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city.
Penalty, see § 90.99

§ 90.07 BARKING/CRYING/WHINING DOGS.

(A) *Habitual barking*. It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

(B) *Damage to property*. It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

(C) *Cleaning up litter*. The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property.

(D) *Warrant required.* The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal.

§ 90.08 SEIZURE OF ANIMALS.

Any police officer or Animal Control Officer may enter upon private property and seize any animal with the permission of the owner of the property, if that person is also the owner of the animal, provided that the following exist:

(A) There is an identified complainant other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;

(B) The officer reasonably believes that the animal meets either the barking dog criteria set out in § 90.07(A); the criteria for cruelty set out in § 90.13; or the criteria for an at large animal set out in § 90.02(A);

(C) The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

(D) The officer has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have either failed or have been ignored;

(E) The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal. If the officer has the permission of the owner, a property manager, landlord, innkeeper, or other authorized person to enter the property or has obtained a pass key from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the animal need not be obtained; and

(F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

§ 90.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.

If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of its owner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under § 90.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 90.05(C).

§ 90.10 DISEASED ANIMALS.

(A) *Running at large.* No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section, and a warrant to search for and seize the animal is not required.

(B) *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the Animal Control Officer or a police officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

(C) *Release.* If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.
Penalty, see § 90.99

§ 90.11 DANGEROUS AND POTENTIALLY DANGEROUS DOGS.

(A) *Adoption by reference.* Except as otherwise provided in this section, the regulatory and procedural provisions of M.S. §§ 347.50 to 347.565 (commonly referred to as the "Dangerous Dog Regulations"), as they may be amended from time to time, are adopted by reference.

(B) *Definitions.* Definitions in this section shall have the following meanings:

(1) ***DANGEROUS DOG.*** A dog that:

(a) Has when unprovoked, inflicted substantial bodily harm on a human being on public or private property;

(b) Has killed a domestic animal when unprovoked while off the owner's property;

(c) Has attacked one or more persons on two or more occasions; or

(d) Has been found to be potentially dangerous and after the owner has notice of the same, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.

(2) ***DOG.*** Both the male and female of the canine species, commonly accepted as domesticated household pets.

(3) ***GREAT BODILY HARM.*** Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

(4) ***OWNER.*** Any person or persons, firm, corporation, organization, department, or association owning, possessing, harboring, keeping, having an interest in, or having care, custody or control of a dog.

(5) ***MAINTENANCE COSTS.*** Any costs incurred as a result of seizing an animal for impoundment, including, but not limited to, the capturing, impounding, keeping, treating, examining, securing, confining, feeding, destroying, boarding or maintaining seized animals, whether these services are provided by the city or the pound.

(6) ***POTENTIALLY DANGEROUS DOG.*** A dog that:

(a) Has when unprovoked, inflicted a bite on a human or domestic animal on public or private property;

(b) Has when unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the owner's property, in an apparent attitude of attack; or

(c) Has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(7) ***PROPER ENCLOSURE.*** Securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the dog from escaping and to provide protection for the dog from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the dog from exiting. The enclosure shall not allow the egress of the dog in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(a) A minimum overall floor size of 32 square feet.

(b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support post shall be one and one-fourth inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and openings in the wire shall not exceed two inches.

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and openings in the wire shall not exceed two inches. The gate shall be self-closing and self-locking. The gate shall be locked at all times when the dog is in the pen or kennel.

(8) ***SUBSTANTIAL BODILY HARM.*** Bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any bodily member or organ or that causes a fracture of any bodily member.

(9) ***UNPROVOKED.*** The condition in which the dog is not purposely excited, stimulated, agitated or disturbed.

(C) *Declaration of dangerous or potentially dangerous dog.*

(1) A police officer, community service officer, animal control officer or other authorized city employee may declare a dog to be dangerous or potentially dangerous when the officer has probable cause to believe that a dog is dangerous or potentially dangerous. The following factors will be considered in determining a dangerous or potentially dangerous dog:

(a) Whether any injury or damage to a person by the dog was caused while the dog was protecting or defending a person or the dog's offspring within the immediate vicinity of the dog from an unjustified attack or assault.

(b) The size and strength of the dog, including jaw strength, and the animal's propensity to bite humans or other domestic animals.

(c) Whether the dog has wounds, scarring, is observed in a fight, or has other indications that the dog has been or will be used, trained or encouraged to fight with another animal or whose owner is in possession of any training apparatus, paraphernalia or drugs used to prepare such dogs to fight with other animals.

(2) Beginning six months after a dog is declared dangerous or potentially dangerous, an owner may request annually that the city review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training or other factors. If enough evidence is provided, the city may rescind the designation.

(3) *Exceptions*.

(a) The provisions of this section do not apply to dogs used by law enforcement.

(b) Dogs may not be declared dangerous or potentially dangerous if the threat, injury, or danger was sustained by a person who was:

1. Committing a willful trespass or other tort upon the premises occupied by the owner of the dog;

2. Provoking, tormenting, abusing or assaulting the dog, or who can be shown to have a history of repeatedly provoking, tormenting, abusing, or assaulting the dog; or

3. Committing or attempting to commit a crime.

(D) *License required.* The owner must annually license dangerous and potentially dangerous dogs with the city and must license a newly declared dangerous or potentially dangerous dog with-in 14 days after notice that a dog has been declared dangerous or potentially dangerous. Regardless of any appeal that may be requested, the owner must comply with the requirements of M.S. § 347.52 (a) and (c), as they may be amended from time to time, regarding proper enclosures and notification to the city upon transfer or death of the dog, until and unless a hearing officer or court of law reverses the declaration.

(1) *Process for dangerous dogs.* The city will issue a license to the owner of a dangerous dog if the owner presents sufficient evidence that:

(a) There is a proper enclosure;

(b) Written proof that there is a surety bond by a surety company authorized to conduct business in Minnesota in the sum of at least $300,000, payable to any person injured by a dangerous dog, or receipt of a copy of a policy of liability insurance issued by an insurance company authorized to do business in Minnesota in the amount of at least $300,000, insuring the owner for any personal injuries inflicted by the dangerous dog. Such surety bond or insurance policy shall provide that no cancellation of the bond or policy will be made unless the city is notified in writing by the surety company or the insurance company at least ten days prior to such cancellation;

(c) The owner has paid the annual license fee for dangerous dogs as established in the Ordinance Establishing Fees and Charges adopted pursuant to § 33.01 of this Code.

(d) The owner has had a microchip identification implanted in the dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the owner, it may be implanted by the city at the owner's expense; and

(e) The owner provides proof that the dog has been sterilized. If the owner does not sterilize the dog within 30 days, the city may seize the dog and sterilize it at the owner's expense.

(2) *Process for potentially dangerous dogs.* The city will issue a license to the owner of a potentially dangerous dog if the owner presents sufficient evidence that:

(a) There is a proper enclosure;

(b) The owner has paid the annual license fee;

(c) The owner has had a microchip identification implanted in the potentially dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the owner, it may be implanted by the city at the owner's expense.

(3) *Inspection.* A pre-license inspection of the premises to insure compliance with the city code is required. If the city issues a license to the owner of a dangerous or potentially dangerous dog, the city shall be allowed at any reasonable time to inspect the dog, the proper enclosure and all places where the animal is kept.

(4) *Warning symbol.* The owner of a dangerous dog licensed under this section must post a sign with the uniform dangerous dog warning symbol on the property in order to inform children that there is a dangerous dog on the property. The sign will be provided by the city upon issuance of the license.

(5) *Tags.* A dangerous dog licensed under this section must wear a standardized, easily identifiable tag at all times that contains the uniform dangerous dog symbol, identifying the dog as dangerous. The tag shall be provided by the city upon issuance of the license.

(6) *License fee.* The city will charge the owner an annual license fee for a dangerous or potentially dangerous dog as established in the Ordinance to Establish Fees and Charges as it may be amended from time to time.

(E) *Properly restrained in proper enclosure or outside of proper enclosure.* While on the owner's property, an owner of a dangerous or potentially dangerous dog must keep it in a proper enclosure. Inside a residential home, there must be a secured area maintained where the dog will stay when persons other than family members are present. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash no longer than four feet and under the physical

restraint of an adult. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

(F) *Notification requirements to city.*

(1) *Relocation or death.* The owner of a dog that has been declared dangerous or potentially dangerous must notify the City Administrator in writing if the dog is to be relocated from its current address or if the dog has died. The notification must be given in writing within 30 days of the relocation or death. The notification must include the current owner's name and address, and the new owner's name and the relocation address. If the relocation address is outside of the city, the city may notify the local law enforcement agency of the transfer of the dog into its jurisdiction.

(2) *Renter's obligations.* A person who owns or possess a dangerous or potentially dangerous dog and who will rent property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal periods that the person owns or possesses a dangerous or potentially dangerous dog that will reside at the property. A dog owner, who is currently renting property, must notify the property owner within 14 days of city notification if the owned dog is newly declared as dangerous or potentially dangerous and the owner keeps the dog on the property.

(3) *Transfer of ownership into the city.* No dog that has been previously determined to be dangerous or potentially dangerous by another jurisdiction shall be kept, owned or harbored in the city unless the dog's owner complies with the requirements of this section prior to bringing the dog into the city. Dogs in violation of this division are subject to impoundment and destruction.

(G) *Seizure*. Animal control may immediately seize any dangerous or potentially dangerous dog if:

(1) After 14 days after the owner has notice that the dog is declared dangerous or potentially dangerous, the dog is not validly licensed and no appeal has been filed;

(2) After 14 days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required or such required insurance is cancelled;

(3) The dog is not maintained in a proper enclosure;

(4) The dog is outside the proper enclosure and not under proper restraint, as required by § 90.11(E);

(5) After 30 days after the owner has notice that the dog is dangerous, the dog is not sterilized, as required by § 90.11(D)(1)(e);

(6) The dog's microchip has been removed.

(H) *Reclamation.* A dog seized under § 90.11(G) may be reclaimed by the owner of the dog upon payment of maintenance costs, and presenting proof to animal control that the requirements of this section have been met. A dog not reclaimed under this division within seven days may be disposed of and the owner will be liable to the city for maintenance costs. A person claiming an interest in a seized dog may prevent disposition of the dog by posting a security in an amount sufficient to provide for the dog's maintenance costs. The security must be posted with the city within seven days of the seizure inclusive of the date seized.

(I) *Subsequent offenses: seizure.* If a person has been convicted of violating a provision of this section, and the person is charged with a subsequent violation relating to the same dog, the dog may be seized. If the owner is convicted of the crime for which the dog was seized, the court may order that the dog be destroyed in a proper and humane manner and the owner pay the maintenance costs. If the owner is not convicted and the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of in manner permitted by law.

(J) *Notice, hearings.*

(1) *Notice.* After a dog has been declared dangerous or potentially dangerous or has been seized for destruction, the city shall give notice by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include:

(a) A description of the seized dog; the authority for and purpose of the declaration and seizure; the time, place, and circumstances under which the dog was declared; and the telephone number and contact person where the dog is kept;

(b) A statement that the owner of the dog may request a hearing concerning the declaration and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing;

(c) A statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of M.S. § 347.52, paragraphs (a) and (c), as they may be amended from time to time, regarding proper enclosures and notification to the city upon transfer or death of the dog, until such time as the hearing officer issues an opinion;

(d) A statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of M.S. §§ 347.51, 347.515, and 347.52, as they may be amended from time to time;

(e) A form to request a hearing; and

(f) A statement that if the dog has been seized, all maintenance costs of the care, keeping, and disposition of the dog pending the outcome of the hearing are the responsibility of the owner, unless a court or hearing officer finds that the seizure or impoundment was not reasonably justified by law.

(2) *Right to hearing*.

(a) After a dog has been declared dangerous, potentially dangerous or has been seized for destruction, the owner may appeal in writing to the city within 14 days after notice of the declaration or seizure. Failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing. The owner must pay a $100 fee for an appeal hearing.

(b) The appeal hearing will be held within 14 days of the request. The hearing officer must be an impartial employee of the city or an impartial person retained by the city to conduct the hearing.

(c) If the declaration or destruction is upheld by the hearing officer, actual expenses of the hearing up to a maximum of $1,000, as well as all maintenance costs, will be the responsibility of the dog's owner. The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision shall be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy shall be provided to the city. The decision of the hearing officer is final.

(K) *Destruction of certain dogs*. The Police Chief and/or hearing officer are authorized to order the destruction or other disposition of any dog, after proper notice is given pursuant to § 90.11(J) and upon a finding that:

(1) The dog has habitually destroyed property or habitually trespassed in a damaging manner on property of persons other than the owner;

(2) The dog has been declared dangerous, the owner's right to appeal hereunder has been exhausted or expired, and the owner has failed to comply with the provisions of this section;

(3) It is determined that the dog is infected with rabies;

(4) The dog inflicted substantial or great bodily harm on a human on public or private property without provocation;

(5) The dog inflicted multiple bites on a human on public or private property without provocation;

(6) The dog bit multiple human victims on public or private property in the same attack without provocation;

(7) The dog bit a human on public or private property without provocation in an attack where more than one dog participated in the attack; or

(8) The dog poses a danger to the public's health, safety or welfare. In determining whether the dog poses a danger to the public's health, safety or welfare, the following factors may be considered:

(a) The dog weighs more than 20 pounds;

(b) The strength of the dog, including jaw strength;

(c) The dog's tolerance for pain;

(d) The dog's tendency to refuse to terminate an attack;

(e) The dog's propensity to bite humans or other domestic animals;

(f) The dog's potential for unpredictable behavior;

(g) The dog's aggressiveness;

(h) The likelihood that a bite by the dog will result in serious injury.

(L) *Concealing of dogs*. No person may harbor, hide or conceal a dog that the city has the authority to seize or that has been ordered into custody for destruction or other proper disposition.

(M) *Dog ownership prohibited.*

(1) Except as provided below, a person shall not own a dog if the person has been:

(a) Convicted of a third or subsequent violation of § 90.11(D), (E) or (F) or similar ordinance in another jurisdiction, or M.S. §§ 347.51, 347.515 or 347.52, as they may be amended from time to time;

(b) Convicted of 2nd degree manslaughter due to negligent or intentional use of a dog under M.S. § 609.205 (4), as it may be amended from time to time; or

(c) Convicted of gross misdemeanor harm caused by a dog under M.S. § 609.226, subd. 1, as it may be amended from time to time.

(2) Any person who owns a dangerous or potentially dangerous dog and is found to be in violation of any of the provisions of this section or had owned a dangerous or potentially dangerous dog but never achieved compliance with this section may be prohibited from ownership or custody of another dog for a period of five years after the original declaration. Any dog found to be in violation, may be impounded until due process is completed, pursuant to § 90.11(J).

(3) If any member of a household is prohibited from owning a dog in § 90.11(M)(1) or (2), unless specifically approved with or without restrictions by the city, no person in the household is permitted to own a dog.

(N) *Dog ownership prohibition review*. Beginning three years after a conviction under § 90.11(M)(1) that prohibits a person from owning a dog, and annually thereafter, the person may request in writing to the Police Chief that the city review the prohibition. The city may consider such facts as the

seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the city deems appropriate. The city may rescind the prohibition entirely or rescind it with limitations. The city also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the city rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the city or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the city may permanently prohibit the person from owning a dog in this state.

(O) *Penalties*.

(1) Unless stated otherwise, any person who violates a provision of this section is guilty of a misdemeanor.

(2) Any person who is convicted of a second or subsequent violation of any provision of §§ 90.11(D), (E), or (F) is guilty of a gross misdemeanor.

(3) Any person who violates § 90.11(M), whether an owner or household member, is guilty of a gross misdemeanor.

§ 90.12 DANGEROUS ANIMALS (EXCLUDING DOGS).

(A) *Attack by an animal*. It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to dogs as regulated by § 90.11.

(B) *Destruction of dangerous animal*. The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

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

(1) ***DANGEROUS ANIMAL.*** An animal which has:

(a) Caused bodily injury or disfigurement to any person on public or private property;

(b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;

(c) Exhibited unusually aggressive behavior, such as an attack on another animal;

(d) Bitten one or more persons on two or more occasions; or

(e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(2) ***POTENTIALLY DANGEROUS ANIMAL.*** An animal which has:

(a) Bitten a human or a domestic animal on public or private property;

(b) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or

(c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

(3) ***PROPER ENCLOSURE.*** Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(a) Have a minimum overall floor size of 32 square feet.

(b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1¼-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches.

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

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

(D) *Designation as potentially dangerous animal.* The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal

as stated in division (C)(2). When an animal is declared potentially dangerous, the Animal Control Officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

(E) *Evidence justifying designation.* The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(2) That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(F) *Authority to order destruction.* The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

(1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

(G) *Procedure.* The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

(1) If no appeal is filed, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the animal.

(2) If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control or City Administrator's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer. If the owner does not immediately make the animal available, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.

(3) No person shall harbor an animal after it has been found by to be dangerous and ordered into custody for destruction.

(H) *Stopping an attack.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(I) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.

(J) *Dangerous animal requirements.*

(1) *Requirements.* If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

(a) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in § 90.12(C)(3);

(b) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property;

(c) Provide and show proof annually of public liability insurance in the minimum amount of $300,000;

(d) If the animal is outside the proper enclosure, the animal must be muzzled (if physically possible depending on the type of animal) and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the animal from biting any person or animal, but will not cause injury to the animal or interfere with its vision or respiration;

(e) The animal shall have a microchip implant as provided by M.S. § 347.515, as it may be amended from time to time;

(f) All animals deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the Animal Control Officer.

(g) If the animal is a cat or ferret, it must be up to date with rabies vaccination.

(2) *Seizure.* As authorized by M.S. § 347.54, as it may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is

dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(3) *Reclaiming animals*. A dangerous animal seized under § 90.12(J)(2), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under § 90.12(J)(1), is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under § 90.12(F), and the owner is liable to the city for costs incurred in confining and impounding the animal.

(D) *Subsequent offenses*. If an owner of an animal has subsequently violated the provisions under § 90.12 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in § 90.12(G). If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of § 90.12(J)(3). If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under § 90.12(F) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

§ 90.13 BASIC CARE.

(A) All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in a humane manner will be subject to the penalties provided in this section.

(B) Dogs and cats. Dogs and cats must be provided the following basic care.

(1) *Food*. Dogs and cats must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight. Feed standards shall be those recommended by the National Research Council.

(2) *Water*. Dogs and cats must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

(3) *Transportation and shipment*. When dogs or cats are transported in crates or containers, the crates or containers must be constructed of non-abrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around, and provide maximum safety and protection to the animals. Exercise for 20 to 30 minutes and water must be provided at least once every eight hours. Food must be provided at least once every 24 hours or more often, if necessary, to maintain the health and condition of the animals.

(4) *Shelter size.* A confinement area must provide sufficient space to allow each animal to turn about freely and to easily stand, sit, and lie in a normal position. Each confined animal must be provided a minimum square footage of floor space as measured from the tip of its nose to the base of its tail, plus 25%, expressed in square feet. The formula for computing minimum square footage is: (length of animal plus 25%) times (length of animal plus 25%), divided by 144. A shaded area must be provided sufficient to protect the animal from the direct rays of the sun at all times during the months of May to October.

(5) *Exercise.* All dogs and cats must be provided the opportunity for periodic exercise, either through free choice or through a forced work program, unless exercise is restricted by a licensed veterinarian.

(6) *Group housing and breeding.* Animals housed together must be kept in compatible groups. Animals must not be bred so often as to endanger their health.

(7) *Temperature.* Confinement areas must be maintained at a temperature suitable for the animal involved.

(8) *Ventilation.* An indoor confinement area must be ventilated. Drafts, odors, and moisture condensation must be minimized. Auxiliary ventilation, such as exhaust fans, vents, and air conditioning, must be used when the ambient temperature rises to a level that may endanger the health of the animal.

(9) *Lighting.* An indoor confinement area must have at least eight hours of illumination sufficient to permit routine inspection and cleaning.

(10) *Confinement and exercise area surfaces.* Where applicable, the interior surfaces of confinement and exercise areas, including crates or containers, must be constructed and maintained so that they are substantially impervious to moisture and may be readily cleaned. They must protect the animal from injury and be kept in good repair.

(11) *Drainage.* Where applicable, a suitable method must be used to rapidly eliminate excess fluids from confinement areas.

(12) *Sanitation.* Food and water receptacles must be accessible to each animal and located so as to minimize contamination by excreta. Feeding and water receptacles must be kept clean. Disposable food receptacles must be discarded when soiled. Measures must be taken to protect animals from being contaminated with water, wastes, and harmful chemicals. Wastes must be disposed of properly. Where applicable, flushing methods and a disinfectant must be used periodically. Bedding, if used, must be kept clean and dry. Outdoor enclosures must be kept clean and base material replaced as necessary.

(C) *Birds, rodent other animals.* Basic care provided to pet and companion animal birds, rodents and other shall be consistent with M.S. § 346.40, § 346.41 and § 346.42, as those statutes may be amended from time to time.

(D) *Dogs and cats in motor vehicles.*

(1) *Unattended dogs or cats.* A person may not leave a dog or a cat unattended in a standing or parked motor vehicle in a manner that endangers the dog's or cat's health or safety.

(2) *Removal of dogs or cats.* A peace officer, as defined in M.S. § 626.84, as it may be amended from time to time, a humane agent, a dog warden, or a volunteer or professional member of a fire or rescue department of the city may use reasonable force to enter a motor vehicle and remove a dog or cat which has been left in the vehicle in violation of (D)(1). A person removing a dog or a cat under this division shall use reasonable means to contact the owner of the dog or cat to arrange for its return home. If the person is unable to contact the owner, the person may take the dog or cat to an animal shelter.

(E) *Dog houses.* A person in charge or control of any dog which is kept outdoors or in an unheated enclosure shall provide the dog with shelter and bedding as prescribed in this section as a minimum.

(1) *Building specifications.* The shelter shall include a moisture proof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, moisture proof floor or a floor raised at least two inches from the ground. Between November 1 and March 31 the structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat.

(2) *Shade.* Shade from the direct rays of the sun, during the months of May to October shall be provided.

(3) *Farm dogs.* In lieu of the requirements of (E)(1) and (E)(2), a dog kept on a farm may be provided with access to a barn with a sufficient quantity of loose hay or bedding to protect against cold and dampness.

§ 90.14 BREEDING MORATORIUM.

Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

§ 90.15 ENFORCING OFFICER.

The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

§ 90.16 POUND.

Every year the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

§ 90.17 INTERFERENCE WITH OFFICERS.

No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.
Penalty, see § 90.99

§ 90.18 FIGHTING ANIMALS.

(A) The provisions of M.S. § 343.31, as it may be amended from time to time, are adopted herein by reference.

(B) No person shall:

(1) Promote, engage in, or be employed in the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in M.S. § 346.36, subd. 6, as it may be amended from time to time, against another of the same or a different kind;

(2) Receive money for the admission of a person to a place used, or about to be used, for that activity;

(3) Willfully permit a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or

(4) Use, train, or possess a dog or other animal for the purpose of participating in, engaging in, or promoting that activity.

(5) Purchase a ticket of admission or otherwise gain admission to the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal against another of the same or a different kind.

§ 90.19 FEEDING STRAY CATS AND DOGS.

(A) *Definitions.*

(1) ***FEED*** or ***FEEDING*** means the placing of dog or cat food, or similar food products or consumable materials attractive to dogs and cats, which may result in dogs and cats congregating thereon on a regular basis, placed on the ground, in an obviously intended feeder, or in a feeder at a height accessible to cats and dogs.

(2) ***STRAY*** means an unlicensed domestic or feral dog or cat running at large and unaccompanied or controlled by an owner.

(B) *Policy and purpose.* High populations of stray dogs and cats pose a hazard to human health and safety, as such animals provide a fruitful breeding ground for infectious disease, including but not limited to rabies and distemper, and may otherwise bite or attack humans and domestic animals. In addition, food provided for stray animals is often attractive to wild animals such as raccoons and rodents and may create nuisance conditions such as a rat harborage or other wild animal infestation.

(C) No person shall feed or allow the feeding of any stray cat or dog within the city.

(D) *Exceptions.* Veterinarians and persons who, acting within the scope of their employment with any governmental entity non-profit, or humane society has custody of or manages stray dogs and cats are not subject to the prohibitions of this section.

KEEPING CHICKENS

§ 90.20 CHICKENS PERMITTED.

It is unlawful for any person to own, control, keep, maintain or harbor chickens on any premises other than in an Agricultural Holding District within the city unless issued a permit to do so as provided in this subchapter. No permit shall be issued for the keeping or harboring of more than five female chickens or hens on any premises up to two acres and ten female chickens or hens on any premises of more than two acres. The keeping or harboring of male chickens or roosters is prohibited and the premises upon which the chickens are kept must be the property owner's primary residential dwelling. (Ord. 82/16, passed 7-11-2016) Penalty, see § 90.99

§ 90.21 DEFINITIONS.

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

AT LARGE. A chicken out of its chicken run, off the premises or not under the custody and control of the owner.

CHICKEN. A female chicken or hen.

CHICKEN COOP. A structure for housing chickens made of wood or other similar materials that provides shelter from the elements.

CHICKEN RUN. An enclosed outside yard for keeping chickens.

PERSON. The resident, property owner, custodian or keeper of any chicken.

PREMISES. Any platted lot or group of contiguous lots, parcels or tracts of land and is located within the city.
(Ord. 82/16, passed 7-11-2016)

§ 90.22 PERMIT.

(A) No person shall maintain a chicken coop and/or chicken run unless granted a permit by the city's Administrator. The permit shall be subject to all the terms and conditions of this section and any additional conditions deemed necessary by the City Administrator or designated Animal Control Officer to protect the public health, safety and welfare. The necessary permit application may be obtained from the City Administrator's office. Included with the completed application must be a scaled diagram that indicates the location of any chicken coop and/or chicken run, and the approximate size and distance from adjoining structures and property lines, the number and species of chickens to be maintained at the premises and a statement that the applicant/permittee will at all times keep the chickens in accordance with this subchapter and all the conditions prescribed by the Animal Control Officer, or modification thereof, and failure to obey such conditions will constitute a violation of the provisions of this section and grounds for cancellation of the permit. The applicant shall include written consent/approval of the keeping of chickens on his or her premises from 75% of the abutting property owners, or shall provide proof of the certified mailing of a notice, and copies of the notice(s) to all abutting property owner(s) which advises the abutting property owner(s) the applicant is applying for a permit from the city for the keeping of chickens on their premises, the abutting property owner may object to the applicant's permit application, any objection must be received by the city's Administrator within ten days of the mailing date of the notice, and failure to provide written objections to the city's Administrator, within ten days of the mailing of the notice, will authorize the city's Administrator to issue a permit for the keeping of chickens to the applicant at his or her premises. Upon receipt of a permit application, the City Administrator shall determine if the application is complete and contains the required consent/approval and/or proof of the certified mailing of the required notices. If the application is complete and includes written consent/approval from 75% of abutting property owners, the City Administrator shall issue a permit for the keeping of chickens to the applicant.

(B) No permit shall be issued for an incomplete application or for the keeping of chickens on any rental premises. A permit for the keeping of chickens may be revoked or suspended by the City

Administrator or designated Animal Control Officer for any violation of this section following written notice. The applicant/permitee may appeal the revocation or suspension of his or her permit by requesting in writing a hearing before the City Council within seven days of the notice of revocation or suspension. The request for hearing must be either postmarked or received in the City Administrator's office within seven days of the date of the notice. The City Council shall hold a hearing on the applicant/permitee's request for hearing within 30 days of the request for hearing. The permit fee shall be charged in accordance to the city's fee schedule and shall expire on December 31 of each year.
(Ord. 82/16, passed 7-11-2016) Penalty, see § 90.99

§ 90.23 CONFINEMENT.

(A) Every person who owns, controls, keeps, maintains or harbors chickens must keep them confined at all times in a chicken coop and chicken run and may not allow the chicken to run at large.

(B) Any chicken coop and chicken run shall be at least 15 from any structure, setback or property line.
(Ord. 82/16, passed 7-11-2016) Penalty, see § 90.99

§ 90.24 COOPS AND RUNS.

(A) (1) All chicken coops and chicken runs must be located within the rear yard subject to a 15-foot setback from any property line and at least 15 feet from any other structures. All chicken coops must be a minimum of four square feet per chicken in size, must not exceed ten square feet per chicken in size and must not exceed six feet in total height. Attached fenced-in chicken runs must not exceed 20 square feet per chicken and fencing must not exceed six feet in total height. Chicken runs may be enclosed with wood and/or woven wire materials, and may allow chickens contact with the ground. Chicken feed must be kept in metal predator-proof containers. Chicken manure may be placed in yard compost piles.

(2) Chicken coops must either be:

(a) Elevated with a clear open space of at least 24 inches between the ground surface and framing/floor of the coop; or

(b) The coop floor, foundation and footings must be constructed using rodent resistant construction.

(3) Chicken coops are not allowed to be located in any part of a home and/or garage.

(4) Chickens must be secured in a chicken coop from sunset to sunrise each day and no chickens shall be allowed to run outside of the coop.

(5) All coops shall be constructed and maintained in a workmanlike manner.

(6) All coops shall be rodent proof and built in such a manner as to prevent access to the coop by rodents.

(B) Any chicken coop or chicken run constructed or maintained on any premises shall be immediately removed from the premises after the expiration of the permit or shall be removed within 30 days upon ceasing to use the chicken coop and/or chicken run for keeping chickens.
(Ord. 82/16, passed 7-11-2016) Penalty, see § 90.99

§ 90.25 CONDITIONS AND INSPECTIONS.

No person who owns, controls, keeps, maintains or harbors chickens shall permit the premises where the chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. Any chicken coop or chicken run authorized by permit under this subchapter may be inspected at any reasonable time by the designated Animal Control Officer, law enforcement officer or other agent of the city. A person who has been issued a permit shall submit it for examination upon demand by the Animal Control Officer, law enforcement officer or other agent of the city. Slaughter and breeding of chickens on any premises within the city is prohibited.
(Ord. 82/16, passed 7-11-2016) Penalty, see § 90.99

§ 90.26 PRIVATE RESTRICTIONS AND COVENANTS ON PROPERTY.

(A) Notwithstanding the issuance of a permit by the city, private restrictions and/or covenants on the use of property shall remain enforceable and take precedence over a permit. ***PRIVATE RESTRICTIONS*** include, but are not limited to, deed restrictions, condominium master deed restrictions, neighborhood association by-laws, covenant declarations and deed restrictions. A permit issued to a person whose premises are subject to private restrictions and/or covenants that prohibit the keeping of chickens is void.

(B) The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.
(Ord. 82/16, passed 7-11-2016)

§ 90.27 REFUSAL TO GRANT OR RENEW PERMIT.

The City Administrator may refuse to grant or renew a permit to keep or maintain chickens for failure to comply with the provisions of this subchapter, submitting an inaccurate or incomplete application, if the conditions of the permit are not met, if a nuisance condition is created, or if the public health and safety would be unreasonably endangered by the granting or renewing of the permit.
(Ord. 82/16, passed 7-11-2016)

§ 90.28 RESIDENTIAL AGRICULTURAL DISTRICT.

This subchapter does not apply to premises located in a residential agricultural district, as that area is defined in this code.
(Ord. 82/16, passed 7-11-2016)

§ 90.29 SLAUGHTERING.

The slaughtering of chickens on the property is strictly prohibited.
(Ord. 82/16, passed 7-11-2016) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) *Separate offenses*. Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.

(B) *Misdemeanor*. Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in § 10.99.

(C) *Petty misdemeanor*. Violations of §§ 90.02, 90.07, 90.13 and 90.14 are petty misdemeanors punishable as provided in § 10.99.

(D) *Chickens*. Any person who owns, controls, keeps, maintains or harbors chickens in the city without obtaining or maintaining a current permit or after a permit has been suspended or revoked by Council action shall be guilty of a misdemeanor. In addition, any person who violates any provision of §§ 90.20 through 90.29 of this chapter shall be guilty of a misdemeanor which is punishable by imprisonment for up to 90 days in jail and/or the imposition of a fine of up to $1,000 and/or a combination of both.
(Ord. 82/16, passed 7-11-2016)

CHAPTER 91: HEALTH AND SANITATION; NUISANCES

Section

Nuisances

91.01 Public nuisance
91.02 Public nuisances affecting health
91.03 Public nuisances affecting morals and decency
91.04 Public nuisances affecting peace and safety
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91.08 Duties of city officers
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NUISANCES

§ 91.01 PUBLIC NUISANCE.

A person must not act, or fail to act in a manner that is or causes a public nuisance. For purpose of this chapter, a person who does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;

(B) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

(C) Does any other act or omission declared by law or §§ 91.02, 91.03 or 91.04, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.
Penalty, see § 10.99

§ 91.02 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

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

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

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

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

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

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

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

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

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

(K) Any offensive trade or business as defined by statute not operating under local license.

(L) All unnecessary and annoying vibrations.
Penalty, see § 10.99

§ 91.03 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

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

(A) All gambling devices, slot machines and punch boards, except as otherwise authorized and permitted by federal, state or local law;

(B) Betting, bookmaking and all apparatus used in those occupations;

(C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where,

in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place. For the purposes of this section ***INTOXICATING LIQUOR*** shall mean any ethyl alcohol, distilled, fermented, spirituous, vinous or malt beverage containing more than ½% alcohol by volume;

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

§ 91.04 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

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

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

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

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

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

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

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

(G) No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of

such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(V) (1) *Noises prohibited.*

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

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

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

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

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

(2) *Hourly restriction of certain operations.*

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

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

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

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

(W) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one footcandle when abutting any commercial or industrial parcel.
Penalty, see § 10.99

§ 91.05 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it (a) obstructs views on streets and private property, (b) creates cluttered and otherwise unsightly areas, (c) prevents the full use of residential streets for residential parking, (d) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (e) decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (f) otherwise adversely affects property values and neighborhood patterns.

(B) *Unlawful parking and storage.*

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

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

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

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

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

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

§ 91.06 INOPERABLE MOTOR VEHICLES.

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

(B) It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. § 168.13, as it may be amended from time to time.

(C) This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road or alley, and which does not foster complaint from a resident of the city. A privacy fence is permissible.
Penalty, see § 10.99

§ 91.07 BUILDING MAINTENANCE AND APPEARANCE.

(A) *Declaration of nuisance.* Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.

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

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

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

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

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

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

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

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

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

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

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

§ 91.08 DUTIES OF CITY OFFICERS.

The Police Department, or Sheriff or person designated by the City Council under § 10.20, if the city has at the time no Police Department, may enforce the provisions relating to nuisances. Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no police officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in § 10.20.

§ 91.09 ABATEMENT.

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

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

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

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

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

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

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

is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.
Penalty, see § 10.99

§ 91.10 RECOVERY OF COST.

(A) *Personal liability.* The owner of premises on which a nuisance has been abated by the city or a person who has caused a public nuisance on a property not owned by that person shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Administrator or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Administrator.

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

§ 91.11 WEEDS AND GRASS.

(A) All grass or weeds on private property or commercial property in the city limits of the City of Elysian shall be cut at regular intervals in order to maintain a continuity of order and benefit to property owners and to all property owners surrounding effective property.

(B) All grass or weeds on private or commercial property shall be no longer than six inches.

(C) A property owner who allows grass or weeds to be six inches or longer will receive a certified letter as notification with a five day window to have the grass or weeds cut or removed. If the property owner ignores the order, the City of Elysian will proceed with the cutting or removal of grass or weeds and costs will be assessed to the property.
(Ord. 16, passed 8-9-2004)

Cross-reference:

Weeds, see § 96.12

CHAPTER 92: PARKS AND RECREATION

Section

92.01 City park regulations

92.99 Penalty

§ 92.01 CITY PARK REGULATIONS.

(A) It shall be unlawful for any person to be present at or on, to utilize, or be on or about, the facilities, grounds, appurtenant structures, buildings or any other such place, item, or structure located on or about any city park or real estate associated to or with the same, for any purpose whatsoever including, but not necessarily limited to, the following: the parking of automobiles between the hours of 10:00 p.m. and 4:00 a.m.

(B) No person or persons shall drive on any grass on any park, beach area, or ballfield.

(C) Leashed animals are only allowed in Lake Tustin Park. Leashed animals are prohibited at the Lake Francis Park, Sunset Park, and any other park except Lake Tustin Park. Pet owners who do have pets present in Lake Tustin Park are responsible for the behavior of their pets and for cleaning up and removing waste items associated with their pets.

(D) Glass bottle containers of any type are prohibited in the park area, facilities, grounds, appurtenant structures, buildings or any other such items located on or about any city park or real estate associated to or with the same.

(E) No keg beer is allowed on the beach area. Keg beer is allowed in the park picnic area and at the ballfield; however, a keg permit is required which shall be applied for and a nominal fee paid at City Hall prior to the event. For the purposes of identification, the ***BEACH AREA*** is herein identified as the sanded area and the picnic area is the shelter and grass area.
(Ord. 7, passed 5-11-2009: Am. Ord. passed 11-9-2020) Penalty, see § 92.99

§ 92.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating any provision of § 92.01 of this chapter shall be guilty of a misdemeanor, with the conduct being punishable by imprisonment for up to 90 days and the imposition of a fine of up to $1,000 or both.
(Ord. 7, passed 5-11-2009)

CHAPTER 93: FAIR HOUSING

Section

93.01 Declaration of policy; status with regard to public assistance
93.02 Definitions
93.03 Prohibited acts in regard to housing
93.04 Enforcement procedures
93.05 Statute of limitations
93.06 Civil enforcement

93.99 Penalty

§ 93.01 DECLARATION OF POLICY; STATUS WITH REGARD TO PUBLIC ASSISTANCE.

Discrimination with regard to housing on the basis of race, sex, creed, religion, marital status and disability adversely affects the health, welfare, peace and safety of the community. Persons subject to discrimination suffer depressed living conditions and create conditions which endanger the public peace and order. The public policy of the city is declared to be to foster equal opportunity for all to obtain decent, safe and sanitary housing without regard to their race, creed, color, national origin, sex, marital status, disability status and strictly in accord with their individual merits as human beings. It is also the policy of the city to protect all persons from all unfounded charges of discrimination.
(Ord. 30, passed 10-8-1987)

§ 93.02 DEFINITIONS.

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

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

DISCRIMINATE or ***DISCRIMINATING.*** Includes segregate or separate.

MARITAL STATUS. The standing, state or condition of one as a single or married person.
(Ord. 30, passed 10-8-1987)

§ 93.03 PROHIBITED ACTS IN REGARD TO HOUSING.

(A) It shall be an unlawful discriminatory practice:

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

(2) For any broker, agent, salesperson or other person acting in behalf of another to so discriminate in the sale, lease or rental of any housing unit or units belonging to such other person;

(3) For any person engaged in the business of financing the purchase, rehabilitation, remodeling or repair of housing units, or in the business of selling insurance with respect to housing units to refuse to provide financing or insurance or to discriminate with regard to the terms or conditions thereof by reason of the race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age or disability of the applicant, or because of the location of the unit or units in areas of the city occupied by persons of a particular race, color, sex, religion, creed, national origin, marital status, with regard to public assistance, age or disability; or to discriminate by treating differently any person or group of persons who decide to purchase, lease, acquire, construct, repair, rehabilitate or maintain real property in a specific area because of social, economic or environmental conditions of the area in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of any financial assistance or in the extension of services of any financial assistance or in the extension of services in connection therewith;

(4) For any persons, having sold, leased or rented a housing unit or units to any person, to discriminate with respect to facilities, services or privileges of national origin, age or disability, marital status or status with regard to public assistance;

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

(6) For any person to make an inquiry regarding race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age or disability, or to keep any record or use any form of application designed to elicit the information; and/or

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

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

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

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

(C) The provisions of this chapter shall not apply to:

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

(2) The rental by an owner or occupier of a one-family accommodation in which he or she resides, of a room or rooms in the accommodation to another person or persons if the discrimination is by sex, marital status, status with regard to public assistance or disability. Nothing in this chapter shall be construed to require any person or group of persons selling, renting or leasing property to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this chapter be construed to relieve any person or persons of any obligations generally imposed by all persons regardless of any disability in a written lease, rental agreement or contract of purchase or sale, or to forbid distinction based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement or contract.
(Ord. 30, passed 10-8-1987) Penalty, see § 93.99

§ 93.04 ENFORCEMENT PROCEDURES.

(A) The City Council is designated as the enforcement agency for this chapter and shall have the power to receive, hear and determine complaints as provided herein.

(B) (1) The City Council shall promptly investigate, upon complaint or upon its own motion, any violations of this chapter.

(2) If, after investigation, it shall have reason to believe a violation has occurred, it may refer the matter to the City's Attorney for criminal prosecution, initiate civil enforcement procedures, as

herein provided, or enter into a settlement agreement which, when approved by the City Council, shall have the same force as a Council order.
(Ord. 30, passed 10-8-1987)

§ 93.05 STATUTE OF LIMITATIONS.

No action may be brought for civil enforcement or criminal prosecution unless the charge of alleged discriminatory practice was filed with the city within 180 days from the occurrence of the practice.
(Ord. 30, passed 10-8-1987)

§ 93.06 CIVIL ENFORCEMENT.

Civil enforcement procedures shall be prosecuted by the City Attorney for the City Council in the following manner.

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

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

(C) The complaint or answer may be amended at any time prior to the hearing, with the consent of both parties.

(D) Hearings shall be held before the City Council.

(E) The City Council may obtain subpoenas from the district court to compel the attendance of witnesses and production of documents at any hearing.

(F) If, at hearing, the City Council shall conclude that a violation has occurred, it shall prepare an order which may contain any provision deemed desirable to do justice to the complainant or to prevent further violations. It may include provisions which require the respondent to rent, sell or lease particular housing to the complainant, or to do any other thing as may be just. The City Council's findings of fact and order shall be served on the respondent and City Attorney by certified mail, and shall become the findings and order of the Council unless, within ten days after receipt of the findings and order, the Council shall revoke or amend the order; but any order of the Council may be modified by Council at any time.
(Ord. 30, passed 10-8-1987)

§ 93.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) A violation of § 93.03 of this chapter shall be punishable by a fine of $100.
(Ord. 30, passed 10-8-1987)

CHAPTER 94: DOMESTIC ABUSE PROTECTION

Section

General Provisions

94.01 Definitions
94.02 Prosecution goals
94.03 Prosecution policies
94.04 Investigation and corroboration

Domestic Assault Procedures

94.15 Charging/declining cases
94.16 Bail
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94.21 Dismissals
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94.27 Notice of release from prison
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GENERAL PROVISIONS

§ 94.01 DEFINITIONS.

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

ADVOCATE. Any victim-witness assistant within a prosecutor's office, domestic abuse intervention advocate, battered women's shelter advocate, community advocacy group or other community representative assisting victims.

DOMESTIC ABUSE.

(1) Physical harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault between family or household members; or criminal sexual conduct, within the meaning of M.S. §§ 609.342, 609.343, 609.344, 609.345 or 609.3451, as they may be amended from time to time, or interference with an emergency call per M.S. § 609.78, as it may be amended from time to time, committed against a family or household member by an adult family or household member (spouse, former spouses, parents and children, persons related by blood, persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time or have a pregnancy in common).

(2) ***DOMESTIC ABUSE***, as used in this plan, includes assaults, violations of orders for protection and violations of restraining orders. Similar related charges including, but not limited to, criminal damage to property, disorderly conduct, harassing phone calls, false imprisonment, burglary and trespassing, which result from a domestic situation should be handled with the same considerations. The victim may be male or female. The defendant may be male or female. The sexual relationship may be homosexual or heterosexual. The parties may be legally married, separated, single or divorced, cohabitants, relatives or those in a dating relationship. ***DOMESTIC VIOLENCE*** generally represents a pattern of behavior rather than a single, isolated event.
(M.S. § 518B.01, subd. 2)
(Ord. 63/06, passed 3-13-2006)

§ 94.02 PROSECUTION GOALS.

(A) Aggressive prosecution of domestic assaults sends a message to the community at large and to abusers and victims that domestic abuse, like other crimes, will not be tolerated.

(B) While the primary goal of prosecuting domestic abuse cases, as with all criminal prosecutions, is to hold law violators accountable for their acts by conviction and appropriate punishment, prosecutors should bear the following public policy goals in mind in their handling of these cases:

(1) Protecting victims of domestic abuse from future violence by their abusers;

(2) Deterring abusers from committing violent acts against both the victim and other persons;

(3) Increasing the effectiveness of domestic abuse prosecution by improving coordination between the criminal justice system and victim services and advocacy groups in the community;

(4) Increasing the accessibility of the criminal justice system to victims of domestic violence;

(5) Coordinating prosecution of domestic assaults with various community resources;

(6) (a) Exercising precautions to ensure that the process does not discourage the victim from seeking further assistance in the future.

(b) The prosecutor's office will do all it can:

1. To provide the domestic assault victim with support services available to enhance her or his ability to participate;

2. To develop all corroborating evidence available to support the victim's testimony; and

3. To diffuse the victim's feeling that the sole onus of the prosecution is on her or him.

(c) The domestic assault victim has the responsibility, as do all witnesses, to comply with a subpoena and testify truthfully, concerning the facts of the case.

(7) Developing all relevant evidence of domestic assaults, including evidence from sources other than the crime victim.
(Ord. 63/06, passed 3-13-2006)

§ 94.03 PROSECUTION POLICIES.

(A) Because of the complex dynamics involved in most domestic abuse cases, this office recognizes that extra time, effort and cooperation among law enforcement, prosecution and advocacy services are required to effect a resolution that protects the victim and serves the state's interest in prosecuting crimes.

(B) The following general principles should be observed.

(1) *Prompt charging.* Charging decisions should be made promptly, whether or not the abuser is in custody. Law enforcement officers should investigate these cases and promptly present them for charging consideration.

(2) *Caseload.* Whenever possible, domestic abuse cases should be assigned as a part of a specialized caseload which should be smaller than other caseloads because of the intense nature of the assignment.

(3) *In-house victim-witness or advocacy services.*

(a) Each domestic abuse case should be assigned to an advocate immediately upon charging so as to facilitate the earliest possible contact with the victim as well as to monitor needs of the victim throughout the pendency of the case. The purpose of early contact is to acquaint the victim with how the criminal justice process works (including the use of subpoenas), the victim's legal rights, the victim's role in the prosecution and the services available to the victim. The prosecutor's office should coordinate both in-house and community advocacy efforts when both groups are working with the same victim.

(b) The assigned advocate shall maintain contact with and provide support to the victim throughout the pendency of the case. Duties also include making information available and referrals for orders for protection and to appropriate outside agencies such as shelter, economic assistance and support groups if requested by the victim and helping the prosecutor fashion an appropriate disposition of the case. The advocate shall also keep the trial prosecutor informed of the status of the victim and coordinate contacts between the trial attorney and victim as requested.

(4) *Corroborative evidence.*

(a) Prosecutors should be alert to the benefits of obtaining several types of evidence, including, but not limited to, victim's statements. Prosecutors should require investigators to develop all relevant evidence of the victim's testimony including medical records, evidence of prior conduct (M.S. § 634.20, as it may be amended from time to time), prompt complaint evidence including res gestae statements (excited utterances) as well as statements of non-victim witness and spreigl evidence. A cassette copy of any 911 call should be ordered in appropriate cases.

(b) All visible injuries, however faint, should be described by the reporting officer and photographed. It is often appropriate to photograph injuries a day or two after the assault when bruises are frequently more prominent (e.g., visible, but faint, finger marks on the neck described on the day of the assault and photographed both then and the next day when they are more noticeable makes dramatic and convincing evidence). Also, a heavyset person may not show obvious swelling that a thinner individual would show. Therefore, a description of the trauma and the pain it caused the victim should be noted.

(c) Since injuries may not be immediately visible on darker skinned individuals, a more detailed description of the specific assaultive behavior and witness account, if any, should be documented. For example, a woman of color with very dark skin who was kicked in the thigh may never show bruises. Also, because of variations in facial features (i.e., a broad or low bridged nose), a swollen or dislocated nose may be overlooked by the investigating officer who is looking for "normal" characteristics and injuries.

(d) If the assailant/defendant raises issues of self defense, injuries should be documented as part of the evidence.

(5) *Avoidance of delay*. Domestic assault cases in general should be handled expeditiously and continuances avoided absent unusual circumstances. (See § 94.18 of this chapter.) If a new offense occurs during the pendency of a prior offense involving the same victim, the first case should not be continued or delayed to the later trial date.
(Ord. 63/06, passed 3-13-2006)

§ 94.04 INVESTIGATION AND CORROBORATION.

(A) Officers should not ask the victim of domestic violence if she or he wants defendant arrested or charged. The decision to arrest and charge should be made based upon the evidence and not upon the victim's wishes.

(B) A signed question and answer statement from the victim is not required as a condition precedent, although it is desirable, for criminal prosecution, unless there is insufficient independent corroboration to support a conviction.

(C) Investigators should be alert to and gather and preserve corroborative evidence of:

(1) The victim's allegations, such as observations (and photographs or video, if possible) of injuries;

(2) Torn clothing (seize them for physical evidence, if possible);

(3) Property damage (if rental property, a criminal damage to property charge may be possible with the cooperation of the landlord, regardless of the cooperativeness of the abuse victim);

(4) Disarray of the physical surroundings at the scene;

(5) Accurately reported present sense statements obtained in prompt response to the call for assistance;

(6) Exited utterances of the victim and the defendant (both at the scene and in the recorded 911 call for assistance; law enforcement should be certain to obtain a copy of the 911 call for their investigative file);

(7) Divisions (C)(5) and (C)(6) above should be in the form of audio or video recordings or in written reports;

(8) The demeanor of the victim and the defendant;

(9) Releases for medical evidence; (If medical records which might substantiate felony-level injuries are not immediately available, the investigator should be asked to contact the doctor, read the

statutory definitions of injury (bodily, substantial and great), and write a supplement covering the doctor's oral conclusion that the harm is covered by the appropriate definition, including what specific medical facts are the basis of that conclusion);

(10) Interviews of all other witnesses, including competent children;

(11) Collection of other similar crime (spreigl) evidence;

(12) The victim's statements to paramedics, EMTs, nurses and doctors for diagnosis and treatment purposes should be documented. Police should interview those individuals and obtain copies of their notes and records; and

(13) Officers should also obtain the names, addresses and phone numbers of a couple of friends and/or relatives who are likely to know where to find the victim later when the matter goes to trial.
(Ord. 63/06, passed 3-13-2006)

DOMESTIC ASSAULT PROCEDURES

§ 94.15 CHARGING/DECLINING CASES.

(A) If medical records which might substantiate felony-level injuries are not immediately available, the investigator should be asked to contact the doctor, read the appropriate statutory definition and write a supplement covering the doctor's oral conclusion that the harm is covered by the appropriate definition, including what specific medical facts are the basis of that conclusion.

(B) In deciding whether to decline, prosecutors should assess not only the willingness or availability of the victim to testify, but also other evidence. Where the victim is unwilling to testify, the prosecutor should not decline if there is sufficient other evidence to prove the case.

(C) If a case is declined, the "decline" letter required by M.S. § 611A.0315, subd. 1, as it may be amended from time to time, must be sent to the victim.

(D) (1) If a case was originally declined because the victim was unavailable or unwilling to cooperate, but the victim subsequently reappears and wants prosecution, the case should be resubmitted and reconsidered by the original reviewing attorney whenever possible.

(2) In appropriate cases, the attorney may request the advocate to meet with the victim to assist in assessing strengths or weaknesses as a witness and the feasibility of proceeding.
(Ord. 63/06, passed 3-13-2006)

§ 94.16 BAIL.

(A) In most domestic assault cases some bail is appropriate in addition to the no contact order. It gives an economic incentive to the defendant to comply with other requirements of the court, including the no contact order.

(B) In addition to the usual bail arguments, a defendant's prior record of domestic assault arrests may be relevant even if the prior case was dismissed. Historically, there is a high correlation between victim intimidation and dismissal in domestic assault cases. See M.S. § 629.72, as it may be amended from time to time, regarding bail specifically in cases of domestic assault.
(Ord. 63/06, passed 3-13-2006)

§ 94.17 NO CONTACT ORDERS.

(A) In the usual domestic assault case, a no contact order should be sought at the first appearance, even if the victim appears and says she or he does not want it. In the latter event, the victim should be informed that it is office policy to request no contact as a temporary measure, at least until the victim has had an opportunity to discuss the issue with an advocate and the attorney. Absent unusual circumstances, no contact orders should not be lifted.

(B) Note that no contact orders can prohibit the defendant's appearance at or near the victim's residence and place of employment as well as contact by phone, in writing or through third parties.

(C) This new technology may be useful if the prosecutor believes that a defendant will not abide by a no contact order. A monitor box which is located in a victim's house will be activated by the bracelet that the defendant is wearing if he or she is within a certain distance of the residence. The victim may then be alerted and call law enforcement.

(D) The victim may also seek a separate civil order for protection under M.S. Ch. 518B, as it may be amended from time to time, violation of which is a misdemeanor. The advocate and prosecutor should tell the victim how to obtain an order for protection.

(E) A 1991 amendment to the domestic assault bail statute (M.S. § 629.72, subd. 2(c), as it may be amended from time to time) provides that if the court imposes a no contact order as a condition of the defendant's release in a domestic assault case, the court may also simultaneously issue an ex parte temporary order for protection under M.S. Ch. 518B, as it may be amended from time to time, effective until the defendant is convicted or acquitted or the charge dismissed. However, it is recommended that prosecutors urge the criminal judge to defer the OFP to the usual separate civil proceeding. Reasons include the following:

(1) The victim may not be informed of the judge's ex parte order;

(2) If the defendant demands a hearing on the OFP, it should be heard as part of a civil (not criminal) proceeding;

(3) The petition for such an order would have to be the sworn complaint which rarely details all the facts the usual OFP history would contain;

(4) The complaint also would not address other important issues, such as support and child visitation/custody routinely addresses in civil OFPs;

(5) Any hearing demanded by the defendant would be limited to the facts stated in the complaint;

(6) A separate civil OFP would be needed in many cases anyway to deal with other issues and longer order duration; and

(7) Having two proceedings will serve only to contuse victims, clerks of court and law enforcement.
(Ord. 63/06, passed 3-13-2006)

§ 94.18 RIGHT TO A SPEEDY TRIAL.

Although the defendant has an absolute right to demand a speedy trial, the victim also has a right to request that the prosecutor make a demand under Rule 11 of the state's Rules of Criminal Procedure for a trial within 60 days.
(Ord. 63/06, passed 3-13-2006)
Statutory reference:
Related provisions, see M.S. § 611A.033

§ 94.19 SUBPOENAS.

(A) If a victim's appearance at the pretrial hearing is not necessary, she or he should not be subpoenaed. This will minimize problems such as finding and/or paying for daycare, transportation, missing days of work and the like.

(B) Subpoenaing victims should not be used to screen cases. Victims should be subpoenaed for trial and other times where their appearance is necessary in all domestic assault cases. The prosecutor and/or advocate should explain to the victim that she or he is not responsible for the prosecution, but is a subpoenaed witness like any other in a prosecution brought not by the victim, but by the state.

(C) A witness is entitled to be reimbursed $10 per day, plus mileage, and up to $40 per day for additional expenses such as meals, babysitting and wage loss.
(Ord. 63/06, passed 3-13-2006)
Statutory reference:
Related provisions, see M.S. § 357.22

§ 94.20 VICTIM RECANTATION, REFUSAL TO TESTIFY OR DISAPPEARANCE.

(A) Any time a recantation, refusal or disappearance occurs, the assigned prosecutor shall make an assessment of the case, in consultation with the advocate and the victim (if available), to determine the feasibility and merits of proceeding with the prosecution with or without the victim. In assessing the merits of proceeding with a case when a victim recants or refuses to testify, the assigned prosecutor should consider:

(1) The likelihood that the defendant will re-offend;

(2) The likelihood of serious future injury to the victim;

(3) The victim's wishes, including the reasons for the recantation, refusal or disappearance;

(4) The victim's credibility, including the credibility of any recantation, in the light of all other evidence in the case;

(5) The defendant's criminal history;

(6) The seriousness of the charges and the victim's injuries;

(7) Whether the victim, however reluctant, is likely to testify truthfully if compelled by subpoena; and

(8) The feasibility of proving the case without the victim or with impeachment of an uncooperative victim (consider the admissibility of any res qastae statements along with all other evidence in the case).

(B) (1) No one factor or set of factors mandates continued prosecution in these circumstances, but there are occasional cases in which every effort at prosecution must be made regardless of the victim's position.

(2) The ultimate decision can only be made on a case-by-case basis.
(Ord. 63/06, passed 3-13-2006)

§ 94.21 DISMISSALS.

(A) Unless the court finds dismissal is warranted for lack of probable cause or unwarranted delay, only the prosecutor may dismiss a case.

(B) (1) Whenever a prosecutor dismisses criminal charges against a person accused of domestic assault, a record should be made of the specific reasons for the dismissal.

(2) If dismissal is due to the unavailability of the victim, the specific reason for the unavailability shall be indicated if known.
(Ord. 63/06, passed 3-13-2006)
Statutory reference:
Related provisions, see Minnesota Rules of Criminal Procedure Rules 30.01 and 30.02
Related provisions, see M.S. § 611A.0315, subd. 1(b)

§ 94.22 TRIAL PREPARATION.

(A) Whenever possible, the trial prosecutor should meet in person with the victim before pretrial. The victim advocate should participate in these meetings whenever possible. This allows not only for a more accurate assessment of the case, but also for the development of additional information which may substantiate more serious or different charges as well as spreigls (evidence of other crimes committed by the defendant).

(B) Early consultation with the victim also gives the prosecutor and the advocate a chance to explore all possible dispositional options, including the victim's wishes.
(Ord. 63/06, passed 3-13-2006)
Statutory reference:
Spreigl evidence in domestic assault cases, see M.S. § 634.20

§ 94.23 HARASSMENT OF VICTIM.

Prosecutors should advise the victim that any harassment of the victim or other witnesses by the defense should be reported. The harassment may include such things as calls or visits from the defendant, third party or the defense attorney and investigators.
(Ord. 63/06, passed 3-13-2006)

§ 94.24 PLEA NEGOTIATIONS.

(A) A probationary disposition may be appropriate even in a felony domestic assault case, which carries a presumptive prison sentence. Factors which may be relevant to such a probationary disposition include and are not limited to:

(1) Case assessment by the prosecutor;

(2) The wishes of the victim;

(3) The defendant's treatment needs (and amenability to treatment);

(4) The benefits of a supervised long-term no contact order (with the possibility of prison for non-compliance); and

(5) The benefits of other probation conditions such as domestic abuse counseling, chemical dependency treatment, restitution and the like.

(B) In the usual domestic assault case, a presentence investigation should be requested. Whatever settlement is reached, whether between the prosecution and the defense or the defense and the court, the victim must be notified of all terms and conditions, including any limitation on jail time including good time, furlough, credit for time served, work release and any other factors which effect the length of time served. For a prison sentence, the prosecutor should explain to the victim how to notify the Commissioner of Corrections for notification of release, escape or failure to return from furlough.

(C) In felony cases, when probation is otherwise appropriate, a dispositional departure on a presumptive prison offense can be preferable to a plea to a presumptive probation offense because probation can be for a longer period of time and the incentive to comply with conditions of probation is greater. Alternatively, a double duration departure on a presumptively stayed sentence may be considered where there are aggravating circumstances (such as when the factors would also substantiate the elements of a greater offense or when there is a past conviction for a felony against the person where the victim was injured). Some felonies, however, will mandate prison regardless of a victim's stated wishes.
(Ord. 63/06, passed 3-13-2006)

§ 94.25 TRIAL; SEPARATION OF WITNESSES.

Every effort should be made during trial to keep the domestic assault victim in a safe area separate from the defendant and his or her supporters while waiting to testify. A request to the Court Administrator for available space should be made.
(Ord. 63/06, passed 3-13-2006)

Cross-reference:

Harassment of victim, see § *94.23*

Statutory reference:

Related provisions, see M.S. § *611A.034*

§ 94.26 SENTENCING.

The prosecutor or victim/witness coordinator should advise the victim of all rights under M.S. Ch. 611A, as it may be amended from time to time, regarding sentencing, including restitution, the victim impact statement and the right to be present and to speak at sentencing and the right of notice of final disposition. Whenever the victim is working with an advocate, the advocate should be encouraged to attend especially if the victim is not present. The trial attorney should attend the sentencing whenever

possible and make sure the sentencing attorney is aware of all terms and conditions which are documented in the file regarding the plea negotiation.
(Ord. 63/06, passed 3-13-2006)

§ 94.27 NOTICE OF RELEASE FROM PRISON.

The prosecutor or victim/witness coordinator should advise the victim regarding the process of notifying the Department of Corrections Commissioner (or head of the prison) for release or escape from prison information or victim's change of address.
(Ord. 63/06, passed 3-13-2006)
Statutory reference:
Related provisions, see M.S. § 611A.06

§ 94.28 PROBATIONARY VIOLATIONS.

(A) Generally, the prosecutor should request additional jail time (or prison, where appropriate), any time a domestic abuse probationary violation related to victim safety occurs.

(B) Whenever a domestic assault defendant placed on probation violates conditions related to the victim's actual safety (e.g., violation of an OFP or no contact order or an assault), potential safety (e.g., failure to complete or dismissal from treatment facility) or restitution issues, an attempt should be made to notify and consult with the victim regarding potential dispositions. When the prosecutor's office has not received sufficient notice of this kind of problem to make contact with the victim, a continuance should be requested.

(C) Frequently, the advocate will be the first person to be informed of such a violation.

(D) In such cases, with the victim's permission, the advocate should notify the trial attorney (or the attorney handling the violation) of the situation and any victim requests.
(Ord. 63/06, passed 3-13-2006)

§ 94.29 GRAND JURY.

The use of the grand jury may be considered in unusually egregious circumstances where there is a need to preserve the victim's testimony under oath. The testimony may be videotaped. The videotape, as other grand jury records, may, however, not be disclosed without a court order. In an appropriate case where intimidation of the victim by the defendant can be proved, the testimony may be admissible at trial.
(Ord. 63/06, passed 3-13-2006)
Statutory reference:
See State v. Black; 291 N.W. 2d 208 (Minn. 1980)

§ 94.30 LAW ENFORCEMENT INVESTIGATION AND TRAINING.

(A) Law enforcement in domestic assault cases should be instructed to identify, gather and preserve evidence that will enhance the ability to prosecute.

(B) This includes:

(1) Documentation of physical evidence of a victim's injuries (including photographs, medical records, written descriptions and detailed observations) and self-defense injuries;

(2) Other crime scene evidence;

(3) Interviewing the victim about the assault, prior assaults, existing or past OFPs or other court order;

(4) Interviewing the suspect;

(5) Interviewing all other witnesses;

(6) Notation of all res qestae statement made by the victim and eyewitnesses (including 911 calls); and

(7) Collection of other crime (spreigl) evidence.
(Ord. 63/06, passed 3-13-2006)

§ 94.31 IMPLEMENTATION AND REVIEW.

This domestic abuse plan shall be reviewed by the prosecutor's office, in consultation with the advocates, to evaluate whether it is meeting its goals and whether revisions are needed.
(Ord. 63/06, passed 3-13-2006)

CHAPTER 95: PREDATORY OFFENDER RESIDENCY RESTRICTIONS

Section

95.01 Purpose
95.02 Findings
95.03 Definitions
95.04 Prohibited acts
95.05 Exceptions
95.06 Renting real property prohibited

95.99 Penalty

§ 95.01 PURPOSE.

The City Council intends to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of city citizens under this chapter. It is the express intent of the City Council to further that interest by: creating areas around locations where children regularly congregate in concentrated numbers within which certain predatory offenders are prohibited from establishing temporary or permanent residence; and by mitigating the concentration of certain predatory offenders, as recommended by M.S. § 244.052, subd. 4a, as it may be amended from time to time, by prohibiting certain predatory offenders from establishing temporary or permanent residence within close proximity to one another.
(Ord. 77/15, passed 1-20-2015)

§ 95.02 FINDINGS.

(A) The City Council finds that repeat predatory offenders present a real threat to the public safety and especially to that of children. Certain predatory offenders are likely to use physical violence and present a high risk to repeat their offenses, and most predatory offenders have committed many more offenses and have many more victims than are ever reported and prosecuted.

(B) This makes dealing with the danger posed to the public safety and especially that of children by those certain predatory offenders extremely important.
(Ord. 77/15, passed 1-20-2015)

§ 95.03 DEFINITIONS.

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

DESIGNATED PREDATORY OFFENDER. Any person who is required to register as a predatory offender under M.S. § 243.166, as it may be amended from time to time, and who has been categorized as a Level III predatory offender under M.S. § 244.052, subd. 3, as it may be amended from time to time, a successor statute or a similar statute from another state.

LICENSED CHILD CARE CENTER. A child care center currently licensed by the county's Public Health and Human Services Department.

PERMANENT RESIDENCE. A place where a person abides, lodges or resides for 14 or more consecutive days.

PUBLIC PARK/PLAYGROUND. Any city-owned, or privately-owned but open to the public, area, designed, equipped and set aside for children's play and includes in that area such facilities as play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation and related structures.

SCHOOL. A public or non-public preschool, elementary or secondary school.

TEMPORARY RESIDENCE. A place where a person abides, lodges or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address or a place where the person routinely abides, lodges or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.
(Ord. 77/15, passed 1-20-2015)

§ 95.04 PROHIBITED ACTS.

(A) *Prohibited location of residence.* It is unlawful for any designated predatory offender to establish a permanent residence or temporary residence within 2,000 feet of any of the following:

(1) Public or private school;

(2) Licensed child care provider, including, but not limited to, in home care providers which are licensed by the state and or county;

(3) Public park/playground;

(4) Place of worship which provides regular educational programs;

(5) Designated public trails;

(6) Public or private gymnasiums;

(7) Libraries;

(8) Public beaches;

(9) Sporting facilities (i.e., baseball fields, football fields, hockey rinks, soccer fields and the like) where children are known to congregate; and/or

(10) The permanent or temporary residence of any other designated predatory offender.

(B) *Measurement of distance*. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of the properties listed in division (A) above.
(Ord. 77/15, passed 1-20-2015) Penalty, see § 95.99

§ 95.05 EXCEPTIONS.

This chapter does not apply under the following circumstances:

(A) The designated predatory offender established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. §§ 243.166 and 243.167, as they may be amended from time to time, or a successor statute, prior to 1-12-2015;

(B) The designated predatory offender was a minor when he or she committed the offense and was not convicted as an adult;

(C) The designated predatory offender is a minor;

(D) The designated predatory offender has been granted a risk level reduction by the End of Confinement Review Committee, pursuant to M.S. § 244.052, subd. 3(i), as it may be amended from time to time;

(E) The school, licensed child care center or public playground within 2,000 feet of the person's permanent residence was opened after the designated predatory offender established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. §§ 243.166 and 243.167, as they may be amended from time to time, or a successor statute;

(F) The residence is also the primary residence of the designated predatory offender's parents, grandparents, siblings or spouse, and was their residence prior to 1-12-2015; and/or

(G) The residence is a property purchased, leased or contracted with and licensed by the state's Department of Corrections prior to 1-12-2015.
(Ord. 77/15, passed 1-20-2015)

§ 95.06 RENTING REAL PROPERTY PROHIBITED.

(A) It shall be unlawful for any property owner to rent or lease real estate to any designated predatory offender if the property is in the prohibited zone established in § 95.04 of this chapter. If a property owner discovers or is informed that a tenant is a designated offender after a rental agreement is signed, a property owner shall commence eviction proceedings against the designated offender and take action to ensure that the designated offender is not residing in the exclusion zone.

(B) A property owner's violation of this prohibition shall be punishable as set forth in § 95.99 of this chapter.
(Ord. 77/15, passed 1-20-2015) Penalty, see § 95.99

§ 95.99 PENALTY.

Any person who violates this chapter shall be punished according to the laws of the state. A violation of this chapter shall constitute a misdemeanor. Each day a person maintains a temporary or permanent residence in violation of this chapter constitutes a separate violation.
(Ord. 77/15, passed 1-20-2015)

CHAPTER 96: NATIVE PLANTS

Section

General Provisions

96.01 Purpose
96.02 Definitions
96.03 Where planted
96.04 Location of restoration areas and planned landscape areas

Maintenance Standards

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96.12 Weeds
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Abatement of Certain Conditions

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96.26 Conditions allowing inspector to enter property
96.27 Owner's responsibility for costs incurred

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GENERAL PROVISIONS

§ 96.01 PURPOSE.

It is the purpose of this chapter to prohibit the uncontrolled growth of vegetation, while permitting the planting and maintenance of landscaping, native landscapes, or garden treatments which add diversity and a richness to the quality of life. There are reasonable expectations regarding the proper maintenance of vegetation on any lot or parcel of land. It is in the public's interests to provide standards regarding the maintenance of vegetation because vegetation which is not maintained may threaten public health, safety and order, and may decrease adjacent property values.
(Ord. 113/24, passed --)

§ 96.02 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:

FRONT YARD. That yard area that is front of a primary structure; for riparian lots it shall be that area of the yard facing the road or street.

MANAGED NATURAL LANDSCAPE. 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. ***MANAGED NATURAL LANDSCAPES*** does not include turf-grass lawns left unattended for the purpose of returning to a natural state.

MEADOW VEGETATION. Grasses and flowering broad-leaf plants that are native to, or adapted to, the State of Minnesota, and that are commonly found in meadow and prairie plant communities, not including noxious weeds. "Noxious weed" has the meaning given in M.S. § 18.77, subd. 8.

NATIVE PLANTS. Grasses or forbs native to or naturalized to the State of Minnesota, excluding prohibited exotic species, as defined by M.S. Ch. 84D. ***NATIVE PLANTS*** does not include noxious weeds or turf grass.

ORNAMENTAL PLANTS. Grasses, perennials, annuals, and groundcovers purposely planted for aesthetic reasons.

PLANNED LANDSCAPE AREA. An area where plants have been intentionally established and managed. Ornamental grasses and groundcovers or native grasses and forms are planted pursuant to a plan.

RAIN GARDEN. A native plant garden that is designed not only to aesthetically improve properties, but also to reduce the amount of stormwater and accompanying pollutants from entering streams, lakes, and rivers.

RESTORATION AREA. An area where native grasses and forbs are being, or have been, intentionally re-established.

SIDE YARD. That area of the yard abutting a property line or abutting a street or road.

TURF-GRASS LAWN. A lawn composed mostly of grasses commonly used in regularly cut lawns or play areas, including but not limited to bluegrass, fescue, and ryegrass blends, intended to be maintained at a height of no more than eight inches.

WEED. Any: (1) plant which is identified by the State Commissioner of Agriculture as a noxious weed or secondary noxious weed pursuant to M.S. § 18.75 et seq.; or (2) volunteer plant, except trees and other woody vegetation, which is not customarily or intentionally planted.
(Ord. 113/24, passed --)

§ 96.03 WHERE PLANTED.

(A) *Ornamental grasses and ground covers*. Ornamental grasses and groundcovers shall be planted only in a planned landscape area.

(B) *Native grasses and forbs*. Native grasses and forbs shall be planted only in a planned landscape area or a restoration area.
(Ord. 113/24, passed --)

§ 96.04 LOCATION OF RESTORATION AREAS AND PLANNED LANDSCAPE AREAS.

(A) *Setback*. A restoration area or a planned landscape area must provide the following minimum setbacks:

(1) Front yard, front street, or any side street (as measured from the traveled portion of the street): prohibited.

(2) Side yard or rear yard: 15 feet from any adjacent property lines.

(B) *Size*. No restoration area or planned landscape shall have an area greater than 15 square feet in size.
(Ord. 113/24, passed --)

MAINTENANCE STANDARDS

§ 96.10 OWNER'S RESPONSIBILITY.

Every owner of property shall maintain the vegetation growing thereon according to the minimum standards set forth in this subchapter.
(Ord. 113/24, passed --)

§ 96.11 TURF GRASSES.

Except for the period from May 1 to June 15 each year for residential properties, turf grasses shall be regularly cut such that no individual plant shall exceed, at any time, six inches in height or length, as measured from its base at the ground to the tip of each stalk, stem or blade consistent with § 91.11.
(Ord. 113/24, passed --)

§ 96.12 WEEDS.

Weeds shall be regularly cut or controlled such that no individual plant shall exceed, at any time, six inches in height or length, as measured from its base at the ground to the tip of each stalk, stem, blade or leaf. Noxious weeds, as defined by the State Commissioner of Agriculture, shall be eradicated and are prohibited.
(Ord. 113/24, passed --)
Cross-reference:
Weeds, see § 91.11

§ 96.13 PLANNED LANDSCAPE AREAS AND RESTORATION AREAS.

(A) Planned landscape areas and restoration areas shall be cut at least once between May 1 and August 1 of each year.

(B) No person shall permit ornamental grasses and ground covers growing on the person's property to invade adjoining properties.
(Ord. 113/24, passed --)

§ 96.14 NONCONFORMING PLANNED LANDSCAPE AREAS AND RESTORATION AREAS.

Any planned landscape area or restoration area which lawfully existed prior to the effective date of the ordinance from which this chapter is derived may continue to exist. Any expansion or addition to a nonconforming planned landscaped area or restoration area shall comply with all provisions of this chapter.
(Ord. 113/24, passed --)

§ 96.15 EXEMPTION.

Parks and natural areas owned by the city and rights-of-way owned by the county and state shall be exempt from the requirements of this chapter.
(Ord. 113/24, passed --)

ABATEMENT OF CERTAIN CONDITIONS

§ 96.25 NUISANCE.

Any vegetation which does not meet the requirements of this chapter is declared to be a nuisance. (Ord. 113/24, passed --)

§ 96.26 CONDITIONS ALLOWING INSPECTOR TO ENTER PROPERTY.

Entry by the Weed Inspector or Assistant Weed Inspector for the purpose of cutting, removing, destroying or eradicating vegetation shall be done only after written notice is served upon the owner, and the occupant if other than the owner, of the property to be entered, and failure of the owner or occupant to cut down, remove, destroy or eradicate vegetation declared to be a nuisance, within the time, and in such manner, as the Weed Inspector or Assistant Weed Inspector shall designate in the notice. The notice shall be given in the manner prescribed by M.S. § 18.271, subd. 2, and shall allow a minimum of seven days for the property owner or occupant to comply with requirements of the notice.
(Ord. 113/24, passed --)

§ 96.27 OWNER'S RESPONSIBILITY FOR COSTS INCURRED.

(A) The costs and expenses incurred by the city in connection with entering a property and cutting, removing, destroying and eradicating vegetation declared to be a nuisance, shall be paid by the owner or occupant of the property entered pursuant to a notice containing the information and served as prescribed by M.S. § 18.271, subd. 4.

(B) If the city is not paid the amount stated in the notice within 30 days or before the following October 1, whichever is later, such amount shall become a lien in favor of the city and a penalty of 8% shall be added to the amount due as of that date and the total cost, expenses and penalties shall be certified to the auditor of the county for entry as a tax upon such property for collection as other real estate taxes are collected, all pursuant to the provisions of M.S. § 18.271, subd. 4.
(Ord. 113/24, passed --)

§ 96.99 PENALTY.

Any violation of this chapter shall be deemed a misdemeanor offense and shall be punishable by a fine of up to $1,000 and incarceration of up to 90 days, or both. Each day that a violation exists shall constitute a separate violation.
(Ord. 113/24, passed --)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. ALCOHOLIC BEVERAGES

111. PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

112. SHORT TERM VACATION PROPERTIES

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

3.2% Malt Liquor

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Intoxicating Liquor

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Cross-reference:

Fee schedule, see § 33.01
Licensing background checks, see § 30.15
Parks and Recreation, see Ch. 92
Zoning, see Ch. 156

3.2% MALT LIQUOR

§ 110.01 DEFINITIONS.

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

3.2% MALT LIQUOR. Any malt beverage, with an alcoholic content of more than 0.5% by volume and not more than 3.2% by weight.

BEER STORE. An establishment for the sale of beer, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.

BONA FIDE CLUB. A club organized for social or business purposes or for intellectual improvement or for the promotion of sports, where the serving of beer in incidental to and not the major purpose of the club.

INTOXICATING LIQUOR. Any distilled, fermented or vinous beverage containing more than 3.2% of alcohol by weight.

ORIGINAL PACKAGE. The bottle or sealer container in which the liquor is placed by the manufacturer.

PERSON. Includes a natural person of either sex, co-partnership, corporation and association of persons and the agent or manager of any of the aforesaid. The singular number includes the plural and the masculine pronoun includes the feminine and neuter.

RESTAURANT. A place of which the major business is preparing and serving lunches or meals to the public to be consumed on the premises.
(Ord. 5, passed 7-12-1982)

§ 110.02 LICENSE REQUIRED.

(A) No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gifts, sale or otherwise, or keep or offer for sale, any beer within the city without first having received a license as hereinafter provided. Licenses shall be of two kinds:

(1) Retail on-sale; and

(2) Off-sale.

(B) On-sale licenses shall be granted only to bona fide clubs, beer stores, drug stores, restaurants and hotels where food is prepared and served for consumption on the premises. On-sale licenses shall permit the sale of beer for consumption on the premises only. A club or charitable, religious or non-profit organization may be issued a temporary on-sale license for the sale of 3.2% malt liquor on and off school grounds, and in and out of school houses and school buildings. The temporary licenses shall be subject to such terms, including a license fee, as the issuing municipality shall prescribe.

(C) Off-sale licenses shall permit the sale of 3.2% malt liquor at retail, in the original package for consumption off the premises only.
(Ord. 5, passed 7-12-1982) Penalty, see § 110.99

§ 110.03 LICENSE APPLICATION.

Every application for a license to sell beer shall be made on a form supplied by the city and shall state the name of the applicant, his or her age, representations as to his or her character with references as may be required, his or her citizenship, whether the application is for on-sale or off-sale, the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business, how long he or she has been in that business at that place and other information as the Council may require from time to time. It shall be unlawful to make any false statement in an application. Applications shall be filed with the City Administrator.
(Ord. 5, passed 7-12-1982) Penalty, see § 110.99

§ 110.04 LICENSE FEES.

(A) Each application for a license shall be accompanied by a receipt from the City Administrator for payment in full or the required fee for the license. All fees shall be paid into the General Fund of the municipality. Upon rejection of any application for a license, the City Administrator shall refund the amount paid.

(B) All licenses shall expire December 31 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 pro rata fee. In computing the fee, any unexpired fraction of a month shall be counted as one month.

(C) The annual fee for an on-sale license shall be the fee listed in the fee schedule in § 33.01 of this code. The annual fee for an off-sale license shall be the fee listed in the fee schedule in § 33.01 of this code.

(D) No part of the fee paid for any license issued under this subchapter shall be refunded, except in the following instances upon application to the Council 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, completed 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 license premises by fire or other catastrophe;

(2) The cessation of business due solely to reason of the licensee's illness or death; and/or

(3) A change in the legal status of the municipality making it unlawful for the licensed business to continue.
(Ord. 5, passed 7-12-1982)

§ 110.05 GRANTING LICENSE.

(A) The City Council 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 the investigation and hearing, the City Council shall grant or refuse the application in its discretion.

(B) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued for only the premises described in the application. No license may be transferred to another place without the approval of the City Council.
(Ord. 5, passed 7-12-1982)

§ 110.06 PERSONS, PLACES INELIGIBLE FOR LICENSE.

(A) No license shall be granted to any person:

(1) Under 19 years of age;

(2) Who has been convicted of a felony, or any law of the state of local ordinance relating to the manufacturing or transportation of intoxicating liquors;

(3) Who is a manufacturer of beer or who is interested in the control of any place where beer is manufactured;

(4) Who is not a citizen of the United States;

(5) Who is not of good moral character;

(6) Who is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him or her a local license to sell intoxicating liquor at such place; and/or

(7) Who is not the proprietor of the establishment for which the license is issued.

(B) (1) No license shall be granted for sale of any premises where a licensee has been convicted of the violation of this subchapter, or of the state's Beer or Liquor Law, being M.S. §§ 340A.101 et seq., as may be amended from time to time, or where any license hereunder has been revoked for cause of five years has elapsed after the conviction or revocation.

(2) No on-sale license shall be granted for a club which has not been in operation and eligible to receive a license for a least six months immediately preceding the application for a license.
(Ord. 5, passed 7-12-1982)

§ 110.07 LICENSE CONDITIONS.

Every license shall be granted subject to the conditions in the following divisions (A) through (I) and all other provisions of this subchapter and of any other applicant ordinance of the city or state law.

(A) All licensed premises shall have the license posted in a conspicuous place at all times.

(B) No beer shall be sold or served to any intoxicated person or to any person under 19 years of age.

(C) No minor shall be permitted to be employed on the premises of a beer store or be permitted to sell or serve beer in any on-sale establishment.

(D) No gambling or any gambling device shall be permitted on any licensed premises.

(E) No manufacturer or wholesaler of beer shall have any ownership of or interest in any establishment licensed to sell at retail contrary to the provisions of M.S. § 340A.403, subd. 3, as it may be amended from time to time. No retail licensee and manufacturer or wholesaler of beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

(F) No licensee shall sell beer while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he or she is licensed under the laws of the state to sell intoxicating liquors.

(G) (1) No licensee who is not also licensed to sell intoxicating liquor shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor.

(2) The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquors is being permitted to be consumed or displayed contrary to this subchapter.

(H) Every licensee shall allow any peace officer, health officer or properly designated officer or employee of the city to enter, inspect and search the premises of the licensee during business hours without a warrant.

(I) Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order.
(Ord. 5, passed 7-12-1982) Penalty, see § 110.99

§ 110.08 CLOSING HOURS.

(A) No sale of beer shall be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon, nor between the hours of 1:00 a.m. and 8:00 p.m. on any election day in the city.

(B) No sale shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any other day.
(Ord. 5, passed 7-12-1982) Penalty, see § 110.99

§ 110.09 CLUBS.

No club shall sell beer, except to members and to guests in the company of members.
(Ord. 5, passed 7-12-1982) Penalty, see § 110.99

§ 110.10 PURCHASE AND CONSUMPTION RESTRICTIONS.

(A) No minor shall misrepresent his or her age for the purpose of obtaining beer.

(B) No person shall induce a minor to purchase or procure beer.

(C) No person other than the parent or legal guardian shall procure beer for any minor.

(D) No minor shall have beer in his or her possession with the intent to consume it at a place other than the household of his or her parent or guardian.

(E) No beer shall be consumed in any theater, recreation hall or center, dance hall, ball park or other place of public gathering used for the purpose of entertainment, amusement or playing of games.

(F) No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors.
(Ord. 5, passed 7-12-1982) Penalty, see § 110.99

§ 110.11 LICENSE REVOCATION.

The violation of any provision or condition of this subchapter by a beer licensee or his or her agent shall be grounds for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this subchapter may be revoked or suspended by the Council after written notice to the licensee and a public hearing. The notice shall give at least eight days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The Council may suspend any license pending a hearing on revocation or suspension.
(Ord. 5, passed 7-12-1982)

INTOXICATING LIQUOR

§ 110.25 STATE LAW ADOPTED.

The provisions of M.S. Ch. 340A, as it may be amended from time to time, with reference to the definition of terms, applications for license, granting of license, conditions of license, restrictions on consumption, provisions on sales, conditions of bonds of licensees, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor are hereby adopted and made a part of this subchapter as if fully set out herein.
(Ord. 6, passed 7-12-1982)

§ 110.26 LICENSE REQUIRED.

(A) No person, except wholesalers or manufacturers to the extent authorized under state license, shall directly or indirectly deal in, sell or keep for sale any intoxicating liquor without first having received a license to do so as provided in this subchapter. Licenses shall be of three kinds:

(1) On-sale;

(2) Off-sale; and

(3) Club licenses.

(B) On-sale licenses shall be issued only to persons over the age of 21 years, who have not been convicted of a felony, or violating the National Prohibition Act or any law of the state or local ordinance relating to the manufacture or transportation of intoxicating liquors, and who are of good moral character, and shall permit on-sale of liquor.

(C) Off-sale licenses shall be issued to persons over the age of 21 years, who have not been convicted of a felony, or of violating the National Prohibition Act or any law of this state or local ordinance relating to the manufacture or transportation of intoxicating liquors, and who are of good moral character, and shall permit off-sale of liquor only.

(D) Special licenses shall be issued only to duly incorporated clubs which have been in existence for 15 years and congressionally-chartered veterans organizations which have been in existence for ten years.
(Ord. 6, passed 7-12-1982; Ord. 6B/00, passed 12-11-2000) Penalty, see § 110.99

§ 110.27 LICENSE APPLICATION.

(A) Every application for a license to sell liquor shall be verified and filed with the City Administrator. It shall state the name of the applicant, his or her age, representations as to his or her character, with such references as may be required, his or her citizenship, whether the application is for on-sales or off-sales, the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business, how long he or she has been in that business at that place and such other information as the Council may require from time to time. In addition to containing the information, each application for a license shall be in the form prescribed by the Liquor Control Commissioner. No person shall make a false statement in an application.

(B) Each application for a license shall be accompanied by a surety bond, or liability insurance policy, or in lieu thereof, cash or United States Government bonds of equivalent market value as provided in M.S. § 340A.12, subd.1, as it may be amended from time to time, or a liability insurance policy as set forth in the fourth paragraph of M.S. § 340A.12, subd.1, as it may be amended from time to time. The surety bond or other security shall be in the sum of $3,000 for an applicant for an on-sale license and $3,000 for an applicant for an off-sale license.

(C) The security offered under division (B) above shall be approved by the City Council and, in the case of applicants for bonds and liability insurance policies, shall be approved as to form by the City Attorney. The operator of the off-sale or on-sale liquor business without having on file at all times with the municipality an effective bond, insurance policy or other security as required in division (B) above shall be grounds for immediate revocation of the license.
(Ord. 6, passed 7-12-1982)

§ 110.28 LICENSE FEES.

(A) Each application for a license shall be accompanied by a receipt from the City Administrator for payment in full of the required fee for the license. All fees shall be paid into the General Fund of the municipality. Upon rejection of any application for a license, the City Administrator shall refund the amount paid.

(B) All licenses shall expire on December 31 of each year. Each license shall be issued for a period of one year; except that, if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

(C) The annual fee for an on-sale license shall be the fee listed in the fee schedule located in § 33.01 of this code. The annual fee for an off-sale license shall be the fee listed in the fee schedule located in § 33.01 of this code. The annual fee for a special club license shall be the fee listed in the fee schedule located in § 33.01 of this code. The annual fee for an on-sale Sunday liquor license for bowling centers, hotels, restaurants and clubs shall be the fee listed in the fee schedule located in § 33.01 of this code.

(D) No refund of any fee shall be permitted, except as authorized under M.S. § 340A.408, as it may be amended from time to time.
(Ord. 6, passed 7-12-1982; Ord. 6B/00, passed 12-11-2000)

§ 110.29 GRANTING LICENSE.

(A) (1) Preliminary investigation on initial application for an on sale license and on application for transfer of an existing on sale license, the applicant shall pay with his or her application an investigation fee of $200 and the city shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the state's Bureau of Criminal Apprehension and with such additional information as the Council may require.

(2) If the Council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine.

(3) In any case, if the Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Investigation for the investigation. No license shall be issued, transferred or renewed if the results show, to the satisfaction of the Council, that issuance would not be in the public interest.

(4) If an investigation outside the state is required, the applicant shall be charged the cost not to exceed $10,000 and shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.

(B) (1) The City Council 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 the investigation and hearing, the City Council shall grant or refuse the application in its direction.

(2) No on-sale license shall become effective until it, together with the bond furnished by the applicant, has been approved by the Liquor Control Commissioner.

(C) (1) Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application.

(2) No license may be transferred to another person or to another place without the approval of the City Council.
(Ord. 6, passed 7-12-1982)

§ 110.30 PERSONS, PLACES INELIGIBLE FOR LICENSE.

(A) No license shall be granted or held by any person made ineligible for a license under state law.

(B) (1) No license shall be issued for any place or for any business ineligible for a license under state law.

(2) No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the city are delinquent and unpaid.
(Ord. 6, passed 7-12-1982)

§ 110.31 LICENSE CONDITIONS.

Every license shall be granted subject to the conditions in the following divisions and all other provisions of this subchapter and of any other applicable ordinance of the city or state law.

(A) Every license shall be responsible for the conduct of his or her place of business and the conditions of sobriety and order in it.

(B) Any peace officer, health officer or any properly designated officer or employee of the city shall have the unqualified right to enter, inspect and search the premises of the licensee during business hours without a warrant.
(Ord. 6, passed 7-12-1982)

§ 110.32 PURCHASE AND CONSUMPTION RESTRICTIONS.

(A) No minor shall misrepresent his or her age for the purpose of obtaining intoxicating liquor.

(B) No person shall induce a minor to purchase or procure liquor.

(C) No person shall mix or prepare liquor for consumption in any public place or place of business not licensed to sell liquor on-sale and no person shall consume liquor in any such place.

(D) No liquor shall be consumed or served at bars or counters, except counters where food is regularly served and consumed and which counters are equipped with chairs or stools.

(E) No liquor shall be sold or consumed on a public highway in an automobile.

(F) Every person selling liquor to a person under the age of 21 years or a person under guardianship, after notice of the guardianship, by a parent, husband, wife, child, guardian or employer of the ward, shall be guilty, upon conviction, of the crime provided for under state statutes and, if none is specifically provided, a misdemeanor.
(Ord. 6, passed 7-12-1982; Ord. 6B/00, passed 12-11-2000) Penalty, see § 110.99

§ 110.33 LICENSE REVOCATION.

The Council may suspend or revoke any liquor license for violation of any provision or condition of this subchapter, of any state law regulating the sale of intoxicating liquor and shall revoke such license if the license willfully violates any provision of M.S. §§ 340A.701 et seq., as they may be amended from time to time. Except in the case of a suspension pending a hearing on revocation, revocation or suspension by the Council shall be preceded by written notice to the grantee and a public hearing. The notice shall give at least eight days' notice of the time and place of hearing and shall state the nature of the charges against the licensee. The Council may, without any advance notice, suspend any license pending a hearing on revocation for a period of not exceeding 30 days.
(Ord. 6, passed 7-12-1982)

§ 110.34 SUNDAY SALES.

(A) Special on-sale licenses for the sale of intoxicating liquor on Sunday shall be issued only to bowling centers, hotels, restaurants and clubs, as defined in M.S. § 340A.101, as it may be amended from time to time. All sales at such establishments shall be in accordance with M.S. § 340A.504, subd. 3, as it may be amended from time to time.

(B) The Sunday liquor license holder may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 8:00 a.m. on Sunday and 1:00 a.m. on Monday. Establishments serving liquor on Sundays must obtain a special license under division (A) above.
(Ord. 6B/00, passed 12-11-2000; Ord. 6C, passed 6-8-2015)

§ 110.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating any provision of §§ 110.01 through 110.11 of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $500 or imprisonment in the county jail for not more than 90 days, plus the costs of prosecution in either case.

(C) Any person violating any provision of §§ 110.25 through 110.34 of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than $500 or imprisonment in the county jail for not more than 90 days, plus the costs of prosecution in either case. (Ord. 5, passed 7-12-1982; Ord. 6, passed 7-12-1982)

CHAPTER 111: PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

Section

111.01 Definitions; exceptions
111.02 Licensing; exemptions
111.03 License ineligibility
111.04 License suspension and revocation
111.05 License transferability
111.06 Registration
111.07 Prohibited activities
111.08 Exclusion by placard

111.99 Penalty

§ 111.01 DEFINITIONS; EXCEPTIONS.

(A) *Definitions.* Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street or any other type of place-to-place movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personnel property that the person is carrying or otherwise transporting. For purpose of this chapter, the term ***PEDDLER*** shall have the same common meaning as the term ***HAWKER***.

PERSON. Any natural individual, group, organization, corporation, partnership or similar association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.

REGULAR BUSINESS DAY. Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays, defined by state law, shall not be considered ***REGULAR BUSINESS DAYS***.

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street or any other type of place-to-place movement, for the purpose of obtaining or attempting

to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. For purposes of this chapter, the term ***SOLICITOR*** shall have the same meaning as the term ***CANVASSER***.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

(B) *Exceptions to definitions.*

(1) For the purpose of the requirements of this chapter, the terms ***PEDDLER***, ***SOLICITOR*** and ***TRANSIENT MERCHANT*** shall not apply to:

(a) Non-commercial door-to-door advocates. Nothing within this chapter shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under § 111.06 of this chapter. The term ***DOOR-TO-DOOR ADVOCACY*** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas;

(b) 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;

(c) 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;

(d) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route;

(e) 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;

(f) Any person conducting the type of sale commonly known as garage sales, rummage sales or estate sales;

(g) Any person participating in an organized multi-person bazaar or flea market;

(h) Any person conducting an auction as a properly licensed auctioneer; and

(i) Any officer of the court conducting a court-ordered sale.

(2) Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.
(Ord. 81/16, passed 3-14-2016)

§ 111.02 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. Ch. 329, as it may be amended from time to time, if the county issues a license for the activity.

(B) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a license from the city. Solicitors need not be licensed, but are still required to register with the city pursuant to § 111.06 of this chapter.

(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-Administrator. 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 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 daily license;

(11) The dates during which the applicant intends to conduct business. If the applicant is applying for a daily license, the number of days he or she will be conducting business within the city, with a maximum of 14 consecutive days;

(12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her 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; and

(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 chapter 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 Administrator, within two regular business days, must determine if the application is complete. An application will be considered complete if all required information is provided. If the City Administrator determines that the application is incomplete, the City Administrator must inform the applicant of the

required, necessary information that is missing. If the application is complete, the City Administrator must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application, the City Administrator must issue the license unless grounds exist for denying the license application under § 111.03 of this chapter, in which case the City Administrator must deny the request for a city peddler or transient merchant license. If the City Administrator 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 public hearing before the City Council. The City Council shall hear the appeal with 20 days of the date of the request for a hearing. The decision of the City Council following the public hearing can be appealed by petitioning the state's Court of Appeals for a writ of certiorari.

(F) *Duration.* An annual license granted under this chapter shall be valid for one calendar year from the date of issuance. All other licenses granted to peddlers and transient merchants under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions.*

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated or raised on any farm.

(2) No license shall be required 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.

(3) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements.
(Ord. 81/16, passed 3-14-2016)

§ 111.03 LICENSE INELIGIBILITY.

The following shall be grounds for denying a peddler or transient merchant license:

(A) The failure of an applicant to obtain and demonstrate proof of having obtained any required county license;

(B) The failure of an applicant to truthfully provide any information requested by the city as part of the application process;

(C) The failure of an applicant to sign the license application;

(D) The failure of an applicant to pay the required fee at the time of application;

(E) 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. The 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;

(F) The revocation with the past five years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor or transient merchant; and/or

(G) 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.
(Ord. 81/16, passed 3-14-2016)

§ 111.04 LICENSE SUSPENSION AND REVOCATION.

(A) *Generally*. Any license issued under this chapter may be suspended or revoked at the discretion of the City Council for violation of any of the following:

(1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by 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 § 111.03 of this chapter;

(4) Engaging in any prohibited activity as provided under § 111.07 of this chapter; and/or

(5) Violation of any other provision of this chapter.

(B) *Multiple persons under one license*. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

(C) *Notice*. Prior to revoking or suspending any license issued under this chapter, the city shall provide a license holder with written notice of the alleged violations and inform the licensee of his or

her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application or, if no residential address is listed, to the business address provided on the license application.

(D) *Public hearing*.

(1) Upon receiving the notice provided in division (C) above, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Administrator 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 public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request for the public hearing.

(2) Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) *Emergency*. If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) above.

(F) *Appeal*. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.
(Ord. 81/16, passed 3-14-2016)

§ 111.05 LICENSE TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.
(Ord. 81/16, passed 3-14-2016)

§ 111.06 REGISTRATION.

(A) (1) All solicitors and any person exempt from the licensing requirements of this chapter under § 111.02 of this chapter 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 Administrator shall issue to the registrant a certificate of registration as proof of the registration.

(2) Certificates of registration shall be non-transferrable.

(B) Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.
(Ord. 81/16, passed 3-14-2016) Penalty, see § 111.99

§ 111.07 PROHIBITED ACTIVITIES.

No peddler, solicitor, transient merchant, non-commercial door-to-door advocate or other person engaged in other similar activities shall conduct business in any of the following manner:

(A) Calling attention to his or her 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;

(B) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway or other public right-of-way;

(C) Conducting business in a way as to create a threat to the health, safety and welfare of any specific individual or the general public;

(D) Conducting business before 8:00 a.m. or after 8:00 p.m.;

(E) Failing to provide proof of license, or registration, and identification when requested;

(F) Using the license or registration of another person;

(G) Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person; and/or

(H) Remaining on the property of another when requested to leave, or to otherwise conduct business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.
(Ord. 81/16, passed 3-14-2016) Penalty, see § 111.99

§ 111.08 EXCLUSION BY PLACARD.

(A) Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial 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, non-commercial door-to-door advocate or similar activity when the property is marked with a sign or placard:

(1) At least four inches long;

(2) At least four inches wide;

(3) With print of at least 48-point in size; and

(4) Stating “No Peddlers, Solicitors or Transient Merchants”, “Peddlers, Solicitors and Transient Merchants Prohibited” or other comparable statement.

(B) No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.
(Ord. 81/16, passed 3-14-2016) Penalty, see § 111.99

§ 111.99 PENALTY.

Any individual found in violation of any provision of this chapter shall be a guilty of a misdemeanor.
(Ord. 81/16, passed 3-14-2016)

CHAPTER 112: SHORT TERM VACATION PROPERTIES

Section

112.01 Purpose
112.02 Land use performance standards/general requirements and general regulations
112.03 Licenses
112.04 Inspection/enforcement
112.05 Suspension and/or revocation of license
112.06 Revocation of license for violations

112.99 Penalty

§ 112.01 PURPOSE.

The purpose of this chapter is to allow and provide for the licensing, inspection, and rental of short term vacation properties which consist of non-traditional lodging for overnight stays on a daily or weekly basis of 30 days or less of a private single-family dwelling, cabin, or condominium which provides basic living accommodations including sleeping space, toilet, and cooking space. This does not include bed and breakfasts, resorts, campgrounds, or hotels/motels. Attached garages, and accessory structures including, but not limited to, boat houses, detached garages, sheds, and/or barns are not acceptable dwelling units. (Ord. 95/19, passed 12-9-2019)

§ 112.02 LAND USE PERFORMANCE STANDARDS/GENERAL REQUIREMENTS AND GENERAL REGULATIONS.

(A) *Maximum capacity*. No more than three occupants, excluding children under age three, per bedroom shall be allowed to stay on the property onsite overnight (overnight being defined from sunset to sunrise). During the daytime hours, as defined from sunrise to sunset, that maximum capacity shall be no more than 1.5 times the overnight capacity.

(B) A maximum of one rental unit per conforming dwelling lot of record. The one rental unit allowed must be the primary structure associated with the lot in question and cannot be an outbuilding, camper, motor vehicle, recreational vehicle, guest house, guest cottage, or any other structure.

(C) Onsite parking only. Parking must be in designated parking spaces only. This includes all motorized vehicles, fish houses, campers, and trailers. There shall be one designated and dedicated parking space per bedroom. The number and location of parking spaces must be included and clearly defined and delineated on the short term rental license application. All parking spaces shall be a minimum of 200 square feet and be on an impervious surface.

(D) Rentals of motorized watercraft and recreational vehicles are allowed if they display a valid permit issued by the Minnesota Department of Natural Resources.

(E) *Quiet hours*. Quiet hours shall be from 10 p.m. to 7 a.m. During this time, excessive or loud noise is prohibited. Excessive or loud noise shall be defined as unreasonably loud, boisterous, obscene, offensive, or abusive language or noise as heard from a neighboring property to the licensed property. It shall include, but not necessarily be limited to the following types of conduct: shouting, yelling, playing loud music, unreasonably loud conversation, or loud partying, all as heard from the neighboring property.

(F) Property lines shall be clearly marked with the applicant submitting a map with clearly delineated property lines on the application.

(G) Fireworks shall be prohibited.

(H) *Garbage and garbage removal.* All garbage, refuse, or recycling shall be stored completely enclosed in designated garbage containers. The property shall be serviced for garbage removal by a professional removal company per the city's code. Per § 153.19, garbage cans are also to be removed from the boulevards by the day following garbage pickup.

(I) *Campfires*. All campfires shall be confined to a three foot by three foot maximum size. There shall be no unattended campfires. Campfires shall be in designated areas only.

(J) *Sewage*.

(1) The property must have a fully operational and fully compliant subsurface sewage treatment system (SSTS) or be connected to municipal services.

(2) Holding tanks are prohibited.

(3) The property must follow and comply with Le Sueur County's compliance inspection time parameters.

(4) The system must be properly sized for proper use.

(5) The SSTS must be kept in a constant state of compliance and under a valid operating permit.

(K) The discharge of firearms, including CO2, pellet, or BB guns, is prohibited.

(L) Pets shall be attended to and leashed at all times.

(M) All properties must be registered and licensed by the City of Elysian.

(N) The applicant for a license shall acquire and keep in full force and effect for the duration of the permit, liability insurance in the minimum amount of $1,000,000 that specifically covers use of the property as a short term rental.

(O) All properties shall have a manager of the property who is capable of effectively handling complaints and issues arising at the property. The rental owner, operator, or manager shall designate a local contact on the license application that meets the following requirements:

(1) Must be able to respond within 10 minutes via phone and within 30 minutes in person.

(2) Has administrative authority over the property and guests.

(3) Has knowledge of the vacation rental unit, the property, rental and city rules, standards, and procedures, and effectively handles the same.

(P) An operations guide shall be available within the premises and provided to users of the property that includes the following information:

(1) Manager contact information;

(2) Maximum capacity;

(3) Parking restrictions;

(4) Quiet hours;

(5) Campfire information;

(6) Watercraft information;

(7) Rules of the rental;

(8) Emergency contacts (police, fire, hospital, city offices); and

(9) Boundary lines.
(Ord. 95/19, passed 12-9-2019)

§ 112.03 LICENSES.

(A) It shall be unlawful for any person, firm, corporation, partnership, or otherwise to operate a lodging establishment herein called for within the city who does not possess a valid short term rental license.

(B) *Application.* Any person desiring to operate a property or structure thereon which consists of non-traditional lodging for overnight stays on a daily or weekly basis of 30 days or less of a private single-family dwelling, cabin, or condominium which provides basic living accommodations including sleeping space, toilet, and cooking space shall first be licensed by the City of Elysian. Any such person or entity shall apply for the license through the City Administrator or the City Administrator's designee.

(C) *Inspections: initial inspection and thereafter every three years.* The property shall initially be inspected by a licensed building inspector and pass such inspection. Inspections, and passage of the same, shall take place upon initial grant of the license with an additional inspection each three years thereafter.

(D) *License renewal.* Each license shall be good for one year. Licenses shall be issued during the year and shall expire on December 31 of each and every year. Automatic renewals do not occur. License renewal applications shall be submitted to the city on forms provided by the city, with the renewal fee, no later than one month proceeding the date of expiration.

(E) *Renewal fee schedule.* Initial and renewal license applications shall be accompanied by the applicable fee. All license fees are non-refundable. License fees shall be established in accordance with the city's fees schedule as it may be amended from time to time.

(F) Licenses are non-transferable including change of ownership situations.
(Ord. 95/19, passed 12-9-2019)

§ 112.04 INSPECTION/ENFORCEMENT.

(A) The city shall contract with a professional inspector to verify compliance with the terms and conditions of this chapter.

(B) The establishment to be regulated hereunder shall fully comply with the Minnesota State Building Code, State Fire Code, State Mechanical Code, the City of Elysian Code of Ordinances, the City of Elysian's Zoning Code, and the terms and provisions of this chapter.

(C) The person operating an establishment shall, upon request of the city or city's inspector, permit access to all parts of the establishment at any reasonable time for the purpose of inspecting and shall exhibit and provide such records necessary to ascertain compliance with the provisions of this chapter.

(D) Any noted deficiencies noted by the inspector shall be remedied timely as determined by the inspector.
(Ord. 95/19, passed 12-9-2019)

§ 112.05 SUSPENSION AND/OR REVOCATION OF LICENSE.

(A) Licenses may be suspended temporarily by the City Administrator at any time for failure of the license holder to comply with the terms and requirements of this chapter. Notice of temporary suspension shall be mailed by first class U.S. Mail to the address indicated on the license application. The applicant shall be entitled to an opportunity for a hearing before the City Council to address the temporary suspension. Said request for hearing shall be filed with the City Administrator within 10 working days of the City Administrator's notice of revocation. In the event that the time parameter set forth herein is not complied with then the license holder shall be deemed to have waived their right to a hearing on the suspension issue.

(B) *Emergency closure.* Whenever the city finds that an emergency exists which requires immediate action to protect public health, it may, without notice or hearing, issue an order reciting the existence of an emergency and require that such action be taken as deemed necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such an order shall be effective immediately. Any person to whom an emergency order is directed shall comply therewith immediately.

(1) *Emergency closure procedure.* Emergency closure of an establishment will be ordered if a prohibited activity is occurring or it is determined that the establishment is an imminent health hazard.

(2) Following an emergency closure, the establishment shall not reopen or allow others to be permitted to be on the site, without written permission from the city.

(3) The city must give written permission to reopen upon submission of satisfactory proof that the property condition(s) causing the need for emergency closure have been corrected or removed by the operator(s).
(Ord. 95/19, passed 12-9-2019)

§ 112.06 REVOCATION OF LICENSE FOR VIOLATIONS.

Upon an license holder's third conviction in two years for any violation of the terms and conditions of this chapter or the terms and conditions of any provision of the city's nuisance ordinances, the license shall be reviewed by the City Council for possible revocation and upon a fourth violation in two years it shall be automatically revoked by the City Council. Upon either situation, the applicant shall be entitled to an opportunity for a hearing before the City Council to address the revocation issue. Said request for hearing shall be filed with the City Administrator within 10 working days of the City Administrator's notice of revocation. In the event that the time parameter set forth herein is not complied with then the license holder shall be deemed to have waived their right to a hearing on the suspension issue.
(Ord. 95/19, passed 12-9-2019)

§ 112.99 PENALTY.

Any violation of the chapter by either the owner, tenant, occupant, manager, or such other person having control over or being present at the establishment is a misdemeanor offense punishable by a fine of up to $1,000 or 90 days imprisonment. The first offense shall be a scheduled fine of $500, the second offense shall be a scheduled fine of $750 and the third offense shall be a scheduled fine of $1,000.
(Ord. 95/19, passed 12-9-2019)

TITLE XIII: GENERAL OFFENSES

Chapter

130. CURFEW FOR MINORS

131. TETRAHYDROCANNABINOL (THC) PRODUCTS IN PUBLIC PLACES

CHAPTER 130: CURFEW FOR MINORS

Section

130.01 Curfew for minors

§ 130.01 CURFEW FOR MINORS.

(A) *Purpose.* The curfew for minors established by this section is maintained for four primary reasons:

(1) To protect the public from illegal acts of minors committed during the curfew hours;

(2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;

(3) To protect minors from criminal activity that occurs during the curfew hours; and

(4) To help parents control their minor children.

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

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or fire department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or ***PRIMARY CUSTODY.*** The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

(C) *Hours.*

(1) *Minors under the age of 16 years.* No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 10:30 p.m. and 5:00 a.m. the following day, official city time.

(2) *Minors ages 16 years to 18 years.* No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 12:00 midnight and 5:00 a.m. the following day, official city time.

(D) *Effect on control by adult responsible for minor.* Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions.* The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work.

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor.

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew.

(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion.

(7) To minors on the sidewalk abutting his or her residence or abutting the residence of a next door neighbor if the neighbor does not complain to the city's designated law enforcement provider about the minor's presence.

(8) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor.* No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons.* No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section applies.

(H) *Defense.* It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(I) A law enforcement officer must look into whether a minor has an affirmative defense before making an arrest.
Penalty, see § 10.99

CHAPTER 131: TETRAHYDROCANNABINOL (THC) PRODUCTS IN PUBLIC PLACES

Section

131.01 Prohibition

131.99 Penalty

§ 131.01 PROHIBITION.

There shall be no public consumption of cannabinoids, cannabinoid products, products having a cannabinoid profile, products having a cannabis concentrate, intoxicating cannabinoids, lower-potency hemp derived edibles, synthetic cannabinoids, or tetrahydrocannabinol (THC) products, as those products are defined in M.S. Ch. 68, § 342.01, as amended from time to time, in the city at the following locations:

(A) Any city owned or city leased property including the grounds, parking lot, or structures thereon;

(B) City Hall;

(C) City's Public Works building;

(D) Fire hall;

(E) Police station;

(F) Any park;

(G) Any beach;

(H) Any playground;

(I) Any ballfield;

(J) Any concession stand;

(K) School grounds;

(L) Library grounds;

(M) Any sidewalk;

(N) Any parking lot;

(O) Any cemetery;

(P) Any festival or farmers market;

(Q) Any street or sidewalk;

(R) Any place where children the age of 18 and under gather; or

(S) Any other place where the public is invited to gather.
(Ord. 107/23, passed 9-11-2023) Penalty, see § 131.99

§ 131.99 PENALTY.

A violation of this chapter shall be a petty misdemeanor, punishable by a fine of $290.
(Ord. 107/23, passed 9-11-2023)

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS; CONSTRUCTION

151. RENTAL HOUSING

152. RIGHT-OF-WAY MANAGEMENT

153. STREETS, SIDEWALKS AND TREES

154. FLOODPLAIN MANAGEMENT

155. SUBDIVISIONS

156. ZONING

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

150.01 Building Code adopted
150.02 Fire limits

150.99 Penalty

§ 150.01 BUILDING CODE ADOPTED.

(A) *Organization and enforcement.*

(1) The organization of the Building Department and enforcement of the code shall be as established by Ch. 2 of the Uniform Building Code, 1988 edition; the code shall be enforced within the incorporated limits of the city.

(2) The City Administrator's office shall be the Building Code Department of the city. The administrative authority shall be a state certified building official. Building fees will be based on the state's 1988 Uniform Building Code, Table 3-A fee schedule.

(3) The appointing authority shall designate the Building Official for the jurisdiction of the city.

(B) *Permits, inspections and fees.*

(1) *General.* Permits, inspections and collection of fees shall be as provided in Ch. 3 of the Uniform Building Code, 1988 edition, except as amended by Minn. Rules part 1346.0050 et seq. The method of establishing permit fees and the amounts of the permit fees for activities encompassed by the code are a local opinion. The fee schedule shall include fees for the installation of prefabricated structures and manufactured homes.

(2) *Surcharge.* In addition to the permit fee required by division (B)(1) above, the applicant shall pay a surcharge to be remitted to the state's Department of Administration as prescribed by M.S. § 326B.148, as it may be amended from time to time.
(Ord. 35, passed 7-28-1994) Penalty, see § 150.99

§ 150.02 FIRE LIMITS.

(A) *Fire limits*. The fire limits of the city are hereby established as follows: Block 13, and that portion of Block 20 in original Logan, Elysian, lying north of State Highway #60, and Block 1 in Rutt's Addition to the city, and Blocks 18 and 19 in the original Elysium, now Elysian, Minnesota.

(B) *Walls and roofs*. Every building hereafter erected or altered within the fire limits shall be enclosed with walls constructed wholly of incombustible materials, and shall have the roof and the top and sides of all roof structures, including cornice and dormer windows, covered with incombustible material. Walls with a backing of wood or other combustible material shall not be permitted within the fire limits, even though veneered with incombustible materials. This section shall not apply to temporary one-story buildings for the use of builders or on adjoining lots whereon buildings are being constructed, nor to outhouses not exceeding 36 square feet in area and eight feet high and located five feet or more from any lot line and 30 feet or more from any building over one story high.

(C) *Moving buildings*. No building which does not comply with the requirements of division (B) above may be moved from without to within the fire limits.

(D) *Existing buildings*. Any existing building within the fire limits which does not comply with the requirements of division (B) above if damaged by fire, decay or otherwise to one-half or more of its value, exclusive of foundation and any such building condemned by the Fire Marshal as unsafe, may not be repaired or rebuilt as a non-fire-resistant structure; and no existing wooden shingle roof within the fire limits, if damaged more than 25% of its present value, shall be renewed or repaired with other than approved incombustible roof covering.

(E) *Chimneys*. In every building hereafter erected, altered or repaired within this municipality, all chimneys shall be constructed of brick or other incombustible material and be lined on the inside with an approved fire tile laid in cement mortar, from one foot below the smoke pipe intake in each flue continuously to four inches above the extreme height of the chimney. No flue shall serve more than one fire. Brick and reinforced concrete chimneys must be at least four inches in thickness. No plaster may be used on the inside of any flue and the joints between fire tiles must be struck smooth. The joints of any two adjoining sets of flue linings shall be offset at least seven inches. Where there are more than two flues in a chimney, at least every third flue shall be separated from the others by a smoke-tight withe or division wall of brick or concrete at least three and three-quarters inches thick and bonded into the side wall. All chimneys shall be topped out at least three feet above the point of contact if a flat roof and at least two feet above the ridge of a pitched roof. No chimneys in any building hereafter erected shall be cut off below in whole or in part, and supported by masonry resting upon an adjacent footing property constructed upon the ground or foundation. All wooden beams or framework shall be separated at least two inches from the chimney, and no wood furring shall be used against or around any chimney, but the plastering shall be directly on the masonry or on metal lath.

(F) *Fire stopping*. All stud walls, partitions, furrings, stair carriages and spaces between joints in all buildings hereafter erected shall be so fire stopped as completely to cut off communication of fire through concealed space.

(G) *Building permits*. No person may erect or demolish any structure of any kind or add to the outside dimensions thereof, nor relocate any building already constructed or which may hereafter be constructed when the work is to cost $100 or more without first procuring from the City Administrator a permit to do so, before the work is commenced. The application for the permit shall state the exact site to be occupied, the material, dimensions and estimated cost of the proposed structure, the purpose for which the same is to be occupied and the probable time when the work will be completed. The application shall show affirmatively and in detail that all work will comply with every provision of the ordinances of the city and shall be certified to by the Fire Marshal as showing the compliance before the permit may be granted.

(H) *Fee for permit*. The fees for building permits shall be $5 if the cost of the work is not to exceed $1,000 and, if the cost of the work is to exceed $1,000, the fee shall be $1, plus $0.25 for each additional thousand dollars.
(Ord. 12, passed - -) Penalty, see § 150.99

§ 150.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) The penalty described in the Uniform Building Code, 1988 edition, § 205, as amended, shall be in keeping with M.S. §§ 609.033 to 609.34, as they may be amended from time to time, which provides for a maximum fine of $700.

(C) Any building altered or erected in violation of § 150.02 of this chapter may be removed or made to conform hereto. The erection or alteration hereafter of any building in violation of § 150.02 of this chapter is a misdemeanor. Any person convicted of a violation of § 150.02 of this chapter may be punished by a fine of not more than $300 or imprisonment in the county jail for not more than 90 days.
(Ord. 12, passed - -; Ord. 35, passed 7-28-1994)

CHAPTER 151: RENTAL HOUSING

Section

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GENERAL PROVISIONS

§ 151.01 TITLE; SHORT TITLE.

This chapter shall be known as "The Rental Housing Maintenance, Inspection and Licensing Program Ordinance of the City of Elysian, Minnesota", and is referred to herein as "this chapter".
(Ord. 75/14, passed 5-12-2014)

§ 151.02 SCOPE AND PURPOSE OF STANDARDS.

(A) For the purpose of establishing uniform rules and regulations for rental housing, the most current revision of the International Property Maintenance Code is hereby adopted, confirmed and incorporated in this chapter as completely as if set out in full.

(B) In the event there is a conflict between the provisions of the code adopted by reference within this section and the other provisions of this chapter, the city's code of ordinances shall prevail.

(C) If it is hereby found that there exists in the city structures used for human habitation which are not owner-occupied and are now, or may become in the future, substandard with respect to structure, equipment or maintenance, and, further that, the conditions, together with inadequate provisions for light and air, insufficient protection against fire hazards, lack of proper heating, unsanitary conditions and overcrowding, constitute a threat to public health, safety and welfare requires the establishment and enforcement of minimum housing maintenance standards.

(D) The purpose of this chapter is to protect, preserve and promote the public health, safety and the general welfare of the people of the city; to prevent housing conditions that adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying dwellings within the city and which dwellings are not owned by the occupants; to provide minimum standards for basic equipment and facilities for light, ventilation and thermal conditions, for

safety from fire, for the use and location and amount of space for human occupancy and for an adequate level of maintenance; to preserve the value of land and buildings throughout the city; and to provide for the administration and enforcement thereof.

(E) This chapter shall be enforced in a non-discriminatory manner and exclusively for the purpose of promoting public, as opposed to private, welfare. Except as may be specifically provided herein or incidental to the enforcement hereof, this chapter is not intended to interfere with personal privacy or with private legal rights and liabilities, including without limitation landlord/tenant and lessor/lessee relationships and, in enacting and enforcing this chapter, the city neither expressly, nor by implication, assumes any obligations or liabilities respecting the private rights or disputes, including those which involve or arise out of the non-conformity of any premises in the city to the provisions of this chapter.

(F) The provisions of this Housing Maintenance, Inspection and Licensing Program shall provide minimum requirements to safeguard health, property and public welfare by regulating and controlling the use, occupancy, location and maintenance of all buildings, structures and accessory structures within the city, designed or intended to be used for human habitation; the applicable requirements contained herein shall apply to all rental structures, accessory structures, rooming houses, lodging and/or boarding houses, apartments and manufactured homes used for human habitation; and same shall not apply to owner occupied structures. The provisions of this chapter shall apply irrespective of when such building may have been or may be considered altered or repaired.

(G) In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety, health ordinance or code of the city, the provision that establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

(H) If any section, division, sentence, clause or phrase of this chapter should be declared invalid for any reason whatsoever, the decision shall not affect the remaining portions of this chapter, which shall remain in full force and effect; and, to this end, the provisions of this chapter are hereby declared to be severable.

(I) Existing buildings that are altered or enlarged shall be made to conform to Uniform Building Code (UBC) insofar as new work, alterations or enlargements are concerned. If the alterations are such that they cause or threaten to cause unsafe conditions in the unaltered portions of a building or threaten the safety or safe operation of other nearby structures, then the alterations are prohibited unless the affected structures are also brought into compliance with this chapter and/or other appropriate codes.

(J) Any person doing any repair and/or replacement work on any rental residential building, structure and accessory structure covered in the city's Building Code shall complete the repair and/or replacement work in compliance with the standards contained in the definitions of repair and/or replacement in the definitions section of this chapter.

(K) Existing buildings that are moved or relocated shall be considered as new buildings and shall comply with all requirements of this chapter.
(Ord. 75/14, passed 5-12-2014)

§ 151.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Terms, words, phrases and their derivatives used but not specifically defined in this code shall have the meaning defined in the state's Building Code.

ACCESSORY BUILDING OR STRUCTURE. A detached building or structure in a secondary or subordinate capacity from the main building or structure on the same premises.

APARTMENT HOUSE. Any building, or portion thereof, that is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of two or more families living independently of each other performing their own cooking services in the apartment house. The definition included the rented portion of an owner/occupied duplex.

BASEMENT. Any floor level below the first story in a building; except that, a floor level in a building having only one floor level shall be classified as a ***BASEMENT*** unless the floor level qualifies as a first story.

BOARD OF APPEALS. When used herein, the Board of Appeals of the city.

BOARDING HOUSE. A dwelling unit where lodging with or without meals is provided for compensation and occupied by three or more persons, but not to exceed eight persons.

BUILDING. Any structure having a roof supported by columns or walls. When divided by party walls without openings, each portion of the building so separated shall be deemed a separate ***BUILDING***.

BUILDING OFFICIAL. The person or persons designated as Building Inspector by the City Administrator.

BULK CONTAINER. Any metal garbage, rubbish and/or refuse container having a capacity of two cubic yards or greater and which is equipped with fittings for hydraulic and/or mechanical emptying, unloading and/or removal.

CLEAN. The absence of rubbish, garbage, vermin or other unsightly, offensive or extraneous matter.

DORMITORY. A building or group of rooms in a building used for institutional living and sleeping purposes by four or more persons.

DWELLING. Any space wholly or partially used or intended to be used for living, sleeping, cooking and eating; provided that, temporary housing, as hereinafter defined, shall not be classified as a dwelling. Industrialized housing and modular construction which conform to nationally-accepted

industry standards and used or intended for use for living, sleeping, cooking and eating purposes shall be classified as ***DWELLINGS***. Single-family, two-family and multiple-family dwellings are as follows.

(1) ***DWELLING, SINGLE-FAMILY.*** A residential building containing one dwelling unit including detached, semi-detached and attached dwelling.

(2) ***DWELLING, TWO-FAMILY.*** A residential building containing two dwelling units including detached, semi-detached and attached dwelling.

(3) ***DWELLING, MULTIPLE-FAMILY.*** A building or portion thereof containing three or more dwelling units, but not including a motel, hotel or rooming house.

DWELLING UNIT. One or more rooms arranged for residential use containing cooking, living, sanitary and sleeping facilities, permanently installed, which are arranged, designed, used or intended for use as living quarters for one family and for not more than an aggregate of two roomers or boarders.

EFFICIENCY LIVING UNITS. Efficiency living unit is any room having cooking facilities used for combined living, dining and sleeping purposes and meeting the requirements of § 404.6, Exception, of the Uniform Housing Code.

EGRESS. An arrangement of exit facilities to assure a safe means of exit from buildings.

FAMILY. One or more persons related by blood, marriage or adoption, including foster children, or a group of not more than four adult individuals (excluding personal care attendants, in accordance with M.S. §§ 256B.04, subd. 6, and 256B.0625, subd. 19a, as they may be amended from time to time, and Minn. Rules part 9505.0335), maintaining a common household in a dwelling unit.

GUEST. An individual who shares a dwelling unit in a non-permanent status for not more than 30 days.

HABITABLE ROOM. 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, pantries, kitchenettes, utility rooms of less than fifty (50) square feet of floor space, foyers or connecting corridors, stairways, closets, storage spaces and workshops, hobby and recreation areas. All ***HABITABLE ROOMS*** shall comply with all the provisions contained herein.

HOT WATER. Hot water shall mean water at a temperature of not less than 110°F.

HOUSEHOLD. A household shall mean a “family”, as defined herein.

KITCHEN. Any room used for the storage, preparation and serving of food and that contains at least the following equipment: sink; stove or microwave oven; refrigerator; cabinets and/or shelves; and a counter or table.

KITCHENETTE. A small kitchen or an alcove containing cooking facilities.

MULTIPLE DWELLING. A building of any size or type occupied by more than four families, including boarding houses and rooming houses. ***MULTIPLE DWELLING*** does not include hotels, motels, hospitals and homes for aged.

NUISANCE. The following shall be defined as ***NUISANCES***:

(1) Any public nuisance known in common law or in equity jurisprudence;

(2) Any attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building, or upon an unoccupied lot. This includes: any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors;

(3) Whatever is dangerous to human life or is detrimental to health;

(4) Overcrowding a room with occupants;

(5) Insufficient ventilation or illumination;

(6) Inadequate or unsanitary sewerage or plumbing facilities;

(7) Uncleanliness; and/or

(8) Whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

OCCUPANT. Any person, firm, partnership, corporation, association, organization, corporation or other who shall be in actual possession or have charge, care or control of any dwelling within the city.

ORDINARY SUMMER CONDITIONS. A temperature of not higher than 92°F.

ORDINARY WINTER CONDITIONS. A temperature of not lower than -18°F.

OWNER. Any person, firm, partnership, corporation or other association who alone, jointly or severally with others is the fee owner of record of any dwelling or dwelling unit within the city or any trustee or guardian or other representative of the fee owner, contract for deed vendee or, holder of a life estate.

PERSON. A corporation, firm, partnership, association, organization and any other group acting as a unit as well as individual. It shall also include an executor, administrator, trustee, receiver or other

representative appointed according to law. Whenever the word ***PERSON*** is used in any section of this chapter prescribing a penalty or fine as to partnerships or association, the word shall include the officers, agents or members thereof who are responsible for any violation of the section.

PLUMBING. Any and all equipment, fixtures and connections made to water, sewer or gas lines including, but not limited to, the following: gas pipes; gas burning equipment; water pipes; garbage disposal units; waste pipes; water closets; sinks; installed dishwashers; lavatories; bathtubs; shower baths; installed clothes washing machines; catch basins; vents; valves; and connectors.

PREMISES. A parcel of land either occupied or unoccupied by any structure or structures.

PRIVACY. The existence of conditions that will permit an individual or individuals to carry out an activity commenced without interruption or interference, either by sight, sound or presence by unwanted individuals.

PROPERLY CONNECTED. Connected in accordance with accepted industry standards and/or all applicable code and ordinances of the city as from time to time enforced; provided, however, that, the application of this definition shall not require the alteration or replacement of any connection in good working order and not constituting a hazard to life or health.

REPAIR. To restore to a sound, acceptable state of operation, serviceability or appearance. ***REPAIRS*** shall be expected to last approximately as long as would the replacement by new items.

REPLACE or ***REPLACEMENT.***

(1) To remove an existing item or portion of a system and to construct or install a new item of a quality similar to that of the existing item when it was new.

(2) ***REPLACEMENT*** ordinarily takes place when repair of the item is impractical.

ROOMING HOUSE. Any dwelling other than a hotel or motel or that part of any dwelling containing one or more rooming units, and/or one or more dormitory rooms in which persons either individually or as families are housed without the provision of meals.

SPACE HEATER. A self-contained, heating appliance of either the convection or radiant type and intended primarily to heat only a limited space or area such as one room or two adjoining rooms.

TEMPORARY HOUSING. Any tent, trailer, manufactured home or any other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utility system on the same premises for more than 30 consecutive days.

WATER CLOSET. A toilet bowl that is flushed with water that has been supplied under pressure and equipped with a water sealed trap above the floor level.
(Ord. 75/14, passed 5-12-2014)

ADMINISTRATION AND ENFORCEMENT

§ 151.15 ENFORCEMENT RESPONSIBILITIES.

(A) *Authority*. The Building Inspector is hereby authorized and directed to enforce all the provisions of this chapter.

(B) *Right of entry*. Upon presentation of proper credentials, the Building Inspector or the Building Inspector's duly authorized representatives may enter at reasonable times any building, structure or premises in the city to perform any duty imposed upon him or her by this chapter.

(C) *Privacy*. The Building Inspector shall keep confidential all evidence exclusive of the inspection record, which the Building Inspector may discover or obtain in the course of any inspection made pursuant to this section and the evidence shall be considered privileged.

(D) *Responsibilities defined.*

(1) Every owner remains liable for violations of duties imposed by this chapter even though an obligation is also imposed on the occupants of the owner's building, and even though the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this chapter.

(2) Every owner, or the owner's agent, in addition to being responsible for maintaining the building in a sound structural condition, shall be responsible for keeping that part of the building or premises which the owner occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.

(3) Every owner shall furnish and maintain approved sanitary facilities and shall furnish and maintain approved equipment or facilities for the prevention of insect and rodent infestation and, where infestation has taken place, shall be responsible for the extermination of any insects, rodents or other pests.

(4) Every owner, operator or manager of any building who rents, leases or lets for human habitation any habitable room or unit contained within the building on terms, either expressed or implied, to supply or furnish heat to the occupants thereof, shall have the capability of maintaining a minimum temperature of 70°F between September 1 and June 1 inclusive, from a location within the room or unit at a point three feet above the floor level and not closer than 36 inches from any wall. The heating equipment shall be properly installed and maintained throughout the year.

(5) All occupants shall keep their premises in a safe and sanitary condition.
(Ord. 75/14, passed 5-12-2014) Penalty, see § 151.99

§ 151.16 HAZARDOUS BUILDINGS.

All buildings or portions thereof which are determined to be substandard, as defined in this chapter, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Ch. 1, § 108-110, of the most recent revision of the International Property Maintenance Code.
(Ord. 75/14, passed 5-12-2014)

§ 151.17 POSTING TO PREVENT OCCUPANCY.

The Building Inspector may post any rental building or structure under the Building Inspector's jurisdiction to prevent further occupancy of a building that is found to be in direct violation of this chapter. Posting will occur if any owner, agent, licensee or other responsible person has been notified by inspection report of the items which must be corrected within a certain stated, reasonable period of time and that the responsible person or persons has failed to correct the cited items. In cases of emergency, a building or premises may be immediately posted and the occupants, if any, evacuated. No person shall remove or tamper with any placard used for posting. No person shall reside in, occupy or cause to be occupied any building, structure or dwelling that has been posted to prevent occupancy.
(Ord. 75/14, passed 5-12-2014) Penalty, see § 151.99

§ 151.18 APPEALS.

Whenever the Building Inspector shall take action which is disputed, or when it is claimed that the provisions of this chapter do not apply or that the true intent and meaning of this chapter have been misconstrued or wrongfully interpreted, the aggrieved party may appeal within 30 days from the date of decision of the Building Inspector to the Board of Appeals. Actions of the Board may also be appealed to the courts for final decision.
(Ord. 75/14, passed 5-12-2014)

§ 151.19 PROCEDURE FOR CONDUCT OF HEARING APPEALS.

Reference §§ 156.031 and 156.032 of this code of ordinances.
(Ord. 75/14, passed 5-12-2014)

§ 151.20 PERMITS AND INSPECTIONS.

The following repairs are exempt from building permit requirements, if they do not affect or involve any plumbing, electrical, mechanical, structural or subsurface member and if the repair returns the affected area to its intended original condition:

(A) Paint;

(B) Gutters/downspouts;

(C) Trim/moldings/shutters/decorations;

(D) Glass (but not window frames);

(E) Weather-stripping/caulking/tuck pointing;

(F) Walks/landscape masonry (if not on city easement);

(G) Non-structural hardware;

(H) Finish flooring/carpets;

(I) Door slabs (but not door frames); and

(J) Fences (when under six feet in height).
(Ord. 75/14, passed 5-12-2014)

LICENSING

§ 151.35 LICENSE REQUIRED.

No person, firm or corporation shall operate a rental dwelling in the city without having first obtained a license as hereinafter provided from the Building Official. Each licensee shall register annually with the City Administrator. If the license is denied, no occupancy of dwelling units then vacant or which become vacant is permitted until a license has been issued. Apartment units within an unlicensed apartment building for which a license application has been made and which units are in compliance with the provisions of this chapter may be occupied; provided that, the unlicensed units within the apartment building do not create a hazard to the health and safety of persons in occupied units.
(Ord. 75/14, passed 5-12-2014) Penalty, see § 151.99

§ 151.36 LICENSE PROCEDURES.

Within 60 days after the passage of the ordinance codified herein, the owner of any rental unit within the city shall apply to the City Administrator for a rental housing license in the manner hereafter prescribed.

(A) Application shall be made on forms provided by the city and accompanied by the initial fee in an amount set by resolution of the City Council. The owner of an apartment building or rental home constructed after the date of passage of this chapter shall obtain a license prior to actual occupancy of any rental unit therein.

(B) Applicants shall provide the following information on license applications:

(1) Name and address of the owner of the rental dwelling and the name and address of the operator or agent actively managing the rental dwelling;

(2) The name and address of the vendee if the rental dwelling is being sold on a contract for deed;

(3) The address of the rental dwelling;

(4) The number and kind of units within the rental dwelling, the floor area for each such unit and the total floor area of the building;

(5) The number of paved off-street parking spaces available;

(6) Name and address of person to whom owner/applicant wishes correspondence to be sent; and

(7) Such other information as the Planning and Zoning Department staff shall require.
(Ord. 75/14, passed 5-12-2014)

§ 151.37 APPLICATION AND INSPECTION.

Upon receipt of a properly executed application for a rental housing license, the City Administrator shall cause scheduling of an inspection to be made of the premises to ensure that the structure is in compliance with the requirements of this chapter.
(Ord. 75/14, passed 5-12-2014)

§ 151.38 COMPLIANCE ORDER.

(A) Whenever the Building Official determines that any dwelling, dwelling unit or rooming unit, or the premises surrounding any of these, fails to meet the provisions of this chapter, he or she may issue a compliance order setting forth the violations of this chapter and ordering the owner, occupant, operator or agent to correct the violations.

(B) This compliance order shall:

(1) Be in writing;

(2) Describe the location and nature of the violations of this chapter;

(3) Establish a time for the correction of the violations;

(4) Include information regarding the owner's right to appeal the order and the procedure to be followed in filing such an appeal pursuant to § 151.43 of this chapter;

(5) Be served upon the owner or owner's agent or the occupant, as the case requires. The notice shall be deemed to be properly served upon the owner or agent, or upon any such occupant, if a copy thereof is:

(a) Served upon him or her personally;

(b) Deposited in the U.S. Post Office addresses to the last known address of the owner with postage prepaid, certified, return receipt requested; or

(c) Upon failure to effect notice by personal service or mail, posted at a conspicuous place in or about the dwelling that is affected by the notice.
(Ord. 75/14, passed 5-12-2014)

§ 151.39 LICENSE ISSUANCE.

(A) If the rental dwelling is in compliance with the requirements of this chapter, a license shall be issued to the present owner, occupant or agent, which shall state that the structure has been inspected and is in compliance with the requirements of this chapter.

(B) The present owner or any agent designated by the present owner or occupant shall obtain a license.

(C) If the city finds that the circumstances of occupancy following the issuance of the license involve possible violations, substandard maintenance or abnormal wear and tear, the city may again inspect the premises during the licensing period.
(Ord. 75/14, passed 5-12-2014)

§ 151.40 LICENSE DISPLAY.

A license issued under this chapter shall be conspicuously displayed on the rental premises wherever feasible. The licensee shall promptly produce the license upon demand of a prospective tenant or the Building Official and his or her authorized representative.
(Ord. 75/14, passed 5-12-2014)

§ 151.41 LICENSE TRANSFER.

The license is transferable upon application to the City Administrator. The Building Official shall assure that the licensed premises is in compliance with this chapter. The license shall terminate if renewal or application for transfer is not made within 30 days after transfer of ownership of the dwelling unit.
(Ord. 75/14, passed 5-12-2014)

§ 151.42 LICENSE RENEWAL.

Registration of the license as required annually by this chapter may be made by filling out the required renewal form furnished by the City Administrator to the owner, operator or agent of a rental dwelling and by mailing the form together with the required registration fee to the City Administrator. The renewal or registration may be made only when no change in the ownership, operation, agency or type of occupancy as originally licensed has been made and where there has been inspection within the last three years.
(Ord. 75/14, passed 5-12-2014)

§ 151.43 LICENSE SUSPENSION OR REVOCATION.

A license issued or renewed under this section may be revoked or suspended upon a finding of non-compliance with the provisions of this chapter. Reinstatement of a suspended license shall be accompanied by an amount equal to 50% of the license fee. Issuance of a new license after suspension or revocation shall be made in the manner provided for obtaining an initial license.
(Ord. 75/14, passed 5-12-2014)

§ 151.44 LICENSE FEES.

An inspection is required for the initial license and once every three years unless there is a complaint or a transfer of ownership of the dwelling. Registration is required yearly. The inspection fee and the registration fee is provided on the city's fee schedule.
(Ord. 75/14, passed 5-12-2014)

§ 151.45 IMPLEMENTATION.

The licensing/inspection program shall be implemented in phases as follows.

(A) For all rented residential dwelling units, the requirements for licensing shall be in force when this chapter goes into effect. The owner shall be notified by the Building Inspector of an initial inspection to be scheduled within 90 days after this chapter goes into effect.

(B) Upon receipt of the application and appropriate fee, the City Administrator shall issue a conditional license until an inspection of the units completed. Upon compliance of all dwelling units in a building with this chapter, the annual license shall be issued.

(C) Upon written notification of any and all possible Housing Code and chapter violations, the Building Official shall deem such notifications as priority and shall perform the necessary inspections to determine if the alleged violations exist.
(Ord. 75/14, passed 5-12-2014)

DEFICIENCIES, STANDARDS AND CORRECTIONS

§ 151.60 BUILT-IN DEFICIENCIES EXEMPT.

The following are built-in deficiencies and shall be exempt from compliance with the chapter; provided that, the built-in deficiencies were in compliance with a Building Code at the time of construction and/or do not pose a hazard.

(A) Any existing habitable room with less than a seven and one-half foot ceiling height shall be considered a built-in deficiency which is beyond reasonable correction.

(B) Any existing habitable room of less than 90 square feet shall be considered a built-in deficiency and beyond reasonable correction, but in no case shall the required natural light and ventilation be less than 5% of the floor area.

(C) Any existing habitable room with window area less than 10% of the floor area shall be considered a built-in deficiency beyond reasonable correction, but in no case shall the required natural light and ventilation be less than 5% of the floor area.
(Ord. 75/14, passed 5-12-2014)

§ 151.61 SPACE AND OCCUPANCY STANDARDS.

No person shall let to another for occupancy any dwelling or dwelling unit, for the purposes of living, sleeping, cooking or eating therein, which does not comply with the following requirements.

(A) Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked, which shall have adequate circulation area, and which shall be equipped with the following:

(1) A kitchen sink in good working condition and properly connected to a water supply system which is approved by the appropriate authority and which provides, at all times, an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system approved by the city;

(2) Cabinets and/or shelves for the storage of eating, drinking and cooking equipment and utensils and of food that does not in ordinary summer conditions require refrigeration for safekeeping; and a counter or table for food preparation; the cabinets and/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 harmful effect to food; and

(3) A stove, or similar device, for cooking food and a refrigerator, or similar device, for the safe storage of food at temperatures less than 45°F, but more than 32°F under ordinary maximum summer conditions, which are properly installed with all necessary connections for safe, sanitary and efficient operation; provided that, the stove, refrigerator and/or similar devices need not be installed when a dwelling unit is not occupied and when the occupant is expected to provide same on occupancy, and that sufficient space and adequate connections for the safe and efficient installation and operation of the stove, refrigerator and/or similar devices are provided.

(B) Within every dwelling unit that shall be a non-habitable room which affords privacy to a person within the room and which is equipped with a flush water closet in good working condition. The flush water closet shall be equipped with easily cleanable surfaces, be properly connected to a water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly and shall be properly connected to a sewer system which is approved by the city. The room shall have an operable window or mechanical ventilation sufficient to provide the equivalent of five air exchanges per hour.

(C) Within every dwelling unit, there shall be a lavatory sink. The lavatory sink may be in the same room as the flush water closet or, if located in another room, the lavatory sink shall be located in close proximity to the door leading directly into the room in which the water closet is located. The lavatory sink shall be in good working condition and properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unhealed running water under pressure, and which is properly connected to a sewer system approved by the appropriate authority. Water inlets for lavatory sinks shall be located above the overflow rim of these facilities.

(D) Within every dwelling unit there shall be a room which affords privacy to a person within the room and which is equipped with a bathtub or shower in good working condition. The bathtub or shower may be in the same room as the flush water closet or in another room and shall be properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unheated water under pressure, and which in connected to a sewer

system approved by the appropriate authority. Water inlets for bathtubs shall be located above the overflow rim of these facilities.

(E) Private stairways having less than four risers and serving one individual unit need not have handrails. Decks and stairways shall have guardrails and handrails per the state's Building Code.

(F) Each dwelling unit shall have facilities for the safe storage of drugs and household poisons.

(G) Access to or egress from each dwelling unit shall be provided without passing through any other dwelling unit.

(H) No person shall let to another for occupancy any dwelling or dwelling unit unless all exterior doors and windows of the dwelling or dwelling unit are equipped with appropriate, functioning locking devices.

(I) Every foundation, roof, floor, exterior and interior wall, ceiling, inside and outside stair, every porch and every appurtenance thereto, shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair. Every inside and outside stair or step shall have uniform risers and uniform treads.

(J) Every foundation, roof and exterior wall, door, skylight and window shall be reasonably weather-tight, water-tight and damp free, and shall be kept in sound condition and good repair. Floors, interior walls and ceilings shall be sound and in good repair. All exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by paint that is not lead-based paint or by other protective covering or treatment. Walls shall be capable of affording privacy for the occupants.

(K) Every premises shall be graded, drained free of standing water and maintained in a clean, sanitary and safe condition.

(L) Unless other provisions are made, gutters, leaders and downspouts shall be provided and maintained in good working condition so as to provide proper drainage of storm water.

(M) Every window, exterior door and hatchway or similar device shall be so constructed to exclude insects during that portion of the year when there is a need for protection against mosquitoes, flies and other flying insects.

(N) Every dwelling, multiple dwelling, rooming house or accessory structure and the premises on which located shall be maintained in a rat-free and rat-proof condition.

(1) All openings in the exterior walls, foundations, basements, ground or first floors and roofs that have a half-inch diameter or more opening shall be rat-proofed in an approved manner if they are within 48 inches of the existing exterior ground level immediately below the openings, or if they may be reached by rats from the ground by climbing unguarded pipes, wires, cornices, stairs, roofs and other items such as trees or vines or by burrowing.

(2) 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 rats, shall be supplied with adequate screens or such other devices as will effectively prevent the entrance of rats into the structure.

(3) All sewers, pipes, drains or conduits and openings around such pipes and conduits shall be constructed to prevent the ingress or egress of rats to or from a building.

(4) Any materials used for rat-proofing shall be acceptable to the Building Inspector.

(O) All fences shall be constructed of approved fencing materials. Wood materials shall be protected against decay by use of paint that is not lead-based paint or by other preservative material. The permissible height and other characteristics of all fences shall conform to the appropriate statutes, ordinances and regulations of the city and the state. Wherever any egress from the dwelling opens into the fenced area, there shall be a means of egress from the premises to any public way adjacent thereto.

(P) Accessory structures present or provided by the owner, agent or tenant occupant on the premises of a dwelling shall be structurally sound, and be maintained in good repair and free of insects and rats, or such structures shall be removed from the premises. The exterior of the structures shall be made weather-resistant through the use of decay-resistant materials or the use of lead-free paint or other preservatives.

(Q) Every plumbing fixture and all water and waste pipes shall be properly installed and maintained in good sanitary working condition. All waste system clean-out plugs must be easily accessible.

(R) Every water closet compartment, bathroom and kitchen floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit the floor to be easily kept in a clean and sanitary condition.

(S) Every plumbing fixture and pipe, every chimney, flue and smoke pipe, and every other facility, piece of equipment or utility which is present in a dwelling or dwelling unit, or which is required under this chapter, shall be constructed and installed in conformance with the appropriate statutes, ordinances and regulations of the city and state.

(T) No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this chapter to be removed from or shut off from or discontinued from any occupied dwelling or dwelling unit let or occupied by the person; except for the temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the appropriate authority.

(U) All construction, ways and means of egress, and installation and use of equipment shall conform with the appropriate statues, ordinances and regulations dealing with fire protection of the city and state. (Ord. 75/14, passed 5-12-2014) Penalty, see § 151.99

§ 151.62 OCCUPANCY STANDARDS.

The maximum permissible occupancy of any rental dwelling unit shall be determined as follows:

(A) Minimum space: for the first two occupants, 220 square feet of habitable room floor space and for every additional occupant thereof, at least 100 square feet of habitable room floor space;

(B) Maximum occupancy: in no event shall the total number of occupants exceed two times the number of habitable rooms, less kitchen, in the dwelling unit; and

(C) Occupancy of sleeping rooms: in every dwelling unit of two or more rooms, every room occupied for sleeping purposes shall have the following minimum habitable room floor space: 70 square feet for one person; 90 square feet for two persons; and the required habitable room floor space shall be increased at the rate of 50 square feet for each occupant in excess of two.
(Ord. 75/14, passed 5-12-2014)

§ 151.63 STRUCTURAL REQUIREMENTS.

Reference Ch. 3 of the most current revision of the International Property Maintenance Code.
(Ord. 75/14, passed 5-12-2014)

§ 151.64 MECHANICAL REQUIREMENTS.

Reference Ch. 6 of the most current revision of the International Property Maintenance Code.
(Ord. 75/14, passed 5-12-2014)

§ 151.65 EXITS.

Reference Ch. 7 of the most current revision of the International Property Maintenance Code.
(Ord. 75/14, passed 5-12-2014)

§ 151.66 FIRE SAFETY.

Reference Ch. 7 of the most current revision of the International Property Maintenance Code.
(Ord. 75/14, passed 5-12-2014)

§ 151.67 CORRECTION OF IMMEDIATE HAZARDS.

(A) No occupancy shall be permitted of any dwelling unit if vacant and an immediate hazard exists. If the dwelling unit is occupied and an immediate hazard exists, immediate corrective action shall be

taken by the occupant, owner, agent of the owner or other responsible persons. The dwelling unit may be ordered vacated if no immediate corrective action is taken and the occupant, owner, agent of the owner or other responsible person fails to comply with any order to correct any immediate hazard.

(B) Immediate hazards to health and safety for human occupancy shall include, but not be limited to, the following:

(1) Heating systems that are unsafe due to: burned out or rusted heat exchanges (fire box); burned out or plugged flues; no vent; connection with unsafe gas supplies; lack of proper gauges and relief valves; lack of fuel or use of improper fuel; or incapacity to adequately heat the living space;

(2) Water heaters that are unsafe due to: burned out or rusted heat exchanges (fire box); burned out, rusted or plugged flues; no vent; connection with unsafe gas supplies; lack of fuel or use of improper fuel; or lack of temperature and pressure relief valves with proper diverter pipe;

(3) Electrical systems that are unsafe due to: dangerous overloading; damaged or deteriorated equipment; improperly taped or spliced wiring; exposed uninsulated wires; distribution systems of extension cords or other temporary methods; ungrounded systems; disconnection of service to the dwelling;

(4) Plumbing systems that are unsanitary due to: leaking waste systems, fixtures and traps; lack of a water closet; lack of washing and bathing facilities; cross-connection of pure water supply with fixtures, private well or sewage lines; or the lack of water;

(5) Structural systems, walls, chimneys, ceilings, roofs, foundation and floor systems that will not safely carry imposed loads;

(6) Refuse, garbage, human waste, decaying vermin or other dead animals, animal waste, other materials rendering residential buildings and structures unsanitary for human occupancy, including lack of light and air; and

(7) Infestation of rats, insects and other vermin.
(Ord. 75/14, passed 5-12-2014)

§ 151.68 SMOKE DETECTORS REQUIRED.

(A) Smoke detectors are required by the Uniform Fire Code (UFC) in all dwelling units used for sleeping purposes within the city, regardless of date of construction. Smoke detectors shall be installed and maintained in compliance with NFPA standards.

(B) Working smoke detectors are required in existing residential properties, with or without a rental license:

(1) On the ceiling or wall at a point of centrally located in the corridor or area giving access to each separate sleeping area;

(2) Where sleeping areas are on an upper level, the detector shall be placed in the center of the ceiling directly above the stairway; and

(3) In the basement of any dwelling units having a stairway that opens from the basement into the dwelling.

(C) Detectors may be battery operated, hardwired or both.

(D) Exception: with the written approval of the inspector, small apartments/dwelling units may have required smoke detectors placed inside of bedrooms rather than outside of bedroom(s) when the required placement will result in excessive false alarms.

(E) New construction and rental property licensed after date of adoption of this code:

(1) One working smoke detector on each level of the residence;

(2) One working smoke detector adjacent to each bedroom or group of bedrooms on each floor; and

(3) One working smoke detector in each sleeping room.

(F) An activation of any detector must be audible in all sleeping rooms. If the activated detector(s) are not audible in all locations, the detectors must be interconnected. All detectors must be hardwired with battery backup.

(G) Registered occupants of each rental unit shall give written notice to the license holder, or his, her or their agent, of any non-functioning smoke detector within 24 hours of discovering the non-functioning smoke detector. Each registered occupant is responsible for notifying the license holder, or his, her or their agent, or for insuring the required notice is made. A copy of the notice to the license holder, or his, her or their agent, shall be provided to the Building Official. Failure to notify a license holder, or his, her or their agent, of a non-functioning smoke detector is a petty misdemeanor.
(Ord. 75/14, passed 5-12-2014) Penalty, see § 151.99

§ 151.69 STRUCTURAL AND LIFE SAFETY STANDARDS.

(A) Compliance with the structural and life safety portions of any housing maintenance inspection required by this chapter shall be in accordance with the Building Code in effect at the time of original construction; provided, there is no significant danger to health and safety at the time of inspection.

(B) If no building requirements were in effect at the time of construction or the requirements cannot be determined, compliance shall be made to the extent necessary to eliminate significant danger to health and safety.
(Ord. 75/14, passed 5-12-2014)

§ 151.99 PENALTY.

(A) (1) Violation of any provision of this chapter is a misdemeanor and, upon conviction, is subject to penalties provided for according to state statute.

(2) In addition to the above, if an owner of a rental dwelling is determined by the Building Official to be in non-compliance with this chapter, the Inspector may order the owner to cease from renting and vacated dwelling units until compliance is achieved. The Building Official may also order the tenants of any non-complying owner to pay their rent to an escrow account of an amount deemed by the Building Official as adequate to pay for the work required to successfully comply with this chapter. These moneys will be released as items are completed to the satisfaction of the Building Official. The City Attorney shall review these situations.

(3) These penalties are separate from other fines and penalties listed elsewhere in the city code and may be applied concurrently with other penalties where appropriate.

(B) Anyone who willfully disables a smoke detector or causes it to be non-functioning is guilty of a misdemeanor.
(Ord. 75/14, passed 5-12-2014)

CHAPTER 152: RIGHT-OF-WAY MANAGEMENT

Section

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GENERAL PROVISIONS

§ 152.01 FINDINGS, PURPOSE AND INTENT.

(A) 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 regulation 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 chapter, 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) (1) This chapter shall be interpreted consistently with 1997 Session Laws, Ch. 123, substantially codified in M.S. §§ 237.16, 237.162, 237.163, 237.79, 237.81 and 238.086 (the "Act"), as they may be amended from time to time, and 2017 Minn. Laws, Ch. 94, Art. 9, being M.S. §§ 237.162 and 237.163, as may be amended from time to time, amending the Act, and the other laws governing applicable rights of the city and users of the right-of-way. This chapter shall also be interpreted consistent with Minn. Rules parts 7819.0050 through 7819.9950 and Minn. Rules Ch. 7560, where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended.

(2) This chapter 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.
(Ord. 89-18, passed 2- -2018)

§ 152.02 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 hereby elects, pursuant to M.S. § 237.163, subd. 2(b), as it may be amended from time to time, to manage rights-of-way within its jurisdiction.
(Ord. 89-18, passed 2- -2018)

§ 152.03 DEFINITIONS.

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

ABANDONED FACILITY. 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. A facility is not ***ABANDONED*** unless declared so by the right-of-way user.

APPLICANT. Any person requesting permission to excavate or obstruct a right-of-way.

CITY. The City of Elysian, Minnesota. For purposes of § 152.55 of this chapter, ***CITY*** also means the city's elected officials, officers, employees and agents.

COLLOCATE or ***COLLOCATION.*** To install, mount, maintain, modify, operate or replace a small wireless facility on, under, within or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit.

COMMISSION. The state's Public Utilities Commission.

CONGESTED RIGHT-OF-WAY. 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. § 216D.04, subd. 3, as it may be amended from time to time, over a continuous length in excess of 500 feet.

CONSTRUCTION PERFORMANCE BOND. Any of the following forms of security provided at the permittee's option:

(1) Individual project bond;

(2) Cash deposit;

(3) Security of a form listed or approved under M.S. § 15.73, subd. 3, as it may be amended from time to time;

(4) Letter of credit, in a form acceptable to the city;

(5) Self-insurance, in a form acceptable to the city; and/or

(6) A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

DEGRADATION. 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 the right-of-way earlier than would be required if the excavation or disturbance did not occur.

DEGRADATION COST. Subject to Minn. Rules part 7819.1100, 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 1 to 13, set forth in Minn. Rules parts 7819.9900 to 7819.9950.

DEGRADATION FEE. 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.

DEPARTMENT. The Department of Public Works of the city.

DELAY PENALTY. The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching or restoration as established by permit.

DIRECTOR. The Director of the Department of Public Works of the city, or her or his designee.

EMERGENCY. A condition that:

(1) Poses a danger to life or health, or of a significant loss of property; or

(2) Requires immediate repair or replacement of facilities in order to restore service to a customer.

EQUIPMENT. Any tangible asset used to install, repair or maintain facilities in any right-of-way.

EXCAVATE. To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

EXCAVATION PERMIT. 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 the permit.

EXCAVATION PERMIT FEE. Money paid to the city by an applicant to cover the costs as provided in § 152.27 of this chapter.

FACILITY or ***FACILITIES.*** Any tangible asset in the right-of-way required to provide utility service.

FIVE-YEAR PROJECT PLAN. Shows projects adopted by the city for construction within the next five years.

HIGH DENSITY CORRIDOR. 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. An excavation in the pavement, with the excavation having a length less than the width of the pavement.

LOCAL REPRESENTATIVE. A local person or persons, or designee of the person or persons, 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. The actual costs the city incurs in managing its rights-of-way, including the costs, if incurred, as those associated with registering applicants; issuing, processing and verifying right-of-way or small wireless facility 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 or small wireless facility permits. ***MANAGEMENT COSTS*** do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines or revenues generated by the right-of-way or for the city, the fees and cost of litigation relating to the interpretation of Minn. Session Laws 1997, Ch. 123; M.S. §§ 237.162 or 237.163, as they may be amended from time to time; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to § 152.57 of this chapter.

OBSTRUCT. 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. 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 PERMIT FEE. Money paid to the city by a permittee to cover the costs as provided in § 152.27 of this chapter.

PATCH or ***PATCHING.*** 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. 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 "right-of-way permit" in M.S. § 237.162, as it may be amended from time to time.

PERMITTEE. Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

PERSON. An individual or entity subject to the laws and rules of the state, however organized, whether public or private, whether domestic or foreign, whether for profit or non-profit and whether natural, corporate or political.

PROBATION. The status of a person that has not complied with the conditions of this chapter.

PROBATIONARY PERIOD. 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.*** 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. A ***RIGHT-OF-WAY*** does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

REGISTRANT. Any person who:

(1) Has or seeks to have its equipment or facilities located in any right-of-way; or

(2) In any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

RESTORE or ***RESTORATION.*** 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.

RESTORATION COST. The amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of the state's Public Utilities Commission rules.

RIGHT-OF-WAY PERMIT. Either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.

RIGHT-OF-WAY USER.

(1) A telecommunications right-of-way user, as defined by M.S. § 237.162, subd. 4, as it may be amended from time to time; or

(2) A person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise or ordinance to use the public right-of-way.

SERVICE or ***UTILITY SERVICE.*** Includes:

(1) Those services provided by a public utility, as defined in M.S. § 216B.02, subds. 4 and 6, as it may be amended from time to time;

(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. Ch. 238, as it may be amended from time to time;

(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. Ch. 308A, as it may be amended from time to time; and

(6) Water and sewer, including service laterals, steam, cooling or heating services.

SERVICE LATERAL. 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. 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, the 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.

SUPPLEMENTARY APPLICATION. An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

TELECOMMUNICATIONS RIGHT-OF-WAY USER.

(1) 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 providing wireless service, or transporting telecommunication or other voice or data information.

(2) For purposes of this chapter, a cable communication system defined and regulated under M.S. Ch. 238, as it may be amended from time to time, and telecommunication activities related to providing natural gas or electric energy services, a public utility, as defined in M.S. § 216B.02, as it may be amended from time to time, a municipality, a municipal gas or power agency organized under M.S. Ch. 453 and 453A, as they may be amended from time to time, or a cooperative electric association organized under M.S. Ch. 308A, as it may be amended from time to time, are not ***TELECOMMUNICATIONS RIGHT-OF-WAY USERS*** for purposes of this chapter, except to the extent the entity is offering wireless service.

TEMPORARY SURFACE. 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.

TRENCH. 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 POLE. A pole that is used in whole or in part to facilitate telecommunications or electric service.

WIRELESS FACILITY. 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, or not otherwise immediately adjacent to and directly associated with a specific antenna.

WIRELESS SERVICE. 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. ***WIRELESS SERVICE*** does not include services regulated under Title VI of the Communications Act of 1934, being 47 U.S.C. §§ 201 et seq., as amended, including cable service.

WIRELESS SUPPORT STRUCTURE. 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.
(Ord. 89-18, passed 2- -2018)

§ 152.04 ADMINISTRATION.

The Director is the principal city official responsible for the administration of the rights-of-way, right-of-way permits and the ordinances related thereto. The Director may delegate any or all of the duties hereunder.
(Ord. 89-18, passed 2- -2018)

§ 152.05 UTILITY COORDINATION COMMITTEE.

(A) The city may create an Advisory Utility Coordination Committee. Participation on the Committee is voluntary.

(B) It will be composed of any registrants that wish to assist the city in obtaining information and by making recommendations regarding use of the right-of-way and to improve the process of performing construction work therein.

(C) The city may determine the size of the Committee and shall appoint members from a list of registrants that have expressed a desire to assist the city.
(Ord. 89-18, passed 2- -2018)

REGISTRATION, REPORTING AND PERMITS

§ 152.20 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 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.

(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) Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or

gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining the boulevard plantings or gardens under this chapter.

(2) However, nothing herein relieves a person from complying with the provisions of the M.S. Ch. 216D, Gopher One Call Law, as it may be amended from time to time.
(Ord. 89-18, passed 2- -2018)

§ 152.21 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 email address, if applicable, and telephone and facsimile numbers;

(2) The name, address and email address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration; and

(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 use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all 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;

(e) Indicating comprehensive liability coverage, automobile liability coverage, worker's compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter;

(f) The city may require a copy of the actual insurance policies;

(g) If the person is a corporation, a copy of the certificate is required to be filed under state law as recorded and certified to by the secretary of state; and

(h) A copy of the person's order granting a certificate of authority from the state's Public Utilities Commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from the Commission or other state or federal agency.

(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.
(Ord. 89-18, passed 2- -2018)

§ 152.22 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 underground facilities with the city. The 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. 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, 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, a "five-year project").

(2) 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 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 changes in the 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.
(Ord. 89-18, passed 2- -2018)

§ 152.23 PERMIT REQUIRED.

(A) *Permit required*. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way, or install or place facilities in the 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 the permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) *Obstruction permit*. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(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, the permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.

(B) *Permit extensions*. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless:

(1) The 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. Rules part 7819.1000, subp. 3, and notwithstanding division (B) above, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching or restoration. The delay penalty shall be established from time to time by City Council resolution.

(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.
(Ord. 89-18, passed 2- -2018)

§ 152.24 PERMIT APPLICATION.

(A) Application for a permit is made to the city.

(B) 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 area of the proposed project and the location of all known existing and proposed facilities;

(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; and

(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% of the amount owing; and

(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.
(Ord. 89-18, passed 2- -2018)

§ 152.25 PERMIT ISSUANCE; CONDITIONS.

(A) *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the city shall issue a permit.

(B) *Conditions.* The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state and federal laws, including, but not limited to, M.S. §§ 216D.01 through 216D.09 (Gopher One Call Excavation Notice System), as they may be amended from time to time, and Minn. Rules Ch. 7560.

(C) *Small wireless facility conditions.* In addition to division (B) above, 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 the structure and any existing wireless support structure or other facilities in and around the right-of-way.

(5) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of the 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.*

(1) A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of the following:

(a) Up to $150 per year for rent to collocate on the city structure;

(b) Twenty-five dollars per year for maintenance associated with the collocation; and

(c) A monthly fee for electrical service as follows:

1. Seventy-three dollars per radio node less than or equal to 100 maximum watts;

2. One hundred eighty two dollars per radio node over 100 maximum watts; or

3. The actual costs of electricity, if the actual cost exceed the foregoing.

(2) The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit; provided, however, that, 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.
(Ord. 89-18, passed 2- -2018)

§ 152.26 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 the 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 15 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 case, the city may extend the deadline for all applications by 30 days by informing the affected applicants in writing of the extension;

(2) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information; or

(3) The city and a small wireless facility applicant agree in writing to toll the review period.
(Ord. 89-18, passed 2- -2018)

§ 152.27 PERMIT FEES.

(A) *Excavation permit fee.* The city shall impose an excavation permit fee in an amount sufficient to recover the following costs:

(1) The city management costs; and

(2) Degradation costs, if applicable.

(B) *Obstruction permit fee.* The city shall impose an obstruction permit fee in an amount sufficient to recover the city management costs.

(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.

(D) *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay the fees within 30 days of billing.

(E) *Non-refundable.* Permit fees that were paid for a permit that the city has revoked for a breach as stated in § 152.37 of this chapter are not refundable.

(F) *Application to franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.
(Ord. 89-18, passed 2- -2018)

§ 152.28 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 § 152.31 of this chapter.

(B) *Patch and restoration.* The permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

(1) *City restoration.* If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If, following the restoration, the pavement settles due to 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. Rules part 7819.3000.

(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. 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. Rules part 7819.1100.

(D) *Duty to correct defects.* The permittee shall correct defects in patching or restoration performed by the permittee or its agents. The permittee, upon notification from the city, shall correct all restoration work to the extent necessary, using the method required by the city. The work shall be completed within five calendar 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 unseasonable or unreasonable under § 152.31 of this chapter.

(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, at its option, may do such work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.
(Ord. 89-18, passed 2- -2018)

§ 152.29 JOINT APPLICATIONS.

(A) *Joint application.* 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.
(Ord. 89-18, passed 2- -2018)

§ 152.30 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:

(1) Make application for a permit extension and pay any additional fees required thereby; and

(2) 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.
(Ord. 89-18, passed 2- -2018)

§ 152.31 OTHER OBLIGATIONS.

(A) *Compliance with other laws.* Obtaining a right-of-way permit does not relieve the 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. §§ 216D.01 through 216D.09 (Gopher One Call Excavation Notice System), as they may be amended from time to time, and Minn. Rules 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 the 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. Ch. 216D, as it may be amended from time to time, and Minn. Rules Ch. 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Director.
(Ord. 89-18, passed 2- -2018)

§ 152.32 PERMIT DENIAL OR REVOCATION.

(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 of the public or when necessary to protect the right-of-way and its current use.

(B) *Procedural requirements.*

(1) The denial or revocation of a permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed.

(2) The city must approve or deny the resubmitted application within 30 days after submission.
(Ord. 89-18, passed 2- -2018)

§ 152.33 INSTALLATION REQUIREMENTS.

(A) The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules parts 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the M.S. §§ 237.162 and 237.163, as they may be amended from time to time.

(B) Installation of service laterals shall be performed in accordance with Minn. Rules Ch. 7560 and these ordinances.

(C) Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits and/or agreements referenced in § 152.37(B) of this chapter.
(Ord. 89-18, passed 2- -2018)

§ 152.34 INSPECTIONS.

(A) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minn. Rules part 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.

(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. 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 the proof has not been presented within the required time, the Director may revoke the permit pursuant to § 152.37 of this chapter.
(Ord. 89-18, passed 2- -2018)

§ 152.35 WORK DONE WITHOUT A PERMIT.

(A) *Emergency situations.*

(1) Each registrant shall immediately notify the Director 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 chapter 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 the permit, pay double all the other fees required by the

city code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.
(Ord. 89-18, passed 2- -2018)

§ 152.36 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.
(Ord. 89-18, passed 2- -2018)

§ 152.37 PERMIT REVOCATION.

(A) *Substantial breach.* The city reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

(1) The violation of any material provision of the right-of-way permit;

(2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;

(3) Any material misrepresentation of fact in the application for a right-of-way permit;

(4) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; and/or

(5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 152.34 of this chapter.

(B) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the city shall make a written demand upon the permittee to remedy the violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *Response to notice of breach.* Within 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to timely submit an acceptable plan,

or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, the permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one full year.

(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 of 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 the revocation.
(Ord. 89-18, passed 2- -2018)

REGULATIONS AND CONDITIONS

§ 152.50 MAPPING DATA.

(A) *Information required.* Each registrant and permittee shall provide mapping information required by the city in accordance with Minn. Rules parts 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. The 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 a condition imposed by the Director. Failure to provide maps and drawings pursuant to this section 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. Rules part 7560.0150, subp. 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 division (B) and with applicable Gopher State One Call Law and Minnesota Rules governing service laterals installed after 12-31-2005 shall be a condition of any city approval necessary for:

(1) Payments to contractors working on a public improvement project, including those under M.S. Ch. 429, as it may be amended from time to time; and

(2) City approval under development agreements or other subdivision or site plan approval under M.S. Ch. 462, as it may be amended from time to time. The Director shall reasonably determine the appropriate method of providing the 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 future permits to the offending permittee or its subcontractors.
(Ord. 89-18, passed 2- -2018)

§ 152.51 LOCATION AND RELOCATION OF FACILITIES.

(A) *Compliance*. Placement, location and relocation of facilities must comply with the Act, with other applicable law, and with Minn. Rules parts 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

(B) *Undergrounding*. Unless otherwise agreed in a franchise or other agreement between the applicable right-of-way user and the city, facilities in the right-of-way must be located or relocated and maintained underground in accordance with the city code.

(C) *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.

(D) *Nuisance*. One year after the passage of this chapter, 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.

(E) *Limitation of space*. To protect the health, safety and welfare of the public, 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 the 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.
(Ord. 89-18, passed 2- -2018)

§ 152.52 PRE-EXCAVATION FACILITIES LOCATION.

(A) In addition to complying with the requirements of M.S. §§ 216D.01 through 216D.09 ("One Call Excavation Notice System"), as they may be amended from time to time, 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 facilities.

(B) 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.
(Ord. 89-18, passed 2- -2018)

§ 152.53 DAMAGE TO OTHER FACILITIES.

(A) 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.

(B) The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing.

(C) 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.
(Ord. 89-18, passed 2- -2018)

§ 152.54 RIGHT-OF-WAY VACATION.

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. Rules part 7819.3200.
(Ord. 89-18, passed 2- -2018)

§ 152.55 INDEMNIFICATION AND LIABILITY.

By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rules part 7819.1250.
(Ord. 89-18, passed 2- -2018)

§ 152.56 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 chapter 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.
(Ord. 89-18, passed 2- -2018)

§ 152.57 APPEAL.

(A) A right-of-way user that:

(1) Has been denied registration;

(2) Has been denied a permit;

(3) Has had a permit revoked;

(4) Believes that the fees imposed are not in conformity with M.S. § 237.163, subd. 6, as it may be amended from time to time; or

(5) Disputes a determination of the Director regarding § 152.50(B) of this chapter may have the denial, revocation, fee imposition or decision reviewed, upon written request, by the City Council.

(B) (1) 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.

(2) A decision by the City Council affirming the denial, revocation or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.
(Ord. 89-18, passed 2- -2018)

§ 152.58 RESERVATION OF REGULATORY AND POLICE POWERS.

A permittee's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances as necessary to protect the health, safety and welfare of the public.
(Ord. 89-18, passed 2- -2018)

CHAPTER 153: STREETS, SIDEWALKS AND TREES

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GENERAL PROVISIONS

§ 153.01 DRIVEWAYS.

(A) A driveway permit is required and can be obtained at the office of the City Administrator. The permit shall identify the property owner, the property address and provide a plan of the proposed driveway including dimensions of the proposed driveway.

(B) (1) Residential uses shall be limited to two curb cuts or driveway accesses per property.

(2) The two curb cuts or driveway accesses shall be set back at least ten feet from each other.

(C) Driveways are limited to a maximum width of 24 feet at the curb.

(D) Driveways may widen after a five-foot setback from the curb.

(E) Driveways are limited to a maximum of 36 feet in width.

(F) Driveways shall meet the required side yard setback for the adjacent structure. For example, a driveway that serves an attached garage must meet the eight-foot side yard setback; a driveway that serves a detached garage must meet the three-foot side yard setback.

(G) Driveway setback for corner lots shall not be less than 20-feet from adjacent right-of-way (meeting front yard setback).

(H) All driveways and required off-street parking spaces shall be surfaced with concrete, bituminous or pavers. All existing driveways that are not surfaced with concrete, bituminous or pavers shall be upgraded to be surfaced "a minimum of 24 feet from the street" within one-year of sale of the property to a new owner.

(I) All current driveways as of the date of this section are grand-fathered in with regard to width, setbacks and curb cuts.
(Ord. 86/17, passed 9-11-2017) Penalty, see § 153.99

§ 153.02 SIDEWALK REPAIR.

(A) *Duty of owner.* The owner of any property within in the city abutting a public sidewalk shall keep the sidewalk in good repair and safe for pedestrians.

(B) *Inspections: notice.*

(1) The Public Works Director shall, from time to time, make inspections as are necessary to determine that public sidewalks within the city are kept in good repair and safe for pedestrians.

(2) If he or she finds that any sidewalk abutting private property is unsafe and in need of repairs, he or she shall cause a notice to be sent to the record owner of the property (and the occupant, if the owner does not reside within the city or cannot be found therein) ordering the owner to have the sidewalk repaired and made safe within 45 days and stating that if the owner fails to do so, the Public Works Director will do so on behalf of the city, that the expense thereof must be paid by the owner and that if unpaid it will be made a special assessment against the property concerned.

(C) *Repair by city.*

(1) If the sidewalk is not repaired within 45 days after receipt of the notice, the Public Works Director shall report the facts to the Council and the Council may, by resolution, order the Public Works Director to repair the sidewalk and make it safe or order the work be done by contract in accordance with law.

(2) The Public Works Director shall keep record of the total cost of the repair attributable to each lot or parcel of property and report the information to the City Administrator.
(Ord. 85-17, passed 4-10-2017)

TREES AND OTHER OBSTRUCTIONS IN RIGHT-OF-WAY

§ 153.15 PURPOSE.

(A) The purpose of this subchapter is to enhance and protect the city's landscape and to promote and protect public health, safety and general welfare.

(B) It outlines the role and responsibilities of the city and of private landowners by providing for the regulation of the planting, maintenance and removal of trees, vegetation, fences and other obstructions on boulevards and rights-of-way in the city.
(Ord. 73/12A, passed 6-13-2016)

§ 153.16 DEFINITIONS.

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

BOULEVARD. The portion of the street right-of-way between the curb line and the property line.

CITY. The City of Elysian, Minnesota.

HAZARD TREE. A tree or any part thereof which:

(1) Obstructs street lights, traffic signs or the view of any street intersection;

(2) Obstructs the free passage of pedestrians or vehicles;

(3) Harms or threatens to harm a utility, building, structure or city infrastructure including, but not limited to, streets, sidewalks, drains or other city infrastructure;

(4) Has an infectious or destructive disease, insect problem or other pestilence which endangers the growth, health, life or well-being of trees in the city, or which threatens to or is capable of causing a spread of a disease, pestilence or insect infestations;

(5) Is causing the surface of a public street, curb or sidewalk to be up-heaved or otherwise disturbed; or

(6) Constitutes a danger to the public health, safety or well-being.

PUBLIC PROPERTY. Property which the city owns or has reserved for public use, including, but not limited to, boulevards, parks, playgrounds, parkways, streets, public rights-of-way, sidewalks, alleys and public parking lots.

PUBLIC RIGHT-OF-WAY. Property which the city has reserved for public use to provide traffic circulation and travel to abutting properties, including, but not limited to, streets, boulevards, alleys, sidewalks, provisions for public utilities, rights-of-way and cut and fill slopes.

PUBLIC UTILITY. Any public or private facility or system for producing, transmitting or distributing communications, electricity, gas, oil products, water, waste or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of the city.
(Ord. 73/12A, passed 6-13-2016)

§ 153.17 HAZARD TREES.

(A) The city has the right to prune and, if need be, remove any trees that have become a hazard tree.

(B) The cost for removal shall be at the city's expense.

(C) Except in the case of an emergency, a seven-day notice will be given to the property owner abutting the boulevard prior to the action.

(D) The purpose of this notice is to allow the homeowner the opportunity to abate, to the city's satisfaction, the condition that exists on the property.
(Ord. 73/12A, passed 6-13-2016)

§ 153.18 PLANTINGS.

(A) *General.*

(1) *Trees.* Planting of trees is prohibited within the boulevard.

(2) *Shrubs.* Shrubs, hedges or flowers are prohibited within the boulevard.

(3) *Rock, bricks, fences, columns and other obstructions.* The placement of rocks, bricks, fences, columns or any other obstructions on the boulevard is not permitted.

(B) *City's right.* The city has the right to remove any obstructions in the city's boulevard. Except in the case of an emergency, a seven-day notice will be given to the property owner abutting the boulevard prior to the action. The purpose of this notice is to allow the homeowner the opportunity to abate, to the city's satisfaction, the condition that exists on the property.
(Ord. 73/12A, passed 6-13-2016) Penalty, see § 153.99

§ 153.19 GARBAGE CANS.

Garbage cans are to be removed from the boulevards by the day following garbage pickup.
(Ord. 73/12A, passed 6-13-2016) Penalty, see § 153.99

§ 153.20 MOWING.

Mowing on the boulevards is the responsibility of the abutting property owners.
(Ord. 73/12A, passed 6-13-2016)

§ 153.21 BLACKTOPPING BOULEVARD.

Blacktopping of any part of the boulevard, except for driveways, is prohibited.
(Ord. 73/12A, passed 6-13-2016) Penalty, see § 153.99

§ 153.22 ENFORCEMENT.

The City Council has the power to enforce rules, regulations and specifications within this subchapter. Day-to-day management is delegated to the city's Public Works Department.
(Ord. 73/12A, passed 6-13-2016)

SNOW AND ICE CONTROL

§ 153.35 PURPOSE.

The city believes that it is in the best interest of residents for the city to assume basic responsibility for control of snow and ice on city streets. Reasonable ice and snow control is necessary for routine travel and emergency services. The city will provide such control in a safe and cost effective manner.
(Ord. 54/04, passed 12-13-2004)

§ 153.36 PERSONNEL.

All Street Department personnel shall be available for snow and ice control operations.
(Ord. 54/04, passed 12-13-2004)

§ 153.37 EQUIPMENT.

When equipment is disabled, every attempt shall be made to get the equipment repaired and operational as soon as possible.
(Ord. 54/04, passed 12-13-2004)

§ 153.38 PROCEDURES.

The Public Works Supervisor shall decide when to begin snow or ice control operations. After hours, on weekends and during holidays, the Supervisor shall notify the other employees when snow and ice conditions warrant. Snow shall be removed after an accumulation of up to three inches.
(Ord. 54/04, passed 12-13-2004)

§ 153.39 SNOW PLOWING PRIORITIES.

(A) The city has classified city streets based on emergency access needs, street function, traffic volume and importance to the welfare of the community. High volume streets that connect major sections of the city and provide access for emergency fire, police and medical services.

(B) The second priority streets are those streets providing access to schools and commercial businesses. The third priority streets are low volume residential streets. The fourth priority areas are alleys and parking lots.
(Ord. 54/04, passed 12-13-2004)

§ 153.40 METHOD OF PLOWING; SNOW REMOVAL; USE OF SALT OR SAND.

(A) Snow will be plowed in a manner so as to minimize traffic obstruction. The center of the roadway will be plowed first. As time warrants, the edges of the roadway will be plowed pushing snow toward each boulevard area of the street, accept Main Street, which will be pushed toward the middle of the street. The city shall not be responsible for snow that gets pushed onto sidewalks or otherwise overflows from the boulevard area. In times of extreme snowfall, a street will not always immediately be able to be completely cleared of snow.

(B) The Public Works Supervisor shall determine when snow will be removed by truck from the area. The snow removal will occur in areas where there is no room on the boulevard for snow storage and in areas where accumulated piles of snow create a hazardous condition. Snow removal operation will not commence until other snowplowing operations have been completed. Snow removal operations may also be delayed depending on weather conditions, personnel and budget availability. The snow will be removed and hauled to a snow storage area. The snow storage area will be located so as to minimize environmental problems.

(C) The city will apply a mixture of salt sand to street surfaces when there are hazardous ice or slippery conditions. The city is concerned about the effect of this chemical on the environment and will limit its use for that reason.
(Ord. 54/04, passed 12-13-2004)

§ 153.41 SIDEWALKS.

In accordance with the provisions of city code, it shall be the responsibility of individual property owners to keep sidewalks abutting their residence or business free from ice and snow. The initial cleaning of sidewalks in the central business district shall be a priority for street department personnel. After this initial clearing, maintenance including clearing of snow and ice and/or salting and sanding shall be the responsibility of individual property owners.
(Ord. 54/04, passed 12-13-2004)

§ 153.42 DRIVEWAYS.

Responsibility for driveways shall rest with individual property owners. This includes the clearing of additional snow that may accumulate each time the city plows have gone by.
(Ord. 54/04, passed 12-13-2004)

§ 153.43 PLACEMENT OF SNOW ON PUBLIC PROPERTY OR OBSTRUCTING VIEWS.

It is unlawful for any person to place snow or ice upon any public property, including public streets. Cleared snow shall be piled and accumulated in a manner which does not block visibility of drivers on public streets and alleys or cause other hazardous conditions. The Public Works Supervisor shall have the authority to notify property owners who violate this section and shall require them to remedy the situation.
(Ord. 54/04, passed 12-13-2004) Penalty, see § 153.99

§ 153.44 PROPERTY DAMAGE.

(A) The city recognized that on occasion private property is damaged during snow and ice control operations.

(B) Where this happens, it shall be the policy of the city to handle damage in the following manner.

(1) *Mailboxes.*

(a) Where mailboxes are placed adjacent to the street, it shall be the policy of the city that snow shall be plowed as close a practicable to the curb to allow for passage of traffic and mail delivery. It shall be the responsibility of the property owner to keep piled snow away from mailboxes so mail can be delivered.

(b) Where damage to the mailbox occurs, the Public Works Supervisor shall investigate the damage. If it is determined that the weight of the snow caused the damage, the city will not assume responsibility for repair of the mailbox. Where evidence indicates that physical contact between the plow and the mailbox occurred, the city would assume responsibility for repair.

(2) *Boulevard sod.* It shall be the policy of the city to repair any damage to sod where curbs are in place by:

(a) Street maintenance will repair the damage by relaying the turned up pieces or placing black dirt and grass seed; and

(b) The property owner may elect to do the repair using commercial sod. The city will reimburse the property owner the cost of the sod (no labor). Reimbursement must be approved by the

City Administrator prior to the commencement of the corrective work or purchasing of sod. The property owner shall supply a written estimate of the cost of the sod.

(3) *Curbs*. Curbs will not be replaced unless the curb back is broken.

(4) *Driveway ramps*. Damage caused to driveway ramps or fillets where mountable curb is in place, unless authorized by the Public Works Supervisor, will not be repaired by the city.
(Ord. 54/04, passed 12-13-2004)

§ 153.45 SNOW PLOW OPERATORS; WORK SCHEDULE.

(A) Snowplow operators will be expected to work eight-hour shifts.

(B) In severe snow emergencies, operators sometimes have to work in excess of eight-hour shifts.

(C) Because of safety concerns, no operator shall work more than a 15-hour shift in any 24-hour period.

(D) Operators will take a 20-minute break every two hours with a half-hour meal break after four hours.

(E) After a 15-hour day, the operators will be replaced if additional qualified personnel are available.
(Ord. 54/04, passed 12-13-2004)

§ 153.46 WEATHER CONDITIONS.

(A) Snow and ice control operations will be conducted only when weather conditions do not endanger the safety of city employees and equipment.

(B) Factors that may delay snow and ice control operations include severe cold, significant winds and limited visibility.
(Ord. 54/04, passed 12-13-2004)

§ 153.47 PARKING RESTRICTIONS.

(A) A snow emergency may be declared any time during the snow season at the discretion of the Public Works Supervisor. During such times, no parking or leaving cars on any street or avenue will be allowed between the hours of 4:00 a.m. and 10:00 a.m.

(B) Parking in the Central Business District shall be prohibited between the hours of 2:00 a.m. and 6:00 a.m. between the dates of November 15 and April 15.
(Ord. 54/04, passed 12-13-2004)

DUTCH ELM DISEASE

§ 153.60 DECLARATION OF POLICY.

The City Council has determined that the health of the elm trees within the municipal limits is threatened by a fatal disease known as Dutch Elm disease. It has further determined that the loss of elm trees growing upon public and private property would substantially depreciate the value of property within the city and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention this subchapter is enacted for that purpose.
(Ord. 14, passed 2-11-1974)

§ 153.61 AGRICULTURAL AGENT.

(A) *Position created.* The City Council shall designate someone within the city's Maintenance Department to act in cooperation with the county's Agricultural Agent in administering this policy.

(B) *Duties.* It shall be the duty of this duly appointed person to coordinate, under the direction and control of the Council, all activities of the municipality relating to the control and prevention of Dutch Elm disease. He or she shall recommend to the Council the details of a program for the control of Dutch Elm disease and perform the duties incident to such a program adopted by the Council.
(Ord. 14, passed 2-11-1974)

§ 153.62 DUTCH ELM DISEASE PROGRAM.

It is the intention of the City Council to conduct a program of plant pest control pursuant to the authority granted by M.S. Ch. 18B, as it may be amended from time to time. This program is directed specifically at the control and elimination of Dutch Elm disease fungus and elm bark beetles and is undertaken at the recommendation of the Commissioner of Agriculture.
(Ord. 14, passed 2-11-1974)

§ 153.63 NUISANCE DECLARED; ABATEMENT.

(A) *Nuisance declared.* The following things are public nuisances whenever they may be found within the city:

(1) Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus Ceratocystis Ulmi (Buisman) Moreau or which harbors any of the elm bar beetles Scolytus Multistfiat-US (Eichh.) or llylurgopinus Rufipes (Marsh); and

(2) Any dead elm or part thereof, including logs, brandies, stumps, firewood or other elm material from which the bar has not been removed and burned or sprayed with an effective elm bark beetle insecticide.

(B) *Abatement*. It is unlawful for any person to permit any public nuisance, as defined above, to remain on any premises owned or controlled by him or her within the city. The nuisances may be abated in the manner prescribed by this subchapter.

(C) *Abatement of Dutch Elm disease nuisances.*

(1) In abating the nuisances described in division (A) above, the designated city employee or the county's Agricultural Extension Agent shall cause the infected tree or wood to be sprayed, removed, burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of Dutch Elm disease fungus and elm bark beetles.

(2) The abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

(D) *Abatement of Dutch Elm nuisances on private property*. Whenever the county agent finds with reasonable certainty that the infestation defined in division (A) above exists in any tree or wood located on private property outside of any public way in the city, he or she shall proceed as follows.

(1) If he or she finds that the danger of infestation of other elm trees is not imminent because of elm dormancy, he or she shall make a written report of his or her findings to the Council, which shall then proceed to abate the nuisance as provided herein.

(2) If he or she finds that the danger of infestation of other elms is imminent, he or she shall notify the owner of the property on which the nuisance is found by certified mail that the nuisance must bo abated within a specified time not less than five days from the date of mailing the notice. The county agent shall immediately report the action to the City Council and after the expiration of the time limited by the notice he or she may abate the nuisance.

(3) If the county agent finds with reasonable certainty that immediate action is required to prevent the spread of the disease, he or she may proceed to abate the nuisance forthwith. He or she shall report the action immediately to the City Council and to the abutting property owner (or to the owner of the property where the nuisance is located).

(a) Upon receipt of the county agent's report, the Council shall, by resolution, order the nuisance abated. Before action is taken on the resolution, the Council shall publish notice of its intention

to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement and the proposed bases of assessment, if any, of costs. At the hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a resolution confirming the original resolution with such modification as it considers desirable and provide for the doing of the work by day labor or by contract.

(b) The county agent or a designated city employee shall keep a record of the costs of abatements done under this section and shall report monthly to the City Administrator all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

(c) It shall be clearly understood that the costs of removing diseased or infected trees from the boulevard in front of any private property shall be chargeable to the owner of the private property.

(d) On or before September 1 of each year, the City Administrator shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this subchapter. The Council then may spread the charges or any portion thereof against the property involved as a special assessment under M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.
(Ord. 14, passed 2-11-1974)

§ 153.64 INSPECTION AND INVESTIGATION.

(A) The county's Agricultural Extension Agent shall inspect all premises and places within the city as often as practicable to determine whether any condition described in § 153.63(A) of this chapter exists thereon.

(B) He or she shall investigate all reported incidents of infestation by Dutch Elm fungus or elm bark beetles.

(1) The county's Agricultural Extension Agent or his or her duly authorized agents or any person authorized by the City Council may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned him or her under this subchapter.

(2) The county's Agricultural Extension Agent shall, upon finding conditions indicating Dutch Elm infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis or take other steps for diagnosis as may be recommended by the Commissioner. Unless otherwise provided for in this subchapter, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.
(Ord. 14, passed 2-11-1974)

§ 153.65 REMOVAL OF INFECTED TREES AND WOODS; COSTS.

(A) *Procedure for removal of infected trees and wood.* Whenever the county's Agricultural Extension Agent finds with reasonable certainty that the infestation defined above exists in any tree of wood within a public way or boulevard in the city, he or she shall proceed as follows:

(1) If he or she finds that the danger of infestation of other elm trees is not imminent because of elm dormancy, he or she shall make a written report of his or her findings to the Council which shall proceed by:

(a) Abating the nuisance as a public improvement under M.S. Ch. 429, as it may be amended from time to time; or

(b) Abating the nuisance as provided in this division (A).

(2) If he or she finds that danger of infestation of other elm trees is imminent, he or she shall notify the abutting property owner by certified mail that the nuisance will be abated within a specified time, not less than five days from the date of mailing of the notice. The county agent shall immediately report the action to the Council and, after the expiration of the time limited by the notice, he or she may abate the nuisance.

(3) If the county agent finds with reasonable certainty that immediate action is required to prevent the spread of the disease, he or she may proceed to abate the nuisance forthwith. He or she shall report the action immediately to the City Council and to the abutting property owner (or to the owner of the property where the nuisance is located).

(B) *Costs.* Upon receipt of the notice required in division (A) above, the Council by resolution shall by certified mail notify the abutting property owner that the nuisance will be abated by the city within a specified time, not less than ten days, unless the property owner abates it within that time. The Council may also publish the notice. The cost of abatement of the nuisances will be borne by the city.
(Ord. 14, passed 2-11-1974)

§ 153.66 SPRAYING ELM TREES.

(A) Whenever the county agent determines that any elm tree or elm wood within the city is infected with Dutch Elm fungus, he or she may spray all nearby high value elm trees, with an effective elm bark beetle destroying concentrate. Spraying activities authorized by this section shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his or her agents whenever possible.

(B) The notice provisions of this subchapter apply to spraying operations.
(Ord. 14, passed 2-11-1974)

§ 153.67 TRANSPORTING ELM WOOD PROHIBITED.

It is unlawful for any person to transport within the city any bark-bearing elm wood without having obtained a permit from the county agent or one of his or her agents. The county agent shall grant permits only when the purposes of this subchapter will be served thereby.
(Ord. 14, passed 2-11-1974) Penalty, see § 153.99

§ 153.68 INTERFERENCE PROHIBITED.

It is unlawful for any person to prevent, delay or interfere with the county agent or his or her agents while they are engaged in the performance of duties imposed by this subchapter.
(Ord. 14, passed 2-11-1974) Penalty, see § 153.99

§ 153.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person, firm or corporation who violates §§ 153.67 and 153.68 of this chapter is guilty of a misdemeanor and may be punished by a fine of not to exceed $100 and imprisonment for 90 days.
(Ord. 14, passed 2-11-1974)

CHAPTER 154: FLOODPLAIN MANAGEMENT

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GENERAL PROVISIONS

§ 154.01 STATUTORY AUTHORIZATION AND PURPOSE.

(A) *Statutory authorization*. This floodplain chapter is adopted pursuant to the authorization and policies contained in M.S. Ch. 103F; Minn. Rules, parts 6120.5000-6120.6200; the rules and regulations of the National Flood Insurance Program (NFIP) in 44 CFR § 59 to 78; and the Planning and Zoning Enabling Legislation in M.S. Ch. 462.

(B) *Purpose*.

(1) This chapter 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 chapter to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

(2) This chapter is adopted in the public interest to promote sound land use practices, and floodplains are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.

(3) This chapter is adopted to maintain eligibility in the National Flood Insurance Program.

(4) This chapter 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.

(C) *Abrogation and greater restrictions*. It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. The standards in this chapter take precedence over any less restrictive, conflicting local laws, ordinances, or codes. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(D) *Warning and disclaimer of liability*. This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. Not all flood risk is mapped. Larger floods do occur and the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris. This chapter 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 chapter or any administrative decision lawfully made hereunder.
(Ord. 112/24, passed 3-11-2024)

§ 154.02 DEFINITIONS.

Unless specifically defined, words or phrases used in this chapter must be interpreted according to common usage and so as to give this chapter its most reasonable application.

ACCESSORY STRUCTURE. A structure that is on the same parcel of property as, and is incidental to, the principal structure or use; an accessory structure specifically excludes structures used for human habitation.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year. ***BASE FLOOD*** is synonymous with the term "regional flood" used in Minn. Rules, part 6120.5000.

BASE FLOOD ELEVATION (BFE). The elevation of the base flood, regional flood, or 1% annual chance flood. The term ***BASE FLOOD ELEVATION*** is used in the flood insurance study.

BASEMENT. Any area of a structure, including crawl spaces, having its floor subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

BUILDING. See "structure."

CHANNEL. A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

CONDITIONAL USE. A land use or development that would not be appropriate generally, but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in Ch. 156 exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

CRITICAL FACILITIES. Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the public in the event of failure, disruption of function, or damage by flooding. Specifically, this includes facilities identified as Flood Design Class 4 in ASCE 24-14, Flood Resistant Design and Construction, as amended. Examples include health care facilities, facilities required for emergency response, power generating stations, communications towers, or electrical substations.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

EQUAL DEGREE OF ENCROACHMENT. 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.

FEMA. Federal Emergency Management Agency.

FARM FENCE. An open type of fence of posts and horizontally run wire, further specified in M.S. § 344.02, subd. l(a-d).

FLOOD. A temporary rise in the stream flow or water surface elevation from any source that results in the inundation of normally dry land areas.

FLOOD FRINGE. The portion of the 1% annual chance floodplain located outside of the floodway.

FLOOD INSURANCE RATE MAP (FIRM). An official map on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A ***FIRM*** that has been made available digitally is called a digital flood insurance rate map (DFIRM).

FLOOD INSURANCE STUDY (FIS). The study referenced in § 154.11, which is an examination, evaluation and determination of flood hazards, and if appropriate, corresponding surface elevations, or an examination, evaluation, and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

FLOODPLAIN. The beds, channel and the areas adjoining a wetland, lake or watercourse, or other source which have been or hereafter may be inundated by the base flood.

FLOODPROOFING. A combination of structural and non-structural additions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which must be reserved to carry or store the base flood discharge without cumulatively increasing the water surface elevation more than one-half foot.

GENERAL FLOODPLAIN. Those floodplains designated on the flood insurance rate maps referenced in § 154.11, but that do not have a delineated floodway.

LIGHT DUTY TRUCK. Any motor vehicle that has all three of the following:

(1) 8,500 pounds gross vehicle weight rating or less;

(2) Vehicle curb weight of 6,000 pounds or less; and

(3) Basic vehicle frontal area less than 45 square feet.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term ***MANUFACTURED HOME*** does not include the term “recreational vehicle."

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of an adopted floodplain management regulation, and includes any subsequent improvements to such structures.

PRINCIPAL STRUCTURE. The main building or other structure on a lot that is utilized for the property's principal use.

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a ***REACH***.

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Those vehicles not meeting this definition shall be considered a structure for the purposes of this chapter. For the purposes of this chapter, the term ***RECREATIONAL VEHICLE*** is synonymous with the term “travel trailer/travel vehicle."

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). An elevation that is one foot above the elevation of the base flood plus any increases in the water surface elevation caused by encroachments on the floodplain that result from designation of a floodway. These increases in water surface elevations are typically identified in the floodway data tables, found in the flood insurance study.

REPETITIVE LOSS. 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% of the market value of the structure before the damage occurred.

STAGE INCREASE. Any increase in the water surface elevation during the 1% annual chance flood caused by encroachments on the floodplain.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Recreational vehicles not considered travel ready, as detailed in § 154.81, shall also be considered a structure for the purposes of this chapter.

SUBDIVISION. Land that has been divided for the purpose of sale, rent, or lease, including planned unit developments.

SUBSTANTIAL DAMAGE. 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% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term 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; or

(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 chapter, "historic structure" is defined in 44 CFR § 59.1.

VARIANCE. The same as that defined in 44 CFR § 59.1 and M.S. § 462.357, subd. 6(2).

WATERCOURSE. A channel in which a flow of water occurs either continuously or intermittently in a definitive direction. The term applies to either natural or artificially constructed channels.
(Ord. 112/24, passed 3-11-2024)

§ 154.03 AMENDMENTS.

(A) *Ordinance amendments*. Any revisions to the floodplain maps by the Federal Emergency Management Agency or annexations of new map panels require an ordinance amendment to update the map references in § 154.11 of this chapter.

(B) *Required approval*. All amendments to this chapter must be submitted to the Department of Natural Resources for review and approval prior to adoption, for compliance with state and federal rules and requirements. The floodplain ordinance shall not be considered valid until approved.
(Ord. 112/24, passed 3-11-2024)

JURISDICTION AND DISTRICTS

§ 154.10 LANDS TO WHICH CHAPTER APPLIES.

This chapter applies to all lands within the jurisdiction of the city within the boundaries of the Floodway, Flood Fringe and General Floodplain Districts.

(A) The Floodway, Flood Fringe or General Floodplain Districts are overlay districts. The standards imposed in the overlay districts are in addition to any other requirements. In case of a conflict, the more restrictive standards will apply.

(B) Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the base flood elevation (BFE) shall be the governing factor in locating the outer boundaries of the 1% annual chance floodplain.

(C) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.
(Ord. 112/24, passed 3-11-2024)

§ 154.11 INCORPORATION OF MAPS BY REFERENCE.

The following maps together with all attached material are hereby adopted by reference and declared to be a part of the official zoning map and this chapter.

(A) *Flood insurance studies*.

(1) Flood Insurance Study for Waseca County and Incorporated Areas, dated March 27, 2024.

(2) Flood Insurance Study for Le Sueur County and Incorporated Areas, dated July 17, 2024.

(B) *Flood insurance rate map panels.*

(1) Waseca County Panel 27161C0050C, dated March 27, 2024.

(2) Le Sueur County Panel 27079C0425E, dated July 17, 2024.

(C) These materials are on file in the Elysian City Hall, 110 West Main Street, Elysian, MN 56028.
(Ord. 112/24, passed 3-11-2024)

§ 154.12 DISTRICTS.

(A) *Floodway District*. Those areas within Zone A as shown on the flood insurance rate maps referenced in § 154.11, and determined to be located in the floodway based on the delineation methods in § 154.58.

(B) *Flood Fringe District*. Those areas within Zone A as shown on the flood insurance rate maps referenced in § 154.11, and determined to be located in the flood fringe based on the delineation methods in § 154.58.

(C) *General Floodplain District*. Those areas within Zone A that do not have a floodway delineated as shown on the flood insurance rate maps referenced in § 154.11.

(D) *Annexations*. The flood insurance rate map panels referenced in § 154.11 may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this chapter. If any of these floodplain land areas are annexed into the city after the date of adoption of this chapter, the newly annexed floodplain lands will be subject to the provisions of this chapter immediately upon the date of annexation. Annexations into panels not referenced in § 154.11 require ordinance amendment in accordance with § 154.03.
(Ord. 112/24, passed 3-11-2024)

REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

§ 154.20 PERMIT REQUIRED.

A permit must be obtained from the Zoning Administrator to verify compliance with all applicable standards outlined in this chapter prior to the following uses or activities:

(A) The erection, addition, modification, rehabilitation, repair, or alteration of any building, structure, or portion thereof. Normal maintenance requires a permit to determine if such work, either separately or in conjunction with other planned work, constitutes a substantial improvement, as specified in § 154.90(C).

(B) The construction of a fence, pool, deck, or placement of anything that may cause a potential obstruction. Farm fences, as defined in § 154.02, are not considered to be an obstruction, and as such, do not require a permit.

(C) The change or expansion of a nonconforming use.

(D) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

(E) The placement of fill, excavation, utilities, on-site sewage treatment systems, or other service facilities.

(F) The storage of materials or equipment, in conformance with § 154.22(B).

(G) Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement dams, culverts and bridges). A local permit is not required if a public waters work permit has been obtained from the Department of Natural Resources, unless a significant area above the ordinary high water level is also to be disturbed.

(H) Any other type of development, as defined in § 154.02.
(Ord. 112/24, passed 3-11-2024)

§ 154.21 NO PERMIT REQUIRED.

Certain uses or activities may be exempt from obtaining a permit, such as planting a garden, farming, or other obviously insignificant activities such as putting up a mailbox or flagpole. The continuation of existing uses, when the associated activities do not encroach further on the regulatory floodplain or trigger associated standards in this chapter, do not require a permit.
(Ord. 112/24, passed 3-11-2024)

§ 154.22 MINIMUM DEVELOPMENT STANDARDS.

(A) All development must:

(1) Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Be constructed with materials and equipment resistant to flood damage;

(3) Be constructed by methods and practices that minimize flood damage;

(4) Be constructed with heating, ventilation, duct work, and air conditioning equipment and other service facilities elevated at least up to the regulatory flood protection elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding;

(5) Be reasonably safe from flooding and consistent with the need to minimize flood damage;

(6) Be assured to provide adequate drainage to reduce exposure to flood hazards;

(7) Not be detrimental to uses in adjoining areas; and

(8) Not adversely affect the efficiency or restrict the flood carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(9) Ensure that any fill or other materials are protected from erosion, discharge, and sediment entering surface waters by the ease of vegetative cover or other methods as soon as possible.

(B) Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the regulatory flood protection elevation (RFPE), flood proofed, or protected by other measures as approved by the Zoning Administrator. Storage of materials likely to cause pollution of the waters, such as sewage, sand, rock, wrecked and

discarded equipment, dredged spoil, municipal, agricultural or industrial waste, and other wastes as further defined in M.S. § 115.01, are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided. For projects not requiring approvals by the Minnesota Pollution Control Agency, adequate safeguards must be approved by the Zoning Administrator prior to issuance of a permit.

(C) Critical facilities shall be located so that the lowest floor is not less than two feet above the base flood elevation (BFE), or the 0.2% annual chance flood elevation, whichever is higher.

SUMMARY OF PERMITTING REQUIREMENTS FOR STRUCTURES			
Structure type	***Floodway***	***Flood fringe***	***Standards****
Accessory structures			
On fill	Only specific uses and types allowed with CUP	Allowed with permit	§ 154.41(C)(4)(b)
Alt. elevation methods	Only specific uses and types allowed with CUP	Allowed with permit	§ 154.41(C)(4)(c)
Wet floodproofing	Only specific uses and types allowed with CUP	Allowed with permit	§ 154.41(C)(4)(a)
Dry (watertight) floodproofing	Only specific uses and types allowed with CUP	Allowed with permit	§ 154.41(C)(4)(d)
Residential			
On fill	Not allowed	Allowed with permit	§ 154.41(A)(1)
Alt. elevation methods	Not allowed	Allowed with CUP	§ 154.43
Dry (watertight) floodproofing and/or basement construction below RFPE	Not allowed	Not allowed	N/A
Non-residential			
On fill	Not allowed	Allowed with permit	§ 154.41(B)(1)
Alt. elevation methods	Not allowed	Allowed with permit	§ 154.41(B)(2)
Dry (watertight) floodproofing and/or basement construction below RFPE	Not allowed	Allowed with permit	§ 154.41(B)(3)
*Note: Many of these standards are cross-referenced.			

(Ord. 112/24, passed 3-11-2024)

FLOODWAY DISTRICT

§ 154.30 PERMITTED USES IN FLOODWAY.

Development allowed in the Floodway District is limited to that which has low flood damage potential and will not obstruct flood flows, increase velocities, or increase the water surface elevations of the 1% annual chance flood. The following uses and activities may be allowed with a permit, subject to the standards in § 154.31:

(A) Agricultural uses, recreational uses, parking lots, loading areas, airport landing strips, water control structures, navigational facilities, as well as public open space uses.

(B) Roads, driveways, railroads, trails, bridges, and culverts.

(C) Public utility facilities and water-oriented industries which must be in or adjacent to watercourses.

(D) Grading, filling, land alterations, and shoreline stabilization projects.

(E) No structures, as defined in § 154.02, are allowed in the Floodway District, except structures accessory to the uses detailed in §§ 154.30(A) and 154.32(A), which require a CUP under § 154.32(B).

(F) Levees or dikes intended to protect agricultural crops, provided the top of the dike does not exceed the 10% annual chance flood event.
(Ord. 112/24, passed 3-11-2024)

§ 154.31 STANDARDS FOR PERMITTED USES IN FLOODWAY.

In addition to the applicable standards detailed in §§ 154.20 through 154.22:

(A) The applicant must demonstrate that the development will not result in any of the following during the 1% annual chance flood: cause a stage increase of 0.00 feet or greater, obstruct flood flows, or increase velocities. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices (e.g. projects that restore the site to the previous cross-sectional area). This is commonly documented through a "no-rise certification."

(B) Any development that would result in a stage increases greater than 0.00 feet may only be allowed with a permit if the applicant has applied for and received approval for a conditional letter of map revision (CLOMR) in accordance with 44 CFR § 65.12. Map revisions must follow the procedures in §§ 154.80(E) and 154.03.

(C) Any development resulting in decreases to the water surface elevation of the base flood identified in the flood insurance study requires a letter of map revision (LOMR) following the procedures in §§ 154.80(E) and 154.03.

(D) Any development in the beds of public waters that will change the course, current or cross-section is required to obtain a public waters work permit in accordance with M.S. § 103G.245 or a utility crossing license in accordance with M.S. § 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.

(E) Any facility used by employees or the general public must be designed with a flood warning system acceptable to the Zoning Administrator that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.

(F) Fill and other land alteration activities must offer minimal obstruction to the flow of flood waters, and be protected from erosion and sediment entering surface waters by the use of vegetative cover, riprap or other methods as soon as possible.
(Ord. 112/24, passed 3-11-2024)

§ 154.32 CONDITIONAL USES IN FLOODWAY.

The following uses and activities may be permitted as conditional uses, subject to the standards detailed in § 154.33:

(A) Commercial extractive uses, and storage and stockpiling yards.

(B) Structures accessory to uses detailed in § 154.30(A) and division (A) above.
(Ord. 112/24, passed 3-11-2024)

§ 154.33 STANDARDS FOR CONDITIONAL USES IN FLOODWAY.

In addition to the applicable standards detailed in §§ 154.20 through 154.22, 154.31, and 154.81:

(A) Extractive uses and storage of materials require the completion of a site development and restoration plan, to be approved by the city.

(B) *Accessory structures*. Structures accessory to the uses detailed in §§ 154.30(A) and 154.32(A) must be constructed and placed so as to offer a minimal obstruction to the flow of flood waters, and are subject to the standards in § 154.41(C).
(Ord. 112/24, passed 3-11-2024)

FLOOD FRINGE DISTRICT

§ 154.40 PERMITTED USES IN FLOOD FRINGE.

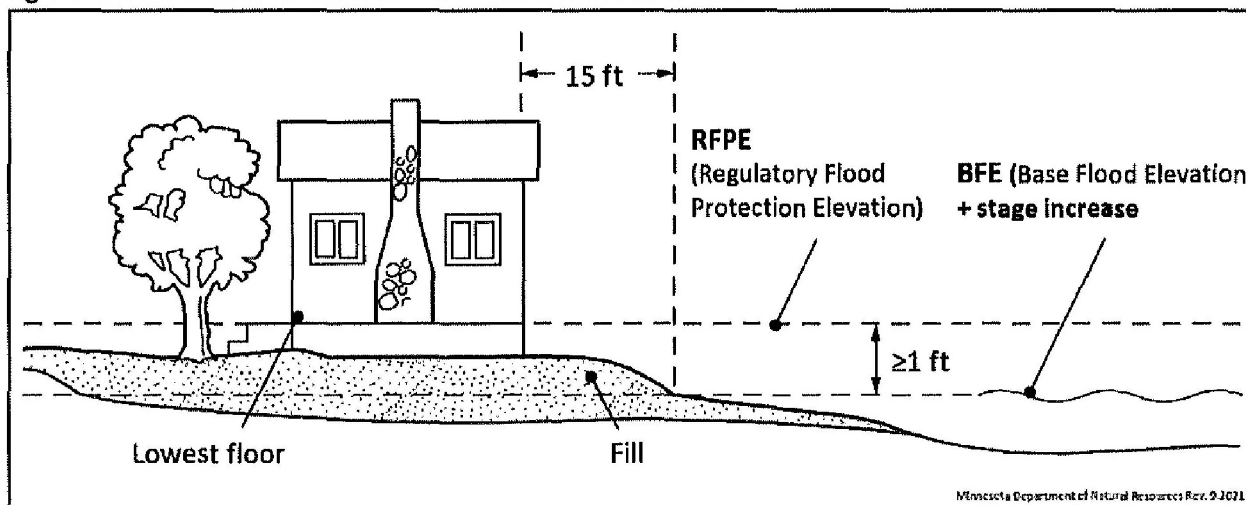
Any uses or activities allowed in any applicable underlying zoning districts may be allowed with a permit, subject to the standards set forth in § 154.41.
(Ord. 112/24, passed 3-11-2024)

§ 154.41 STANDARDS FOR PERMITTED USES IN FLOOD FRINGE.

(A) *Residential structures.*

(1) *Elevation on fill.* Structures erected, constructed, reconstructed, altered, or moved on fill within the Flood Fringe District shall be placed so that the lowest floor, as defined § 154.02, is elevated at or above the regulatory flood protection elevation (RFPE). The finished fill elevation shall be at or above the elevation associated with the base flood plus any stage increases that result from designation of a floodway. Fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the Zoning Administrator. Elevation methods alternative to these fill standards are subject to a conditional use permit, as provided in § 154.42 (Figure 1). Construction of this type shall only be permitted in locations where the natural ground is no lower than three feet below the base flood elevation.

Figure 1: Overview of fill standards for residential structures.



(B) *Nonresidential principal structures.* Nonresidential principal structures must meet one of the following construction methods:

(1) *Elevation on fill*. Structures may be elevated on fill, meeting the standards in § 154.41(A)(1). Fill for nonresidential structures is not required to be extended 15 feet beyond the outside limits of the structure.

(2) *Alternative elevation methods*. Structures may be elevated using methods alternative to the fill standards in § 154.41(A)(1). Such methods include the use of blocks, pilings (Figure 2), filled stem walls (Figure 3), or internally-flooded enclosed areas (Figure 4) such as crawl spaces, attached garages, or tuck under garages. Designs accommodating for internally-flooded enclosed areas must be certified by a registered professional engineer or architect, or meet or exceed the standards detailed in FEMA Technical Bulletin 1, as amended, as well as the following standards:

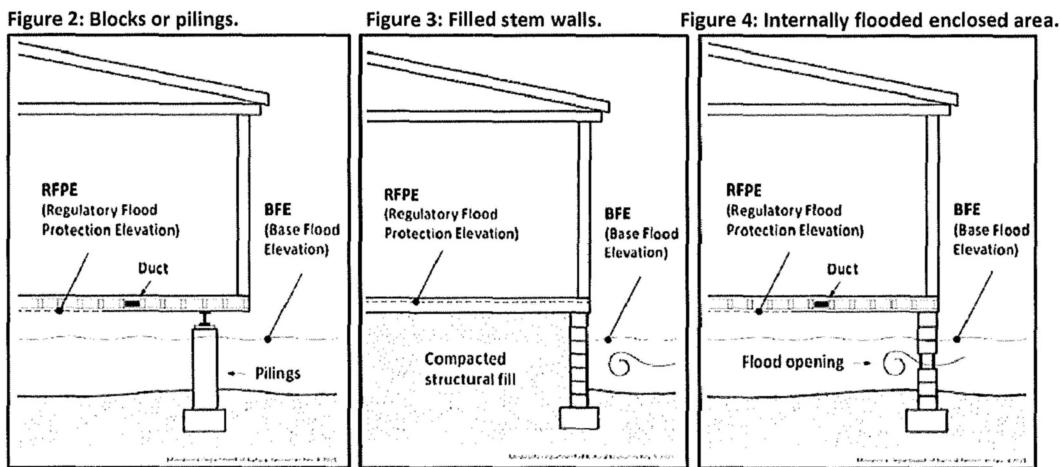


Figure 2: Blocks or pilings. **Figure 3: Filled stem walls.** **Figure 4: Internally flooded enclosed area.**

(a) The lowest floor, as defined in § 154.02, shall be elevated at or above the regulatory flood protection elevation (RFPE).

(b) The floor of the enclosed area must be at or above the exterior grade on at least one side of the structure.

(c) To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings below the base flood elevation on at least two sides of the structure. The bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.

(d) Internally flooded enclosed areas shall only be used for the parking of vehicles, building access, or storage. Bathrooms and toilet rooms shall not be allowed. Such areas shall be subject to a deed-restricted non-conversion agreement as well as periodic inspections with the issuance of any permit.

(3) *Dry floodproofing*. Structures having watertight enclosed basements or spaces below the regulatory flood protection elevation (RFPE) must meet the following standards:

(a) Walls must be substantially impermeable to the passage of water, with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, at least up to the regulatory flood protection elevation (RFPE);

(b) Must meet the standards of FEMA Technical Bulletin 3, as amended; and

(c) A registered professional engineer or architect shall be required to certify that the design and methods of construction meet the standards detailed in this section.

(C) *Accessory structures*. All accessory structures must meet the following standards:

(1) Structures shall not be designed or used for human habitation.

(2) Structures will have a low flood damage potential.

(3) Structures with fewer than two rigid walls, such as carports, gazebos, and picnic pavilions, may be located at an elevation below the regulatory flood protection elevation.

(4) Structures with two or more rigid walls, must meet one of the following construction methods:

(a) *Wet floodproofing*. Structures may be floodproofed in a way to accommodate internal flooding. Such structures shall constitute a minimal investment not to exceed 576 square feet in size, one-story in height, and shall only be used for parking and storage. To allow for the equalization of hydrostatic pressure, 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 openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.

(b) *Elevation on fill*. Structures may be elevated on fill, meeting the standards in § 154.41(A)(1). Fill is not required to be extended 15 feet beyond the outside limits of the structure.

(c) *Alternative elevation methods*. Structures may have their lowest floor elevated above the regulatory flood protection elevation (RFPE) through methods alternative to the fill standards in § 154.41(C)(4)(b), and must meet the standards in § 154.41(B)(2).

(d) *Dry floodproofing*. Structures may be dry-floodproofed, or watertight, meeting the standards in § 154.41(B)(3).

(D) All new principal structures must provide vehicular access no lower than one foot below the base flood elevation (BFE), unless a flood warning/emergency evacuation plan has been approved by the city.

(E) Any facilities used by employees or the general public must be designed with a flood warning system acceptable to the city provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.

(F) Manufactured homes and recreational vehicles must meet the standards of § 154.72.
(Ord. 112/24, passed 3-11-2024)

§ 154.42 CONDITIONAL USES IN FLOOD FRINGE.

The following uses and activities may be permitted as conditional uses, subject to the standards in § 154.43:

(A) *Alternative elevation methods - residential structures*. Residential structures with their lowest floor elevated above the regulatory flood protection elevation (RFPE) using methods alternative to the fill requirements in § 154.41(A).
(Ord. 112/24, passed 3-11-2024)

§ 154.43 STANDARDS FOR CONDITIONAL USES IN FLOOD FRINGE.

In addition to the applicable standards detailed in §§ 154.20 through 154.22, 154.41, and 154.81, all residential structures with lowest floors elevated through alternative elevation methods must meet the standards in § 154.41(B)(2).
(Ord. 112/24, passed 3-11-2024)

GENERAL FLOODPLAIN DISTRICT

§ 154.55 PERMITTED USES IN GENERAL FLOODPLAIN DISTRICT.

(A) Until the floodway is delineated, allowable uses will be restricted to those listed in the Floodway District, §§ 154.30 through 154.33.

(B) All other uses are subject to a floodway/flood fringe determination as provided in § 154.58, in addition to the standards provided in §§ 154.56 and 154.57. Permitted uses shall be determined as follows:

(1) If the development is determined to be in the Floodway District, §§ 154.30 through 154.33 applies.

(2) If the development is determined to be in the Flood Fringe District, §§ 154.40 through 154.43 applies.
(Ord. 112/24, passed 3-11-2024)

§ 154.56 DETERMINING FLOOD ELEVATIONS.

(A) All development requires a determination of the base flood elevation (BFE). Exceptions to this requirement include projects that restore the site to the previous cross-sectional area, such as shore stabilization or culvert replacement projects. Base flood elevations (BFE) may be found using best available data from any federal, state, or other source (including MNDNR's lake & flood elevations online (LFEO) viewer).

(B) The regulatory flood protection elevation (RFPE) can be determined by assuming a one-half foot stage increase to accommodate for future cumulative impacts. A stage increase does not need to be assumed along lakes, wetlands, and other basins that are not affected by velocities.
(Ord. 112/24, passed 3-11-2024)

§ 154.57 ENCROACHMENT ANALYSIS.

(A) Encroachments due to development may not allow stage increases more than one-half foot at any point, unless through a map revision following the procedures in §§ 154.80(E) and 154.03. This evaluation must include the cumulative effects of previous encroachments, and must be documented with hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices. A lesser water surface elevation increase than one-half foot is required if, due to the water surface level increase, increased flood damages would potentially result.

(B) Alterations or changes that result in stage decreases are allowed and encouraged.
(Ord. 112/24, passed 3-11-2024)

§ 154.58 STANDARDS FOR THE ANALYSIS OF FLOODWAY BOUNDARIES.

(A) *Requirements for detailed studies*. Any development, as requested by the Zoning Administrator, shall be subject to a detailed study to determine the regulatory flood protection elevation (RFPE) and the limits of the Floodway District. This determination must be consistent with the minimum standards for hydrologic and hydraulic mapping standards and techniques, as detailed in Minn. Rules, part 6120.5600, subp. 4 and FEMA Guidelines and Standards for Flood Risk Analysis and Mapping, as revised. Additionally:

(1) A regulatory floodway necessary to carry the discharge of the 1% annual chance flood must be selected without increasing the water surface elevation more than one-half foot at any point. This determination should include the cumulative effects of previous encroachments. A lesser water surface elevation increase than one-half foot is required if, due to the water surface level increase, increased flood damages would potentially result; and

(2) An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless topography, existing development patterns, and comprehensive land use plans justify a modified approach, as approved by the Department of Natural Resources.

(B) *Other acceptable methods*. For areas where a detailed study is not available or required:

(1) Development prohibited in floodways (e.g. most buildings) requires a floodway/flood fringe determination to verify the development is within the flood fringe. This determination must be done by a professional engineer or utilize other accepted engineering practices. The Department of Natural Resources may also provide technical assistance and must approve any alternative methods used to determine floodway boundaries.

(2) (a) For areas where the floodway has not been determined in and along lakes, wetlands, and other basins, the following methodology may be used as an alternative to division (B)(1) above, provided these areas are not affected by velocities and the lot is able to accommodate a building site above the regulatory flood protection elevation (RFPE):

(b) All areas that are at or below the ordinary high water level, as defined in M.S. § 103G.005, subd. 14, will be considered floodway, and all areas below the base flood elevation (BFE) but above the ordinary high water level will be considered flood fringe, provided that within 25 feet of the ordinary high water level, or within the shore impact zone as identified in the community's Shoreland Ordinance, whichever distance is greater, land alterations shall be restricted to:

1. The minimum required to accommodate beach areas, access areas, and accessory structures as permitted, not to exceed a volume greater than ten cubic yards; projects involving volumes exceeding ten cubic yards require floodway/flood fringe determination in accordance with the procedures in § 154.58(B)(1); and

2. The minimum required to accommodate shoreline stabilization projects to correct an identified erosion problem as verified by a qualified resource agency or the Zoning Administrator. (Ord. 112/24, passed 3-11-2024)

OTHER STANDARDS

§ 154.70 SUBDIVISION STANDARDS.

All subdivided land must meet the following requirements. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this chapter.

(A) All lots within floodplain districts must be suitable for a building site outside of the Floodway District.

(B) Subdivision of lands within the floodplain districts may not be approved if the cost of providing governmental services would impose an unreasonable economic burden on the city.

(C) All subdivisions must have vehicular access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation (RFPE), unless a flood warning/emergency evacuation plan has been approved by the city.

(D) The Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation (RFPE) and the required elevation of all access roads must be clearly identified on all required subdivision drawings and platting documents.
(Ord. 112/24, passed 3-11-2024)

§ 154.71 PUBLIC AND PRIVATE UTILITIES, SERVICE FACILITIES, ROADS, BRIDGES, AND RAILROADS.

(A) *Public transportation facilities*. Railroad tracks, roads, and bridges must be elevated to the regulatory flood protection elevation (RFPE) where such facilities are essential to the orderly functioning of the area, or where failure or interruption would result in danger to public health or safety. 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. All public transportation facilities should be designed to minimize increases in flood elevations.

(B) *Public utilities*. All utilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be elevated and/or floodproofed to the regulatory flood protection elevation (RFPE), be located and constructed to minimize or eliminate flood damage, and be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All public utilities should be designed to minimize increases in flood elevations. New solid waste management facilities, as defined in Minn. Rules, part 7035.0300, are prohibited in the 1% annual chance floodplain. Water supply systems are subject to the provisions in Minn. Rules, part 4725.4350.

(C) *Private on-site water supply, individual sewage treatment systems, and other service facilities*. Private facilities shall be subject to applicable provisions detailed in § 154.71(B). In addition, new or replacement on-site sewage treatment systems are to be located to avoid impairment to them or contamination from them during times of flooding, shall not be located in a designated floodway, and are subject to the provisions in Minn. Rules, parts 7080.2270.
(Ord. 112/24, passed 3-11-2024)

§ 154.72 MANUFACTURED HOMES.

Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:

(A) New and replacement manufactured homes must be placed and elevated in compliance with § 154.40 through 154.43 and must be securely anchored to a 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.

(B) New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in § 154.70.
(Ord. 112/24, passed 3-11-2024)

§ 154.73 RECREATIONAL VEHICLES.

New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:

(A) Meet the requirements for manufactured homes in § 154.72; or

(B) Be travel ready, meeting the following criteria:

(1) The vehicle must be fully licensed.

(2) The vehicle must be ready for highway use, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities.

(3) No permanent structural type additions may be attached to the vehicle.

(4) Accessory structures may be permitted in the Flood Fringe District, provided they do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in §§ 154.20 through 154.22 and 154.41(C).
(Ord. 112/24, passed 3-11-2024)

ADMINISTRATION

§ 154.80 DUTIES.

A Zoning Administrator or other official must administer and enforce this chapter.

(A) *Permit application requirements*. Permit applications must be submitted to the Zoning Administrator. The permit application must include the following, as applicable:

(1) A siteplan showing all existing or proposed buildings, structures, service facilities, potential obstructions, and pertinent design features having an influence on the permit.

(2) Location and detail of grading, fill, or storage of materials.

(3) Copies of any required local, state or federal permits or approvals.

(4) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

(B) *Recordkeeping*. The Zoning Administrator must maintain applicable records in perpetuity documenting:

(1) All certifications for dry floodproofing and alternative elevation methods, where applicable.

(2) Analysis of no-rise in the Floodway District, as detailed in § 154.31(A), and encroachment analysis ensuring no more than one-half foot of rise in the General Floodplain District, as detailed in §§ 154.56(B) and 154.57.

(3) Final elevations, as applicable, detailing the elevation to which structures and improvements to structures are constructed or floodproofed. Elevations shall be determined by an engineer, architect, surveyor or other qualified individual, as approved by the Zoning Administrator.

(4) Substantial damage and substantial improvement determinations, as detailed in § 154.90(C), including the cost of improvements, repairs, and market value.

(5) All variance actions, including justification for their issuance, and must report such variances as requested by the Federal Emergency Management Agency.

(C) *Certificate of zoning compliance for a new, altered, or nonconforming use*. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the finished fill and building floor elevations or other flood protection measures are in compliance with the requirements of this chapter.

(D) *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 in accordance with M.S. § 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to FEMA.

(E) *Notification to FEMA when physical changes increase or decrease base flood elevations*. Where physical changes affecting flooding conditions may increase or decrease the water surface elevation of the base flood, the city must notify FEMA of the changes in order to obtain a letter of map revision (LOMR), by submitting a copy of the relevant technical or scientific data as soon as practicable, but no later than six months after the date such supporting information becomes available. Within the general floodplain district, a map revision is only required if development results in stage increases greater than one-half feet.
(Ord. 112/24, passed 3-11-2024)

§ 154.81 CONDITIONAL USES AND VARIANCES.

(A) *Process*.

(1) An application for a conditional use permit will be processed and reviewed in accordance with the provisions of this chapter.

(2) An application for a variance to the provisions of this chapter will be processed and reviewed in accordance with M.S. § 462.357, subd. 6(2) and this chapter.

(B) *Additional variance criteria*. The following additional variance criteria must be satisfied:

(1) Variances must not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances from the provisions of this chapter may only be issued by a community upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) 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.

(3) Variances from the provisions in this chapter may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances must be consistent with the general purpose of these standards and the intent of applicable provisions in state and federal law.

(5) Variances may be used to modify permissible methods of flood protection, but no variance shall permit a lesser degree of flood protection than the regulatory flood protection elevation (RFPE).

(6) The Zoning Administrator must notify the applicant for a variance in writing 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 for $100 of insurance coverage; and

(b) Such construction below the base flood level increases risks to life property. Notification must be maintained with a record of all variance actions.

(C) *Considerations for approval*. The city must consider all relevant factors specified in other sections of this chapter in granting variances and conditional use permits, including the following:

(1) The potential danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept onto other lands or downstream to the injury of others.

(3) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(D) *Conditions of approval*. The city may attach such conditions to the granting of variances and conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

(1) Limitations on period of use, occupancy, and operation.

(2) Imposition of operational controls, sureties, and deed restrictions.

(3) The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

(4) Other conditions as deemed appropriate by the Zoning Administrator and City Council.
(Ord. 112/24, passed 3-11-2024)

§ 154.82 NOTIFICATIONS TO THE DEPARTMENT OF NATURAL RESOURCES.

(A) All notices of public hearings to consider variances or conditional uses under this chapter must be sent via electronic mail to the Department of Natural Resources respective area hydrologist at least ten days before the hearings. Notices of hearings to consider subdivisions/plats must include copies of the subdivision/plat.

(B) A copy of all decisions granting variances and conditional uses under this chapter must be sent via electronic mail to the Department of Natural Resources respective area hydrologist within ten days of final action.
(Ord. 112/24, passed 3-11-2024)

NONCONFORMITIES

§ 154.90 CONTINUANCE OF NONCONFORMITIES.

A use, structure, or occupancy of land which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

(A) Within the Floodway and General Floodplain Districts (when a site has been determined to be located in the floodway following the procedures in § 154.57, or when the floodway has not been delineated), any expansion or enlargement of uses or structures is prohibited.

(B) Within all districts, any addition, modification, rehabilitation, repair, or alteration shall be in conformance with the provisions of this chapter, shall not increase the flood damage potential or increase the degree of obstruction to flood flows, and where applicable, must be protected to the regulatory flood protection elevation (RFPE).

(C) If any nonconforming structure is determined to be substantially damaged or substantially improved based on the procedures in § 154.91, it may not be reconstructed except in conformity with the provisions of this chapter.

(D) 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 chapter.

(E) If any nonconforming structure has utilities, electrical, or mechanical equipment damaged due to flooding, it must be rebuilt in conformance with the elevation requirements in § 154.22(A)(4) to the greatest extent practicable. This requirement shall apply regardless of the determinations made in § 154.91.
(Ord. 112/24, passed 3-11-2024)

§ 154.91 SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE DETERMINATIONS.

Prior to issuing any permits for additions, modifications, rehabilitations, repairs, alterations, or maintenance to nonconforming structures, the Zoning Administrator is required to determine if such work constitutes substantial improvement or repair of a substantially damaged structure. A determination must be made in accordance with the following procedures:

(A) *Estimate the market value of the structure*. In the case of repairs, the market value of the structure shall be the market value before the damage occurred and before any restoration or repairs are made.

(B) *Estimate the cost of the project*. The property owner shall accommodate for inspection, and furnish other documentation needed by the Zoning Administrator to evaluate costs.

(1) Improvement costs shall be comprised of the market rate of all materials and labor, as well as the costs of all ordinary maintenance and upkeep carried out over the past one year.

(2) Costs to repair damages shall be comprised of the market rate of all materials and labor required to restore a building to its pre-damaged condition regardless of the work proposed, as well as associated improvement costs if structure is being restored beyond its pre-damaged condition.

(C) Compare the cost of the improvement, repairs, or combination thereof to the estimated market value of the structure, and determine whether the proposed work constitutes substantial improvement or repair of a substantially damaged structure, as defined in § 154.02.

(1) For the purposes of determining whether the proposed work would constitute substantial improvement, the evaluation shall also include all rehabilitations, additions, or other improvements completed since the community has adopted floodplain standards impacting this structure.

(2) If any nonconforming structure experiences a repetitive loss, as defined in § 154.02, it shall be considered substantially damaged and must not be reconstructed except in conformity with the provisions of this chapter.

(D) Based on this determination, the Zoning Administrator shall prepare a determination letter and notify the property owner accordingly. Structures determined to be substantially damaged or substantially improved may not be reconstructed except in conformity with the provisions of this chapter.
(Ord. 112/24, passed 3-11-2024)

§ 154.99 VIOLATIONS AND PENALTIES.

(A) *Uses in violation of the chapter*. Every structure, fill, deposit, or other use placed or maintained in the floodplain in violation of this chapter shall be considered a public nuisance.

(B) *Civil remedies*. The creation of a public nuisance may be enjoined and the maintenance of a public nuisance under this chapter may be abated by an action brought by the city or the Department of Natural Resources.

(C) *Enforcement*. Violations of the provisions of this chapter constitutes a misdemeanor and is punishable as defined by law. The Zoning Administrator 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. 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.
(Ord. 112/24, passed 3-11-2024)

Elysian - Land Usage

CHAPTER 155: SUBDIVISIONS

Section

General Provisions

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GENERAL PROVISIONS

§ 155.001 TITLE.

This chapter shall be known and may be cited as the "Subdivision Ordinance of the City of Elysian". (Ord. 58/05, passed 6-13-2005)

§ 155.002 PURPOSE.

These regulations are adopted for the following purposes:

(A) To protect and provide for the public health, safety and general welfare of the municipality;

(B) To guide the future growth and development of the municipality in accordance with the Land Use Plan;

(C) To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population;

(D) To protect the character and the social and economic stability of all parts of the municipality and to encourage the orderly and beneficial development of the community through appropriate growth management techniques assuring the timing and sequencing of development, promotion of infill development in existing neighborhoods and non-residential areas with adequate public facilities, to assure proper urban form and open space separation of urban areas, to protect environmentally critical areas and areas premature for urban development;

(E) To protect and conserve the value of land throughout the municipality and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings;

(F) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation and other public requirements and facilities;

(G) To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings and to provide for the proper location and width of streets and building lines;

(H) To establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land to encourage well planned, efficient and attractive subdivisions by establishing adequate and impartial standards for design and construction;

(I) To ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services through requiring the developer to pay fees, furnish land or establish mitigation to ensure that the development provides its fair share of capital facilities needs generated by the development;

(J) To prevent the pollution of air, assure the adequacy of drainage facilities, safeguard the water table and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;

(K) To preserve the natural beauty and topography of the municipality and to ensure appropriate development with regard to these natural features;

(L) To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of development as established in Ch. 156 of this code of ordinances;

(M) To ensure that land is subdivided only when subdivision is necessary to provide for uses of lands for which market demand exists and which are in the public Interest; and

(N) To remedy the problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision, scattered and low-grade subdivision.
(Ord. 58/05, passed 6-13-2005)

§ 155.003 JURISDICTION.

The regulations herein governing plats an the subdivision of land shall apply to all lands within the corporate limits of the city.
(Ord. 58/05, passed 6-13-2005)

§ 155.004 INTERPRETATION, CONFLICT AND SEPARABILITY.

(A) *Interpretation.* In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

(B) *Conflict.* Where the conditions imposed by any provisions of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this chapter or of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

(C) *Separability.* The provisions of this chapter are separable. If a section, sentence, clause or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the remaining portions of this chapter.
(Ord. 58/05, passed 6-13-2005)

§ 155.005 DEFINITIONS.

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

ALLEY. A public or private right-of-way less than 30 feet in width which affords secondary access to abutting property.

APPLICANT. The owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner and has executed an application form and professional fee responsibility agreement with the city. Consent shall be required from the legal owner of the premises.

ATTORNEY. The attorney employed by the city, unless otherwise stated.

BLOCK. A tract of land bounded by streets, or a combination of streets and public parks, cemeteries, shorelines, waterways or boundary lines of the corporate limits.

BOND. Any form of a surety bond in an amount and form satisfactory to the governing body. All ***BONDS*** shall be approved by the governing body whenever a bond is required by these regulations.

BOULEVARD. The portion of the street right-of-way between the curb line and the property line.

CAPITAL IMPROVEMENT. A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the local government.

CAPITAL IMPROVEMENTS PROGRAM. A plan setting forth, by category of public facilities, those capital improvements, and that portion of their costs which are attributable to serving new development within designated service areas for the public facilities over a period of specified years (from ten to 20 years). ***CAPITAL IMPROVEMENTS PROGRAM*** may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities.

CITY. The City of Elysian.

CITY ADMINISTRATOR. The person employed by the city and who is hereby established as the Administrative Officer of this chapter.

CITY ENGINEER. A professional engineer working for the city, unless otherwise stated.

CITY PLANNER. The City Planner or a duly authorized consultant.

COMMON OWNERSHIP. Ownership by the same person, corporation, firm, entity, partnership or unincorporated association; or ownership by different corporations, firms, partnerships, entities or unincorporated associations, in which a stockbroker, partner or associate, or a member of his or her family owns an interest in each corporation, firm, partnership, entity or unincorporated association.

COMPREHENSIVE PLAN. A comprehensive plan prepared by the city, including a compilation of policy statement goals, standards and maps indicating the general locations recommended for the

various functional classes of land use, places and structures, and for the general physical development of the city, including any unit or part of the plan separately adopted and any amendment to the plan or parts thereof.

CONSTRUCTION PLAN. The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the City Council as a condition of the approval of the plat.

CONTIGUOUS. Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.

CONTOUR MAP. A topographic map showing the irregularities in elevation of land surface through the use of lines connecting points of equal elevation. "Contour interval" is the vertical heights difference represented between the connecting lines on a ***CONTOUR MAP***.

COPY. A print or reproduction made from a tracing.

COUNTY. Le Sueur County, Minnesota.

COVENANTS. Protective or restrictive covenants are contracts made between private parties and constitute an agreement between these parties as to the manner in which land may be used, with a view to protecting and preserving the physical, social and economic integrity of any given area.

CUL-DE-SAC. A short street having one end open to traffic and the other being permanently terminated to a vehicular turn-around.

DESIGN STANDARD. The specifications for the preparation of preliminary plans indicating minimums and maximums in the dimensions, magnitude and capacity in such features as the layout of streets, lots, blocks, drainage and required improvements.

DEVELOPER. The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/or approval under these regulations.

DEVELOPMENT. The act of building structures and installing site improvements.

DEVELOPMENT AGREEMENT. Agreement between the City Council and developer, through which the City Council may agree to vest development use or intensity or refrain from interfering with subsequent phases of development through new legislation, in exchange for agreement to construct any and all improvements to existing city standards, or a higher standard in some cases, abide by all conditions of the City Council, perform all required tasks within the established time frame, warranty all improvements and provide security in an amount acceptable to the city to ensure performance of the agreement and all warranties. The ***AGREEMENT*** shall be recorded at the same time or prior to the final plat.

EASEMENT. A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, sanitary sewers, water mains, electric, gas or telephone lines, storm sewers or storm drainage ways.

ESCROW. A deposit of cash with the local government or escrow agent to secure the promise to perform some act.

FLOOD FRINGE. The portion of the floodplain outside of the floodway.

FRONTAGE. The width of a lot from property corner to corner, which abuts a public street or way.

GOVERNING BODY. A group of persons elected by voters of the municipality to govern the public affairs thereof; the City Council.

GRADE. The slope of a road, street or other public way specified in percentage terms.

IMPROVEMENTS. Pavement, curb and gutter, sidewalk, sewer and water facilities, grading, street signs, street lighting, landscaping and other items for the general welfare of property owners or general public.

LANDSCAPING. Acting with the purpose of meeting specific criteria regarding uses of outside space, including ground cover, buffers and shade trees.

LOT. A portion of the subdivision intended for building development or for transfer of ownership.

LOT, BUTT. A lot at the end of a block, located between two corner lots.

LOT, CORNER. A lot bordered on at least two sides by streets.

LOT, DOUBLE FRONTAGE. Lots having a front line abutting on a street and a back line abutting another street.

LOT OF RECORD. Any lot which is one unit of a plat heretofore 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 this chapter.

METES AND BOUNDS DESCRIPTION. A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the 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.

MUNICIPALITY. The governmental unit or area described in and governed by the provisions of this chapter; the City of Elysian.

NATURAL WATERWAY. 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. The term also includes all drainage structures placed in lieu of ***NATURAL WATERWAY*** in order to facilitate the continuity of the ***NATURAL WATERWAY***.

ORDINANCE. Any legislative action, however denominated, of a local government, which has the force of law, including any amendment or repeal of any ordinance.

OUTLOT. A lot remnant or parcel of land left over after platting, which is intended as open space or other future use, for which no building permit shall be issued.

OWNER. An individual, association, syndicate, partnership, corporation, trust or any other legal entity holding an equitable, or legal ownership interest in the land sought to be subdivided.

PARKS. Playground, trails, parks or open spaces within the city, owned, leased or used, wholly or in part, by the city for park and recreational purposes or of which is designated by the City Council as a park.

PEDESTRIAN WAY. A right-of-way across or within a block for use by pedestrian traffic whether designated as a pedestrian way, greenway, crosswalk or otherwise designated.

PERCENTAGE OF GRADE. Along a centerline of a street, the change in vertical elevation in feet and tenths of a foot for each 100 feet of horizontal distance, expressed as a percentage.

PERSON. Any individual or group of individuals, or any corporation, limited liability company, generator limited partnership or any other legal entity, joint venture, unincorporated association or governmental or quasi-governmental entity.

PLANNING COMMISSION. The Planning Commission of the city.

PLANNED UNIT DEVELOPMENT (PUD). Land under unified control to be planned and developed as a whole in a single development operation, in a programmed series of development operations, or to address unique development concepts. A ***PLANNED DEVELOPMENT*** includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. The development is built according to general and detailed plans that include not only streets, utilities, lots and building location, but also site plans for all building locations, how they are to be used and related to each other, and plans for other uses and improvements on the land as they relate to the buildings. The ***PUD*** concept may also be an appropriate development strategy for land containing unique features that would make it difficult to develop strictly under established city code.

PLAT, FINAL. A drawing of map of a subdivision, meeting all the requirements of the city and in such form as required by the county for purposes of recording.

PLAT, PRELIMINARY. The preliminary drawings described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission and City Council for approval.

PROPERTY OWNERS ASSOCIATION. An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision - be it a lot, parcel site, unit plot, condominium or any other interest - is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot, parcel, unit, condominium or other interest of the member.

PROTECTIVE OR RESTRICTIVE COVENANTS. Contracts entered into between all owners and holders of mortgage constituting a restriction on the use of all private property within a subdivision for the benefit the property owners, and providing mutual protection against undesirable aspects of development which would tend to impair the stability of property value and economic integrity of any given area.

PUBLIC HEARING. An adjudicatory proceeding held by the Planning Commission preceded by published notice and actual notice to certain persons and at which certain persons, including the applicant, may call witnesses and introduce evidence for the purpose of demonstrating that plat approval should or should not be granted. The ***HEARING*** may be combined with other adjudicatory or legislative hearings to address related issues such as a comprehensive plan amendment, a zoning map or text amendment or a variance.

REGISTERED LAND SURVEYOR. A land surveyor properly licensed and registered in the state.

RESUBDIVISION. Any change in a map of an approved or recorded subdivision plat that affects any street layout on the map or area reserved thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

RIGHT-OF-WAY. The land dedicated for public use as a street or way or private use such as a power line or railroad.

SITE MAP. A map showing existing conditions including all platted parcels, streets, rights-of-way, easements and any predominant topography or natural features such as lakes, wooded areas or other important features.

STREET. A public right-of-way or easement for vehicular traffic, whether designated as highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, drive, court or otherwise designated.

STREET, ARTERIAL. Provides for traffic movement to and from municipalities and their surrounding rural areas, to and from regional highways and collector street, and between major parts

of an urban area. Intersections are at grade and direct access to abutting property is secondary to traffic movement.

STREET, COLLECTOR. Distributes the internal traffic within an area of a community, such as a residential neighborhood or industrial district, between the arterials and local streets, provides access to abutting land. Continuity should be sufficient to accommodate short trips, but discourage through movement.

STREET, HALF. A street having only one-half of its intended roadway width developed to accommodate traffic.

STREET, LOCAL. Provides for direct access to residential, commercial, industrial or other abutting property. Continuity is not imperative; all through traffic movement should be discouraged.

SUBDIVIDER. Any person who:

(1) Having an interest in land causes it directly or indirectly, to be divided into a subdivision;

(2) Directly or indirectly, sells, leases or develops, or offers to sell, lease or develop, or advertises to sell, lease or develop, any interest, lot, parcel site, unit or plat in a subdivision; or

(3) Engages directly or through an agent in the business of selling, leasing, developing or offering for, sale, lease or development a subdivision or any interest, lot, parcel site, unit or plat in a subdivision; and

(4) Is directly or indirectly controlled by, or under direct or indirect common control with, any of the foregoing.

SUBDIVISION. The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots or long-term leasehold, interests where the creation of the leasehold interest necessitates the creation of streets, roads or alleys, for residential, commercial, industrial or the use of any combination thereof, except the following separations:

(1) Where all the resulting parcels, tracts, lots or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

(2) Creating cemetery lots; or

(3) Resulting from court orders, the adjustment of a lot line by the relocation of a common boundary.

SUBDIVISION, MAJOR. All subdivisions not classified as minor subdivisions.

SUBDIVISION, MINOR. Any subdivision containing not more than three lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Land Use Plan, Official Map, Zoning Ordinance or the regulations contained in this chapter. In addition, none of the parcels shall have been a part of a ***MINOR SUBDIVISION*** within the preceding five years.

VARIANCE. A modification in the application of a land use ordinance to a specific lot where, because of unique physical circumstances, strict enforcement would cause an undue hardship or practical difficulties in the use of land. ***VARIANCES*** shall be limited to height, bulk, density and yard requirements.

ZONING ORDINANCE. The Zoning Ordinance or resolution controlling the use of land as adopted by the city; Ch. 156 of this code of ordinances.
(Ord. 58/05, passed 6-13-2005)

§ 155.006 REGISTERED LAND SURVEYS.

(A) It is the intention of this chapter that all registered land surveys in the city should be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this chapter for preliminary plats and that the Planning Commission shall first approve the arrangement, sizes and relationship of proposed tracts in the registered land surveys and that tracts to be used as easements or roads should be so dedicated.

(B) Unless a recommendation and approval have been obtained from the Planning Commission and City Council respectively in accordance with the standards set forth in this chapter, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys, and the city may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts unless so approved.
(Ord. 58/05, passed 6-13-2005)

§ 155.007 CONVEYANCE BY METES AND BOUNDS.

(A) No conveyance in which the land conveyed is described by metes and bounds, or by reference to an unapproved registered land survey made after 4-21-1961 shall be made or recorded unless the parcel described in the conveyance:

(1) Was a separate legal parcel of record as of 4-6-1992, or was the subject of a written agreement dated prior to 4-6-1992 in which the conveyance was agreed to;

(2) Was a separate parcel of not less than two and one-half acres in area and at least 150 feet in width prior to 1-1-1966;

(3) Was a separate parcel of land not less than five acres in area and 300 feet in width prior to 7-1-1980;

(4) Is a single parcel of commercially or industrially zoned land no less than five acres in area and 300 feet in width and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width; or

(5) Is a single parcel of residentially or agriculturally zoned land no less than 20 acres in area and having a width of no less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

(B) Building permits will be withheld for buildings or tracts which have been subdivided and conveyed by this method, and the city may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts.
(Ord. 58/05, passed 6-13-2005)

§ 155.008 LAND SUITABILITY.

(A) Each lot created through subdivision, including planned unit developments, must be suitable in its natural state for the proposed use with minimal alteration.

(B) Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe soil erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision.
(Ord. 58/05, passed 6-13-2005)

§ 155.009 CONSISTENCY WITH OTHER CONTROLS.

(A) Subdivisions must conform to all official controls of the city.

(B) A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. A subdivision will not be approved unless publicly-owned sewer and water systems are available to the property in question.

(C) Each lot shall meet the minimum lot size and dimensional requirements of Ch. 156 of this code of ordinances.
(Ord. 58/05, passed 6-13-2005)

§ 155.010 ISSUANCE OF PERMITS.

No building permits will be issued by the city for the construction of any building, structure or improvements to the land or to any lot in a subdivision until all requirements of this chapter have been complied with.
(Ord. 58/05, passed 6-13-2005)

CLASSIFICATIONS AND PROCEDURES

§ 155.025 CLASSIFICATION.

Before any land is subdivided, the owner of the property proposed to be subdivided, or his or her authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, based upon whether the proposal is classified a minor subdivision or a major subdivision:

(A) Minor subdivision (see § 155.028(A) of this chapter):

(1) Sketch plan; and

(2) Final plat.

(B) Major subdivision (all subdivision proposals not classified as minor subdivisions):

(1) Sketch plan;

(2) Preliminary plat; and

(3) Final plat.
(Ord. 58/05, passed 6-13-2005)

§ 155.026 OFFICIAL SUBMISSION DATE.

For the purpose of meeting the statutory timelines, the date on which the applicant has submitted a complete application containing all information requirements of this chapter, has properly executed all required application forms and a fee responsibility agreement, and any additional requests of the City Administrator, in addition to all appropriate fees having been paid, shall constitute the official submission date of the plat on which the statutory period required for formal approval, conditional approval or disapproval shall commence to run.
(Ord. 58/05, passed 6-13-2005)

§ 155.027 SKETCH PLAN.

(A) *Pre-application meeting.* Prior to the submission of any plat, the subdivider-developer shall meet with the Chairperson of the Planning Commission, City Planner or the Zoning Administrator to introduce themselves as a potential subdivider and learn what shall be expected in such a capacity and to determine the relationship of the proposed subdivision with the Comprehensive Plan for the affected area. At this time, the subdivider shall submit the following general information for determination of land suitability:

(1) Name of owner/applicant;

(2) Name and address of the surveyor or engineer preparing the plat;

(3) Site location map showing adjacent streets and intersections;

(4) Map showing tract boundaries/dimensions (legal description);

(5) North point and scale;

(6) Existing utility easement locations;

(7) Topographic data at two-foot contours;

(8) Significant physical features including surface water features, wetlands, wooded areas and any other features requested by the city;

(9) Proposed general street layout, lot design and dimensions;

(10) Anticipated storm water pond locations; and

(11) Proposed park land and/or trail dedications.

(B) *Requesting review.* The applicant shall not be bound by any sketch plan for which review is requested, nor shall any representatives of the city be bound by any such review.
(Ord. 58/05, passed 6-13-2005)

§ 155.028 MINOR SUBDIVISIONS; APPLICATION.

(A) *"Minor subdivision" defined.*

(1) In the case of a request to divide one or two lots from a larger tract of land thereby creating no more than three lots. To qualify, the new lots must have frontage on an existing street or road and

the parcel of land being further subdivided should not have been a part of a minor subdivision within the last five years;

(2) In the case of a request to divide a base lot, which is a part of a recorded plat upon which has been constructed a two-family dwelling, townhouse or quadraminium, where the division is to permit individual private ownership of a single dwelling unit within such a structure and the newly created property lines will not cause any of the unit lots or structure to be in violation of this chapter, Ch. 156 of this code of ordinances or the state's Building Code; and

(3) Any other subdivisions that meet the definition contained in § 155.005 of this chapter.

(B) *Content, processing and data requirements for minor subdivisions.*

(1) The requested minor division shall be prepared by a registered land surveyor in the form of a certificate of survey.

(2) The applicant will complete and submit the materials required under § 155.027 of this chapter. When this process has been completed and accepted, the applicant will move directly to the final plat stage of the subdivision process, submitting and completing requirements and processing specified in § 155.030 of this chapter.

(C) *Design standards.* The minor subdivision shall conform to all design standards as stipulated in this chapter. Any proposed deviation from the standards requires the processing of a variance request.
(Ord. 58/05, passed 6-13-2005)

§ 155.029 PRELIMINARY PLATS.

If the subdivision proposal is not a minor subdivision, then the applicant must file a preliminary plat, following the procedures and providing the information listed below.

(A) The application shall:

(1) Be made on forms available at the city offices, accompanied by a fee, as established by the City Council. The City Administrator shall deposit any money received as fees hereunder to the credit of the general fund of the city. No money shall be refunded to the applicant. The fee is not intended to cover specialized engineering, planning or site analysis reviews. Fees for additional technical services such as these will become the responsibility of the subdividers;

(2) Contain a copy of an up-to-date certified abstract of title or registered property report showing title in the applicants name, or an option to buy the property by the applicant as shown on the preliminary plat;

(3) Be accompanied by a list of names and addresses of all adjacent property owners within 350 feet of the proposed development area; and

(4) Be accompanied by a minimum of ten copies of the preliminary plat (sized 20 inches by 30 inches or larger) and one reduced copy of the plat no larger than 11 inches by 17 inches.

(B) Plat information shall include:

(1) *Owner and property information.*

(a) Name and address of the owner, developer, site planner and registered land surveyor;

(b) A location map showing the proposed plat's location in relationship to the corporate limits, as well as, to surrounding properties, streets or other key geographical references within 350 feet of the development property;

(c) Legal description of the property, the acreage of the proposed subdivision, date of preparation and revision dates and north arrow;

(d) Existing zoning classifications for land abutting the proposed subdivision, as well as, zoning of land within plat and any proposed zoning changes; and

(e) Proposed name of subdivision (not duplicating other platted areas of the county).

(2) *Existing conditions.*

(a) The plat shall be at a graphic scale, no less than one inch equals 100 feet, with a north point;

(b) The boundary of the proposed subdivision with angle and/or bearings and distances that close within a tolerance of one foot in 5,000 feet and which shall be tied to the nearest AA corner or section corner by traverse;

(c) Boundary lines of adjoining unsubdivided or subdivided land, within 350 feet, identified by name and ownership, including all contiguous land owned or controlled by subdividers;

(d) Location, right-of-way width and names of existing or platted streets, or other public ways, parks and other public lands, permanent buildings and structures, easements, section and corporate lines within the plat, and to a distance 350 feet beyond shall also be indicated;

(e) Existing water mains, storm and sanitary sewer collection lines to a distance of 100 feet outside the plat boundaries;

(f) Topographic map with two-foot contour intervals, showing locations of wetlands, shoreline boundaries and stream locations. If any U.S.G.S. data shall be used for all mapping where feasible. Flood elevations of water features shall also be shown; and

(g) Boundary, nature and extent of wooded areas, specimen trees and other significant physical features.

(3) *Proposed design features.*

(a) Layout of proposed streets showing the rights-of-way, centerline gradients, typical cross-sections and proposed street names;

(b) Locations and widths of proposed pedestrian walkways, bike paths, trails and the like;

(c) Lots, showing dimensions and approximate square footage, block arrangement numbering system and minimum front and side street building setback lines;

(d) Proposed easement locations, identified by types (utility easement, storm water drainage easement and the like);

(e) Proposed public utility service plan;

(f) Proposed grading plan by two-foot contours (both existing and proposed). This shall include an area 100 feet outside the boundaries of the proposed plat;

(g) Storm water drainage plan, including all rear or side yard major drainage swales clearly defined with contours and drainage arrows. A "major" swale is a swale that has surface storm water contributed to by more than three lots;

(h) Soil erosion and sediment control plan;

(i) Parking plan showing spaces, curb cuts, driveways and all ingress and egress locations and dimensions, when required;

(j) Park dedication location or cash contribution to park funds; and

(k) If the preliminary plat is a rearrangement of a replat of any plat of record, lot and block arrangement of the original plat, its original name and all roadways of the plat shall be shown by dotted or dashed lines.

(4) *Other information.*

(a) Proposed use of lots, stating the type of residential buildings proposed, including the number of proposed dwelling units, type of business or industry proposed, so as to reveal the effect of the development on traffic, fire hazards and congestion of population;

(b) Where the subdivider owns property adjacent to that being proposed for development, the Planning Commission shall require a sketch plan from the developer of the remainder of the property to show possible relationships between the proposed subdivision and the future subdivision area(s);

(c) Where structures are to be placed on large lots (24,000 square feet or more), or excessively deep lots (240 feet or more), the preliminary plat shall indicate placement of structures so that lots may be further subdivided;

(d) A copy of any restrictive covenants proposed for the development;

(e) List of required regulatory approvals or permits;

(f) List of variances required or requested; and

(g) Other information as may be requested by the city's Planning Commission or city staff.

(C) (1) The city's Administrator shall submit five copies of the preliminary plat to the Planning Commission.

(2) The city's Administrator may instruct the appropriate staff to prepare technical reports and provide general assistance in preparing a recommendation on the action to the City Council. This may include the City Planner, the City Engineer, City Building Official or the City Attorney, or others as deemed needed.

(3) The city's Administrator shall submit one copy of the preliminary plat to the DNR regional hydrologist if the development proposal contains land falling within the shoreland overlay district. This copy will be sent at least ten days prior to the public hearing.

(4) (a) Upon receipt of the completed application as outlined above, the City Administrator shall set a public hearing for public review of the preliminary plat. The hearing shall be held within 45 days of the official submission date of the application. The applicant and/or his or her representative shall appear at the public hearing before the Planning Commission in order to answer questions concerning the proposal.

(b) Notice of the public hearing may consist of a legal property description, shall contain a description of the request and shall be advertised in the official newspaper at least ten days before the day of the hearing. Property owners within 350 feet of the proposed subdivision shall also be notified through the mail of the hearing. Failure of any property owner to receive the notice shall not invalidate the public hearing.

(5) (a) No later than 45 days after the close of the public hearing described above, the Planning Commission shall submit the plat to the City Council with its own recommendations, including any conditions it recommends be placed upon the plat prior to approval. The City Council may approve,

approve with conditions or disapprove the plat by a majority vote of its members regardless of the recommendations made by the Planning Commission.

(b) If the Planning Commission has not acted upon the preliminary plat within 30 days following the close of the public hearing on such and in compliance with this chapter, the Council may act on the preliminary plat without the Planning Commission's recommendation, and may approve, approve with conditions or disapprove the plat by a majority vote of its members after the required public hearing.

(c) The City Council shall take final action within 120 days of the application's official submission date. The subdivision application shall be preliminarily approved or denied by the City Council. If the City Council fails to approve or disapprove the preliminary plat in this review period, the application shall be deemed preliminarily approved, unless the applicant has signed a time extension agreement.

(6) At any time during this process, either the applicant or the city may request an extension of the imposed time limits. Both the applicant and the city must agree to the time extension and must execute a time extension form that will become a part of the subdivision file.

(7) If the City Council requires changes to the preliminary plat, and if the changes are determined to be minor changes in the opinion of the City Council, then the changes may be noted on the plat and approved as such.

(8) If the changes to be made are major changes in the opinion of the City Council, then a new preliminary plat must be prepared and resubmitted, along with the payment of new fees, based upon the procedures and timelines established in this section.

(9) No preliminary plats shall be approved unless the applicant proves by clear and convincing evidence that:

(a) The application for a preliminary plat is not premature and conforms to the city's Comprehensive Plan;

(b) The uses in the subdivision will be connected to and served by public utilities for the provision of water supply and sewage collection and treatment facilities;

(c) The subdivider has the financial ability to complete the proposed subdivision in accordance with all applicable laws and regulations;

(d) The proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels; and

(e) The subdivider has taken every effort to mitigate the impact of the proposed subdivision on public health, safety and welfare.

(10) (a) The Planning Commission may recommend and the City Council may require changes or revisions as deemed necessary for the health, safety, general welfare and convenience of the city.

(b) The approval of a preliminary plat by the Planning Commission and the City Council is tentative only, involving merely the general acceptability of the layout submitted.

(c) Subsequent approval will be required of the proposals pertaining to water supply, storm drainage, sewage and sewage disposal, gas and electric service, grading, gradients and roadway widths and the surfacing of streets.

(11) If the preliminary plat is approved, the approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this chapter to be indicated on the final plat. The City Council may impose such conditions and restrictions as it deems appropriate or require such revisions or modifications in the preliminary plat or final plat as it deems necessary to protect the health, safety, comfort, general welfare and convenience of the city.

(12) If the preliminary plat is not approved by the City Council the reasons for the action shall be recorded in the proceedings of the Council and shall be transmitted to the applicant.

(13) Any resubmission of a plat application which has been denied by the City Council shall be prohibited for one year following denial unless the City Council votes to allow the resubmission either unanimously or by super majority.
(Ord. 58/05, passed 6-13-2005)

§ 155.030 FINAL PLATS.

(A) *General process.*

(1) After approval of the preliminary plat, the applicant shall prepare and submit a final plat to the city for study and recommendation. This plat must be submitted within one year from approval of the preliminary plat, or as specified in an approved development agreement. If the final plat is not submitted within this time period and the applicant has not requested a time extension, the approved preliminary plat becomes null and void within one year of its approval date.

(2) The applicant shall have a registered land surveyor, licensed engineer or other professional to prepare a final plat which shall constitute that portion of the preliminary plat the owner proposes to record and develop.

(3) In some development proposals, the city may agree to review the preliminary and final plats simultaneously.

(4) All final plats shall comply with the provisions of state statutes and the requirements of this chapter. An applicant shall submit with the final plat a current abstract of title or a registered property certificate, along with any unrecorded documents and an opinion of title.

(B) *Final plat information required.*

(1) *Contents.* Ten copies (sized 20 inches by 30 inches or larger) and one reproducible copy (sized no larger than 11 inches by 17 inches) of the final plat shall be given to the city. The final plat shall be prepared for recording purposes and in accordance with provisions of state statutes and county regulations. The developer shall also have prepared a final plat in the form required by the County Recorder and, as such, the final plat shall contain the following information:

(a) Name of subdivision (not duplicating other platted areas of the county);

(b) Location by section, township, range, county and state, and including descriptive boundaries of the subdivision based on an accurate traverse, giving angular dimensions which must mathematically close;

(c) The location of monuments shall be shown and described on the final plat. Locations of the monuments shall be shown in reference to existing official monuments on the nearest established street lines, including true angles, and distances to such reference points or monuments. Permanent markers shall be placed at each corner of every block or portion of a block, points of curvature and points of tangency of street lines and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe, one-half inch or larger-in diameter extending at least two feet below the finished grade due to the difficulty faced with frozen ground in the winter. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter;

(d) Location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines;

(e) Lots shall be numbered clearly. Blocks are to be numbered, with numbers shown clearly in the center of the block;

(f) The exact locations, widths and names of all streets to be dedicated;

(g) Location, width and intended use of all easements to be dedicated;

(h) Name of fee owner and surveyor preparing plat;

(i) Scale of plat (scale to be shown graphically and in feet per inch), date and north point;

(j) Statement dedicating all streets, alleys and other public areas, utility and drainage easements not previously dedicated as follows: streets; alleys; and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated;

(k) Land or monetary dedication for park and open space;

(l) Financial guarantees in an amount specified in a developer's agreement; and

(m) Fully executed developer's agreement.

(2) *Certifications required.*

(a) Notarized certification by owner and by any mortgage holder of record of the adoption of the plat and the dedication of streets and other public areas;

(b) Notarized certification by a registered land surveyor to the effect that the plat represents a survey made by him or her and monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct;

(c) Certification showing that all taxes and special assessments due on the property have been paid in full, if requested by the City Council or County Commissioners; and

(d) Space for certification of approval and review to be filled in by the signatures of the chairman of the city's Planning Commission, the Mayor and the City Administrator, as follows:

1. *Planning Commission review.*

Reviewed by the Planning Commission of the City of Elysian this ________ day of ___________ , 20____ .

Signed: ____
Chairperson

Attest: ____
Secretary

2. *City Council approval form.*

Approved by the City of Elysian, Minnesota, this ________ day of __________________ , 20______ .

Signed: ____
Mayor

Attest: ____
City Administrator

(3) *Recording required.* A letter from the County Recorder's office stating the final plat has been recorded as approved by the City Council shall be received by the City Administrator before any building permits may be issued.

(4) *Proposed design features.*

(a) Layout of proposed streets showing the rights-of-way, centerline gradients, typical cross-sections and proposed street names;

(b) Locations and widths of proposed pedestrian walkways, bike paths, trails and the like;

(c) Lots, showing dimensions and approximate square footage, block arrangement and numbering system;

(d) Proposed easement locations, identified by types (utility easement, storm water drainage easement and the like);

(e) Proposed public utility service plan;

(f) Proposed grading plan by two-foot contours (both existing and proposed). This shall include an area 100 feet outside the boundaries of the proposed plat;

(g) Storm water drainage plan;

(h) Soil erosion and sediment control plan;

(i) Parking plan showing spaces, curb cuts, driveways and all ingress and egress locations and dimensions, when required;

(j) Park dedication location or cash contribution to park funds; and

(k) If the preliminary plat is a rearrangement of a replat of any plat of record, lot and block arrangement of the original plat, its original name and all roadways of the plat shall be shown by dotted or dashed lines.

(5) *Other information.*

(a) Proposed use of lots, stating the type of residential buildings proposed, including the number of proposed dwelling units, type of business or industry proposed, so as to reveal the effect of the development on traffic, fire hazards and congestion of population;

(b) Where the subdivider owns property adjacent to that being proposed for development, the Planning Commission may request a sketch plan from the developer of the remainder of the property to show possible relationships between the proposed subdivision and the future subdivision area(s);

(c) Where structures are to be placed on large lots (24,000 square feet or more), or excessively deep lots (240 feet or more), the preliminary plat shall indicate placement of structures so that lots may be further subdivided;

(d) A copy of any restrictive covenants proposed for the development;

(e) List of required regulatory approvals or permits; and

(f) List of variances required or requested.

(6) *Construction plans and as-builts.*

(a) Construction plans for the required improvements conforming to the standards of the city and the applicable ordinances, shall be prepared by the developer by a professional engineer who is registered in the state. The plans together with the quantities of construction items shall be submitted to the City Engineer for review and approval.

(b) Upon the City Engineer's certification, the developer is required to furnish to the city as-built drawings for all improvements made.

(C) *Procedures and timelines.*

(1) Upon receipt of a final plat, the City Administrator shall refer one copy each to the City Council, appropriate city staff, the County Surveyor and to all applicable utility companies and one copy with abstract of title or registered property certificates and opinion title to the City Attorney.

(2) The City Council may refer the final plat to the Planning Commission for recommendation if they feel the proposed final plat is substantially different from the approved preliminary plat. The Planning Commission shall submit a report thereon to the City Council within 30 days.

(3) The city staff receiving a copy of the final plat shall submit reports through the City Administrator to the City Council within 15 days of receiving the plat expressing their recommendation on the final plat.

(4) Prior to approval of a final plat, the applicant shall have executed an agreement with the city controlling the installation of all required improvements. The agreement will require all improvements to comply with approved engineering standards and applicable regulations, and shall set forth the amount and form of security required by the city to ensure proper installation and warranty of all improvements.

(5) The City Council, after receiving the final plat and any recommendations from the Planning Commission, shall approve, approve with attached conditions or disapprove the final plat within 60 days

of its official submission date. This action taken by the City Council is dependent upon the final plat's conformance with the preliminary plat, as approved by the City Council.

(6) If the final plat is not approved, the reasons for the action shall be recorded in the official proceedings of the city and shall be transmitted to the applicant.

(7) At any time during this process, either the applicant or the city may request an extension of the imposed time limits. Both the applicant and the city must agree to the time extension and must execute a time extension form that will become a part of the subdivision file.

(8) The final plat, when approved, shall be submitted by the applicant to the County Recorder for recording. A developer's agreement must be recorded prior to or simultaneously with the plat. The final plat must be recorded within 180 days from the date of approval or it will become null and void. If recording is not accomplished according to these procedures, the city may require another review of the proposed subdivision according to these regulations and state law. Prior to recording, the final plat must be signed by representatives of the city and the applicant must post all required security in a city approved manner. If a final plat is submitted for a portion of the area encompassed in the preliminary plat and it is recorded within 180 days from the date of approval, the remaining portion of the preliminary plat will remain valid for five years. That portion of a preliminary plat for which a final plat is not submitted and recorded or for which a time extension form has not been executed between the applicant and the city within this five-year period, shall become null and void.

(9) Fees for final recording shall be paid by the applicant. The applicant shall furnish to the city a reproducible copy of the recorded plat, either chronoflex or its equivalent, two prints, and an electronic version of the plat in a format the city requests. Failure to furnish the copies shall be grounds for a refusal to issue building permits for the lots within a plat.

(10) The resubmission of a plat denied by the City Council shall be prohibited for one year following denial unless the City Council votes to allow the resubmission either unanimously or by super majority.
(Ord. 58/05, passed 6-13-2005)

COMPLETION AND MAINTENANCE OF IMPROVEMENTS; ASSURANCES

§ 155.045 GENERALLY.

(A) Before a final plat is approved by the Council, the owner and subdivider of the land covered by the plat shall execute and submit to the Council a developer's agreement, which shall be binding on their heirs, personal representatives and assigns, that they will cause no private construction to be made on the plat or file or cause to be filed any application for building permits for the construction until all

improvements required under this chapter have been made or have been arranged for, with respect to the streets to which the lots sought to be constructed have access.

(B) The agreement shall provide that all of the required improvements will be made in accordance with standards approved or recommended by the City Engineer. This shall include provision for supervision of details of construction by the City Engineer and shall grant to the City Engineer authority to coordinate the work and improvements to be done under the contract by any subcontractor authorized to proceed with any other work being done or contracted by the city in the vicinity. The agreements shall include adequate financial provisions to ensure that all improvements accomplished by the subdivider will comply with the standards.

(C) A developer's responsibility for contributing to off-tract improvements may be required. Refer to §§ 155.100 through 155.103 of this chapter for the standards, related to this requirement.
(Ord. 58/05, passed 6-13-2005)

§ 155.046 IMPROVEMENTS MAY BE PARTIAL.

It is not the intent of this chapter to require the subdivider to develop the entire plat and make all required improvements at one time, but no building permits shall be issued, except on lots having access to streets on which the required improvements have been made.
(Ord. 58/05, passed 6-13-2005)

§ 155.047 PAYMENT FOR INSTALLATION.

The required improvements to be installed by the subdivider shall be installed at the sole expense of the subdivider; except that, portion of any improvement installed within the subdivision that will benefit lands beyond the boundaries of the subdivision. The owners of lands located beyond the subdivision on which the improvements being made will benefit, will be assessed the value of the improvements being made. The subdivider will pay only that portion of the improvements benefitting the property contained within the subdivision.
(Ord. 58/05, passed 6-13-2005)

§ 155.048 FINANCIAL GUARANTEE.

(A) The agreement required in § 155.045 of this chapter shall require the applicant to provide a financial guarantee in a form approved by the City Council or the City Attorney, in an amount equal to 150% of the total cost of the improvements, as estimated by the City Engineer. This financial guarantee shall be in the form of an escrow account or a public contractor's performance bond.

(B) The agreement may further provide for additional sums to be placed in escrow for estimated engineering, legal and administrative costs.

(C) The city shall be entitled to reimburse itself out of said deposit for any cost and expense incurred by the city for completion of the work in case of default of the subdivider under the agreement and for any damages sustained on account of any breach thereof. Upon completion of the work and termination of any liability, the balance remaining in the deposit shall be refunded to the subdivider.
(Ord. 58/05, passed 6-13-2005)

§ 155.049 COMPLETION TIMELINE.

The agreement shall establish that the owner and subdivider have two full construction seasons, starting at the date of final approval by the Council, in which to complete the road construction and appurtenances in a manner as to allow the city to accept the subdivision for maintenance. In the event the construction is not completed in the time allotted, the city shall be allowed to exercise its power to recover the full value of the bond or utilize the escrow funds on deposit to complete the remaining construction to city standards and specifications. In the event the amount of funds recovered is insufficient to cover the cost of actual construction, the Council may assess the remaining cost to the properties within the subdivision.
(Ord. 58/05, passed 6-13-2005)

§ 155.050 INSPECTION OF IMPROVEMENTS.

(A) The City Council shall provide for inspection of required improvements during construction and ensure their satisfactory completion. The applicant shall pay to the city an inspection fee based on the estimated cost of inspection. These fees shall be due and payable upon demand of the city and no building permits shall be issued until all fees are paid.

(B) If the City Engineer finds upon inspection that any one or more of the required improvements have not been constructed in accordance with the city's construction standards and specifications, the applicant shall be responsible for properly completing the improvements.
(Ord. 58/05, passed 6-13-2005)

§ 155.051 MAINTENANCE OF IMPROVEMENTS.

(A) The developer shall be required to maintain all public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks until acceptance of the improvements by the City Council.

(B) Following the acceptance of the dedication of any public improvement by the local government, the city may, in its sole discretion, require the subdivider to maintain the improvement for a period of one year from the date of acceptance.
(Ord. 58/05, passed 6-13-2005)

§ 155.052 DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS.

(A) (1) The City Council may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not requisite in the interests of the public health, safety and general welfare, or which are inappropriate because of the inadequacy or the non-existence of connecting facilities.

(2) Any determination to defer or waive the provision of any public improvement must be made on the record and the reasons for the deferral or waiver also shall be expressly made on the record.

(B) Whenever it is deemed necessary by the City Council to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or non-existent connecting facilities, or for other reasons, the subdivider shall pay his or her share of the costs of the future improvements to the city prior to signing of the final subdivision plat by the City Mayor, or the developer may execute a separate subdivision improvement agreement secured by a financial guarantee for completion of the deferred improvements upon demand of the city.
(Ord. 58/05, passed 6-13-2005)

DESIGN AND IMPROVEMENT STANDARDS

§ 155.065 GENERAL REQUIREMENTS.

(A) Early in the platting process, the developer and his or her engineer should meet with the City Engineer to discuss the project's improvement standards. The city standards are either found in this chapter or have been established in previous development projects.

(B) Prior to the approval of a plat by the governing body, the applicants shall have agreed, in the manner set forth below, to install the following improvements on the site in conformity with approved construction plans and in conformity with all applicable standards and ordinances.

(C) (1) The developer or the municipality shall award contracts for any construction work and material mentioned herein.

(2) The contract shall be based upon plans and specifications reviewed and approved by the City Engineer and the City Council.

(3) The City Engineer shall supervise all of the work and shall certify that the work has been finished, and that it has been finished in accordance with plans and specifications approved by the governing body.
(Ord. 58/05, passed 6-13-2005)

§ 155.066 LAND REQUIREMENTS.

(A) Land shall be suited to the purpose for which it is to be subdivided. No plan shall be approved if the site is not suitable for the purposes proposed by reason of potential flooding, topography, wetlands or adverse soil or rock formation.

(B) Land subject to life, health or property hazards shall not be subdivided until all such hazards have been eliminated or unless adequate safeguards against such hazards are provided by the Subdivision Plan.

(C) Proposed subdivisions shall be coordinated with existing nearby neighborhoods, so that the city as a whole may develop efficiently and harmoniously. Extensions of the public water supply system and sanitary sewer collection system shall be designed so as to provide a water supply and sanitary sewer collection in accordance with the standards of the city. Service connections shall be stubbed to the property line and all necessary fire hydrants shall also be provided.
(Ord. 58/05, passed 6-13-2005)

§ 155.067 SITE DESIGN STANDARDS.

(A) *Site analysis.* An analysis shall be made of characteristics of the development site, such as site context; peology and soil; topography; climate; ecology; existing vegetation, structures and road networks; visual features; and past and present use of the site.

(B) *Subdivision and site design.*

(1) Design of the development shall take into consideration all existing local plans of the community and shall conform to Ch. 156 of this code of ordinances.

(2) Development of the site shall be based on the site analysis. To the maximum extent practicable, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity and to minimize negative impacts and alteration of natural features.

(3) The following specific areas shall be preserved as undeveloped open space, to the extent consistent with the reasonable utilization of land, and in accordance with state and local regulations:

(a) Unique or fragile areas, including wetlands;

(b) Significant trees or stands of trees;

(c) Steep slopes in excess of 20%, as measured over a ten-foot interval unless appropriate engineering measures concerning slope stability, erosion and resident safety are taken;

(d) Habitats of endangered wildlife; and

(e) Historically significant structures and sites.

(4) The development shall be laid out to avoid adversely affecting ground water and aquifer recharge; to reduce cut and fill; to avoid unnecessary impervious cover; to prevent flooding; to provide adequate access to lots and sites; and to mitigate adverse effects of shadow, noise, odor, traffic, drainage and utilities on neighboring properties.

(5) 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 Ch. 156 of this code of ordinances and to meet all health regulations that would be applicable and in providing driveway access to buildings on the lots from an approved street.

(6) The lot line common to the street right-of-way shall be the front line. All lots shall face the front line and a similar line across the street.

(7) Wherever feasible, lots shall be arranged so that the rear line does not abut the side line of an adjacent lot.

(8) Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the developer can show plans for the future use of the remnant.

(C) *Residential development design.*

(1) Corner lots shall be platted at least 10% wider than the minimum lot width required unless this requirement results in corner lot widths in excess of 100 feet, at which time the city may waive this requirement.

(2) Residential lots shall front on local or collector streets, not on arterial streets.

(3) Every lot shall have sufficient access to it for emergency vehicles as well as for those needing access to the property in its intended use.

(4) The placement of units in residential developments shall take into consideration topography, privacy, building height, orientation, drainage and aesthetics.

(5) Buildings shall be spaced so that adequate privacy is provided for units.

(D) *Commercial and industrial development design.* Commercial and industrial developments shall be designed according to the same principles governing the design of residential developments; namely, buildings shall be located according to topography, with environmentally sensitive areas avoided to the maximum extent practicable; factors, such as drainage, noise, odor and surrounding land uses considered in siting buildings; sufficient access shall be provided; and adverse impacts buffered.

(E) *Circulation system design.*

(1) The road system shall be designed to permit the safe, efficient and orderly movement of traffic; to meet, but not exceed the needs of the present and future population served; to have a simple and logical pattern; to respect natural features and topography; and to present an attractive streetscape.

(2) In residential subdivisions, the road system shall be designed to serve the needs of the neighborhood and to discourage through traffic.

(3) The pedestrian system shall be located as required for safety. In conventional developments, walks shall be placed parallel to the street, with exceptions permitted to preserve natural features or to provide visual interest. In planned developments, walks may be placed away from the road system, but they may also be required parallel to the street for safety reasons.

(F) *Block design.*

(1) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this standard shall be permitted in blocks adjacent to arterial roads, or where one tier of lots is necessary because of topographical conditions.

(2) Double-frontage or lots with frontage on two parallel streets shall be permitted only where topographical or other conditions render subdividing otherwise unreasonable. The double-frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen planting along the back lot line.

(3) The lengths, widths and shapes of blocks shall conform to the following, based upon the type of development proposed.

(a) In residential areas, block lengths shall not exceed 1,320 feet, nor be less than 400 feet in length. Block, length and width or acreage within bounding streets shall be such as to accommodate the size of residential lots required in the area by Ch. 156 of this code of ordinances and to provide for convenient access, circulation control and safety of street traffic.

(b) In commercial or industrial areas, block shall be of such width as to be considered most suitable for their respective use, including adequate space for off street parking, deliveries and loading. The facilities shall be provided with safe and convenient limited access to the street system.

(4) In long blocks, the Planning Commission or City Council may require that reservation of an easement through the block to accommodate utilities, drainage facilities or pedestrian traffic.

(5) Pedestrianways or crosswalks may be required by the Planning Commission where it is deemed essential to provide circulation or access to schools, playgrounds, shopping areas or other community facilities. Suitable surfacing shall be provided in pedestrian ways and shall be subject to city review.

(G) *Landscape design.*

(1) Reasonable landscaping should be provided at site entrances, in public areas and adjacent to buildings. The type and amount of landscaping required shall be allowed to vary with the type of development.

(2) The plant or other landscaping material that best serves the intended function shall be selected. Landscaping materials shall be appropriate for the upper midwest environment, the city's soil conditions and the availability of the local water supply. The impact of the proposed landscaping plan at various time intervals shall also be considered.
(Ord. 58/05, passed 6-13-2005)

§ 155.068 EASEMENTS.

(A) *Provided for utilities and drainage.* A minimum of ten-foot wide easements shall be provided on all lot lines for the placement of utilities and drainage. In the case of side or rear lot lines, easements may be centered on the lot line. These easements shall be furnished by the owner at no cost to the municipality.

(B) *Provided for surface drainage.* Easements shall be provided along each side of the centerline of the watercourse or drainage channel, whether or not shown on the Comprehensive Plan, to a sufficient width to, provide for proper maintenance of storm water features and to provide protection from storm water runoff. These drainage easements shall be furnished by the owner at no cost to the municipality.

(C) *Continue utility easement locations.* Utility easements shall connect with easements established in adjoining property. These easements, when approved, shall not thereafter be changed without the approval of the City Council after a public hearing.

(D) *Dedication.* All easements shall be dedicated for the required use and shall be shown on the final plat.
(Ord. 58/05, passed 6-13-2005)

§ 155.069 OPEN SPACE AND RECREATION.

(A) *Minimum requirements.*

(1) *General.* In all plats, the governing body shall require a recreational land contribution to be used in connection with the development of a general park system in the city. All recreation areas dedicated to the city shall be subject to approval by the governing body. A cash contribution may be used in lieu of the land dedication or, in some instances, may be required by the city.

(2) *Amount of open space required.* Ten percent of the tract proposed for development shall be set aside for use as developed and/or undeveloped open space. This amount of land is the city's best estimate of need for open space to accommodate the increased usage of the space by the population of the proposed development. If a cash contribution is to be used in lieu of land dedication, the cash payment shall equal the value of the land dedication requirement as determined by a certified appraiser who shall determine the current market value of the property with development potential. The cost of the appraisal shall be borne by the developer. The cash contribution amount specified above is the city's best estimate for undertaking needed improvements to its open space facilities based upon the increased usage resulting from new development.

(3) *Size of open space parcels.* In general, land reserved for recreation purposes shall have an area of at least two acres. When the area reservation amount for a development would equal less than two acres, the Planning Commission may require the area designated for this use be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than one acre be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area. In these instances, the developer may choose the cash contribution option or choose construction methods specified in division (C) below, or a combination of these options.

(4) *Location of open space parcels.* Open space parcels shall be convenient to the dwelling units they are intended to serve. However, because of noise generation, they shall be sited with sensitivity to surrounding development.

(B) *Improvement of open space parcels.*

(1) *Developed open space.* All land to be reserved for dedication to the local government for park purposes shall have prior approval of the City Council and shall be marked on the plat as "Reserved for Park and/or Recreation Purposes". The Planning Commission or City Council may require the installation of recreational facilities, taking into consideration:

(a) The character of the open space land;

(b) The estimated age and recreation needs of persons likely to reside in the development;

(c) The proximity, nature and excess capacity of existing municipal recreation facilities; and

(d) The cost of the recreational facilities.

(2) *Undeveloped open space.* As a general principle, undeveloped open space should be left in its natural state. A developer may make certain improvements such as the cutting of trails for walking or jogging, or the provision of picnic areas. In addition, the Planning Commission may require a developer to make other improvements, such as removing dead or diseased trees, thinning trees or other vegetation to encourage more desirable growth and grading and seeding.

(C) *Other uses of land that may be counted towards filling the recreation reservation requirement.*

(1) If a developer constructs a looped road turnaround at the end of a cul-de-sac, the amount of land contained within the loop that is left in natural vegetation may count towards the recreational reservation requirement.

(2) If a developer constructs a walking and/or biking pathways in the development, that are separate and distinct from motorized routes, the amount of land used for this purpose or the cost for making the improvement for this use may count towards the recreational reservation requirement.

(D) *Exceptions to the standards.* The Planning Commission or City Council may permit minor deviations from open space standards when it can be determined:

(1) The objectives underlying these standards can be met without strict adherence to them; and/or

(2) Because of peculiarities in the tract of land or the facilities proposed, it would be unreasonable to require strict adherence to these standards.

(E) *Deed restrictions.* Any lands dedicated for open space purposes shall contain appropriate covenants and deed restrictions approved by the City Attorney ensuring that:

(1) The open space area will not be further subdivided in the future;

(2) The use of the open space will continue in perpetuity for the purpose specified;

(3) Appropriate provisions will be made for the maintenance of the open space; and

(4) Common undeveloped open space shall not be turned into a commercial enterprise admitting the general public at a fee.

(F) *Open space ownership.* The type of ownership of land dedicated for open space purposes shall be selected by the owner, developer or subdivider, subject to the approval of the City Council. The type of ownership may include, but is not necessarily limited to, the following:

(1) The municipality, subject to acceptance by the City Council;

(2) Other public jurisdictions or agencies, subject to their acceptance;

(3) Quasi-public organizations, subject to their acceptance;

(4) Homeowner, condominium or cooperative associations or organizations; or

(5) Shared, undivided interest by all property owners in the subdivision.

(G) *Homeowners association.* If the open space is owned and maintained by a homeowner or condominium association, the developer shall file a declaration of covenants and restrictions that will govern the association, to be submitted with the application for preliminary approval. The provisions shall include, but are not necessarily limited to, the following.

(1) The homeowners association must be established before the homes are sold.

(2) Membership must be mandatory for each homebuyer and any successive buyer.

(3) The open space restrictions must be permanent, not just for a period of years.

(4) The association must be responsible for liability insurance, local taxes and the maintenance of recreational and other facilities.

(5) Homeowners must pay their pro rata share of the cost and the assessment levied by the association can become a lien on the property if allowed in the master deed establishing the homeowners association.

(6) The association must be able to adjust the assessment to meet changed needs.

(H) *Maintenance of open space areas.* The person or entity identified as having the right of ownership or control over the open space shall be responsible for its continuing upkeep and proper maintenance.

(I) *Preservation of natural features and amenities.* Existing features that would add value to residential development or to the local government as a whole, such as trees, watercourses, historic spots or similar irreplaceable assets, shall be preserved in the design of the subdivision.

(J) *Appeal of open space and recreational lands.* The developer may appeal the open space and recreational land dedication or cash contribution requirements specified herein. However, the costs of conducting the study needed to prove the impacts from the development will not overburden the city's need for open space, recreational space or the need to make improvements to the city's recreational space will be borne by the developer.
(Ord. 58/05, passed 6-13-2005)

§ 155.070 ADEQUATE PUBLIC FACILITIES.

(A) *General.* No plat shall be approved unless the City Council determines that public facilities will be adequate to support and service the area of the proposed subdivision. The applicant shall, at the request of the Planning Commission and/or the City Council, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities by possible uses of the subdivision. Public facilities and services to be examined for adequacy will include roads and

other transportation routes, sewerage, water service, storm water drainage facilities and others as determined by city staff, Planning Commission or City Council.

(B) *Extension policies*. All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines and telecommunications lines shall be constructed through new developments to promote the logical extension of public infrastructure. The City Council may require the applicant of a subdivision to extend off-site improvements to reach the subdivision or oversize required public facilities to serve anticipated future development as a condition of plat approval.

(C) *Trunk facilities and alternative installation*. Where a larger size water main, sanitary sewer, storm drain or similar facility is required to serve areas outside the subdivision, the larger facility required shall be constructed. Additional costs shall be allocated pursuant to established city policies. The City Council may elect to install any or all of the required public improvements pursuant to a cash escrow agreement or other financial arrangements with the applicant.
(Ord. 58/05, passed 6-13-2005)

§ 155.071 STREETS.

(A) *General requirements*.

(1) The arrangement of streets shall conform to the circulation plan of the Comprehensive Plan or the official map of the city.

(2) For streets not shown on the Comprehensive Plan or official map, the arrangement shall provide for the appropriate extension of existing streets.

(3) Residential streets shall be arranged so as to discourage through traffic and provide for maximum privacy.

(4) No subdivision shall be approved unless the area to be subdivided has or will have frontage on and access to an existing street or road.

(5) Where adjoining areas are not subdivided, the arrangement of streets in the new subdivision shall make provision for the proper projection of streets to serve the adjacent lands and shall be designed to meet the traffic needs of the area the road is to serve upon full development.

(B) *Specific requirements*.

(1) *Cul-de-sac*. Turnarounds shall have a minimum outside roadway diameter of 120 feet, and a minimum street property line diameter of 140 feet. Maximum distance between street intersections and turnarounds or between turnarounds shall be 500 feet measured along the street centerline from the intersection of origin or from the center point of the turnaround.

(2) *Dead end streets*. Dead end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts with possible temporary cul-de-sacs, as determined by the city. When a temporary cul-de-sac is constructed, a temporary turn-around facility may be required at the closed end in conformance with the cul-de-sac requirements.

(3) *Half streets*. Half streets shall be prohibited except where the City Council finds it to be practical to require the dedication of the other half when the adjoining property is subdivided. In such an event, access to the half street shall be prohibited until the adjoining property is subdivided.

(4) *Access to arterial and collector roadways*. Where a proposed plat is adjacent to an arterial or collector roadway as designated by area plans, spacing between access points to such thoroughfares of less than 660 feet for collectors and 1,320 feet for arterials shall be avoided, except where impractical or impossible due to existing property division or topography.

(5) *Private streets and reserve strips*. Private streets and reserve strips shall be prohibited and no public improvement shall be approved for any private street. All streets shall be dedicated for public use. If any person applies to subdivide or replat any land or parcels adjoining an existing private street, the private street shall be required to be dedicated for public use and scheduled for improvement to public street standards at the time of final plat.

(6) *Street intersections*. Insofar as practical, streets shall intersect at right angles and no intersection shall be at an angle of less than 60 degrees. It must be evident that safe and efficient traffic flow is encouraged. No intersection shall contain more than four corners.

(7) *Street jogs*. Street jogs with centerline off-sets of less than 125 feet shall not be allowed.

(8) *Deflection*. When connecting street lines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius of not less than 100 feet.

(9) *Curves*. Vertical and horizontal curves shall meet the state's Department of Transportation Standard. Tangents of at least 100 feet in length shall be introduced between reverse curves on collector streets and 50 feet on lesser streets.

(10) *Corners*. Curb lines at street intersections shall be rounded at a radius of not less than 15 feet.

(C) *Street hierarchy*.

(1) Streets shall be classified in a street hierarchy system with the design tailored to its function.

(2) The street hierarchy system shall be defined by road function, as specified below.

(a) *Local street*. Lowest order of residential street. Provides frontage for access to lots and carries traffic having destination or origin on the street itself. Designed to carry the least amount of traffic at the lowest speed.

(b) *Collector street*. Highest order of residential street. Conducts and distributes traffic between lower order residential streets to higher order streets (arterials). Carries the largest volume of residential traffic at higher speeds. Its function is to promote free traffic flow. Direct access to homes from this street should be restricted.

(c) *Parkway*. Parkways connect major points of interest such as parks, lakes, institutions and other scenic or recreational areas. In many cases, parkways serve the function of collector streets and occasionally serves arterial streets.

(d) *Arterial street*. A higher order, interregional road in the street hierarchy. Conveys traffic between centers. It should be excluded from residential areas.

(e) *Cul-de-sac street*. A street with a single means of ingress and egress and having a turnaround. Design of turnaround may vary. Cul-de-sacs shall be classified and designed according to anticipated daily traffic levels.

(f) *Alleys*. Alleys shall not be permitted in residential areas unless it can be shown that their use is essential to a proper plan, where alleys are used in a proposed business or industrial area, they shall not be less than 24 feet in width.

(D) *Street width A grades*.

Table #1: Roadway Width Requirements

Street Classification	***Minimum Width ROW***	***Minimum Width Pavement***	***Maximum Grade****	***Minimum Drainage Grade***
Collector	80 feet	44 feet	5%	0.5%
Cul-de-sac frontage	60 feet	32 feet	7%	0.5%
Local street	50 feet	28 feet	7-10%	0.5%
Minor arterial	100 feet	60 feet	4%	0.5%
Parkway	100 feet	44 feet	5%	
Urban principal arterial	150 feet	84 feet	4%	0.5%

NOTES TO TABLE:
* To assure a safe and reasonable sightline distance at intersections, a lesser maximum grade may be required.

(E) *Curbs and gutters.*

(1) Curb requirements may vary according to street hierarchy and in accordance with the requirements shown in Table #2. Curbing may also be required:

(a) For storm water management;

(b) To stabilize pavement edge;

(c) To delineate parking areas;

(d) Ten feet on each side of drainage inlets;

(e) At intersections;

(f) At corners; and

(g) At tight radii.

(2) Where curbing is not required, some sort of edge definition and stabilization shall be furnished for safety reasons and to prevent pavement unraveling.

(3) Where curbing is required, this requirement may be waived if shoulders and/or drainage swales can be used when shown that:

(a) Shoulders are required by state regulations;

(b) Soil or topography make the use of shoulders and/or drainage swales preferable; or

(c) It is in the best interests of the community to preserve its rural character by using shoulders and/or drainage swales instead of curbs.

(4) The curbing requirement may be waived where front setbacks exceed 40 feet and it can be demonstrated that sufficient on-site parking exists.

(5) Flexibility regarding curb type shall be permitted as long as the curb type accommodates the system of drainage proposed.

(6) Curbing shall be designed to provide a ramp for bicycles and/or wheelchairs as required by law.

(7) Curbing shall be constructed according to specifications approved by the Planning Commission, City Council, with a recommendation from the City Engineer.

(F) *Shoulders.*

(1) Shoulders and/or drainage swales shall be required instead of curbs when:

(a) Shoulders are required by state law;

(b) Soil or topography make the use of shoulders and/or drainage swales preferable; or

(c) It is in the best interests of the community to preserve its rural character by using shoulders and/or drainage swales instead of curbs.

(2) Shoulder requirements shall vary according to street hierarchy and in accordance with the requirements shown in Table #2.

(3) Shoulders shall measure four feet in width on each side for all streets and shall be located within the right-of-way as shown in Table #2. The width of swales shall be determined by site specific conditions.

(4) Shoulders shall consist of stabilized turf or other material acceptable to the Planning Commission or City Council, or as recommended by the City Engineer.

(G) *Right-of-way.*

(1) The right-of-way shall be measured from lot line to lot line and shall be sufficiently wide to contain the roadway, curbs, shoulders, sidewalks, graded areas, utilities and shade trees (if placed within the right-of-way). Wider rights-of-way may be required to promote public safety and convenience. Right-of-way requirements are shown in Table #2 below.

(2) The right-of-way width of a street that is continued from an existing street shall in no case be continued at a width less than that of the existing street.

Table #2: Right-of-Way Width Requirements

Street Classification	***ROW Widths***	***Curb or Shoulder***
Collector	80 feet	Curb or shoulder
Cul-de-sac frontage	60 feet	Curb
Local street	50 feet	Curb
Minor arterial	100 feet	Curb or shoulder
Parkway	100 feet	Curb or shoulder
Urban principal arterial	150 feet	Curb or shoulder

(H) *Pavement section.*

(1) All streets and alleys shall be improved with concrete or bituminous surfaces to specifications as recommended by the City Engineer.

(2) Street pavement thickness shall vary by street hierarchy, subgrade properties and pavement type.

(3) Pavement design for each street type shall conform to the specifications as recommended by the City Engineer.

(4) The wearcoat shall be applied to streets or roads within one year of their being paved and following at least one frost freeze.

(I) *Culverts.* Culverts installed under roads for storm water management shall be dedicated to the city and shall be installed at the developer's expense.

(J) *Sidewalks.*

(1) Where sidewalks are optional, they may be required if the development is close to pedestrian generators or include pedestrian generators, or to continue an existing walkway along an existing street or, depending upon probable future development, as indicated in the Comprehensive Plan.

(2) In conventional developments, sidewalks shall be placed in the right-of-way, parallel to the street as recommended by the Planning Commission, City Council, unless an exception has been permitted to preserve topographical or natural features or to provide visual interest, or unless the applicant shows that an alternative pedestrian system provides safe and convenient circulation. In commercial and in high density residential areas, sidewalks may abut the curb.

(3) The width of sidewalks shall generally conform to the following standards:

(a) For single-family residential developments: four feet;

(b) For multiple-family residential/public buildings: six feet;

(c) For commercial areas: six feet; and

(d) For industrial areas: six feet.

(K) *Bikeways.*

(1) Bicycle lanes, where required, shall be placed in the outside lane of a roadway, adjacent to the curb or shoulder. When on street parking is permitted, the bicycle lane shall be between the parking lane and the outer lane of moving vehicles. Lanes shall be delineated with markings, preferably striping.

(2) Bikeways shall be constructed according to specifications recommended by the City Engineer.

(L) *Utility and shade tree areas.*

(1) Utilities and shade trees shall generally be located within the right-of-way on both sides of and parallel to the street. Shade trees may also be placed outside the public right-of-way. In areas lacking trees, as determined by the Planning Commission, street trees may be required to be planted not less than 40 feet apart, with a minimum of one per lot, at the time a building permit is issued. No trees shall be planted within 30 feet of the intersection of curb lines on corner lots. The minimum size shall measure one and one-half in diameter at the ground line.

(2) Utility and shade tree areas shall be planted with grass or ground cover, or treated with other suitable cover material.

(M) *Underground wiring.*

(1) All electric, telephone, television and other communication fines, both main and service connections, servicing new developments shall be provided by underground wiring within easements or dedicated public rights-of-way, installed in accordance with the prevailing standards and practices of the utility or other companies providing the services.

(2) Lots that abut existing easements or public rights-of-way where overhead electric or telephone distribution supply lines and service connections have previously been installed may be supplied with electric and telephone service from those overhead lines, but the service connections from the utilities' overhead lines shall be installed underground. In the case of existing overhead utilities, should a road widening or an extension of service, or other such condition occur as a result of the subdivision and necessitate the replacement or relocation of the utilities, the replacement or relocation shall be underground.

(3) Where overhead lines are permitted as the exception, the placement and alignment of poles shall be designed to lessen the visual impact of overhead lines. Alignments and pole locations shall be carefully routed to avoid locations along horizons; clearing swaths through treed areas shall be avoided by selective cutting and a staggered alignment; trees shall be planted in open areas and at key locations to minimize the view of the poles and the alignments; and alignments shall follow rear lot lines and other alignments.

(4) Year-round screening of any utility apparatus appearing above the surface of the ground, other than utility poles, shall be required.

(N) *Signs.*

(1) Design and placement of traffic signs shall follow applicable state or local regulations.

(2) At least two street name signs shall be placed at each four-way street intersection, and one at each "T" intersection. Signs shall be installed under light standards and free of visual obstruction. The design of street name signs shall be consistent, of a style appropriate to the community and of a uniform size and color. Signs shall be installed at the developer's expense.

(3) Names of new streets shall not duplicate existing or platted street names unless a new street is a continuation of or is in alignment with the existing or platted street. In that event, it shall bear the name of the existing or platted street. Street names shall conform to the city street naming and property numbering system as applicable.

(4) Site information signs in planned developments shall follow a design theme that is related and complementary to other elements of the overall site design.
(Ord. 58/05, passed 6-13-2005)

PUBLIC UTILITIES

§ 155.085 WATER SUPPLY.

(A) *Generally*. All installations shall be properly connected with an approved and functioning public community water system.

(B) *Capacity*.

(1) The water supply system shall be adequate to handle the necessary flow based on complete development. All water mains shall be at least six inches in diameter.

(2) The demand rates for all uses shall be considered in computing the total system demand. The system shall be capable of providing the required fire demand, in addition to the required domestic demand.

(3) Average daily residential demand can be computed in accordance with the housing unit type and as recommended by the City Engineer.

(4) Non-residential demand can be computed in accordance with the development standards guides as recommended by the City Engineer.

(5) Fire protection shall be furnished for all developments. Minimum fire flows, based on recommendations by the American Insurance Association and the National Board of Fire Underwriters, are 1,250 gpm for a fire flow of five hours, or as amended.

(6) The water system shall be designed to carry peak hour flows and be capable of delivering the peak hourly demands as indicated in the flow calculations and as recommended by the City Engineer.

(C) *System design and placement.* System design and placement shall comply with the recommendations made by the City Engineer.

(D) *Fire hydrants.*

(1) Hydrants shall be spaced to provide necessary fire flows. The average area per hydrant shall not exceed 120,000 square feet. In addition, hydrants shall be spaced so that each residence shall be within 400 feet of a hydrant and shall be located no more than 1,000 feet apart.

(2) A hydrant shall be located; at all low points and at all high points with adequate means of drainage provided.

(3) Hydrants shall be located at the ends of lines, and valves of full line size shall be provided after hydrant tees at the ends of all dead lines that may be extended in the future.

(4) Size, type and installation of hydrants shall conform to the specifications recommended by the City Engineer.
(Ord. 58/05, passed 6-13-2005)

§ 155.086 SANITARY SEWERS.

(A) *General.* All installations shall be properly connected to an approved and functioning public sanitary sewer system. No individual disposal and treatment systems are permitted within city limits.

(B) *System design and placement.*

(1) The sanitary sewer system shall be adequate to handle the necessary flow based upon complete development.

(2) Average daily residential sewer flow shall be calculated as shown in the development standards guides, as recommended by the City Engineer.

(3) System design and placement shall comply with the specifications recommended by the City Engineer.
(Ord. 58/05, passed 6-13-2005)

§ 155.087 STORM WATER MANAGEMENT AND FLOODPLAIN AREAS.

(A) *General.*

(1) All development proposals will require a drainage plan. The Planning Commission shall not recommend for approval any preliminary plat for a major subdivision that does not make adequate provision for storm or flood water runoff channels or basins.

(2) No plan will be approved for a plat that is subject to periodic flooding or which contains poor drainage facilities until adequate drainage of the streets and lots is made possible.

(3) Design of the storm water management system shall be consistent with the Comprehensive Plan of the city, applicable county, regional or state storm drainage control regulations.

(4) The best available technology shall be used to minimize off-site storm water runoff, increase on-site infiltration, encourage natural filtration functions, simulate natural drainage systems and minimize off-site discharge of pollutants to ground and surface water. The technologies may include measures such as retention basins, recharge trenches, porous paving and piping, contour terraces and swales.

(5) Drainage easements or land dedication may be required when the easements or land is needed in the public interest for purposes of proper drainage, prevention of erosion or other public purpose. The owner shall furnish all necessary slope easements and drainage easements at no cost to the municipality.

(B) *System strategy and design.*

(1) *General.* The storm water drainage systems shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed to city standards with plans submitted to the city along with other required utility plans. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in a gutter.

(2) *Location.* The developer may be required by the Planning Commission to construct facilities designed to carry away any spring or surface water that may exist either previously to or as a result of the subdivision. The drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width and shall be constructed in accordance with the construction standards and specifications.

(3) *Accessibility to public storm sewers.* Where a public storm sewer is accessible, the developer shall install storm sewer facilities, or if outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the City Engineer. However, in subdivisions containing lots less than 15,000 square feet in area and for all commercial and industrial zoned areas, underground storm sewer systems shall be constructed to an approved outfall. Inspection of the facilities will be conducted by the City Engineer.

(4) *Accommodation of upstream drainage areas.* A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The City Engineer shall determine the necessary size of the facility, based on the provisions of construction standards and specifications.

(5) *Effect on downstream drainage areas.* The City Engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Local government drainage studies, together with such other studies as appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff due to the development of the subdivision will overload an existing downstream drainage facility, the Planning Commission may withhold approval of the subdivision until improvements to those downstream facilities have been addressed.

(C) *Floodplain areas.*

(1) Whenever a plat is submitted for an area that is subject to flooding, the Planning Commission will withhold approval of the development until the developer demonstrates that the improvements conform to Ch. 154 of this code of ordinances. Areas of extremely poor drainage should be discouraged.

(2) The city may prohibit the subdivision of lands that fall within the floodplain of any lake, stream or drainage course when finding that it is necessary to protect the health, safety and welfare of residents or when it is necessary for the conservation of water, drainage and sanitary facilities.

(3) Floodplain areas shall be protected and preserved from destruction or damage resulting from clearing, grading or filling activities.

(4) Floodplain areas may be used in computing the number of lots allowed within the entire development area; provided, the lot size meets the requirements of Ch. 156 of this code of ordinances. (Ord. 58/05, passed 6-13-2005)

§ 155.088 EROSION AND SEDIMENT CONTROL.

(A) The development shall conform to the natural limitations presented by topography and soil, so as to create the least potential for soil erosion.

(B) Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(C) Land shall be developed in increments of workable size, such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(D) When soil is exposed, the exposure shall be for the shortest feasible period of time, as specified in the development agreement.

(E) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. Topsoil shall be restored or provided to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.

(F) Natural vegetation shall be protected wherever possible.

(G) Runoff water shall be diverted to a sedimentation basin before being allowed to enter the natural drainage system. Storm water runoff from the developed site shall not, at any time, exceed the existing runoff level.
(Ord. 58/05, passed 6-13-2005)

§ 155.089 SURVEY MONUMENTS.

All subdivision boundary corners, block and lot corners, road intersection corners and points of tangency and curvature shall be marked with survey monuments meeting the minimum requirements of state law. All U.S., state, county and other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position, unless a relocation is approved by the controlling agency. All lot corner pipes or iron rods shall be a minimum of one-half inch in diameter, 18 inches in length and shall be inscribed with the registration number of the land surveyor making the survey, as prescribed in M.S. Ch. 505, as it may be amended from time to time.
(Ord. 58/05, passed 6-13-2005)

OFF-TRACT IMPROVEMENTS

§ 155.100 PURPOSE.

This subchapter is intended to ensure a pro rata share allocation of the costs for off-tract improvements necessitated by new development.
(Ord. 58/05, passed 6-13-2005)

§ 155.101 DEFINITIONS AND PRINCIPLES.

As a condition of final subdivision approval, the City Council may require an applicant to pay a pro rata share of the cost of providing reasonable and necessary circulation improvements and water, sewerage, drainage facilities and other improvements, including land and easements, located off-tract

of the property limits of the subdivision or development, but necessitated or required by the development. "Necessary" improvements are those clearly and substantially related to the development in question. The City Council shall provide, in its resolution of approval, the basis of the required improvements. The proportionate or pro rata amount of the cost of the facilities within a related or common area shall be based on the following criteria.
(Ord. 58/05, passed 6-13-2005)

§ 155.102 COST ALLOCATION.

(A) *Full allocation.* In cases where off-tract improvements are necessitated by the proposed development, and where no other property owner(s) receive(s) a special benefit thereby, the applicant may be required at his or her sole expense and as a condition of approval, to provide and install the improvements.

(B) *Proportionate allocation.* Where it is determined that properties outside the development will also be benefitted by the off-tract improvement, the following criteria shall be utilized in determining the proportionate share of the cost of the improvements to the developer.

(1) *For sanitary sewers.* The applicant's proportionate share of distribution facilities including the installation, relocation or replacement of collector, trunk and interceptor sewers, and associated appurtenances, shall be computed as follows.

(a) The capacity and the design of the sanitary sewer system shall be based on the standards recommended by the City Engineer.

(b) The City Engineer shall provide the applicant with the existing and reasonably anticipated peak hour flows as well as capacity limits of the affected sewer system.

(c) If the existing system does not have adequate capacity to accommodate the applicant's flow given existing and reasonably anticipated peak-hour flows, the pro-rata share shall be computed as follows:

$$\frac{\text{Developer's cost}}{\text{Total cost of enlargement or improvement}} = \frac{\text{Development generated gallons per day to be accommodated by the enlargement or improvement}}{\text{Capacity of enlargement or improvement (gals. per day)}}$$

(2) *For water supplies.* The applicant's proportionate share of water distribution facilities including the installation, relocation or replacement of water mains, hydrants, valves and associated appurtenances shall be computed as follows.

(a) The capacity and the design of the water supply system shall be based on the standards recommended by the City Engineer.

(b) The City Engineer shall provide the applicant with the existing and reasonably anticipated capacity limits of the affected water supply system in terms of average demand, peak demand and fire demand.

(c) If the existing system does not have adequate capacity as defined above to accommodate the applicant's needs, the pro rata share shall be computed as follows:

$$\frac{\text{Developer's cost}}{\text{Total cost of enlargement or improvement}} = \frac{\text{Development generated gallons per day to be accommodated by the enlargement or improvement}}{\text{Capacity of enlargement or improvement (gals. per day)}}$$

(3) *For streets or roads*. The applicant's proportionate share of street improvements, alignment, channelization, barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvements not covered elsewhere, the construction or reconstruction of new or existing streets and other associated street or traffic improvements shall be as follows.

(a) The City Engineer shall provide the applicant with the existing and reasonably anticipated future peak-flows for the off-tract improvement.

(b) If the existing system does not have adequate capacity as defined above, the pro rata share shall be computed as follows:

$$\frac{\text{Developer's cost}}{\text{Total cost of enlargement or improvement}} = \frac{\text{Development peak hour traffic to be accommodated by the enlargement or improvement}}{\text{Capacity of enlargement or improvement (peak hour traffic)}}$$

(4) *For drainage improvements*. The applicant's proportionate share of storm water and drainage improvements including the installation, relocation or replacement of storm drains, culverts, catch basins, manholes, riprap, improved drainage ditches and appurtenances, and relocation or replacement or other storm drainage facilities or appurtenances, shall be determined as follows.

(a) The capacity and the design of the drainage system to accommodate storm water runoff shall be based on the standards computed by the developer's engineer and approved by the City Engineer.

(b) The capacity of the enlarged, extended or improved system required for the subdivision and areas outside of the developer's tributary to the drainage system shall be determined by the developer's engineer subject to approval of the City Engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system calculated by the City Engineer. The pro rata share for the proposed improvement shall be computed as follows:

Developer's cost	=	Development generated peak rate of runoff expressed in cubic feet per second to be accommodated by the enlargement or improvement
Total cost of enlargement or improvement		Capacity of enlargement (total capacity expressed in cubic feet per second)

(5) *For other improvements*. The applicant's proportionate share of other capital improvements shall be computed as follows:

Developer's cost	=	Development share of enlargement or improvement
Total cost of enlargement or improvement		Capacity of enlargement or improvement

(Ord. 58/05, passed 6-13-2005)

§ 155.103 ESCROW ACCOUNTS.

Where the proposed off-tract improvement is to be undertaken at some future date, the moneys required for the improvement shall be deposited in a separate interest-bearing account to the credit of the city until such time as the improvement is constructed. If the off-tract improvement is not begun within two years of deposit, all moneys and interest shall be returned to the applicant.
(Ord. 58/05, passed 6-13-2005)

ADMINISTRATION AND ENFORCEMENT

§ 155.115 JURISDICTION.

Pursuant to M.S. Ch. 462 and 358, as they may be amended from time to time, approval of subdivision plats by resolution of the City Council is hereby required as a condition for the filing of the plats with the County Recorder's office, as well as a condition for issuance of a permit for any development.
(Ord. 58/05, passed 6-13-2005)

§ 155.116 EXCEPTIONS.

The Planning Commission or City Council, when acting upon applications for preliminary or minor subdivision approval, shall have the power to grant such exceptions from the requirements for subdivision approval as may be reasonable and within the general purpose and intent of the provisions for subdivision review and approval of this chapter.
(Ord. 58/05, passed 6-13-2005)

§ 155.117 PERMIT ISSUANCE.

No permit shall be issued for the construction of a building, the enlargement, alteration, repair, demolition or moving of any building or structure on any lot or parcel conveyed in violation of the provisions of this section.
(Ord. 58/05, passed 6-13-2005)

§ 155.118 VARIANCES.

(A) *Hardship*. Where the Planning Commission finds that extraordinary hardships may result from strict compliance with these regulations, it may recommend to the Board of Adjustment that the regulations be varied so that substantial justice may be done and public interest secured; provided that, the variations will not have the effect of violating the Comprehensive Land Use Plan or the regulations contained herein.

(B) *Conditions in granting variances and modifications*. The Board of Adjustment may require that conditions be placed on the granting of the variances which it deems necessary to or desirable for the public interest in making its approval, the Board of Adjustment shall take into account the nature of the proposed use of the land and the existing use of the land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be approved when the Board of Adjustment finds:

(1) There are special circumstances or highly unique conditions associated with the property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land;

(2) The granting of the variance will not be detrimental to the public health, safety and welfare, or injurious to other property in the territory in which the property is situated;

(3) The variance is to correct inequities resulting from an unusual physical hardship, such as topography;

(4) Hardships relating to economic difficulties shall not be considered for the purpose of granting a variance;

(5) The hardship is not a result of an action or actions by an owner, applicant or an agent thereof; and

(6) The granting of a variance will not increase the potential for damage from flood waters nor be in violation of M.S. Ch. 103A, as it may be amended from time to time, nor be in violation of any rules promulgated by FEMA that may apply to the area within the city limits.

(C) *Procedures.*

(1) Requests for a variance or appeal shall be filed with the City Administrator on an official application form. The application shall be accompanied by a fee, as established by City Council resolution.

(2) The review of the variance application shall be run concurrently with the preliminary plat application.

(3) Upon receiving the application, the City Administrator shall refer the application, along with all related information, to the Planning Commission for a report and recommendation to the Board of Adjustment.

(4) The Planning Commission shall consider the variance at its next regular meeting. The City Administrator shall refer the application, along with all related information, to the City Planning Commission for consideration and a report and recommendation to the Board of Adjustment.

(5) The city staff may submit a report on and recommendation for action regarding the variance application to the Planning Commission.

(6) The Planning Commission and City Administrator shall have the authority to request additional information from the applicant regarding the variance or to obtain expert reports of testimony at the expense of the applicant concerning the variance.

(7) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request, as they deem necessary to carry out the intent and purpose of this chapter and submit this finding in the form of a report to the Board of Adjustment for their information prior to the variance application's public hearing date.

(8) The City Administrator shall set a date for a public hearing. Notice of the hearing shall be published in the official newspaper at least ten days prior to said hearing and individual notices shall be mailed not less than ten days, nor more than 30 days, prior to the hearing to all owners of property within 350 feet of the parcel included in the request. Failure of any property owner to receive the notice shall not invalidate any such proceedings as set forth within this chapter.

(9) The applicant or a representative thereof shall appear before the Board of Adjustment in order to answer questions concerning the proposed variance request.

(10) A copy of the Planning Commission's report shall be entered in and made a part of the written record of the public hearing.

(11) The Board of Adjustment shall make a recorded finding of fact and impose any condition it considers necessary to protect the public hearing, safety and welfare of the city.

(12) The Board of Adjustment shall decide whether to approve or deny a request for a variance or an appeal within 30 days after the public hearing on the request.

(13) A variance of this chapter or grant of an appeal shall be by a simple majority vote of the full Board of Adjustment.
(Ord. 58/05, passed 6-13-2005)

§ 155.119 FEES, CHARGES AND EXPENSES.

(A) Fees and charges, as well as expenses incurred by the city for engineering, planning, attorney and other services related to the processing of application, shall be established by resolution of the Council and collected by the Zoning Administrator for deposit in the city's accounts. Fees shall be established for the processing of request for platting, major and minor subdivisions, review of plans and such other subdivision-related procedures as the Council may from time to time establish. The Council may also establish charges for public hearings, special meetings or other such Council or Planning Commission actions as are necessary to process application.

(B) The fees, charges and estimated expenses, as well as a deposit if so required by the Zoning Administrator, shall be collected prior to city action on any application. All such applications must be accompanied by a written agreement between the city and the applicant/landowner (when the landowner and applicant are not the same person or entity, both the landowner and applicant must sign the agreement). Whereby the applicant/landowner agrees to pay all applicable fees, charges and expenses as set forth by Council resolution, and which allows the city to assess that the above fees, charges and expenses against the landowner if such monies are not paid within 30 days after a bill is sent to the applicant/landowner.

(C) The fees referred to above are only an estimate of the expense the city may incur. The applicant is responsible for any and all fees incurred by the city that result from his or her request. All charges are due and payable before the city signs a plat.

(D) These fees shall be in addition to sewer access charges, water access charges, building permit fees, inspection fees, subdivision fees, charges and expenses and other fees, charges and expenses currently required by ordinance or which may be established by ordinance in the future.
(Ord. 58/05, passed 6-13-2005)

§ 155.999 PENALTY.

(A) *Sales of lots from unrecorded plats.* It shall be a misdemeanor to sell, trade or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat or replat of any subdivision or area located within the jurisdiction of this chapter unless the plan, plat or replat shall have first been recorded in the office of the Recorder of the county.

(B) *Receiving or recording unapproved plats.* It shall be unlawful for a private individual to receive or record in any public office any plans plats of lands laid out in building lots and streets, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto and located within the jurisdiction of this chapter, unless the same shall bear thereon, by endorsement or otherwise, be approved by the City Council.

(C) *Misrepresentation.* It shall be a misdemeanor for any person owning an addition or subdivision of land within a city to represent that any improvement upon any of the streets, alleys or avenues of the addition or subdivision has been constructed according to the plan's specifications approved by the City Council, or has been supervised or inspected by the city when the improvements have not been so constructed, supervised or inspected.

(D) *Penalty.* Anyone violating any of the provisions of this chapter shall be guilty of a misdemeanor. Each day during which compliance is delayed shall constitute a separate offense. In addition, nothing shall prevent the city from exercising its civil remedies in response to a violation of this chapter, including, but not limited to, an action for an injunction.
(Ord. 58/05, passed 6-13-2005)

CHAPTER 156: ZONING

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GENERAL PROVISIONS

§ 156.001 STATUTORY AUTHORIZATION.

This chapter is adopted pursuant to the authorization and policies contained in M.S. Ch. 462 and 103F, as they may be amended from time to time, Minn. Regs. parts 6120.2500 through 6120.3900, the City Council ordains zoning and shoreland regulations.
(Ord. passed 11-9-2015)

§ 156.002 INTENT AND PURPOSE.

This chapter is adopted for the purpose of:

(A) Protecting the public health, safety, morals, comfort, convenience, preservation of natural areas and general welfare;

(B) Promoting orderly development of the residential, commercial, industrial, recreational, shoreland and public areas;

(C) Providing adequate light, air and convenience of access to property;

(D) Providing for the compatibility of different uses and the most appropriate use of land throughout the city;

(E) Preventing overcrowding of land and undue concentration of structures by regulating use of land and buildings and the bulk of building in relation to the land and structures surrounding them;

(F) Preventing the pollution of lakes or alteration of shoreline caused by inappropriate or environmentally harmful development or use of lake from property;

(G) Preventing water pollution and shoreland alteration;

(H) Enhancement of surface water quality and conservation of economic and natural environmental values of shorelands; and

(I) Providing for sagacious use of waters, water-related land resources and all land within the city.
(Ord. passed 11-9-2015)

§ 156.003 JURISDICTION.

The provisions of this chapter shall apply to all property and shorelands of public water bodies located within the corporate limits of the city. A body of water created by a private user where there was no previous shoreland is exempt from the shoreland provisions of this chapter.
(Ord. passed 11-9-2015)

§ 156.004 INTERPRETATION.

Provisions of this chapter shall be held to be minimum requirements for promotion of public health, safety, morals and welfare.
(Ord. passed 11-9-2015)

§ 156.005 ABROGATION AND GREATER RESTRICTIONS.

Where the conditions of this chapter are comparable with conditions imposed by any other federal, state or county law, ordinance, statute or regulation, the regulations which are more restrictive shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
(Ord. passed 11-9-2015)

§ 156.006 CONFORMANCE.

No building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used, except for purposes permitted in the district in which the building or land is located.
(Ord. passed 11-9-2015)

§ 156.007 MAINTENANCE OF MINIMUM REQUIREMENTS.

No lot area, yard or other open space existing on or after the effective date of this chapter shall be reduced below the minimum required for it by this chapter and no lot area, yard or other open space that is required by this chapter for one use shall be used as the required lot area, yard or other open space for another use.
(Ord. passed 11-9-2015)

§ 156.008 SEVERABILITY.

Should any section, clause, provision or portion of this chapter be adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
(Ord. passed 11-9-2015)

§ 156.009 PROHIBITED USES (NOT PROVIDED FOR WITHIN ZONING DISTRICTS).

Whenever in any zoning district a use is neither specifically permitted, nor denied, the use shall be considered prohibited. In such cases, the City Council, Planning Commission or property owner may request a study by the city to determine if the use is acceptable and, if so, what zoning would be most appropriate and the determination as to conditions and standards relating to development of the use. The city's Planning Commission, upon receipt of the staff study, may initiate an amendment to this chapter to provide for the particular use under consideration or may find that the use is not compatible for development within the district or the city.
(Ord. passed 11-9-2015)

§ 156.010 REQUIRED APPLICATION INFORMATION.

The property owner or applicant for any zoning request shall be required to provide all information and documentation required under this chapter in order to process their request. Information including, but not limited to, a property survey conducted by a registered land surveyor may be required.
(Ord. passed 11-9-2015)

§ 156.011 BOUNDARY SURVEY REQUIRED.

All new lots created after the effective date of this chapter will be required to submit a certificate of survey in both a paper and electronic format. The electronic format may be in either a CAD or GIS format. In addition, when the owner of an existing lot of record proposes a construction project and the new addition or structure is to be located at or beyond the property setbacks, the owner must be able to locate the property corner pins or, if not, the owner must provide an updated boundary survey so the city can verify property boundary lines.
(Ord. passed 11-9-2015)

§ 156.012 RESIDENTIAL CONSTRUCTION TIMING REQUIREMENTS.

The principal use structure shall be constructed prior to or at the same time that any accessory use structures are constructed for all residential developments. Accessory structures shall not be constructed on a lot before the principal use structure. Accessory use structures shall not be used as living quarters while a principal use structure is being constructed.
(Ord. passed 11-9-2015)

§ 156.013 DIMENSIONAL REGULATIONS.

Regulations hereinafter set forth in this section qualify or supplement the district regulations appearing elsewhere in this chapter.

(A) Chimneys, church steeples, towers, aerials, flagpoles and similar objects not used for human occupancy are not subject to the building height limitations of this chapter.

(B) Architectural features, such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project more than 24 inches into a required yard.

(C) If there are buildings on abutting lots, where more than 50% of the linear frontage along the same side of a street within the same block contains exiting buildings having setbacks from the street less than the required minimum specified by the zoning district in which the buildings are located, any new building may be setback a distance equal to the average setback of the existing buildings. However, in

no instances, shall any building be required to be located more than the minimum setback specified by the zoning district.

(D) An open unenclosed porch or paved terrace no higher than 12 inches above ground level may project into a front yard for a distance not exceeding ten feet. An unenclosed vestibule containing not more than 40 square feet may project into a front yard for a distance not to exceed four feet.

(E) Minimum yard requirements for fences can be reduced or eliminated upon written agreement by affected property owners; however, no written agreement is necessary to construct fences in the yard areas of adjoining commercial or industrial lots.
(Ord. passed 11-9-2015)

§ 156.014 RULES OF CONSTRUCTION.

(A) For the purpose of this chapter, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular.

(B) The word "person" shall include a firm, association, organization, partnership, trust, company or corporation as well as an individual.

(C) The word "shall" is mandatory and not discretionary.

(D) The word "may" is permissive.

(E) The word "lot" shall include the words "plot", "piece" and "parcel".

(F) The words "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
(Ord. passed 11-9-2015)

§ 156.015 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. For the purpose of this chapter, the words "must" and "shall" are mandatory and not permissive. All distance, unless otherwise specified, shall be measured horizontally.

ACCESSORY STRUCTURE OR FACILITY. An uninhabited structure, or portion of a structure which is clearly subordinate to the use of the principal building, on the same lot and customarily incidental thereto, including, but not limited to, garages, sheds, storage structures or swimming pools.

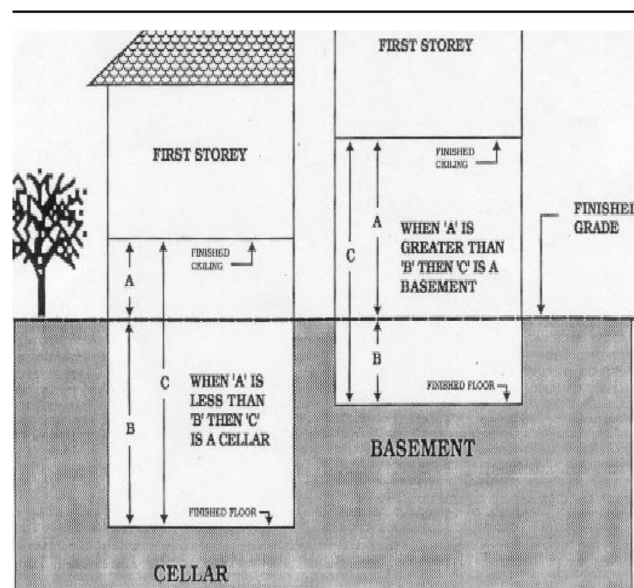
AGRICULTURE. The science and art of the cultivation of the soil and the breeding and raising of livestock.

ALLEY. A public or private way not more than 30 feet wide affording only secondary means of access to abutting property.

ANNEXATION. The act of attaching unincorporated land lying contiguous to municipal corporation.

APARTMENT. A room or suite of rooms in a multi-family or multi-use building arranged and intended as a place of residence for a single family or a group of individuals living together as a single housekeeping unit.

BASEMENT. The portion of a building between two floor levels which is partially underground, but which has at least one-half of its height from finished floor to ceiling above grade (the average level of ground at the finished surface) adjacent to the building. (See diagram below.) When "A" is greater than "B", then "C" is a ***BASEMENT***.



BED AND BREAKFAST (B&B). A building, other than a hotel or boarding house, where a single-family dwelling with furnished bedrooms provides sleeping accommodations for pay to guests for transient occupancy and at which meals may be served to these guests and meeting the regulations outlined in § 156.119 of this chapter.

BLOCK. A tract of land bordered on all sides by streets or by one or more streets and a railroad right-of-way, stream, river or unsubdivided acreage or subdivision.

BLUFF. A topographic feature such as a hill, cliff or embankment having the following characteristics (an area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of the ***BLUFF***):

(1) Part or all of the feature is located in a shoreland area;

(2) The slope rises at least 25 feet above the ordinary high water level of the waterbody;

(3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinance high water level averages 30% or greater; and

(4) The slope must drain toward the waterbody.

BLUFF IMPACT ZONE. A bluff and land located within 20 feet from the top of a bluff.

BOARDING HOUSE. A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for five or more persons, but not exceeding 20 persons.

BOATHOUSE. A structure designed and used solely for the storage of boats or boating equipment.

BUILDABLE AREA or ***BUILDING ENVELOPE.*** The area of a lot remaining after the minimum yard and open space requirements of this chapter (setbacks, coverages and the like) have been met, in which a building may be constructed.

BUILDING. Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

BUILDING LINE. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

BUILDING SETBACK. The minimum horizontal distance permitted between the building and the lot line, ordinary high water line or other line of demarcation used in a setback requirement.

CEMETERY. Land used or intended to be used for the burial of the human dead and dedicated as a "cemetery" for such purposes.

CHURCH or ***SYNAGOGUE.*** The term includes the following: church, synagogue, rectory, parish house or similar building incidental to the particular use which is maintained and operated by an organized group of people for religious purposes.

CLINIC. A place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons and those who are in need of medical or surgical attention but who are not provided with board or room, nor kept overnight on the premises.

CLUB. A non-profit association of persons who are bona fide members, paying regular dues and are organized for some common purpose, but not including a group organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial service.

COMMERCIAL USE. The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.

COMMISSION. The Planning Commission of the city.

COMPREHENSIVE PLAN. A document or series of documents for guiding the future development of a city. It incorporates the study and analysis of existing physical, economic, environmental and social conditions and projections of what the future conditions are likely to be in the next several years, and uses these along with citizen input to create goals for the community.

CONDITIONAL USE. A land use or development that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in this chapter exists, the user or development conforms to the comprehensive land use plan of the community and the use is compatible with the existing neighborhood.

CONVALESCENT, NURSING OR REST HOME. Any building or groups of buildings providing personal assistance or nursing care for those dependent upon the services by reason of age or physical or mental impairment, but not for the treatment of contagious diseases, addicts or mental illnesses.

CONVENIENCE STORE. A retail establishment providing groceries and other daily household necessities in a location which is primarily intended to serve the immediate neighborhood and may be part of or attached to a gas station.

CORNER LOT. A lot abutting, and at the intersection, of two or more streets. A ***CORNER LOT*** can be considered as having primary frontage abutting the required front yard and secondary frontage abutting a corner side yard.

CULTURAL RESOURCE. Includes buildings, landscapes, archeological sites, ethnographic resources, objects and documents, structures and districts that embody a rich heritage of human experiences and cultural identities.

CURB LEVEL. The level of the established curb in front of the building measured at the center of the front. Where a building faces on more than one street, the ***CURB LEVEL*** shall be the average of the levels of the curbs at the center of the front of each street.

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above the ground.

DENSITY. The number of families, persons or housing units per unit of land.

DRIVE-IN (DRIVE-THROUGH, DRIVE-UP WINDOW). Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or

where service to the automobile occupants is offered regardless of whether service is also provided within a building, includes, but is not limited to, restaurants and banks

DUPLEX, ***TRIPLEX*** and ***QUAD.*** A dwelling structure on a single lot, having two, three and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

DWELLING. Any building or portion thereof designed or used primarily as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer coach, boarding or rooming house, hotel or motel.

DWELLING SITE. A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

DWELLING UNIT. Any structure or portion of a structure or other shelter designed as short or long term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel and resort rooms and cabins.

EASEMENT. A negotiated interest in the land of another which allows the easement holder specified uses or rights without actual ownership of the land; including, but not limited to, utility placement and maintenance, access and surface drainage, which has been legally described in a registered deed.

ENVIRONMENTAL IMPACT STATEMENT. A fact finding report required by the National Environmental Policy Act before a government may authorize a proposed project, program, law or any other major activity requiring a federal governmental authorization.

EXTRACTIVE USE. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals and peat not regulated under M.S. §§ 93.44 to 93.51, as they may be amended from time to time.

FAMILY. A person living alone, or two or more persons related by blood marriage or adoption living together as a housekeeping unit and occupying a single dwelling unit or a group of not more than four persons who are not related by blood, marriage or adoption living together as a housekeeping unit by joint agreement and occupying a single dwelling unit on a non-profit cost sharing basis, regardless of the ownership of the unit amongst the four or fewer persons.

FILLING STATION (SERVICE STATION OR GAS STATION). Any building or premises used principally for the dispensing, sale or offering for at retail of automobile fuels or oils, but which may also include a convenience store.

FLOODPLAIN. Area indicated as floodplain on FIRM maps (Flood Insurance Rate Map) as authorized by FEMA (Federal Emergency Management Agency).

FLOOR AREA. The sum of the floors horizontal areas of the several floors of a building measured from the exterior face of the wall including basements and attached buildings.

FOREST LAND CONVERSION. The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

GARAGE, PRIVATE. An accessory use situated on the same lot of the principal use and designed for the private storage of motor vehicles owned by the occupant of a principal use. When a ***PRIVATE GARAGE*** is attached to a principal building, it shall be considered part of the principal building for setback and yard purposes.

GARAGE, PUBLIC. Any premises used for the storage or care of motor driven vehicles, except private garages.

GRANDFATHER CLAUSE. See ***NON-CONFORMITY***.

GUEST COTTAGE. A structure used as a dwelling unit that may contain sleeping spaces, kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

HARDSHIP/UNDUE HARDSHIP. As used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an ***UNDUE HARDSHIP*** if reasonable use for the property exists under the terms of this chapter. ***UNDUE HARDSHIP*** also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems (as defined in M.S. Ch. 462, as it may be amended from time to time).

HEIGHT OF BUILDING. The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

HOME OCCUPATION. An occupation carried on by an occupant of a dwelling as an accessory activity to the main residential use of the building and meeting the following restrictions:

(1) Not more than one person shall be employed other than residents of the dwelling;

(2) The occupation shall be conducted wholly within the dwelling or an accessory building;

(3) Floor area devoted to the occupation shall not exceed 25% of the total ground area occupied by buildings on the lot;

(4) The occupation shall not be objectionable to adjacent residences due to noise, hours of operation, traffic, electrical interferences and the like; and

(5) There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling; except that, a one by one and one-half foot sign that is attached to a building shall be allowed.

HOSPITAL. An institution providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient department, training facilities, central service facilities and staff offices what are an integral part of the facility.

HOTEL. A building occupied as a temporary abiding place of individuals who are lodged with or without meals in which there are sleeping rooms.

IMPERVIOUS COVERAGE. A structure or a surface that has been compacted or covered with a layer of material so that is highly resistant to infiltration by water. It may include surfaces such as compacted sand, lime rock or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.

INDUSTRIAL USE. The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

INFRASTRUCTURE. Public support structures such as roads, street lighting, water and sewer lines.

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

INTERIM USE PERMIT. A permit that is approved by the City Council allowing a use or activity for a limited period of time that reasonably utilizes the property in a manner not permitted in the zoning district, or, allows a use or activity that is presently acceptable, but not permitted within the zoning district and, with anticipated development, may not be acceptable in the future.

JUNK YARDS (AUTO SALVAGE YARD). An open area where waste, used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, storage of unlicensed autos, scrap iron and other metals, paper, rages, rubber, tires and bottles, not including recycling centers or collection points pawn shops, antique shops, used furniture and household equipment stores, used cars in operable conditions or salvaged materials, incidental to manufacturing operations. An ***AUTO SALVAGE YARD*** includes an area where one or more unlicensed or inoperable vehicles remain for 30 days or longer.

KENNEL. Any structure or premises on which four or more dogs over four months of age are kept for sale, breeding, profit and the like.

LANDSCAPING. Any combination of trees, shrubs, flowers, grass or other horticultural elements, decorative stonework, paving, screening or other architectural elements, all of which are designed to

enhance the visual amenity of a property and/or provide a screen to mitigate any objectionable aspects that may detrimentally affect adjacent land.

LAND USE. A term used to indicate the utilization of any piece of land.

LAND USE PLAN. The proposed or projected utilization of land, it is usually presented in a map form. That indicates the desired residential, commercial, industrial, agricultural and other uses.

LOADING SPACE. A space on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a vehicle while loading or unloading merchandise, material or people, and which abuts upon a street, alley or other appropriate means of access.

LOT. A parcel of land designated by plat, metes and bounds, registered land survey, auditors plat or other accepted means and separated from other parcels or portions by the description for the purpose of sale, lease or separation.

LOT, CORNER. See ***CORNER LOT***.

LOT FRONTAGE. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered ***FRONTAGE*** and yards shall be provided as indicated under "yards" in this section. If the lot abuts public waters, the lake or stream side shall be considered the ***LOT FRONT***.

LOT INTERIOR. A lot other than a corner lot with only one frontage on a street other than an alley.

LOT LINES. The lines bounding a lot.

LOT THROUGH. A lot other than a corner lot with frontage on more than one street other than an alley. ***THROUGH LOTS*** may also be referred to as ***DOUBLE FRONTAGE LOTS***.

LOT MEASUREMENTS.

(1) ***DEPTH OF A LOT*** shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear most points on the side lot lines in the rear.

(2) ***WIDTH OF A LOT*** shall be the shortest distance between lot lines measured at the midpoint of the building line.

(3) ***AREA OF A LOT*** shall be computed from the area contained in horizontal plane defined by the lot lines.

LOT OF RECORD. A lot which is a part of a subdivision, the map of which has been recorded in the office of the County Register of Deeds or a lot described by metes and bounds, the description of which has been recorded in the office, prior to the effective date of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical system contained therein; except that, the term includes any structure which meets all the requirement and with respect to which the manufacturer file a certification required by the secretary of the U.S. Department of Housing and Urban Development and complies with the standard established under M.S. § 327.31, subd. 6, as it may be amended from time to time. (See ***MOBILE HOME***.)

MANUFACTURED HOME PARK. A contiguous parcel of land under single ownership that has been planned and improved for the placement of manufactured homes.

MANUFACTURED HOME SUBDIVISION. A contiguous parcel of land which has been subdivided and improved and is intended for the sale of individual lots on which mobile homes may be placed.

MASSAGE. Any method of applying pressure on, or friction against, or rubbing, stroking, kneading, tapping or rolling of the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, appliance or device with or without such supplemental aids as rubbing alcohol, liniment, antiseptic oil, powder, cream, lotion, ointment or other similar preparation.

METES AND BOUNDS. A method of property description by means of their direction and distance from an easily identifiable point.

MOBILE HOME. A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, being 42 U.S.C. §§ 5401 et seq.,which became effective 6-15-1976. (See ***MANUFACTURED HOME***.)

MOTEL. A series of attached or detached sleeping or living units for the lodging of transient guests, offered to the public for compensation and with convenient access of off-street parking spaces for the exclusive use of the guest or occupants.

MULTI-FAMILY DWELLING. A structure which includes separate dwelling units for two or more families.

NON-CONFORMITY. Any legal use, structure or parcel of land already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized. This is sometimes referred to as a "grand-father clause".

NUISANCE. Any thing that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

ORDINANCE. A legislative enactment of a county or city.

ORDINARY HIGH WATER LEVEL (O.H.W.). The boundary of public waters and wetlands and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ***ORDINARY HIGH WATER LEVEL*** is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ***ORDINARY HIGH WATER LEVEL*** is the operating elevation of the normal summer pool.

OVERLAY ZONE. A set of zoning requirements that are described in the zoning ordinance text, are mapped, and subsequently imposed in addition to those of the underlying district. Development within the ***OVERLAY ZONE*** must conform to the requirements of both zones, or whichever is stricter.

PARK. Any public or private land available for recreational, educational, cultural or aesthetic use, passive or active.

PARKING SPACES. A land area of not less than 200 square feet, exclusive of driveways and aisles, of such shape and dimensions and so prepared as to be usable for the parking or a motor vehicle, and so located as to be readily accessible to a public street or alley. Truck loading and unloading space shall not be included in such an area.

PERFORMANCE STANDARDS. Measurable minimum standards that deal with the effect uses may have on the surrounding area. These standards may include, but are not limited to, effects of smoke, noise, toxic emission, water pollutants, glare, vibration, shade, radioactivity, electrical disturbances, heat, odors and traffic generation.

PERMANENT FOUNDATION. A permanent perimeter foundation below frost depth and in conformance with the state's Building Code.

PERSON. Any individual, firm partnership, corporation, company association, joint stock association or body politic; including any trustee, receiver, assignee or other similar representative thereof.

PLANNED UNIT DEVELOPMENT. A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages where the kind, location, size and form of structures must be preapproved by the Planning Commission and deemed compatible with the intentions of the Comprehensive Plan. The purpose of the ***PUD*** is to allow for the provision of common open spaces through clustering, density increases and a mix of structure types and land uses, when combined with innovative design techniques and a greater oversight of site design by the Planning Commission.

PLAT. A map representing a subdivision of a parcel of land into lots, blocks and streets or other divisions and dedications.

PRELIMINARY PLAT. An initial drawing for the purpose of receiving approval from the Planning Commission for a proposed subdivision, which indicates the general layout of streets and alleys, lots, blocks and restrictive covenants to be applicable to the subdivision.

PUBLIC WATERS. Any waters as defined in M.S. § 103.G.005, as it may be amended from time to time.

RECREATIONAL VEHICLES. Will include campers, travel trailers or other trailers under 20 feet in length, boats and personal watercraft.

REPLACEMENT VALUE. The cost of replacing a structure, at the time of destruction, which is similar to the original structure in size, design materials and construction.

RESOLUTION. A formal statement of opinion or determination adopted by the governmental body. It is less formal and binding than an ordinance.

SCHOOL. Any school, public or private, having regular sessions with regularly employed instructors teach subjects that are fundamental and essential for a general academic education and in accordance with the applicable statutes of the state.

SCREEN. The use of a fence, wall, vegetation or other device or means, in order to conceal something from view.

SEMI-PUBLIC USE. The use of land by a private, non-profit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

SENSITIVE RESOURCE MANAGEMENT. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

SETBACK. The minimum horizontal distance between a structure, sewage treatment system or other facility and a road, street, highway, ordinary high water level, sewage treatment system, top of a bluff, property line or other specified point of demarcation.

SEWER SYSTEM. Pipelines or conduits, pumping stations, force main and all other construction, devices, appliances or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

SHORE IMPACT ZONE. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

SHORELAND ZONE. An overlay zone that is located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage; the limits of shorelands

may be reduced whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the DNR Commissioner.

SIGN. A name, identification, description, display or illustration on which is affixed to, or painted, or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization idea or business.

SIGN AREA. That area within the marginal lines of the surface which bears the advertisement, or in the case of messages, figure or symbols attached directly to any part of the building, that area which is included in the smallest rectangle which can be made to circumscribe the message, figure or symbol displayed thereon. The stipulated maximum ***SIGN AREA*** for a freestanding sign refers to a single facing.

SIGN, ***BANNER*** or ***PENNANT.*** A sign usually of cloth, paper, plastic or other non-rigid material with no enclosing framework that is fastened or otherwise attached to support structures spanning horizontally and overhanging an area and generally temporary in nature.

SIGN, BILLBOARD OR OFF-PREMISES. Signs that direct attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such a sign is located.

SIGN, BULLETIN. An accessory sign which announces goods or services available through the use of changeable letters.

SIGN, FREE-STANDING. A sign advertising the business or service located on the same lot as the sign and which is placed in the ground and not affixed to any part of any structure.

SIGN, NAMEPLATE OR IDENTIFICATION. A sign which bears the name and/or address of the occupants of the building.

SIGN, NON-CONFORMING. A sign which does not conform to the newly enacted requirements of this chapter.

SIGN, PORTABLE. A sign which is not permanently attached to the ground or any structure and so designed as to be movable from one location to another.

SIGN, PROJECTING. Any sign, all or any part of which extends over public property more than 12 inches.

SIGN, ROOF. Any sign erected upon or projecting above the roofline of a structure to which it is affixed.

SIGN, TEMPORARY. A sign which is erected or displayed for a limited period of time.

SIGN, WALL. Any sign which is affixed to a wall of any building.

SIGNIFICANT HISTORIC SITE. Any archeological site, standing structure or other property that meets that criteria for eligibility to the National Register of Historic Places or is listed in the state's Register of Historic Sites or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as it may be amended from time to time. A ***HISTORIC SITE*** meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the state's Archaeologist or the Director of the state's Historical Society. All unplatted cemeteries are automatically considered to be ***SIGNIFICANT HISTORIC SITES***.

SINGLE-FAMILY (ONE-FAMILY) DWELLING. A structure which is intended for dwelling use by only one family.

SITE PLAN. A scale drawing showing proposed uses and structures for a parcel of land as required by applicable regulations. It includes lot lines, lot area, streets, parking spaces, private roadways, walkways, topographic features, reserved open space, buildings and other structures, major landscape features and the location of proposed utility easements. It is more detailed than a plat and may include density and statistical data.

SITE PLAN REVIEW. The process whereby the planning commission and staff or an appointed site plan review team, review the site plan or a development to assure that they meet the stated purposes and standards of zoning and other regulations, provide for the necessary public facilities such as roads and schools, and protect and preserve desirable features and adjacent properties through the appropriate location of structures and the uses of landscaping.

STEEP SLOPE.

(1) Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter.

(2) Where specific information is not available, ***STEEP SLOPES*** are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more that are not bluffs.

STORY. The portion of a building, other than a basement, including between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

STREET.

(1) A publicly dedicated right-of-way more than 30 feet in width serving as the principal means of access to abutting property.

(2) The term ***STREET*** shall include avenue, drive, circle, boulevard, parkway, highway, road, thoroughfare or any other similar term.

STRUCTURE. Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities.

SUBDIVISION. Land that is divided for the purpose of sale, rent or lease, including planned unit developments.

SUBDIVISION REGULATIONS. Local ordinances that regulate the conversion of undivided land into building lots for residential or other purposes, and also establishes requirements for streets, utilities and site design.

SURFACE WATER ORIENTED COMMERCIAL USE. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts and restaurants with transient docking facilities are examples of such use.

THERAPEUTIC MASSAGE ENTERPRISE.

(1) A place of business providing massage services to the public for consideration.

(2) The term does not include a hospital, sanitarium, rest home, nursing home, boarding home or other institution for the hospitalization or care of other human beings duly licensed under the provisions of M.S. Ch. 144, as it may be amended from time to time.

THERAPEUTIC MASSAGE THERAPIST. A person who practices or administers massage to the public for consideration.

TOE OF THE BLUFF.

(1) The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above.

(2) If no break in the slope is apparent, the ***TOE OF BLUFF*** shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18%.

TOP OF THE BLUFF. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the ***TOP OF BLUFF*** shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18%.

TOWNHOUSE. A multiple-family dwelling, which maintains private ingress and egress, attached to its own foundation, contains no independent dwellings above or below it and is attached to other similar dwellings by a common wall.

VARIANCE.

(1) The provision for varying the zoning regulations as they apply to specific properties where an unusual hardship on the land exists, but may be granted only upon the specific grounds set forth in state regulations, M.S. Ch. 462, as it may be amended from time to time.

(2) Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

(3) ***VARIANCES*** usually deal with measurable physical requirements such as height, bulk or building setbacks and are based upon a finding that the relaxation will not be contrary to public interest.

(4) ***VARIANCES*** are not granted for use.

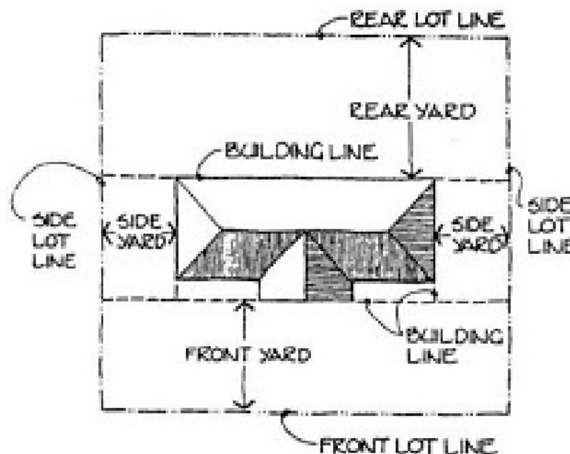
WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY.

(1) A small, above ground building or other improvement, except stairways, fences, docks and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback.

(2) Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

WETLAND. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

YARD. Any space in the same lot with a building open and unobstructed from the ground to the sky. (See diagram below.)



YARD, FRONT. An unoccupied open space on the same plot with a building, extending the full width of the lot and situated between the street line and front of the building projected to the sidelines of the lot.

YARD, REAR. An unoccupied open space, except for accessory buildings, on the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot.

YARD, SIDE. An unoccupied open space on the same lot with a building between the building and side lot line and extending from the front yard to the rear yard.

ZONING ADMINISTRATOR. The person duly appointed by the City Council and charged with the enforcement of this chapter, or his or her authorized representative.

ZONING MAP. The map or maps incorporated as part of this chapter as part hereof designating the zoning districts.

ZONING ORDINANCE. The local law adopted by the governing body to serve orderly development according to specific standards established for the public welfare and to implement a comprehensive plan.
(Ord. passed 11-9-2015)

§ 156.016 NON-CONFORMITIES.

All legally established non-conformities as of the date of this chapter may continue, but they will be managed according to applicable state statutes and the following regulations subject to alterations and additions, repair after damage, discontinuance of use and intensification of use.

(A) *Construction on non-conforming lots of record.*

(1) Lots of record in the office of the County Recorder on the date of enactment of this chapter that do not meet the requirements of this chapter may be allowed as building sites without variances from lot size requirements; provided, the use is permitted in the zoning district; the lot has been in separate ownership from abutting lands at all times since it became substandard; was created compliant with official controls in effect at the time; and sewage treatment and setback requirements of this chapter are met.

(2) In shoreland, a non-conforming single lot of record may be allowed as a building site without variances from lot size requirements; provided that:

(a) All structure setback distances can be met;

(b) The impervious surface coverage does not exceed 25% of the lot;

(c) A variance from setback requirements must be obtained before any use or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider constraints of the lot and shall deny the variance if warranted;

(d) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this chapter, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of this chapter as much as possible; and

(e) In evaluating all variances, building permits, conditional use permits, interim use permits, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surface coverage, increasing setbacks, vegetative buffers, connection to city utilities and other conservation-designed actions.

(B) *Additions/expansion to non-conforming structures.*

(1) All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height and other requirements of this chapter. Any deviation from these requirements must be authorized by a variance.

(2) In the case of a non-conforming structure, which has been partially or fully demolished, that structure may be rebuilt within footprint of the current building, only if the use is allowed in that zone.

(3) In shoreland, when a non-conforming structure with less than 50% of the required setback from the water is destroyed by fire or other peril to greater than 50% of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the structure setback may be increased, if practicable, and reasonable conditions are placed upon the building permit to mitigate created impacts on the adjacent property or waterbody.

(4) Pertaining to setbacks from ordinary high water level only; deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

(a) The structure existed on the date the structure setbacks were established;

(b) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

(c) The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

(d) The deck is constructed primarily of wood and is not roofed or screened.

(C) *Non-conforming uses.* All non-conforming structures and uses shall not be expanded, but may be continued, including repairs and maintenance, unless:

(1) The non-conformity or occupancy is discontinued for a period of more than one year; or

(2) Any non-conforming use is destroyed by fire or other peril to the extent of greater than 50% of its estimated market value at the time of damage, as indicated in the County Assessor's records, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the city may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.
(Ord. passed 11-9-2015)

ADMINISTRATION AND ENFORCEMENT

§ 156.030 ZONING ADMINISTRATOR.

(A) The City Council shall appoint a Zoning Administrator. The Zoning Administrator may delegate the enforcement of this chapter to any administrative official of the city and supporting staff if deemed necessary.

(B) The Zoning Administrator responsibilities shall include:

(1) Issue building permits, establish and maintain records thereof;

(2) Inspection of buildings and land use to determine compliance with the terms of this chapter;

(3) Maintain permanent and current records of the ordinance, including, but not limited to, all maps, amendments, conditional uses, variances, appeals and applications for actions listed above; and

(4) 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.

(C) The Zoning Administrator is responsible for the administration and enforcement of this chapter.
(Ord. passed 11-9-2015)

§ 156.031 BOARD OF ADJUSTMENT AND APPEALS.

The City Council is hereby appointed as the Board of Adjustment and Appeals, who has the following powers and duties with respect to this chapter:

(A) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this chapter; and

(B) To hear requests for variances from the literal provision of this chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant the variance only when it is demonstrated that the action will be in keeping with the spirit and intent of the ordinance.
(Ord. passed 11-9-2015)

§ 156.032 APPEALS.

(A) Appeals to the Board of Adjustments concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the jurisdiction affected by any decision of the administrative official. The Board of Adjustments and Appeals shall make no decision on an appeal or petition until the Planning Commission has had reasonable opportunity, not to exceed 60 days, to review and report to the Board of Appeals upon the appeal as petitioned.

(B) The Board of Adjustments shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time with a four-fifths vote. At the hearing, any party may appear in person or by agent or attorney.
(Ord. passed 11-9-2015)

§ 156.033 PLANNING COMMISSION.

(A) *Establishment of a Planning Commission.* A city planning commission has been established by city ordinance, as authorized by M.S. § 462.354, subd. 1, as it may be amended from time to time.

(B) *Planning Commission duties.* The number and members of the Planning Commission shall be set by the Council and is charged with the following duties:

(1) Engage in land use planning activities;

(2) No zoning ordinance or amendment shall be adopted by the City Council until a public hearing has been held by the Planning Commission upon notice;

(3) Review and make recommendations on all requests for amendments to the zoning ordinance and conditional use permits; and

(4) Hold public hearings on the above.
(Ord. passed 11-9-2015)

§ 156.034 VARIANCES.

(A) A variance is an adjustment by the Board of Adjustment to the literal provisions of this chapter in cases where the literal provisions would cause hardship because of physical circumstances unique to an individual property. Variances are limited to height, bulk, density and yard requirements. Variances should be the exception rather than the rule. Variances are handled as an appeal to the Board of Adjustment. The Department of Natural Resources must be informed of all variance requests in the Shoreland District or within the floodplain.

(1) *Variance application.* Application for a variance or appeal of the requirement, decision or determination of an administrative officer shall be filed with the Zoning Administrator stating the difficulties claimed. No non-conforming use of neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance. The request shall be referred to the Board of Adjustment and Appeals for consideration.

(2) *Planning Agency review.* The Board of Adjustment and Appeals shall make no decision on an appeal or petition until the Planning Commission has had reasonable opportunity, not to exceed 60 days, to review and report to the Board of Appeals upon the appeal or petition. Note: under the statutory 60-day rule, the final decision on land use issues, including variances, needs to be made and communicated to the applicant within 60 days of receiving a completed application. There are limited exceptions, but the city needs to be careful that the procedure followed under this section does not result in automatic approval because more than 60 days total was taken to act on the application.

(3) *Public hearing notice.* When a variance application is received, the time and place for a public hearing before the Zoning Board of Adjustment shall be set. At least 14 days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper for the city and as well as sent first class mail to property owners within 350 feet of the subject property and to the Department of Natural Resources. Notice of the hearings shall be posted at the City Hall at least ten days prior to the public hearing. The notice shall be deemed sufficient for the location or certification of ownership of the adjacent properties.

(4) *Making decisions.* The Board of Adjustments and Appeals shall, in no less than 60 days of acceptance of an application for a variance, make its order by a required majority deciding the matter and shall serve a copy of the order upon the appellant or petition by mail. If this order is not granted within the required 60-day period, the variance shall be granted automatically. A certified copy of a variance granted, including a legal description of the property involved, shall be filed with the County Recorder.

(5) *Fees.* To defray administrative costs for processing requests for variances, a fee shall be paid by the applicant. The fees shall be established by the City Council.

(6) *Circumstances (hardships) for granting a variance.*

(a) The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls.

(b) The plight of the landowner is due to circumstances unique to his or her property not created by the landowner.

(c) The variance, if granted, will not alter the essential character of the locality.

(d) Economic considerations alone shall not constitute undue hardship if reasonable use for the property exists under the terms of this chapter.

(e) When in harmony with this chapter, a variance for earth sheltered construction shall be granted.

(f) Conditions may be imposed in the granting of variances to ensure compliance and to protect adjacent properties.

(g) A variance may not be granted for any use that is not permitted under the ordinance for the property in the zone where the affected persons land is located.

(h) Undue hardship, as used in connection with the granting of a variance, includes direct sunlight for solar energy systems.

(B) Failure to meet the standards for hardship outlined in division (A) above shall result in denial of the variance request.
(Ord. passed 11-9-2015)

§ 156.035 CONDITIONAL USES.

A conditional use listed in this chapter may be permitted, enlarged or altered in accordance with the standards and conditions of this chapter. In addition to those standards and requirements expressly specified by this chapter, additional conditions considered necessary to protect the best interests of the surrounding area or the city as a whole may be imposed.

(A) *Application.* An application for a conditional use permit shall be filed with the Planning Commission. The application shall be accompanied by a site plan of the proposed use showing such information as may be necessary or desirable, including, but not limited to, the following:

(1) Site plan, drawn to scale, showing parcel and building dimensions;

(2) Location of all buildings and their square footages;

(3) Curb cuts, driveways, access roads, parking spaces and off-street loading areas;

(4) Water surface uses;

(5) Existing topography;

(6) Finished grading and drainage plan;

(7) Sanitary sewer and water plan with estimated use per day;

(8) A map showing all principal land uses within 350 feet of the parcel for which application is being made; and

(9) A boundary survey, if required.

(B) *Public hearing.* A public hearing on the granting of conditional use permits shall be held. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the municipality at least ten days prior to the day of the hearing. The notice shall also be sent to the DNR Commissioner or the Commissioner's designated representative for those properties that are within the Shoreland District or the floodplain. The Planning Commission shall forward its recommendation to the City Council regarding approval, approval with conditions or denial.

(C) *Making decisions.* The City Council shall, in no fewer than 60 days of the official acceptance date of an application for a conditional use permit, make its order by a required majority deciding the matter and shall serve a copy of the order upon the applicant. If this order is not granted within the required 60-day period, the conditional use permit shall be granted automatically.

(D) *Site specific considerations.* Conditions recommended must be in addition to standards already set forth in this chapter. Conditions must also be reasonable and practical. The conditional use permit will run with the land and is not granted to specific landowners.

(E) *Types of conditions.* Include, but are not limited to, the following:

(1) Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

(2) Off-street parking and loading areas where required with particular attention to economic, noise, glare or other effects of the conditional use on adjoining properties and properties generally in the area;

(3) Refuse and service areas;

(4) Utilities, with reference to locations, availability and compatibility;

(5) Screening and buffering with reference to type, dimensions and character;

(6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effort and compatibility and harmony with properties in the district;

(7) Required yards and other open spaces;

(8) General compatibility with adjacent properties and other property in the area;

(9) Increased setbacks from the ordinary high water level;

(10) Limitations on the natural vegetation to be removed or the requirements that additional vegetation be planted;

(11) Special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas and vehicle parking areas; and

(12) Protection of steep slopes with conditions to prevent erosion and to preserve existing vegetative screening of structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

(F) *Fees.* To defray administrative costs for processing requests for conditional uses, a fee shall be paid by the applicant. The fees shall be established by the City Council.

(G) *Filing.* A certified copy of any conditional use permit shall be filed with the County Recorder or Registrar of Titles of the county or counties in which the municipality is located for record. The conditional use permit shall include the legal description of the property included.
(Ord. passed 11-9-2015)

§ 156.036 TEXT AMENDMENTS AND ZONING DISTRICT CHANGES.

The City Council may, on its own motion, or on request of the Planning Commission, or on petition or appeal of the affected property owners to amend the text of this chapter and the Official Zoning Map.

(A) *Planning agency review.* An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report and may not be acted upon by the governing body until it has received the recommendation of the Planning Commission on the proposed amendment or until 60 days have elapsed from the date of reference of the amendment without a report by the Planning Commission. Note: under the statutory 60-day rule, the final decision on land use issues, including zoning amendments, needs to be made and communicated to the applicant within 60 days of receiving a completed application. There are limited exceptions, but the city needs to be careful that the procedure followed under this section does not result in automatic approval because more than 60 days total was taken to act on the application.

(B) *Notice*. The Planning Commission shall give notice of the time and place of the public hearing. Notice shall be given not more than 30 days, nor less than ten days, in advance of the hearings by publishing a notice thereof at least once in a newspaper of general circulation and by notifying by mail, at least ten days prior to the meeting, the property owners within 350 feet of the subject property (when an amendment involves changes in district boundaries affecting an area of five acres or less). The county's tax records shall be deemed sufficient for the location or certification of township of the properties.

(C) *Approval of amendment(s)*. The City Council, upon receiving reports of the Planning Commission, and without further public hearing, may vote upon the adoption of any proposed amendment or it may refer it back to the Planning Commission for further consideration. In considering the recommendations, due allowance shall be made for existing conditions, for the conservation of property values, for the direction of building development to the best advantage of the entire city and for the uses to which the property affected is being devoted at the time; and no change shall be recommended unless it is required for the public good. The amendment shall be effective only if a majority of all the members of the City Council concur in its passage.
(Ord. passed 11-9-2015)

§ 156.037 INTERIM USE PERMITS.

An interim use may be permitted in accordance with the standards and conditions of this chapter and as specified in the permit. In addition to those standards and requirements expressly specified by this chapter, additional conditions considered necessary to protect the best interests of the surrounding area or the city as a whole may be imposed.

(A) *Purpose*. To allow for a use or activity for a limited period of time that allows a property owner to reasonably utilize the property in a manner not permitted in the applicable zoning district, or, to allow a use of the property that is presently acceptable, but not permitted within the zoning district and, with anticipated development, may not be acceptable in the future.

(B) *Procedure*. The application for this permit, public hearing notice and information requirements shall be the same as for a conditional use permit, as provided for in § 156.035 of this chapter.

(C) *General standards*. An interim use shall comply with the following:

(1) It will meet the standards of a conditional use permit set forth in § 156.035 of this chapter;

(2) It will conform to the zoning regulations of the respective zoning district and to all applicable performance standards;

(3) It will terminate upon a tangible date or event, as specified in the permit and in the resolution approving the interim use permit;

(4) It will not impose additional costs on the public if it is necessary for the public to take the property in the future; and

(5) The user agrees to any conditions that the City Council deems appropriate for permission of the use.

(D) *Termination.* An interim use permit shall terminate upon the occurance of any of the following events:

(1) The date specified in the permit;

(2) A violation of the conditions under which the permit was issued;

(3) A change in the city's zoning regulations which renders the use as non-conforming, however, the city may provide a period of relief for up to one year, if warranted;

(4) The redevelopment of the use and property upon which it is located to permitted or conditional use as allowed within the respective zoning district; or

(5) No more than two interim use permits shall be granted to a single property at one time.
(Ord. passed 11-9-2015)

ESTABLISHMENT OF ZONES

§ 156.050 CLASSIFICATION OF ZONES.

(A) The land areas of the city have been divided into zoning districts that vary in their regulation of land uses. Land use activities must conform to the specific zone regulations of the zoning district as well as the pertinent overall regulations found in other portions of this chapter.

(B) For the purpose of this chapter, the following zones are hereby established:

C-1	Central Business Commercial
C-2	Highway/Light Industrial Commercial
C-3	Neighborhood Commercial Service
I	Industrial
PUD	Planned Unit Developments
R-1	General Residential

R-2	Multi-Family Residential
S	Shoreland

(Ord. passed 11-9-2015)

§ 156.051 LOCATION OF ZONES.

The boundaries for the zones listed in this chapter are indicated on the zoning map, which is hereby adopted by reference. The boundaries shall be modified in accordance with zoning map amendments, which shall be adopted by reference.
(Ord. passed 11-9-2015)

§ 156.052 ZONING MAP.

(A) The zoning map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment.

(B) A certified print of the adopted map or map amendment shall be maintained in the office of the Zoning Administrator.
(Ord. passed 11-9-2015)

§ 156.053 ZONE BOUNDARIES.

Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, centerlines of streets or railroad rights-of-way or the lines extended.
(Ord. passed 11-9-2015)

§ 156.054 ANNEXED TERRITORY.

(A) All territory which may hereafter be annexed to the city shall be initially zoned in as General Residential (R-1).

(B) Consideration of zoning other than in accordance with the land use plan should not be done without amending the land use plan.

(C) The territory shall be subject to all provisions of this chapter and shall be conforming, including the hook-up to city sewer and water of all property on which a structure exists within one year of becoming a part of the city.
(Ord. passed 11-9-2015)

ZONING DISTRICTS

§ 156.065 R-1, GENERAL RESIDENTIAL ZONE.

(A) *Purpose.* The R-1 District is intended to be comprised basically of present and future low-density housing, augmented with compatible medium density housing and appropriate miscellaneous uses. These additional uses are conditional and are to be further regulated by applying conditional use standards.

(B) *Permitted uses.*

(1) One- and two-family dwelling;

(2) State-licensed foster homes or group homes serving six or fewer mentally or physically challenged persons; and

(3) Parks.

(C) *Accessory uses.* Uses incidental to the permitted uses that are located on the same lot. (For design standards, refer to § 156.121 of this chapter.)

(D) *Conditional uses.*

(1) Community/governmental buildings;

(2) Schools;

(3) Churches;

(4) Hospitals, sanitariums, nursing homes;

(5) Utility structures, such as lift stations and electrical substations;

(6) State-licensed residential facilities serving from seven through 16 mentally or physically challenged persons;

(7) Single-family residential planned unit developments; (See § 156.071 of this chapter.)

(8) Home occupations;

(9) Guest cottages; and

(10) Single-family homes used as bed and breakfast establishments. (See § 156.119 of this chapter.)

(E) *R-1 Standards*.

(1) Front yard: minimum of 20 feet;

(2) Side yards: minimum of eight feet;

(3) Side yard, accessory building: If the accessory building is 1,200 square feet or less, the required side yard setback is a minimum of three feet. If the accessory building is larger than 1,200 square feet, the required side yard setback is a minimum of 15 feet;

(4) Rear yard, principal building: minimum of 20 feet;

(5) Rear yard, accessory building: If the accessory building is 1,200 square feet or less, the required rear yard setback is a minimum of three feet. If the accessory building is larger than 1,200 square feet, the required rear yard setback is a minimum of 15 feet;

(6) Lot area: minimum of 7,500 square feet plus 2,000 more for two-family dwellings;

(7) Lot width: minimum of 75 feet;

(8) Lot depth: minimum of 100 feet;

(9) Building height: maximum of 35 feet; and

(10) Street frontage: minimum of 25 feet on a street other than an alley.

(F) *Special minimum requirements*.

(1) All dwellings shall have a minimum of 900 square feet of usable floor space above grade, which includes basements, as defined in § 156.015 of this chapter. In addition, all dwellings may not be less than 30 feet in length or less than 20 feet in width over that entire minimum length. These measurements shall not include overhangs or other projections.

(2) All dwellings shall be served by municipal water and sanitary sewer.

(3) All driveways and required off-street parking spaces shall be surfaced with concrete or bituminous.

(4) All waste material, debris, refuse, garbage or materials not currently being used for construction on the property shall be stored in a totally closed structure, screened from eye-level view from public streets and properties or kept in covered trash containers.

(5) All dwellings, except earth sheltered homes, shall have frost footings and a continuous permanent perimeter foundation in conformance with the state's Building Code.

(6) Every principal use is required to display its street address number, attached to the front of the building, so that the location can be identified easily from the road. If the building's distance from the road's curb or edge of driving surface exceeds 75 feet, the address number shall be displayed at the end of the driveway.

(7) (a) Galvanized corrugated S-type metal roofing materials are not permitted to be used on any structures.

(b) Metal roof shingles are permitted. Standing seam metal roofing systems and ribbed roofing systems may also be allowed, but they must be the type of panels that:

1. Have had a factory applied lifetime color coating system applied; and

2. Must conform to the standards adopted by the state's Residential Code.
(Ord. passed 11-9-2015; Am. Ord. passed 6-8-2020)

§ 156.066 R-2, MULTI-FAMILY RESIDENTIAL ZONE.

(A) *Purpose.* The R-2 District is created in order to preserve some land that can develop to serve the city's multi-family needs without creating incompatible situations. To protect this goal, permitted uses are few and conditional uses should be weighted in view of their impact with future multi-family development.

(B) *Permitted uses.*

(1) Residential uses as permitted in the R-1 Residential Zone;

(2) Multi-family housing up to four units; and

(3) Parks.

(C) *Accessory uses.* Uses incidental to the permitted uses that are located on the same lot. (For design standards, refer to § 156.121 of this chapter.)

(D) *Conditional uses.*

(1) Multi-family housing with five or more units;

(2) Professional offices and low-intensity service operations;

(3) Recreation facilities;

(4) Residential planned unit developments;

(5) Mixed use (commercial and residential planned unit developments);

(6) State-licensed residential facilities serving mentally or physically challenged persons;

(7) Utility structures;

(8) Nursing homes;

(9) Community and governmental buildings; and

(10) Guest cottages.

(E) *Standards*.

(1) Front yard: minimum of 25 feet;

(2) Side and rear yards: minimum of ten feet, except where a multi-family dwelling of three units or more abuts to R-1 Zone, in which case the minimum will be 30 feet;

(3) Lot area: minimum of 7,500 square feet plus 2,000 more for each dwelling unit over one;

(4) Lot width: minimum of 75 feet;

(5) Lot depth: minimum of 100 feet;

(6) Building height: maximum of 45 feet;

(7) Dwelling width: minimum of 20 feet;

(8) Street frontage: minimum of 25 feet on a street other than an alley; and

(9) Screening: garbage pickup areas and other unsightly service features should be screened.

(F) *Special minimum requirements*.

(1) All dwelling units shall have a minimum of 800 square feet of usable floor space above grade. In addition, all dwellings may not be less than 30 feet in length or less than 20 feet in width over that entire minimum length. These measurements shall not include overhangs or other projections.

(2) All driveways and required off-street parking spaces shall be surfaced with concrete or bituminous.

(3) All waste material, debris, refuse, garbage or materials not currently being used for construction on the property shall be stored in a totally enclosed structure, screened from eye level view from public streets and adjacent properties or kept in covered trash containers.

(4) All dwellings, except earth sheltered homes, shall have frost footings and a continuous perimeter permanent foundation which conforms to the state's Building Code.

(5) Every principal use is required to display its street address number, attached to the front of the building, so that the location can be identified easily from the road. If the building's distance from the road's curb or edge of driving surface exceeds 75 feet, the address number shall be displayed at the end of the driveway.

(6) (a) Galvanized corrugated S-type metal roofing materials are not permitted to be used on any structures.

(b) Metal roof shingles are permitted. Standing seam metal roofing systems and ribbed roofing systems may also be allowed, but they must be the type of panels that:

1. Have had a factory applied lifetime color coating system applied; and

2. Must conform to the standards adopted by the state's Residential Code.
(Ord. passed 11-9-2015)

§ 156.067 C-1, CENTRAL BUSINESS COMMERCIAL DISTRICT.

(A) *Purpose*. The Central Business Commercial District (C-1) is intended to allow for the continuation of the traditional commercial/residential mix and physical development patterns in the existing downtown core.

(B) *Permitted uses*.

(1) Retail, wholesale trades;

(2) Personal services such as laundry, barber, shoe repair shop and photography studios;

(3) Repair and maintenance services, such as jewelry and radio and television repair shops;

(4) Offices, professional services, such as medical and dental clinics, architects and attorneys offices, finance, insurance and real estate service;

(5) Eating and drinking establishments;

(6) Community/governmental buildings;

(7) Public parks; and

(8) Schools and churches.

(C) *Accessory uses*. Uses incidental to the permitted uses that are located on the same lot.

(D) *Conditional uses*.

(1) Hotels;

(2) Auto repair shops;

(3) Lumber yards and warehousing;

(4) Utility structures;

(5) Commercial planned unit developments;

(6) Amusement establishments, such as video arcades, pool halls, motion picture theaters and bowling alleys;

(7) Second and third floor apartments not to exceed five units;

(8) State licensed residential facilities serving mentally or physically challenged persons;

(9) Therapeutic massage enterprise; and

(10) Live and work space on ground floor in commercial structures. The ground floor of a commercial structure may house both a commercial use and a residential use; provided:

(a) The residential space comprises 50% or less of the useable floor space;

(b) The residential use has a separate entrance as does the commercial use; and

(c) The front exterior of the structure maintains a full commercial appearance.

(E) *Standards*.

(1) Height regulations: no building hereafter erected or altered shall exceed four stories or 45 feet in height. Additional regulations pertaining to height are specified in § 156.013 of this chapter;

(2) Front yard regulations: none required;

(3) Side yard regulations: none required;

(4) Corner lot side setback: none required;

(5) Rear yard regulations: no building shall be located within 20 feet of any rear lot line;

(6) A transitional yard shall be provided anywhere the commercial district abuts a residential district. The yard shall conform to the following requirements.

(a) The dimensions of the required transitional yard on a property located in the commercial district shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.

(b) The transitional yard shall extend the entire length of the abutting residential district boundary.

(c) The transitional yard shall be at a minimum of a ten-foot width.

(7) Every principal use is required to display its street address number, attached to the front of the building, so that the location can be identified easily from the road. If the building's distance from the road's curb or edge of driving surface exceeds 75 feet, the address number shall be displayed at the end of the driveway; and

(8) (a) Galvanized corrugated S-type metal roofing materials are not permitted to be used on any structures.

(b) Metal roof shingles are permitted. Standing seam metal roofing systems and ribbed roofing systems may also be allowed, but they must be the type of panels that have had a factory applied lifetime color coating system applied.
(Ord. passed 11-9-2015)

§ 156.068 C-2, HIGHWAY COMMERCIAL DISTRICT.

(A) *Purpose.* The Highway Commercial District (C-2) is meant to allow for the continuation and addition of new businesses into the community that are not appropriate in the downtown area, due to space requirements and/or design elements that are inconsistent with the historic or traditional downtown atmosphere.

(B) *Permitted uses.*

(1) Personal services such as laundry, barber, shoe repair shops and photography studios;

(2) Repair and maintenance services, such as jewelry and radio and television repair shops;

(3) Offices, professional services, such as medical and dental clinics, architects and attorneys' offices, finance, insurance, and real estate services;

(4) Eating and drinking establishments; and

(5) Community/governmental buildings.

(C) *Accessory uses.* Uses incidental to the permitted uses that are located on the same lot.

(D) *Conditional uses.*

(1) Fast food and drive-in establishments;

(2) Hotels and motels;

(3) Car, farm equipment and implement sales;

(4) Light assembly production;

(5) Gas stations and auto repair shops;

(6) Lumber yards and warehousing;

(7) Utility structures;

(8) Commercial planned unit developments (including campground/resort facilities);

(9) Amusement establishments, such as movie theaters, bowling alleys and pool halls;

(10) Therapeutic massage enterprise;

(11) Establishments selling intoxicating liquor (both on and off sale);

(12) Retail stores selling consumer goods;

(13) Auto sales shops;

(14) Animal clinics;

(15) Dry cleaning stores and/or laundry facilities;

(16) Finance companies;

(17) Furniture stores;

(18) Car washes;

(19) Churches; and

(20) Schools.

(E) *Standards*.

(1) Height regulations: no building hereafter erected or altered shall exceed four stories or 45 feet in height;

(2) Front yard regulations: there shall be a minimum of 30 feet for a front yard setback;

(3) Side yard regulations: no building shall be located within 20 feet of any side lot line abutting any residence district;

(4) Rear yard regulations: no building shall be located within 20 feet of any rear lot line;

(5) Minimum setbacks from state and/or local bike trails: no building shall be located within 50 feet from the trail centerline;

(6) Every principal use is required to display its street number, attached to the front of the building, so that the location can be identified easily from the road. If the building's distance from the road's curb or edge of driving service exceeds 75 feet, the address number shall be displayed at the beginning of the driveway closest to the curb or road; and

(7) (a) Galvanized corrugated S-type metal roofing materials are not permitted to be used on any structures.

(b) Metal roof shingles are permitted. Standing seam metal roofing systems and ribbed roofing systems may also be allowed, but they must be the type of panels that have a factory applied lifetime color coating system applied.

(F) *General regulations*. Additional general regulations for the commercial district are set forth in performance standards (§§ 156.105 through 156.124) of this chapter.
(Ord. passed 11-9-2015; Ord. 105/23, passed 6-12-2023)

§ 156.069 C-3, NEIGHBORHOOD COMMERCIAL SERVICE DISTRICT.

(A) *Purpose*. The Neighborhood Commercial Service District (C-3) is meant to allow for the development of limited scale commercial businesses that would provide goods and services needed to the surrounding neighborhood, but not necessarily intended for the entire community.

(B) *Permitted uses*. There are no permitted uses in the Neighborhood Commercial Service District. All development proposals will be handled as conditional uses.

(C) *Conditional uses*.

(1) Retail and service establishments, such as bait and tackle and video rental;

(2) Professional services (doctor or dentist offices and the like); and

(3) Gas stations and convenience stores. All elements of the site development shall be controlled within the conditional use permit, including the following:

(a) Building design and construction;

(b) Site layout and development;

(c) Parking and traffic flow;

(d) Fencing and screening;

(e) Paving and drainage;

(f) Signs and canopies;

(g) Waste collection and storage devices; and

(h) Landscaping.

(D) *Standards*.

(1) Maximum lot size: the maximum lot size allowed in the C-3 Zone is 20,000 square feet;

(2) Front yard regulations: there shall be a minimum of 20 feet for a front yard setback;

(3) Side yard regulations: no building shall be located within ten feet of any side lot line abutting any residence district;

(4) Rear yard regulations: no building shall be located within ten feet of any rear lot line;

(5) Minimum setbacks from state and/or local bike trails: no building shall be located within 50 feet from the trail centerline;

(6) Minimum setbacks from state or county highways: no building shall be located within 30 feet from state or county highways;

(7) Density: any C-3 District must be separated by no less than 2,000 linear feet from another C-3 District;

(8) Every principal use is required to display its street address number, attached to the front of the building, so that the location can be identified easily from the road. If the building's distance from the road's curb or edge of driving surface exceeds 75 feet, the address number shall be displayed at the end of the driveway; and

(9) (a) Galvanized corrugated S-type metal roofing materials are not permitted to be used on any structures.

(b) Metal roof shingles are permitted. Standing seam metal roofing systems and ribbed roofing systems may also be allowed, but they must be the type of panels that have had a factory applied lifetime color coating system applied.

(E) *General regulations*. Additional general regulations for the commercial district are set forth in §§ 156.105 through 156.124 of this chapter.
(Ord. passed 11-9-2015)

§ 156.070 I, INDUSTRIAL DISTRICT.

(A) *Purpose*. The Industrial Zone (I) is intended to allow for areas in the city where industrial uses may occur.

(B) *Permitted uses.*

(1) Manufacturing, processing, packaging or assembly of products and materials;

(2) Retail that is incidental to an industrial use;

(3) Offices and office buildings;

(4) Research laboratories;

(5) Wholesaling;

(6) Warehouses; and

(7) Utility structures, such as lift stations and electrical substations.

(C) *Accessory uses.* Uses incidental to the permitted uses that are located on the same lot.

(D) *Conditional uses.*

(1) All industries which have outside or open storage of parts, products or fuels that exceed 25% of their building area;

(2) Structures that exceed 50 feet in height;

(3) Public utility facilities; and

(4) Adult uses as regulated by § 156.118 of this chapter.

(E) *Standards.*

(1) Lot area: 10,000 square feet;

(2) Lot width: 100 feet;

(3) Front yard: 50 feet;

(4) Rear yard: 20 feet;

(5) Side yard, interior lot: 15 feet; and

(6) Side yard, corner lot: 25 feet.

(F) *Special minimum requirements.*

(1) Noise, odors, smoke and particulate matter may not exceed state pollution control standards.

(2) All fabrication, manufacturing, processing or production shall be undertaken within an enclosed building.

(3) Screening from public streets and residential districts shall be provided for outdoor storage of materials, goods, parking and loading areas. The screening may consist of either a fence, compact hedge, berms or similar opaque materials. Screening shall be maintained by the property owner and replaced if plants die.

(4) Every principal use is required to display its street address number, attached to the front of the building, so that the location can be identified easily from the road. If the building's distance from the road's curb or edge of driving surface exceeds 75 feet, the address number shall be displayed at the end of the driveway.
(Ord. passed 11-9-2015)

§ 156.071 PUD, PLANNED UNIT DEVELOPMENTS.

(A) *Purpose.* The purpose of the PUD is to allow for the provision of common open spaces through clustering, density increases and a mix of structure types and land uses, when combined with innovative design techniques and a greater oversight of site design by the Planning Commission.

(B) *Processing planned unit developments.*

(1) Planned unit developments must be processed as a conditional use.

(2) The following steps shall be taken when processing a PUD application: prior to the acceptance of an application for a conditional use permit, the applicant shall attend a PUD concept meeting with the Planning Commission and city staff.

(C) *Application for a PUD.* The applicant for a PUD must submit the following documents prior to final action being taken on the application request.

(1) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alteration, sewage treatment and water supply system lines and easements and topographic contours at two-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial or a combination of the two.

(2) A property owners association agreement (for residential PUDs) with mandatory membership and all in accordance with the requirements of division (F) below.

(3) Deed restrictions, covenants, permanent easements or other instruments that:

(a) Properly address future vegetation and topographic alterations, construction of additional buildings, beaching of watercraft; and

(b) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in division (D) below.

(4) Those additional documents as requested by the Zoning Administrator that are necessary to explain how the PUD will be designed and will function.

(D) *Maintenance and design criteria.*

(1) *Maintenance and administration requirements.*

(a) *General.* Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

(b) *Open space preservation.* Deed restrictions, covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space.

(c) *Development organization and functioning.* Unless equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features.

1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.

2. Each member must pay a pro rated share of the association's expenses and unpaid assessments can become liens on units or sites.

3. Assessments must be adjustable to accommodate changing conditions.

4. The association must be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.

(2) *Open space requirements.* Planned unit developments must contain open space meeting all of the following criteria.

(a) At least 50% of the total project area must be preserved as open space.

(b) Dwelling units or sites, road rights-of-way or land covered by road surfaces, parking areas or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.

(c) Any areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries must be included in open space.

(d) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites and by the general public.

(e) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities.

(f) The appearance of open space areas, including topography, vegetation and allowable uses, must be preserved by the use of restrictive deed covenants, permanent easements, public dedication and acceptance or other equally effective permanent means.

(3) *Erosion control and storm water management.* Erosion control and storm water management plans must be developed and the PUD must be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
(Ord. passed 11-9-2015)

SHORELAND OVERLAY ZONE

§ 156.085 CLASSIFICATION.

(A) In order to guide the wise development and utilization of shorelands of protected waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare. Protected waters in the city have been assigned a shoreland management classification.

(B) The public waters of the city have been classified below consistent with the criteria found in Minn. Regs. part 6120.3000, and the Protected Waters Inventory Map for the county.

(C) The shoreland area for the waterbodies listed below shall be defined in this chapter and as shown on the Official Zoning Map.

(D) These protected waters of the city have been classified by the Commission of Natural Resources as follows:

Lake Name	*DNR I.D. #*	*DNR Classification*
Lake Elysian	81-95	Recreational Development
Lake Frances (“Francis”)	40-57	Recreational Development
Lake Tustin	40-61	Natural Environment
Rays Lake	40-56	Recreational Development

(Ord. passed 11-9-2015)

§ 156.086 PURPOSE.

The shorelands of the city are hereby designated as a Shoreland Overlay District to provide for the wise utilization of shoreland areas in order to preserve the quality and natural character of these protected waters.
(Ord. passed 11-9-2015)

§ 156.087 PERMITTED USES.

All permitted uses allowed and regulated by the applicable zoning district underlying this Shoreland Zone as indicated on the Official Zoning Map of the city.
(Ord. passed 11-9-2015)

§ 156.088 CONDITIONAL USES.

All conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying this Shoreland Zone as indicated on the Official Zoning Map of the city.
(Ord. passed 11-9-2015)

§ 156.089 SUBSTANDARD USES.

Any uses of shorelands in existence prior to the date of enactment of this chapter that are permitted within the applicable zoning district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this chapter, are substandard uses. However, any structural alteration or addition to a use that will increase the substandard dimensions substantially shall not be allowed. (Refer to § 156.016 of this chapter for additional requirements for non-conformities.)
(Ord. passed 11-9-2015)

§ 156.090 PROHIBITED USES.

Any uses that are not permitted or conditional uses as regulated by the applicable zoning district underlying this Shoreland Zone as indicated on the Official Zoning Map of the city.
(Ord. passed 11-9-2015)

§ 156.091 GENERAL STANDARDS.

(A) The following standards shall apply to all shorelands of protected waters within the city.

(B) Where the requirements of the underlying zoning district as shown on the Official Zoning Map are more restrictive than those set forth herein, then the more restrictive standards shall apply.

(1) *Shoreland Standards - Residential (R-1 and R-2).*

(a) *Recreational development lakes (Elysian/Frances/Rays) - sewered areas.*

	Water Frontage Lots		***Other Lots***
Single-Family			
Lot area	20,000 sq. ft		15,000 sq. ft
Lot width	At O.H.W.: 75 feet	At front setback line: 90 feet	75 feet
Duplex			
Lot area	35,000 square feet		26,000 square feet
Lot width	At O.H.W.: 135 feet		135 feet
Triplex			
Lot area	50,000 square feet		38,000 square feet
Lot width	At O.H.W.: 195 feet		190 feet
Quad			
Lot area	65,000 square feet		49,000 square feet
Lot width	At O.H.W.: 255 feet		245 feet

Bluff top setback	30 feet
Building height	Maximum 30 feet
Lot coverage	25% maximum
Lowest floor elevation	Minimum 3 feet above highest known water level

Setback from O.H.W.	75 feet
Setback from roads and highway (measured from R-O-W line)	50 feet from federal, state, county
	25 feet from municipal or private streets
	For riparian lots: all structures must be setback a minimum of 15 feet from municipal or private streets
Unplatted cemetery setback	50 feet

(b) *Natural environment lakes (Tustin) - sewered areas.*

	Water Frontage Lots	***Other Lots***
Single		
Lot area	40,000 square feet	20,000 square feet
Lot width	125 feet	125 feet
Duplex		
Lot area	70,000 square feet	35,000 square feet
Lot width	225 feet	220 feet
Triplex		
Lot area	100,000 square feet	52,000 sq. ft
Lot width	325 feet	315 feet
Quad		
Lot area	130,000 square feet	65,000 square feet
Lot width	425 feet	410 feet

Bluff top setback	30 feet
Building height	Maximum 30 feet
Lot coverage	25% maximum
O.H.W. setback	150 feet
Setback from roads and highway measured from R-O-W line	50 feet from federal, state, county
	25 feet from municipal or private lots
	For riparian lots: all structures must be setback a minimum of 15 feet from municipal or private streets
Unplatted cemetery setback	50 feet

(2) *Additional special provisions - residential (R-1 and R-2).*

(a) Residential subdivisions with dwelling unit densities exceeding those in the tables above can only be allowed if designed and approved as residential planned unit developments under § 156.071 of this chapter. Only land above the ordinary high water level of public waters and land which is not designated as a bluff or as wetlands can be used to meet lot area standards and lot width standards must be met at both the ordinary high water level and at the building line.

(b) Subdivisions of duplexes, triplexes and quads on natural environment lakes must also meet the following standards.

1. Each building must be set back at least 200 feet from the next ordinary high water level.

2. Each building must have municipal sewage treatment and water systems.

3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.

4. No more than 25% of a lake's shoreline can be duplex, triplex or quad developments.

(c) One guest cottage is allowed per lot in the Shoreland Overlay Zone, under the following circumstances.

1. Lots must meet or exceed the following standards:

	Water Frontage Lots	***Other Lots***
For Natural Environment Lakes		
Lot area	70,000 square feet	35,000 square feet
Lot width	225 feet	220 feet
For Recreational Lakes		
Lot area	35,000 square feet	26,000 square feet
Lot width	At O.H.W.: 135 feet	135 feet

2. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height.

3. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, setbacks or color, assuming summer leaf-on conditions.

(3) *Shoreland standards - commercial (C-1, C-2, C-3), industrial, public and semi-public uses.* Surface water-oriented commercial uses and industrial, public or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards.

(a) Uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

(b) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions or navigation and to be the minimum size necessary to meet the need.

(c) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards.

1. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.

2. Signs may be placed, when necessary, within the Shore Impact Zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices; must not be located higher than ten feet above the ground; and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

3. Other outside lighting may be located within the Shore Impact Zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(d) Commercial, industrial, public or semi-public uses without water-oriented needs must be located on lots or parcels without public waters frontage, or if located on lots or parcels with public waters frontage, must be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions or must meet the following setback requirements from the O.H.W. level:

1. Three hundred feet on natural environment lakes; and

2. One hundred fifty feet on recreational development lakes.

(e) Commercial uses that provide transient, short-term lodging spaces, rooms or land parcels and whose operations are essentially service-oriented (for example, hotels, motels, resorts, recreational vehicle and camping parks) must be developed under the PUD process when located in the Shoreland Overlay Zone.
(Ord. passed 11-9-2015)

§ 156.092 PUD STANDARDS.

(A) The following standards shall apply to all PUDs developed in the Shoreland Zone.

(B) Where the requirements of the underlying zoning district as shown on the Official Zoning Map are more restrictive than those set forth herein, then the more restrictive standards shall apply.

(1) *Site "suitable area" evaluation.* Proposed new or expansion to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in division (B)(2) below.

(a) The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions	
	Sewered
Natural environment lakes	320 feet
Recreational development lakes	267 feet

(b) The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

(2) *Residential and commercial PUD density evaluation.* The procedures for determining the "base" density of a PUD and density increase multipliers are as follow. Allowable densities may be transferred from any tier further from the waterbody, but must not be transferred to any other tier closer.

(a) *Residential PUD "base" density evaluation.* The suitable area within each tier is divided by the single residential lot size standard for lakes; or for rivers, the single residential lot width standard time the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density and suitability analysis herein and the design criteria in § 156.090 of this chapter.

(b) *Commercial PUD "base" density evaluation.*

1. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages or porches and basements, unless they are habitable.

2. Select the appropriate floor area ratio from the following table:

*Commercial Planned Unit Development Floor Area Ratios **		
Average Unit Floor Area (square feet)	***Recreational Development Lakes***	***Natural Environment Lakes***
200	0.020	0.010
300	0.024	0.012
400	0.028	0.014
500	0.032	0.016
600	0.038	0.019
700	0.042	0.021
800	0.046	0.023
900	0.050	0.025
1,000	0.054	0.027
1,100	0.058	0.029
1,200	0.064	0.032
1,300	0.068	0.034
1,400	0.072	0.036
1,500	0.075	0.038

NOTES TO TABLE:
* For average unit floor areas less than shown, use the floor areas ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home or, if unknown, the ratio listed for 1,000 square feet.

3. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

4. Divide the total floor area by tier computed in division (B)(2)(b)3. above by the average inside living area size determined in division (B)(2)(b)1. above. This yields a base number of dwelling units and sites for each tier.

5. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analysis herein and the design criteria in division (B)(3) below.

(c) *Density increases multipliers.*

1. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in this chapter are met or exceeded and the design criteria in § 156.090 of this chapter are satisfied. The allowable density increases in division (B)(2)(c)2. below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50% greater than the minimum setback or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography or additional means acceptable to the local unit of government and the setback is at least 25% greater than the minimum setback.

2. Allowable dwelling unit or dwelling site density increased for residential or commercial planned unit developments:

Density Evaluation Tiers	***Maximum Density Increase Within Each Tier (Percent)***
First	50%
Second	100%
Third	200%
Fourth	200%
Fifth	200%

(3) *Maintenance and design criteria.*

(a) *Maintenance and administration requirements.* All planned unit developments are required to provide, in perpetuity, for the preservation and maintenance of open spaces. (See § 156.071 of this chapter for requirements). In addition, PUDs developed in the Shoreland Overlay Zone must also provide for the following protections:

1. Commercial uses prohibited (for residential PUDs);

2. Vegetation and topographic alterations other than routine maintenance prohibited;

3. Construction of additional buildings or storage of vehicles and other materials prohibited; and

4. Uncontrolled beaching of watercraft prohibited.

(b) *Open space requirements.* The Shore Impact Zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least 50% of the Shore Impact Zone area of existing developments or at least 70% of the Shore Impact Zone are of new developments must be preserved in its natural or existing state. For commercial PUDs, at least 50% of the Shore Impact Zone must be preserved in its natural state.

(c) *Erosion control and storm water management.* Erosion control and storm water management plans must be developed and the PUD must be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff. Impervious surface coverage within any tier must not exceed 25% of the tier area.

(d) *Centralization and design of facilities.* Centralization and design of facilities and structures must be done according to the following standards.

1. Planned unit developments must be connected to publicly-owned water supply and sewer systems.

2. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features and maximum height.

3. Setbacks from the ordinary high water level must be increased in accordance with division (B)(3) above for developments with density increases.

4. Shore recreation facilities, including, but not limited to, swimming areas, docks and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth of ground water and bedrock or other relevant factors. The number of spaces provided for continuous beaching, mooring or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units of sites located in other tiers.

5. Structures, parking areas and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

6. Accessory structures and facilities, except water-oriented accessory structures, must meet the required principal structure setback and must be centralized.

7. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in this chapter and are centralized.

(Ord. passed 11-9-2015)

§ 156.093 ADDITIONAL PROVISIONS; ALL USES.

The following shall apply to all uses within the Shoreland Overlay Zone.

(A) *Roads, driveways and parking areas.* Roads and parking areas shall be located to retard the runoff of surface waters and nutrients in accordance with the following criteria.

(1) Roads, driveways and parking areas shall be designated to make use of existing topography and vegetative screening to the greatest extent possible.

(2) Roads and parking areas shall meet the setback requirements established for structures in this section.

(3) In no instance shall these impervious surfaces be placed closer than 50 feet from the ordinary high water mark. This provision does not pertain to boat ramps.

(4) In no instance shall these impervious surfaces be placed in bluff impact zones or Shore Impact Zones.

(5) Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within Shore Impact Zones; provided, the vegetative screening and erosion control conditions hereof are met. For private facilities, the grading and filling provisions of this chapter must be met.

(6) Natural vegetation or other natural materials shall be used to screen parking areas when viewed from the water.

(B) *Exceptions to structure setback requirements.*

(1) Setback requirements from the ordinary high water mark shall not apply to piers and docks. Location of piers and docks shall be controlled by applicable state and local regulations.

(2) On underdeveloped shoreland lots that have two adjacent structures on both such adjacent lots, any new residential structure may be set back the average setback of the adjacent structures from the ordinary high water mark or 50 feet, whichever is greater; provided, all other provisions of the shoreland are complied with and it is not located in a shore or bluff impact zone.

(C) *Water-oriented accessory structures.* Each lot may have one water-oriented accessory structure not meeting the normal structure setback in § 156.069(G) of this chapter if the water-oriented accessory structure complies with the following provisions.

(1) The structure or facility must not exceed ten feet in height, exclusive of safety rails and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point.

(2) The setback of the structure or facility from the ordinary high water level must be at least ten feet.

(3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.

(4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

(5) The structure or facility must not be designated or used for human habitation and must not contain water supply or sewage treatment facilities.

(6) As an alternative for recreational development waterbodies, water-oriented accessory structures used solely for water craft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet; provided, the maximum width of the structure is 20 feet as measured parallel to the configurations of the shoreland.

(D) *Stairways, lifts and landing*. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements.

(1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties and public open-space recreational properties.

(2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties and public open space recreational properties.

(3) Canopies or roofs are not allowed on stairways, lifts or landings.

(4) Stairways, lifts and landings may be either constructed above the ground on posts or pilings or placed into the ground; provided, they are designed and built in a manner that ensures control of soil erosion.

(5) Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions whenever practical.

(6) Facilities such as ramps, lifts or mobility paths for physically challenged persons are also allowed for achieving access to shore areas; provided that, the dimensional and performance standards of divisions (D)(1) and (D)(5) above are complied with in addition to the requirements of Minn. Regs. Ch. 1341.

(E) *Shoreland alteration.* Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank stumping and protect fish and wildlife habitat.

(1) Removal of natural vegetation shall be restricted to prevent erosion into protected waters, to consume nutrients in the soil and to preserve shoreland aesthetics. Removal of natural vegetation in the Shoreland Zone shall be subject to the following provisions.

(a) Selective removal of natural vegetation is allowed; provided, sufficient vegetation cover remains to screen cars, dwellings and other structures when viewed from the water.

(b) Clear cutting of natural vegetation is prohibited.

(c) Natural vegetation shall be restored insofar as feasible immediately after any construction project is completed to retard surface runoff and soil erosion. The Zoning Administrator shall approve a restoration plan prior to removal of natural vegetation for any construction project.

(d) Planting and/or cultivation of any species of non-sterile aquatic plants (i.e., purple loostrife) is prohibited.

(e) Provision of this section shall not apply to permitted uses, which normally require the removal of natural vegetation. This includes the installation of public utility lines and roads.

(2) Grading and filling in shoreland areas or any alteration of the natural topography where the slope of the land is toward a protected water or a watercourse leading to a protected water must be authorized by a permit from the Zoning Administrator. The permit may be granted subject to the conditions that:

(a) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

(b) Temporary ground cover, such as mulch, is used until permanent ground cover, such as sod, is established;

(c) Methods to prevent erosion and trap sediment are employed; and

(d) Fill is stabilized to accepted engineering standards.

(3) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal building site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas and permitted water-oriented accessory structures or facilities; provided that:

(a) The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

(b) Along rivers, existing shading of water surfaces if preserved;

(c) The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased or pose safety hazards;

(d) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetation cover must be established as soon as possible;

(e) Methods to minimize soil erosion and to trap sediments before they reach any surface water features must be used;

(f) Altered areas must be stabilized to accept erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;

(g) Fill or excavated material must not be placed in bluff impact zones;

(h) Any alterations below the ordinary high water level of public waters must be authorized by the DNR Commissioner under M.S. Ch. 103G, as it may be amended from time to time;

(i) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties;

(j) Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip rap is within ten feet of the ordinary high water level and the height of the rip rap above the ordinary high water level does not exceed three feet; and

(k) Grading and filling shall be allowed in such instances that the slope of the land is away from the water body.

(4) Excavations on shorelands where the intended purpose is connection to a protected water shall require a permit from the Zoning Administrator before construction begins. The permit may be obtained only after the Commissioner of Natural Resources has issued a permit to work in the beds of protected waters.

(a) Any work, which will change or diminish the course, current or cross-section of a protected water or wetland shall be approved by the Commissioner of Natural Resources and such approval shall be constructed to mean the issuance by the Commissioner of a permit under the procedures of M.S. Ch. 103G, as it may be amended from time to time, and other related statutes.

(b) Private use of property dedicated to the public for the purpose of constructing docks, moorings or keeping boats shall be prohibited in the Shoreland Zone.

(F) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(G) *Wetland evaluation.* The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals.

(1) Grading or filling in any Type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:

(a) Sediment and pollutant trapping;

(b) Storage of surface runoff to prevent or reduce flood damage;

(c) Fish and wildlife habitat;

(d) Recreational use;

(e) Shoreline or bank stabilization;

(f) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals or others; and

(g) Note: this evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies such as a watershed district, the state's Department of Natural Resources or the United States Army Corps of Engineers. The applicant will be so advised.

(2) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

(3) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetation cover must be established as soon as possible.

(4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

(5) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.

(6) Fill or excavated material must not be placed in a manner that creates an unstable slope.

(7) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater.

(8) Fill or excavated material must not be placed in bluff impact zones.

(9) Any alterations below the ordinary high water level of public waters must first be authorized by the DNR commissioner under M.S. Ch. 103G, as it may be amended from time to time.

(10) Alterations of topography must be only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.

(11) Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip rap is within ten feet of the ordinary high water level and the height of the rip rap above the ordinary high water level does not exceed three feet.

(12) Evaluation must also include a determination if the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies such as a watershed district, the state's Department of Natural Resources or the United States Army Corps of Engineers. The applicant will be so advised.

(H) *Sewage treatment*. Any premises intended for human occupancy shall be provided with an adequate method of sewage treatment to be maintained in accordance with acceptable practices. Municipal sewage collection and treatment facilities shall be used.

(I) *Water supply*. Public or private supplies of water for domestic purposes shall conform to the state's Department of Health standards for water quality. Public or municipal water supplies shall be used.

(J) *Permits required.*

(1) A permit is required for the construction of buildings or building additions, related activities such as construction of decks, signs and fences, all construction activities of steep slopes, and grading and filling when:

(a) More than ten cubic yards of material on steep slopes, within shore or bluff impact zones will be moved; and/or

(b) More than 50 cubic yards of material outside of steep slopes, shore or bluff impact zones will be moved.

(2) Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information needed for determination of whether the site is suitable for the intended use.

(K) *Department of Natural Resources notification.*

(1) Notice of all public hearings to consider variances, amendments or conditional uses under local shoreland management controls must be sent to the DNR Commissioner or the Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/ plats must include copies of the subdivision/plat.

(2) A copy of approved amendments and subdivision/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the DNR Commissioner or the Commissioner's designated representative and postmarked within ten days of final action.

(L) *Parks and historic sites.* The development of parks and historic sites within the Shoreland Overlay Zone require a conditional use permit.
(Ord. passed 11-9-2015)

PERFORMANCE STANDARDS

§ 156.105 PURPOSE.

(A) The performance standards established in this subchapter are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight or are detrimental to environment. Standards shall apply to future development in all districts.

(B) Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The developer or landowners shall supply data necessary to demonstrate the conformance. The data may include a description of equipment to be used, hours of operation, method of refuse disposal and type and location of exterior storage.

(C) No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious or otherwise objectionable conditions that could adversely affect the surrounding areas or adjoining premises; except that, any use permitted by this chapter may be undertaken and maintained if acceptable measures and safeguards to reduce dangerous and objectionable conditions to acceptable limits as established by the following performance requirements.
(Ord. passed 11-9-2015)

§ 156.106 FIRE HAZARDS.

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire prevention equipment and by such safety devices as are normally used in

the handling of any such material. The hazards shall be kept removed from adjacent activities to a distance that is compatible with the potential danger involved.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.107 SANITARY SEWAGE FACILITIES.

All sanitary sewage facilities shall be connected to community sewer facilities. No tiles, sump pumps, roof gutters or other storm water collection device shall be connected to the community sanitary sewage facilities.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.108 STORM WATER MANAGEMENT.

The following general and specific standards shall apply to storm water management within the city.

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

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

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

(D) Impervious surface coverage of lot must not exceed 50% of the lot area. See also §§ 156.085 through 156.093 of this chapter for additional impervious surface standards.

(E) When constructed facilities are used for storm water management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(F) Newly constructed storm water outfalls to public waters must provide for filtering or settling or suspended solids and skimming of surface debris before discharge.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.109 VIBRATION.

No vibration shall be permitted that is discernible without instruments on any adjoining lot or property. The standard shall not apply to vibrations created during the process of construction.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.110 AIR POLLUTION.

No pollution of air by fly-ash, dust, vapors, odors, smoke or other substances shall be permitted which are harmful to health, animals, vegetation or other property, or which can cause excessive soiling. For the purpose of this chapter, the regulations and standards adopted by the state's Pollution Control Agency shall apply.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.111 REFUSE.

All waste material, debris, refuse or garbage shall be kept in an enclosed building or property contained in a closed container designed for such purposes. The owner of vacant land shall be responsible of keeping the land free of refuse.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.112 RADIOACTIVITY OR ELECTRICAL DISTURBANCE.

No activity shall emit dangerous radioactivity at any point or electrical disturbance adversely affecting the operation of any equipment at any point other than that of the creator or the disturbance.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.113 SIGNS.

The following regulations shall apply to all signs and all use districts.

(A) *General provisions*. The following regulations shall apply to all signs and all use districts.

(1) All signs and sign structures shall be properly maintained and shall be constructed of sufficiently permanent materials so that they shall not succumb to deterioration from weathering. Any existing sign or sign structure, which is rotted, unsafe, deteriorated, defaced or otherwise altered, shall be repainted, repaired, replaced or removed as necessary.

(2) When electrical signs are installed, the installation shall be subject to the state's Electrical Code. Overhead electrical wiring is not allowed.

(3) No signs other than governmental signs shall be erected or temporarily placed within any street right-of-way or upon public lands or easements or other rights-of-way without City Council approval.

(4) No sign or sign structure shall be erected or maintained if it prevents free ingress or egress from any door, window or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

(5) Temporary signs are allowed for special business events such as business openings and closings, change in management, district wide shopping events or other special occasions for a total of 30 days within any calendar year.

(6) Sign structures not used for signage for 12 consecutive months shall be removed. Removal of the signs and structures shall be completed within ten days of notification and shall be at the owner's expense.

(7) The city may grant a permit to locate signs or decorations on, over or within the right-of-way for a specified period of time.

(8) Any sign that obstructs the vision of drivers or pedestrians or detracts from the visibility of any official traffic control device is not permitted.

(9) Any sign that moves or rotates except electronic reader board signs, approved time and temperature informational signs and barber poles is not permitted. All displays shall be shielded to prevent any light to be directed at oncoming traffic in such brilliance as to impair the vision of any driver.

(10) Roof signs, including signs that project over the eave line are not permitted.

(11) No sign shall be erected, placed or maintained on rocks, fences or trees.

(12) No sign shall be erected that will interfere with any electric light, power, telephone wires or the supports thereof.

(13) No sign shall contain more than two surface areas or facings facing the public right-of-way.

(B) *Permitted signs*. The following signs are allowed without a permit in all zoning districts but shall comply with all other applicable provisions of this chapter:

(1) *Public signs*. Signs of public, non-commercial nature including safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historic points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty;

(2) *Integral signs.* Names on buildings, date of construction, commemorative tablet and the like, which are of permanent construction and which are an integral part of the building or structure;

(3) *Political signs.* Signs or posters announcing candidates seeking political office or issues to be voted upon at a public election. The signs must contain the name and address of person(s) responsible for the signs and that person(s) shall be responsible for its removal. These signs shall be erected no more than 60 days before any election and removed seven days after the general election for which they are intended. The city shall have the right to remove and destroy signs after the seven-day removal limit;

(4) *Construction signs.* A non-illuminated sign announcing the names of architects, engineers, contractors or other individuals or firms involved with the construction, alteration or repair of a building (but not including any advertisement of any product) or announcing the character of the building enterprise or the purpose for which the building is intended. The signs shall be confined to the site of the construction, alteration or repair and shall be removed within two weeks after the project is completed. One sign shall be permitted for each street the project abuts. No sign may exceed 32 square feet in a multi-family residential, commercial or industrial district and 12 square feet in a single-family residential district;

(5) *Individual property sale, lease or rental sign.* An on-premises sign announcing the name of the owner, manager, realtor or other person directly involved in the sale or rental of the property or announcing the purpose for which it is being offered. The signs are limited to six square feet in residential districts and 32 square feet in commercial districts. Signs must be removed within ten days after the sale or rental of property and shall be located on the property exclusive of the public right-of-way;

(6) *Rummage sale signs.* Signs advertising a rummage sale not exceeding four square feet located on private property which conform to the applicable provisions of this chapter and are removed at the termination of the sale;

(7) *Real estate development project signs.* For the purpose of selling or promoting a development project of up to 25 acres, one sign not to exceed 32 square feet of advertising surface may be erected on the project site. For projects over 25 acres, one or two signs not to exceed 32 square feet of advertising surface per sign may be erected. The sign shall not remain after 95% of the project is developed. If the signs are lighted, they shall be illuminated only during those hours when the model homes or other development units are open for conducting business;

(8) *Church directional signs.* Provided that, they are no greater than 12 square feet; and

(9) *Decorative lighting.* Decorative lighting is permitted; provided that, it meets all other requirements of this chapter.

(C) *Permitted signs in residential districts.*

(1) Professional name plate wall signs not exceeding two square feet in area;

(2) Memorial signs or tablets, names of buildings and date of erection when cut into masonry surface or when constructed of bronze or other incombustible material;

(3) Political signs as regulated;

(4) Individual property sale, lease or rental signs as regulated;

(5) Construction signs as regulated;

(6) Bulletin boards or public information signs not over 32 square feet located only on the premises of public, charitable or religious institutions; and

(7) Area identification signs are intended for the identification of residential neighborhoods, subdivisions and multi-family residential complexes; and, are also referred to as entrance monument signs.

(a) Area identification signage shall be permitted for each multi-residential project or residential subdivision; for purposes of this section, residential subdivisions shall include platted phases of approved staged developments.

(b) The area identification signage shall be located at the entrance to the project or subdivision.

(c) A maximum of two area identification signs, not exceeding a total of 32 square feet in surface area, may be permitted per each project or subdivision. The typical use of two such signs is to create a gateway effect at opposite corners of the entrance to the project or subdivision. An area identification sign shall be located at least 20 feet from the front property lines, but in no case shall it be located in any side yard.

(d) When such signs are proposed and constructed by an individual or firm other than the individual or association who will be responsible for the maintenance, there shall be a covenant prepared by the proponent establishing responsibility for the maintenance of the sign or signs over the entire project or subdivision, to be approved by the City Attorney, and to be recorded on the property title(s). Further, appropriate easements shall be provided for the approved signs on the property or properties where the signs are to be located; the easements shall be recorded prior to the issuance of the sign permit.

(D) *Permitted signs in commercial or industrial districts.*

(1) *Number.* One of each of the following signs is allowed per business: wall sign, awning and canopy. When a building or business abuts two or more public streets, an additional sign located on each street building face is allowed.

(2) *Building signs.* Total building signage, including wall signs, canopies, awnings, projecting signs and banners shall not exceed 20% of the building face that is facing a public street or 150 square feet whichever is greater.

(3) *Freestanding signs.* These signs shall not exceed 25 feet in height, measured from the ground to the top of the sign or sign pylon, whichever is greater and shall not exceed 90 square feet on any sign surface area. A freestanding sign shall be located in any required yard and meet the district setbacks for structures.

(4) *Awning and canopy signs.* The gross surface of an awning or canopy sign shall not exceed 50% of the gross surface area of the awning or canopy to which the sign is to be affixed and shall not project higher than the top of the awning or canopy or below the awning or canopy.

(5) *Projecting signs.* The total area of a projecting sign shall not exceed 36 square feet and shall be located at least eight feet above the sidewalk. The signs, if lighted, shall be lighted internally.

(6) *Banners and other temporary on-premises signs.*

(a) Each individual establishment shall be allowed one banner or other temporary on-premises sign attached to a wall, fascia, canopy, awning or other supports on the business lot.

(b) No individual banner or other temporary on-premises sign shall exceed 100 square feet in sign face area.

(c) All banners and other temporary on-premises signs shall be well maintained. Any damaged signs shall be immediately repaired, replaced or removed.

(d) All banners and other temporary on-premises signs advertising an event shall be removed within three days following the event.

(E) *Signage requiring conditional use permits.* The following signs are allowed in a commercial or industrial district pending the approval of a conditional use permit:

(1) Signs painted directly on building walls;

(2) Spotlights giving off an intermittent or rotating beam existing as a collection or concentration of rays of light, revolving beacons, beamed lights or similar devices; and

(3) When there is more than one business or use in a building or series of connected buildings, such as a retail mall, with more than one sign, the operator of each use may install a wall sign for their particular use, but a building sign plan must be submitted as part of the conditional use permit process.

(F) *Billboards or off-premises signs.* Billboards or off-premises signs are not permitted in the city. Billboards existing within the city limits as of 3-13-2006 shall be considered non-conforming uses and the provisions specified below apply to such uses.

(G) *Non-conforming uses.* Non-conforming signs that are lawful prior to the adoption of the sign amendments shall be allowed to continue until such time that the use is abandoned, discontinued or damaged more than 50% of its value. The sign owners shall be allowed to undertake maintenance of non-conforming signs, but shall not be allowed to expand the sign's size, nor rebuild the sign if damaged.

(H) *Sign maintenance.*

(1) *Construction.* All signs must be constructed of high quality materials in a professional and workmanlike fashion.

(2) *Painting.* The owner of any sign shall be required to have the sign properly maintained, including all parts and supports of the sign, unless the supports are galvanized or otherwise treated to prevent rust.

(3) *Area around signs.* The owner or lessee of any sign or the owner of the land on which the sign is located shall keep the grass, weeds or other growth cut and the area free from refuse between the sign and the street and also for a distance of six feet behind and at the ends of the sign.

(I) *Obsolete signs.* Any sign which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building, or land upon which the sign may be found within ten days after written notice from the Zoning Administrator.

(J) *Unsafe or dangerous signs.* Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure or land upon which the sign is located within ten days after written notification from the Zoning Administrator.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.114 PARKING REQUIREMENTS.

(A) *Off-street parking requirements.* In all districts and in connection with all uses there shall be provided at the time any use or building is erected, enlarged, expanded or increased, off-street parking spaces for vehicles of employees, residents and/or patrons in accordance with the following requirements. For the purpose of this chapter, an ***OFF-STREET PARKING SPACE*** shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. An off-street parking space and necessary access and maneuvering room may be estimated at 200 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements below are provided and maintained, improved in a manner appropriate to the circumstances of the case and in accordance with all ordinances and regulations of the city.

(1) Required off-street parking areas for three or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and unparked without moving another.

(2) Loading space shall not be construed as supplying off-street parking space.

(3) When units or measurements used in determining the number of required parking spaces result in the requirement of a fractional space, one additional space shall be required unless otherwise specified in this chapter.

(4) Whenever a use requiring off-street parking is increased in floor area, and the use is located in a building existing on or before the effective date of this chapter, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.

(5) Floor area in the case of offices, merchandising or service types of uses shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients, patients or tenants including areas occupied for fixtures and equipment used for display or sale of merchandise.

(6) Off-street parking facilities for dwellings shall be provided and located on the same lot or parcel of land as the building they are intended to serve or an a lot not more than 300 feet from the principal use.

(7) The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table and the space so required shall be irrevocably reserved for such use.

(8) In the case of any building structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which the use is similar shall apply as determined by the Planning Commission.

(9) The location of required off-street parking facilities for other than dwellings shall be within 300 feet of the building they are intended to serve, measured from the nearest point of the off-street parking facilities and the nearest point of the building or structure.

(10) Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses; provided, collectively, the facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table. Where the spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for the purposed, shall be properly drawn and executed by the parties concerned, approved as to form and execution by the City Attorney and shall be filed with the Zoning Administrator.

(11) Nothing in this section shall prevent the extension of, or an addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area or an additional area within 300 feet of the building.

(12) Off-street parking space may be located within the required front yard of any commercial or industrial district, but no off-street parking shall be permitted in the required front yard of any residential district, except upon the driveway providing access to a garage, carport or parking area for a dwelling.

(13) Required parking spaces may be met by the use of shared parking areas by two or more adjacent businesses, upon approval of the Planning Commission and a written agreement between those businesses filled with the Zoning Administrator.

(14) The amount of required off-street parking space for new uses or building, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table, except in (C-1) Central Business Commercial District and the (C-3) Neighborhood Commercial Service District, where any parking requirements shall be determined in the conditional use process. The space so required shall be irrevocably reserved for the use.

Use	***Required Parking Space***
All retail stores, except as other specified	1 space for each 100 square feet of floor area
Banks, clinics, businesses, governmental and professional offices	3 spaces, plus 1 additional space for every 400 square feet in excess of 1,000 square feet of gross floor area
Beauty parlors and barber shops	2 spaces for each barber or beauty shop chair
Bowling alleys	5 spaces per bowling lane
Churches, theaters, auditoriums, community center or places or public assembly	1 space for each 4 seats in the main assembly area
Furniture and appliance stores, personal service shops (not including beauty or barber shops), household equipment or furniture repair shops, clothing, shoe repair or service shops, wholesale stores and machinery sales	1 space for each 500 square feet of floor area
Hotels, motels, boarding and rooming houses	1 space for each guest, plus 1 space for owner and/or for each employee on duty at peak time
Industrial establishments including manufacturing, research and testing labs, creameries, bottling works, printing and engraving shops, warehousing and storage buildings	Provide about each establishment an improved area which shall be sufficient in size to provide adequate facilities for the parking of automobiles and other motor vehicles used by the firm or employees or persons doing business therein. The space shall not be less than 1 space for each 3 employees computed on the basis of the greatest number of persons to be employed during 1 period during the day or night
Mobile homes	2 spaces per mobile home

Use	*Required Parking Space*
Mortuaries or funeral homes	1 space for each 50 square feet of floor space in the slumber rooms, parlors or individual funeral service rooms
Multi-family dwellings	1-1/2 spaces per dwelling unit
Restaurants, bars, places of entertainment	1 space for each 100 square feet of floor area, plus 1 space for each 2 employees
Schools:	
Elementary	1 space for each employee
Secondary	3 spaces for each employee, plus additional spaces to allow for adequate parking for events held in the auditorium and/or gymnasium
Service garages, automobile salesrooms, automobile repair body shops	1 space for each 2 of the maximum number of employees on duty at any one time, plus 1 space for each of the maximum number of salesperson on duty at any 1 time, plus 1 space each for the owner and/or manager on duty at any 1 time, plus 2 spaces for each stall in a body shop, plus 1 space for each stall or service area or wash rack in a servicing or repair shop
Single-family dwellings	2 spaces per dwelling

(B) *Parking lot standards.*

(1) Any parking lot including six or more parking spaces shall provide for a setback of no less than five feet from the lot line to the parking surface.

(2) Whenever the parking lot boundary adjoins property zoned for residential use, a setback of eight feet from the lot line shall be required.

(3) Any parking lot including 20 or more parking spaces shall provide for interior islands for plantings and/or shade trees, which shall be maintained by the owner of the parking lot.

(4) Parking lots shall be designed to avoid creating large open expanses.

(5) Parking lots shall be designed to avoid the problem of vehicles backing onto streets, alleys and sidewalks.

(6) Vehicular traffic flow to, from and within land containing a parking lot shall be controlled by appropriate traffic control signs and surface markings.

(7) Adequate provision shall be made for vehicular ingress and egress.

(8) Provisions shall be made for a safe and convenient circulation pattern within any parking lot.

(9) Proposed curb cut widths shall be kept to a minimum consistent with vehicular and pedestrian safety. Curb cut radii shall allow safe ingress and egress of vehicles from and to the proper lane of traffic on the street which they adjoin. Existing curb cuts and curb radii shall be used only if they comply with appropriate standards for proposed curb cuts and curb cut radii.

(10) A parking lot shall be lighted for vehicular and pedestrian safety. Any lighting used to illuminate any off-street parking area shall be arranged to reflect the light away from adjoining premises in any R residential district.

(11) Parking lots shall be maintained in useable dust-proof conditions and shall be kept graded and drained to dispose of surface water.

(12) Necessary curbs or other protections against damage to adjoining properties streets and sidewalks shall be provided and maintained.

(13) Plans for the construction of any such parking lot must be approved by the Planning Commission before construction is started. No such land shall be used for parking until approved by the Planning Commission.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.115 SCREENING.

(A) Screening shall be required where any business or industry (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot or industry is located across the street from a residential zone, but not on that side of a business or industry considered to be the front.

(B) All exterior storage shall be screened. The exceptions are:

(1) Merchandise being displayed for sale; and

(2) Materials and equipment presently being used for construction on the premises.

(C) The screening required in this section may consist of a fence, trees, shrubs and berms, but shall not extend within 15 feet of any street or driveway. The screening shall be placed along property lines or in case of screening along a street, 20 feet from the street right-of-way with landscaping between the screening and pavement. Planting of a type approved by the City Council may also be required in addition to or in lieu of fencing.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.116 FENCING.

(A) For purposes of this chapter, a ***FENCE*** is defined as any partition, structure, wall or gate erected within the required yard.

(B) All boundary line fences shall be setback a minimum of two feet from the property line and entirely located upon the property of the person, firm or corporation constructing, or causing the construction, of the fence unless the owner of the property adjoining agrees, in writing, that the fence may be erected on the division line of the respective properties. The Zoning Administrator may require the owner of the property upon which a fence now exists, or may require any applicant wishing to construct a fence to establish the boundary lines of this property by a survey thereof to be made by any registered land surveyor.

(C) Fences shall not exceed six and one-half feet in height in residential districts or eight and one-half feet in height in commercial-industrial districts. Fences higher than these shall require a conditional use permit.

(D) The finished side of the fence shall face neighboring properties.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.117 LANDSCAPING.

In all districts where setbacks exist or are required, all developed uses shall provide a landscaped yard, which may include among other items grass, decorative stones or shrubs and trees, along all streets. This yard shall be kept clear of all structures, storage and off-street parking. Except for driveways, the yard shall extend along the entire frontage of the lot and along both streets in the case of a corner lot: in all districts, all structures and areas requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.118 ACCESSORY BUILDINGS AND DWELLING UNITS PROHIBITED.

No garage, tent, trailer, recreational vehicle, basement home or accessory building shall at any time be used as a residence.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.119 BED AND BREAKFAST ESTABLISHMENTS.

(A) A bed and breakfast use established in a home shall be an incidental and secondary use of a dwelling unit for business purposes. The intent of this provision is to ensure compatibility of the business use with other permitted uses of the residential district and with the residential character of the neighborhoods involved.

(B) The building must conform to this chapter and shoreland standards, if applicable.

(C) The exterior appearance of the structure shall not be altered from its single-family character.

(D) The building must be occupied by the owner/operator of the bed and breakfast.

(E) The business must obtain and keep current all state, county and city permits, including, but not limited to, building codes, fire codes and health codes.

(F) A non-transferable conditional use permit must be issued to the property owner. This permit must be reissued after the first year of operation and every other year thereafter.

(G) The owner of a bed and breakfast shall maintain a guest register showing the name, address, phone number, vehicle license number and inclusive dates of visits of all guests. No guest shall be permitted to rent accommodations or remain in occupancy for a period in excess of seven consecutive days.

(H) The business will not be objectionable to adjacent residents due to hours of operation, excessive traffic volumes or noise.

(I) A person who does not reside in the home shall not be employed to assist in the conduct of a bed and breakfast established in the home, except for those occupations that are typical for a single-family residence homeowner to employ.

(J) There shall be no separate or additional kitchen facility for the guests.

(K) A fire escape plan shall be developed and graphically displayed in each guest room.

(L) Off-street parking must be provided for this use. Two parking spaces for the owners of the B&B and one space for each guest room. Off-street parking must also be provided for any recreational vehicles, campers, boats, trailers and any other recreational vehicles guests may have in tow.

(M) One-half of the sleeping units contained in the building may be rented, but in no case shall the number of rental units exceed four.

(N) A guest room shall not be located in a basement.

(O) No more than one sign shall be provided on the premises. The sign shall be made of natural materials and shall not exceed two square feet in size.

(P) No retail sales or rentals of merchandise, personal watercraft, motor powered boats or recreational materials or services, other than that which is essential to the operation of the B&B is permitted.

(Q) Meals may be served to registered guests only.

(R) Receptions, business meetings or other home occupation activities shall not be permitted.

(S) The City Council reserves the right to terminate the conditional use permit at any time the owner fails to adhere to the standards or conditions attached to the use permit.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.120 THERAPEUTIC MASSAGE.

(A) *Findings*. It is found and determined that:

(1) Persons who have recognized and standardized training in therapeutic massage, health and hygiene provide a legitimate and necessary service to the general public;

(2) Health and sanitation regulations governing therapeutic massage enterprises and massage therapists will minimize the risk of the spread of communicable diseases and promote health and sanitation; and

(3) Massage services provided by persons without recognized 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.

(B) *Exemptions*. A therapeutic massage enterprise license or therapeutic massage therapist license is not required for the following persons and places:

(1) Persons licensed by the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry; provided that, the massage is administered in the regular course of the medical treatment and not provided as part of a separate and distinct massage business;

(2) Persons licensed by the state as beauty culturists or barbers; provided, the persons do not hold themselves out as giving massage treatments; and, provided that, 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 the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry;

(4) Places licensed or operating as a hospital, nursing home, hospice, sanitarium or group home established for hospitalization or medical care; and

(5) Athletic coaches, directors and trainers employed by public or private schools.

(C) *General rule*. The owner or operator of a licensed therapeutic massage enterprise may employ only licensed therapeutic massage therapists to provide massage services. The owner or operator of a licensed therapeutic massage enterprise need not be licensed as a therapeutic massage therapist unless that owner or operator personally provides massage services.

(D) *Therapeutic massage enterprise license.* The application for a therapeutic massage enterprise license must contain the following information:

(1) Whether the applicant is an individual, corporation, partnership or some other form of organization;

(2) The legal description of the premises to be licensed together with a plan of the area showing dimensions and building access points;

(3) If the application is for premises either planned or under construction or undergoing renovation or alteration, the application must be accompanied by preliminary plans showing the design of the proposed premises. If the plans for design are on file with the Building Inspector, no plans need to be submitted. If the space housing the massage enterprise is to be leased and improvements are needed to the building, the building owner must apply for and submit the building permit application; and

(4) Other information that the City Council may require.

(E) *Therapeutic massage therapist.* An application for a therapeutic massage therapist license must contain the following information:

(1) The applicant's name and address;

(2) The applicant's current employer;

(3) The applicant's employers for the previous five years, including names, addresses and employment dates;

(4) The applicant's driver's license number, date of birth and home telephone number;

(5) If 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;

(6) Evidence that the applicant has current professional liability insurance for the practice of massage;

(7) Has completed 500 hours of certified therapeutic massage training from a school that is recognized and approved by the American Massage Therapist Association, the Associated Bodywork and Massage Professionals or other professional organization with written and enforceable code of ethics; and

(8) Other information that the City Council may require.

(F) *Application and license fees.* The fees for a massage enterprise and therapist licenses are set by the City Council.

(G) *General license restrictions.*

(1) *Posting.* A therapeutic massage enterprise license must be posted in a conspicuous place on the premises for which it is issued.

(2) *Area.* A therapeutic massage therapist license is effective only for the space specified in the approved license application. If the licensed space is enlarged or altered, the licensee must inform the city's Zoning Administrator. A licensed therapeutic massage therapist may perform massage therapy on patrons either on-site at a massage enterprise or off-site, at a patron's home for example.

(3) *Transfer.* The license issued is for the person or the premises named on the approved license application. Transfer of a license from place to place or from person to person is not permitted.

(4) *Coverings.* The therapist must require that the person who is receiving the massage will at all times have that person's breasts, buttocks, anus and genitals covered with non-transparent material or clothing. A therapist performing massage must have the therapist's breasts, buttocks, anus and genitals covered with a non-transparent material or clothing.

(H) *Restrictions regarding sanitation and health.*

(1) A therapeutic massage enterprise must be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons.

(a) The toilet room must be well ventilated by natural or mechanical methods and be enclosed with a door.

(b) The toilet room must be kept clean and in good repair and be fully and adequately illuminated.

(c) A hand sink must be provided with hot and cold running water under pressure, sanitary hand towels and soap.

(d) The floors and walls must be easy to clean and sanitize and must be kept in a state of good repair at all times.

(2) A therapeutic massage enterprise must provide single-service disposal paper or clean linens to cover the table, chair, furniture or area on which the patron receives the massage. If the table, chair or furniture on which a patron receives the massage is made of material impervious to moisture, the table, chair or furniture must be sanitized after each massage.

(3) The therapeutic massage therapist must wash the therapist's hands and arms with water and soap, anti-bacterial scrubs, alcohol or other disinfectants prior to and following each massage service performed.

(4) Rooms in a therapeutic massage enterprise must be fully and adequately illuminated.

(5) Each massage room must be a minimum of 120 square feet in size, have closable door(s) that separates it/them from each other or from space not used for giving massage, and contain an enclosed changing room for visiting clients to change out of and back into their street clothes.

(6) A therapeutic massage enterprise must have a janitor's closet that provides for the storage of cleaning and sanitizing supplies.

(7) Therapeutic massage enterprises must provide adequate refuse receptacles that must be emptied as required by this code.

(8) Therapeutic massage enterprises must be maintained in good repair and sanitary condition.

(9) Therapeutic massage enterprises must take reasonable steps to prevent the spread of infections and communicable diseases on the licensed premises.

(10) All other Building Code requirements must be complied with.

(I) *Inspection.* Prior to the issuance of a conditional use permit for this use, the premises for which this use is being applied for shall be inspected by the city's Building Inspector for compliance with all building and room standards.

(J) *Hours of operation.* A licensed therapeutic massage enterprise may operate for business between the hours of 7:00 a.m. and 9:00 p.m.

(K) *Commercial districts.* This use will be a conditional use in the city's commercial districts.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.121 ACCESSORY STRUCTURE STANDARDS.

(A) *Attached structures.* An attached structure shall be considered an integral part of the principal building and shall comply with all requirements applying to the principal building.

(B) *Permitted locations.* Detached accessory structures are permitted in side yards and rear yards; provided that, the structures shall not be located closer than six feet to the principal structure.

(C) *Prohibited locations.* No accessory structure shall be located in any of the following:

(1) Front yard;

(2) Within a drainage or utility easement;

(3) Below the ordinary high water mark of a public water or wetland; and

(4) Within the setback requirements from the ordinary high water mark of any public water body.

(D) *Dimensional limits*. Detached accessory structures are subject to the dimensional limits established below:

(1) Maximum height: maximum height of accessory structure cannot exceed 21 feet. The building height is measured halfway up the pitch of the roof (gable);

(2) Total number of detached accessory buildings per lot: two; and

(3) Accessory structure(s) total building area allowed per lot: not to exceed 30% of lot coverage.

(E) *Permit requirements*. A building permit must be secured from the Zoning Administrator prior to constructing or locating an accessory structure anywhere on the lot. Any accessory structure less than 200 square feet does not require a building permit.

(F) *Construction timing*. No accessory structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

(G) *Building material requirements*. All accessory structures shall be constructed with a design and exterior material that is generally compatible with the overall character of the principal structure. It is not required that accessory structures be of the same material or same color as the primary structure; however, the material and color of the accessory structure shall be complementary to the primary structure.
(Ord. passed 11-9-2015; Am. Ord. passed 6-8-2020) Penalty, see § 156.999

§ 156.122 EXTERNAL SOLID FUEL-FIRED HEATING DEVICES.

(A) *Purpose*. These regulations are intended to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the city by regulating the air pollutants and fire hazards of external solid fuel-fired heating devices.

(B) *Applicability*. These regulations apply to all outdoor fuel-fired boilers within the city.

(1) These regulations do not apply to grilling or exterior cooking devices for the preparation of food that use charcoal, wood, propane or natural gas.

(2) These regulations do not apply to stoves, furnaces, fireplaces or other heating devices within a building used for human habitation.

(3) These regulations do not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating during construction or maintenance activities.

(4) These regulations do not apply to campfires, a small outdoor fire intended for recreation or cooking.

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

EXTERNAL SOLID FUEL-FIRED HEATING DEVICE OR BOILER. A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building and includes solid fuel-fired stove, solid fuel-fired cooking stoves and combination fuel furnaces or boiler which burn solid fuel. ***SOLID FUEL-FIRED HEATING DEVICES*** do not include natural gas-fired fireplace logs or wood-burning fireplaces or wood stoves in the interior of a dwelling.

STACKS or ***CHIMNEYS.*** Any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, especially the part of such a structure extending above a roof.

(D) *Requirements*. No external solid fuel-fired heating devices designed and intended and/or used for the purpose of heating the principal structure or another accessory structure on the premises are allowed to be installed within the city.

(E) *Non-conforming use*.

(1) At such time as the useful life of a non-conforming solid fuel-fired heating device has elapsed or would need to be repaired to function properly, the unit cannot be replaced and must be abandoned, not used and removed from the property immediately.

(2) No pre-existing, non-conforming solid fuel-fired heating device shall hereafter be extended, enlarged or expanded.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.123 RECREATIONAL VEHICLES AND DISTRICT STANDARDS.

(A) In residential districts, no more than five recreational vehicles shall be permitted to be parked in the rear yard of a parcel of real estate and only then on parcels of real estate which have a separate primary residential dwelling being used as a primary residence constructed on the parcel and with that separate residential dwelling being owned and occupied by the parcel property owner as the persons primary residence. There shall be ten feet required between the recreational vehicle and any other recreational vehicle or accessory structure. The recreational vehicle shall not be placed in such a manner that impedes pedestrian walkways or in any manner infringes on any driving lane line of sight. Any

recreational vehicle parked in compliance with the provisions of the city code shall additionally be subject to any and all accessory building setback provisions. No recreational vehicle shall be parked, stored, or allowed on vacant lots or lots which do not contain a separate primary residential dwelling on it. For the purposes of this section, "separate primary residential dwelling" is defined as any permanently constructed and permanently affixed building on the lot but does not include a tent, cabin, trailer coach, recreational vehicle, trailer, or any other structure or appurtenance that is not permanently affixed to the city's sewer and water infrastructure.

(B) A recreational vehicle shall not, at any time, be used as a primary housing unit. A recreational vehicle may serve as a temporary place of occupancy in only the following specific instances:

(1) A recreational vehicle may be used to temporarily house non-paying guests of the primary residential homeowner between May 1 and September 30. Any such temporary occupancy shall not exceed 21 days per season; and

(2) A recreational vehicle may be used to temporarily house non-paying guests of the primary residential homeowner for a total of four days between October 1 and April 30. Any occupancy shall not exceed four days per season.

(C) Recreational vehicles shall never be physically connected to any permanent or semi-permanent structures that would prevent the vehicle from being immediately towed or immediately moved from the parking space upon which it rests. In addition, all recreational vehicles shall be parked at least ten feet away from any permanent or semi-permanent structures including other recreational vehicles. No decking of any type will ever be allowed.

(D) The only permitted connections to a legally compliant recreational vehicle shall be one garden hose for fresh water and one extension cord for electrical power. Any and all collected septage within the vehicle must be disposed of at an approved dump station. No connection to the city's sewage collection system, or the city's water main system, or any private service line or private wells is permitted.

(E) All recreational vehicles must be maintained in a clean, well-kept, orderly and operable condition. All recreational vehicles shall have license plates affixed thereto pursuant to state law, current license and current registration.

(F) In commercial districts, recreational vehicles may be parked along the street for up to 12 hours within a 24-hour period.

(G) The provisions of this chapter are applicable to the owner of the recreational vehicle in question and the owner of the real estate upon which the recreational vehicle sits. Owners of the real estate upon which a recreational vehicle sits shall ensure that the recreational vehicle on their respective property is in full compliance with terms and conditions of the city's ordinances.
(Ord. passed 11-9-2015; Ord. 153.123A, passed 5-10-2021)

§ 156.124 TEMPORARY FAMILY HEALTH CARE DWELLINGS.

Pursuant to the authority granted by M.S. § 462.3593, subd. 9, as it may be amended from time to time, the city hereby opts out of the requirements of M.S. § 462.3593, as it may be amended from time to time, which defines and regulates temporary family health care dwellings.
(Ord. 84/16, passed 8-8-2016)

ADULT USE PERFORMANCE STANDARDS

§ 156.135 PURPOSE.

It is the purpose of this subchapter to regulate sexually-oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually-oriented businesses within the city. The provisions of this chapter have neither the purpose, nor effect, of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent, nor effect, of this chapter to condone or legitimize the distribution of obscene material.
(Ord. passed 11-9-2015)

§ 156.136 DEFINITIONS.

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

ADULT ARCADE. Any place to which the public is permitted or invited wherein coin-operated, slug-operated or for any form of consideration, or electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players 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 the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE, ***ADULT NOVELTY STORE*** or ***ADULT VIDEO STORE.***

(1) A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

(b) Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified

anatomical areas and still be categorized as ***ADULT BOOKSTORE***, ***ADULT NOVELTY STORE*** or ***ADULT VIDEO STORE***. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ***ADULT BOOKSTORE***, ***ADULT NOVELTY STORE*** or ***ADULT VIDEO STORE*** so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction of description of specified sexual activities or specified anatomical areas.

ADULT CABARET. A nightclub, bar, restaurant or similar commercial establishment that regularly features:

(1) Persons who appear in a state of nudity or semi-nude;

(2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(3) Films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ADULT MOTEL. A hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction of description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way that advertises the availability of this type of photographic reproductions;

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER. A theater, concern, hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude or live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities.

EMPLOYEE. A person who performs any service on the premises of a sexually-oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not the person is paid a salary, wage or other

compensation by the operator of the business. ***EMPLOYEE*** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

ESCORT. A person who, for consideration, agrees or offers to act as a companion, guide or date for another person; or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT. Any of the following:

(1) The opening or commencement of any sexually-oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business;

(3) The additions of any sexually-oriented business to any other existing sexually-oriented business; or

(4) The relocation of any sexually-oriented business.

LICENSEE. A person in whose name a license to operate a sexually-oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually-oriented business.

NUDE MODEL STUDIO.

(1) Any place where a person who appears semi-nude, in a state of nudity or who displays specified anatomical areas and is provided to be observed.

(2) Sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. ***NUDE MODEL STUDIO*** shall not include a proprietary school licensed by the state or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:

(a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;

(b) Where in order to participate in a class, a student must enroll at least three days in advance of the class; and

(c) Where no more than one nude or semi-nude model is on the premises at any one time.

NUDITY or ***A STATE OF NUDITY.*** The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

PERSON. An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMI-NUDE or ***IN A SEMI-NUDE CONDITION.*** The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female rear of the body which lies between two imaginary lines running parallel to the ground when a person is standing, the first or top of the line drawn at the top of the cleavage of the nates and the second or bottom line drawn at the lowest visible point of the cleavage or the lowest point of the curvature of the fleshy protuberance, whichever is lower, and between two imaginary lines on each side of the body, which lines are perpendicular to the ground and to the horizontal lines described above, and which perpendicular lines are drawn through the point at which each nate meets the outer side of each leg. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suite or other wearing apparel provided the areola is not exposed in whole or in part.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SEXUALLY-ORIENTED BUSINESS. An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

SPECIFIED ANATOMICAL AREAS.

(1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

SPECIFIED CRIMINAL ACTIVITY. Any of the following offenses:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

(2) For which:

(a) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(b) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(c) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

SPECIFIED SEXUAL ACTIVITIES. Any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, or copulation, masturbation or sodomy; or

(3) Excretory functions as part of or in connection with any of the activities set forth in divisions (1) and (2) above.

SUBSTANTIAL ENLARGEMENT OF A SEXUALLY-ORIENTED BUSINESS. The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on 1-1-2000.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY-ORIENTED BUSINESS. Any of the following:

(1) The sale, lease or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or

(3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership control.
(Ord. passed 11-9-2015)

§ 156.137 CLASSIFICATION.

Sexually-oriented businesses are classified as follows:

(A) Adult arcades;

(B) Adult bookstores, adult novelty stores or adult video stores;

(C) Adult cabarets;

(D) Adult motels;

(E) Adult motion picture theaters;

(F) Adult theaters;

(G) Escort agencies;

(H) Nude model studios; and

(I) Sexual encounter centers.
(Ord. passed 11-9-2015)

§ 156.138 LICENSE REQUIRED.

(A) It is unlawful:

(1) For any person to operate a sexually-oriented business without a valid sexually-oriented business license issued by the city pursuant to this chapter;

(2) For any person who operates a sexually-oriented business to employ a person to work for the sexually-oriented business who is not licensed as a sexually-oriented business employee by the city pursuant to this chapter; and

(3) For any person to obtain employment with a sexually-oriented business without having secured asexually-oriented business employee license pursuant to this subchapter.

(B) An application for a license must be made on a form provided by the city.

(C) All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this chapter.

(D) If a person who wishes to operate a sexually-oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually-oriented business is other than an individual, each individual who has a 20% or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

(E) The completed application for a sexually-oriented business license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

(a) An individual, the individual shall state his or her legal name and any aliases and submit proof that he or she is 18 years of age;

(b) A partnership, the partnership shall state it complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any; and

(c) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders and the name of the registered corporate agent and the address of the registered office for service of process.

(2) The following documents are required:

(a) If the applicant intends to operate the sexually-oriented business under a name other than that of the applicant; he or she must state:

1. The sexually-oriented business' fictitious name; and

2. Submit the required registration documents.

(b) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(c) Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually-oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually-oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously denied, suspended or revoked, including the name and location of the sexually-oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation;

(d) Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually-oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses;

(e) The single classification of license for which the applicant is filing;

(f) The location of the proposed sexually-oriented business, including a legal description of the property, street address and telephone number(s), if any;

(g) The applicant's mailing address and residential address;

(h) A recent photograph of the applicant(s);

(i) The applicant's driver's permit number, Social Security number and/or his or her state or federally issued tax identification number;

(j) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it 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; and

(k) A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually-oriented businesses within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, public park or recreation area within 1,000 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

(3) If an applicant wishes to operate a sexually-oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, video cassettes, other video reproductions or live entertainment, which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth below.

(F) Before any applicant may be is used a sexually-oriented business employee license, the applicant shall submit on a form to be provided by the city the following information:

(1) The applicant's name or any other name (including "stage" names) or aliases used by the individual;

(2) Age, date and place of birth;

(3) Height, weight, hair and eye color;

(4) Present residence address and telephone number;

(5) Present business address and telephone number;

(6) Date, issuing state and number of driver's permit or other identification card information;

(7) Social Security number; and

(8) Proof that the individual is at least 18 years of age.

(G) Attached to the application form for a sexually-oriented business employee license, as provided above, shall be the following:

(1) A color photograph of the applicant clearly showing the applicant's face and the applicant's fingerprints on a form provided by the Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant;

(2) A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state or country, has ever had a license, permit or authorization to do business denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name, the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application; and

(3) A statement whether the applicant has been convicted of a specified criminal activity as defined in this chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.
(Ord. passed 11-9-2015)

§ 156.139 LICENSE ISSUANCE.

(A) Upon the filing of said application for a sexually-oriented business employee license, the city shall issue a temporary license to the applicant. The application shall then be referred to the appropriate

city departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within 30 days from the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(2) The applicant is under 18 years;

(3) The applicant has been convicted of a specified criminal activity, as defined in this chapter;

(4) The sexually-oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation or prohibited by particular provisions of this chapter; and

(5) The applicant has had a sexually-oriented business employee license revoked by the city within two years of the date of the current application. If the sexually-oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in § 156.032 of this chapter.

(B) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 156.140 of this chapter.

(C) Within 30 days after receipt of a completed sexually-oriented business application, the city shall approve or deny the issuance of a license to an applicant. The city shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) An applicant is under 18 years of age;

(2) An applicant or a person with whom the applicant is residing is overdue in payment to the city of taxes, fees, fines or penalties assessed against or imposed upon him or her in relation to any business;

(3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(4) An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually-oriented business within the preceding 12 months;

(5) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this chapter;

(6) The premises to be used for the sexually-oriented business has not been approved by the Health Department, Fire Department and the Building Official as being in compliance with applicable laws and ordinances;

(7) The license fee required by this chapter has not been paid; and

(8) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

(D) The license, if granted, shall state on its face the name of the person or persons to the whom it is granted, the expiration date, the address of the sexually-oriented business and the classification for which the license is issued as found in the classification section of § 156.137 of this chapter. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that they may be easily read at any time.

(E) The Health Department, Fire Department and the Building Official shall complete their certifications that the premises is in compliance or not in compliance within 20 days of receipt of the application by the city.

(F) A sexually-oriented business license shall be issued for only one classification as found in § 156.137 of this chapter.
(Ord. passed 11-9-2015)

§ 156.140 FEES.

(A) Every application for a sexually-oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee, as set by the Council.

(B) All license applications and fees shall be submitted to the City Administrator.
(Ord. passed 11-9-2015)

§ 156.141 INSPECTIONS.

(A) An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department or other city departments or agencies to inspect the premises of a sexually-oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(B) A person who operates a sexually-oriented business or his or her agent or employee commits a misdemeanor if he or she refuses to permit the lawful inspection of the premises at any time it is occupied or open for business.
(Ord. passed 11-9-2015)

§ 156.142 LICENSE EXPIRATION.

(A) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 156.139 of this chapter. Application for renewal shall be made at least 30 days before the expiration date and, when made less than 30 before the expiration date, the expiration of the license will not be affected.

(B) When 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.
(Ord. passed 11-9-2015)

§ 156.143 LICENSE SUSPENSION.

The city shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

(A) Violated or is not in compliance with any section of this chapter;

(B) Refused to allow an inspection of the sexually-oriented business premises as authorized by this chapter; or

(C) Knowingly permitted gambling by any person on the sexually-oriented business premises.
(Ord. passed 11-9-2015)

§ 156.144 LICENSE REVOCATION.

(A) The city shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding 12 months.

(B) The city shall revoke a license if it determines that:

(1) A licensee gave false or misleading information in the material submitted during the application process;

(2) A licensee has knowingly allowed possession, use or sale of controlled substances on the premises;

(3) A licensee has knowingly allowed prostitution on the premises;

(4) A licensee knowingly operated the sexually-oriented business during a period of time when the licensee's license was suspended;

(5) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises; and

(6) A licensee is delinquent in payment to the city, county or state for any taxes or fees past due.

(C) When the city revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually-oriented license for one year from the date the 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.

(D) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of the administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.
(Ord. passed 11-9-2015)

§ 156.145 LICENSE TRANSFER.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually-oriented business under the authority of a license at any place other than the address designated in the application.
(Ord. passed 11-9-2015)

§ 156.146 LOCATION OF BUSINESSES.

(A) A person commits a misdemeanor if that person operates or causes to be operated a sexually-oriented business in any zoning district other than Industrial Zone (I), as defined and described in this chapter.

(B) A person commits an offense if the person operates or causes to be operated a sexually-oriented business within 1,000 feet of:

(1) A church, synagogue, mosque, temple or building, which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, prate schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, junior colleges and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school;

(3) A boundary of a residential district, as defined in this chapter; a public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the city that is under the control, operation or management of the city park and recreation authorities;

(4) The property line of a lot devoted to a residential use, as defined in this chapter;

(5) An entertainment business, which is oriented primarily toward children or family entertainment; and

(6) A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the state.

(C) A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually-oriented business within 1,000 feet of another sexually-oriented business.

(D) A person commits a misdemeanor if that person causes or permits the operation, establishment or maintenance of more than one sexually-oriented business in the same building, structure or portion thereof, or the increase of floor area of any sexually-oriented business in any building, structure or portion thereof containing another sexually-oriented business.

(E) For the purpose of division (B) above, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually-oriented business is conducted, to the nearest property line of the premises of a use listed in division (B) above. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(F) For purposes of division (C) above, the distance between any two sexually-oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(G) Any sexually-oriented business lawfully operating on 1-1-2000, that is in violation of divisions (A) through (F) above, shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. The non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually-oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually-oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are non-conforming.

(H) A sexually-oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually-oriented business license, of a use listed in division (B) above within 1,000 feet of the sexually-oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.
(Ord. passed 11-9-2015)

§ 156.147 ADULT MOTELS.

(A) Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

(B) A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually-oriented license, rents or subrents a sleeping room to a person, and within ten hours from the time the room is rented, rent or subrents the same sleeping room again.

(C) For purposes of division (B) above, the terms ***RENT*** or ***SUBRENT*** means the act of permitting a room to be occupied for any form of consideration.
(Ord. passed 11-9-2015)

§ 156.148 EXHIBITION OF FILMS AND VIDEOS; LIVE ENTERTAINMENT.

(A) A person who operates or causes to be operated a sexually-oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, live entertainment or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements.

(1) Upon application for a sexually-oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in

which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of interior of the premises to an accuracy of plus or minus six inches. The city may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the city.

(4) It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of very area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) It shall be the duty of the licensees to ensure that the view area specified above remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to division (A)(1) above.

(7) No viewing room may be occupied by more than one person at any time.

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle as measured at the floor level.

(9) It shall be the duty of the licensees to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(10) No licensee shall allow openings of any kind to exist between viewing rooms or booths.

(11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(12) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(13) The licensee shall cause all floor coverings in viewing booths to be non-porous, easily cleanable surfaces, with no rugs or carpeting.

(14) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be construction of, or permanently covered by, non-porous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

(B) A person having a duty under this section commits a misdemeanor if he or she knowingly fails to fulfill that duty.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.149 ESCORT AGENCIES.

(A) An escort agency shall not employ any person under the age of 18 years.

(B) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.150 NUDE MODEL STUDIOS.

(A) A nude model studio shall not employ any person under the age of 18 years.

(B) A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this section if the person under 18 years was in a restroom not open to public view or visible to any other person.

(C) A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises, which can be viewed, from the public right-of-way.

(D) A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises; except that, a sofa may be placed in a reception room open to the public.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.151 PUBLIC NUDITY.

(A) It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually-oriented business, appears in a state of nudity or depicts specified sexual activities.

(B) It shall be a misdemeanor for a person who knowingly or intentionally in a sexually-oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten feet from any patron or customer and on a stage at least two feet from the floor.

(C) It shall be a misdemeanor for an employee, while semi-nude in a sexually-oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually-oriented business.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.152 CHILDREN PROHIBITED IN SEXUALLY-ORIENTED BUSINESS.

A person commits a misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of a sexually-oriented business.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.153 HOURS OF OPERATION.

No sexually-oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 6:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 10:00 a.m. on Sundays.
(Ord. passed 11-9-2015) Penalty, see § 156.999

§ 156.154 EXEMPTIONS.

It is a defense to prosecution under § 156.152 of this chapter that a person appearing in a state of nudity did so in a modeling class operated:

(A) By a proprietary school, licensed by the state; a college, junior college or university supported entirely or partly by taxation;

(B) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or

(C) In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(2) Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude model is on the premises at any one time.
(Ord. passed 11-9-2015)

COMMUNITY SOLAR ENERGY SYSTEM

§ 156.165 PURPOSE.

This subchapter is established to protect and promote health, safety and general welfare through uniform standard regulations and procedures governing the type, size, structure, location, height, erecting and use of solar energy systems.
(Ord. 110/23, passed 12-11-2023)

§ 156.166 ROOFTOP COMMUNITY SOLAR ENERGY SYSTEMS.

(A) *Zoning permit*. A rooftop community solar energy system is a permitted accessory use in all zoning districts.

(B) *Placement*. A rooftop community solar energy system shall be placed on the roof to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the owner to reasonably capture solar energy. Roof top systems shall not exceed the maximum height in any zoning district.

(C) *Pitched roofs*. On pitched roofs with a slope greater than 15%, solar panels shall be flush-mounted and shall not exceed above the peak of the roof.

(D) *Glare*. All solar energy systems shall minimize glare that affects adjacent or nearby properties. Steps to minimize glare nuisance may include selective placement of the system, selective orientation of the panels, or rooftop screening. All proposed projects shall conduct and submit a glare study, completed by a qualified and competent professional, to identify potential impacts and mitigation strategies. To complete this glare study, the applicant can use the solar glare hazard analysis tool (SGHAT). Once installed, if the solar energy system creates glare onto neighboring properties and/or streets and highways and the City Council determines that such glare constitutes a nuisance, the Council shall

require a more detailed glare study-prepared by a third-party consultant mutually acceptable to the Council and the applicant to identify additional actions and/or screening that may be required to substantially eliminate or block the glare from entering the neighboring property.
(Ord. 110/23, passed 12-11-2023)

§ 156.167 GROUND MOUNTED COMMUNITY SOLAR ENERGY SYSTEMS.

(A) *Use*. A ground mounted community solar energy system, either as an accessory or a principal use, shall be classified as a conditional use and may be allowed after an applicant has secured a conditional use permit (CUP) in the Industrial District Zoning District only.

(B) *Prohibitions*. Ground mounted community solar systems are prohibited in the following areas:

(1) Shoreland and Floodplain Districts as designated by the Minnesota Department of Natural Resources (DNR) and this chapter.

(2) Within 750 feet of any property designated or protected from development by federal, state or county agencies as wildlife habitat and wildlife management areas.

(3) Within wetlands to the extent prohibited by the Minnesota Wetlands Conservation Act.

(4) Within any recorded easement-such as but not limited to utility, ditch, conservation or storm water.

(5) In the following zoning districts: Single Family Residential, Medium Density Residential, Limited Business, Commercial Recreation, Business and Central Business District.

(C) *Maximum size and capacity*. No more than one system per parcel of record shall be permitted, and the one system shall have a maximum power capacity of no more than one megawatt (MW) and shall be no greater than five acres in size.

(D) *Site access*. The site must have an approved access to a public right-of-way.

(E) *Signage*. No advertising signage is allowed. Manufacture and equipment information, warning, security or indication of ownership signage on the side shall comply with this subchapter.

(F) *Power and communication lines*. All on-site power and communication lines running between banks of solar panels and structures, and all off-site lines running between the solar energy system to electric substations or interconnections shall be buried underground.

(G) *Waste disposal*. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts as well as used oils and lubricants must be removed from the site promptly, and in no event shall they be on site longer than ten days following a demand for removal from the city, and all such materials must be disposed of in accordance with all applicable local, state and federal regulations.

(H) *Interconnections*. The owner, developer or operator of the community solar energy system must submit an executed interconnection agreement with the electric utility in whose service territory the system is located prior to the City Council issuing any conditional use permits or approvals associated with the system. Off-grid systems are exempt from this requirement. The interconnection shall require no more than two utility poles and a ground utility cabinet or three utility poles total.

(I) *Decommissioning plan*. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life and that the site is properly restored. This decommissioning plan must accompany the application for any permit. Decommissioning of solar panels must occur upon the demand of the City Administrator in the event they are not in use for 12 consecutive months and shall be removed within six months of the discontinuance of the use.

(J) *Noise*. All community solar energy systems shall comply with the City of Waterville Noise Ordinance and any other applicable local, state, or federal laws.

(K) *Maximum height*. Ground mounted systems shall not exceed 15 feet in height at maximum design tilt.

(L) *Glare*. All solar energy systems shall minimize glare that affects adjacent or nearby properties. Steps to minimize glare nuisance may include selective placement of the system, selective orientation of the panels, or rooftop screening. All proposed projects shall conduct and submit a glare study completed by a competent and qualified professional to identify potential impacts and mitigation strategies. To complete this glare study, the applicant can use the solar glare hazard analysis tool (SGHAT). Once installed, if the solar energy system creates glare onto neighboring properties and/or streets and highways and the Board determines that such glare constitutes a nuisance, the City Council shall require a more detailed glare study-prepared by a third-party consultant mutually acceptable to the Board and the applicant to identify additional actions and/or screening that may be required to substantially eliminate or block the glare from entering the neighboring property and/or street and highway. The applicant shall solely bear the cost of such study.

(M) *Security fencing*. Boundary line fencing is required. All boundary line fencing shall be located a minimum of ten feet from the property lines. Fences shall consist of chain link with three strands of barbed wire at the top for total of eight feet high minimum.

(N) Adequate screening must be provided in the form of a berm (two to one maximum slope with supplemental plant materials including trees, shrubs, and ground cover) and/or continuous evergreen vegetative buffer shall be provided and maintained at all times around the perimeter of the fencing. The

evergreen vegetative buffer shall be composed of evergreen trees shrubs of a type which at time of planting shall be a minimum of four feet in height and which shall be maintained at maturity at a height of eight feet in height to screen the fence fully and completely.

(O) *Vegetation*. All vegetation shall be maintained as follows:

(1) Manage permanent vegetation under and between the collectors and surrounding system's foundations or mounting devices at project site.

(2) Control invasive plants and noxious weeds by either removal or spray.

(3) Conversion of existing wooded areas for the placement of SES is prohibited.

(4) Grass height shall be no more than six inches on the premises.

(P) *Foundations*. The manufacturer's engineer or other qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.
(Ord. 110/23, passed 12-11-2023)

§ 156.168 SUBMITTAL REQUIREMENTS.

All systems require a zoning permit and an application containing the following items must be submitted to the City Administrator prior to the granting of any such permit:

(A) The names of the project applicant;

(B) The names of the project owner;

(C) The legal description and address of the project;

(D) Documentation of land ownership or legal control of the property;

(E) Description of the project including: ownership or lease arrangement (with a copy of any such proposed lease), the proposed installed maximum capacity (in kilowatts) for the site, proposed type of mounting and racking systems, method of connecting the system to the electric load; the type and number of panels that will be installed;

(F) Architectural site plans drawn to scale, including:

(1) Existing and proposed structures;

(2) Property lines;

(3) Existing and proposed fencing;

(4) Surface water drainage patterns;

(5) Location of all drainage systems;

(6) Floodplains;

(7) Wetlands, lakes, streams/rivers within 1,500 ft. of the proposed solar energy system;

(8) Shoreland zones;

(9) Topography at two foot intervals, and bluffs;

(10) Location, size and spacing of solar panels;

(11) The location of existing and proposed access roads;

(12) The location of underground or overhead electrical line connections;

(13) Existing easements on the property;

(14) In-use wells and sweater treatment systems;

(15) Abandoned wells, sewage treatment sites and dumpsites;

(16) All other characteristics requested by the city;

(17) Parking plan during and after construction;

(18) Site lighting plan;

(19) Signage;

(20) All related accessory structures within the project area; and

(21) Location of scenic by-ways within one mile of the proposed SES.

(G) Existing vegetation (list type and percentage of coverage and soils information for the proposed site).

(H) A landscape and screening plan prepared by a licensed landscape architect and included a narrative describing the landscape architecture elements and how the design and placement of the plant types and materials will complement the form and function of the developed site and blend into the surrounding environment.

(I) Erosion/sediment control plan or resource management plan if required in the discretion of the Zoning Administrator. Include details on any proposed native grasses or plantings on the site.

(J) Glare study completed by a competent and qualified professional as is determined in the discretion of the city's Zoning Administrator.

(K) A copy of the interconnection agreement with the local electric utility.

(L) Decommission plan consisting of the following items:

(1) Cost estimates for each item shall be required to ensure facilities are properly removed after their useful life;

(2) The removal and proper disposal of all structures, foundations, cables/wiring, and electrical devices associated with the project and shall meet the provisions of state/county and local regulations;

(3) Restoration of soil and vegetation to pre-development state;

(4) Roads and packing areas shall be removed completely and filled with suitable sub-grade material and leveled;

(5) General surface grading and, if necessary, restoration of surface drainage swales, ditches and tile drains (if present);

(6) Any excavation and/or trenching caused by the removal of structure or equipment foundations, rack supports and underground electrical cables shall be back filled with appropriate materials and leveled to match the ground surface;

(7) The plan shall address road maintenance during and after the completion of the decommissioning;

(8) A plan ensuring financial resources will be available to fully decommission the site;

(9) The City Council will require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommission, equal to 125% of the estimated amount of decommissioning as determined by the city's Engineer in consultation with the applicant; and

(10) Any additional materials or documents as determined by the City Council or Zoning Administrator to assist with the proper administration and decommission of the site.
(Ord. 110/23, passed 12-11-2023)

§ 156.169 SETBACKS.

The following setbacks shall be adhered to:

(A) Small SES (residential systems designed to solely supply energy to one residence):

(1) Shall meet all setbacks for the zoning district in which the system is located; and

(2) Any roof mounted systems shall not extend beyond the roof.

(B) Large SES:

(1) Shall meet all setbacks for principal structures for the zoning district in which the system is located;

(2) Shall be set back 100 feet from all road right-of ways;

(3) Shall be set back 1500 feet from all dwellings;

(4) Shall be set back 1500 feet from all zoning districts where SES construction is not prohibited;

(5) Must be 75 feet from public conservation lands/wildlife management areas and parks;

(6) Shall be one mile from a scenic byway; and

(7) Shall be two miles from the boundary of any township;
(Ord. 110/23, passed 12-11-2023)

§ 156.170 MAXIMUM HEIGHT.

The following maximum height requirements shall be followed:

(A) Ground mounted systems shall not exceed 20 feet in height at maximum design tilt;

(B) Roof mounted systems shall not exceed the maximum allowed height in any zoning district, and shall not extend greater than four feet above the existing structures' roof height.
(Ord. 110/23, passed 12-11-2023)

§ 156.999 PENALTY.

(A) Any person, firm or corporation who violates any of the provisions of this chapter shall be charged with a misdemeanor and, upon conviction hereof, be subject to a fine and/or imprisonment as specified in M.S. Ch. 609, as it may be amended from time to time. Each day that a violation is permitted to exist shall constitute a separate offense. The city may seek an injunction to stop any violation of this chapter.

(B) Any person who violates any provision of § 156.120 of this chapter shall be charged with a misdemeanor. A conviction of the misdemeanor will result in the revocation of the conditional use permit.

(C) Any violation of § 156.123 of this chapter shall be deemed a misdemeanor pursuant to state law.
(Ord. passed 11-9-2015)

TABLE OF SPECIAL ORDINANCES

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I. FRANCHISE AGREEMENTS

II. ZONING MAP DESIGNATIONS

III. ANNEXATIONS AND BOUNDARY EXTENSIONS

TABLE I: FRANCHISE AGREEMENTS

Ord. No.	*Date Passed*	*Description*
13	9-11-1972	Granting an electric distribution franchise to Northern States Power Company
31	11-13-1989	Granting a gas distribution franchise to Northern States Power Company
13-B	2-8-1993	Amendment; granting an electric distribution franchise to Northern States Power Company
46/03	1-13-2003	Amendment; extending the term of the cable television franchise between the city and US Cable
66/09	8-10-2009	Granting an electric distribution franchise to Northern States Power Company (ExCel Energy)
67/09	8-10-2009	Granting a gas distribution franchise to Northern States Power Company (ExCel Energy)
88-18	1-8-2018	Amendment; extending the term of the cable communications system franchise between the city and Midcontinent Communications
90-18	3-12-2018	Granting a cable communications system franchise to Midcontinent Communications
99/20	8-10-2020	Granting a cable communications system franchise to Jaguar Communications, Inc.

TABLE II: ZONING MAP DESIGNATIONS

Ord. No.	*Date Passed*	*Description*
87/17	9-11-2017	Rezoning certain properties on the north side of Main Street to R1 General Residential Zone, while certain properties on the south side remain zoned as C-1 Central Business Commercial District
97/20	2-10-2020	Rezoning property known as Hidden Meadows Subdivision, Block 1, Lots 2-10 and Block 2, Lots 1 and 2 to R2 Multi-Family Residential Zone
101.22	2-14-2022	Rezoning property known as PID #16.410.1037 to C-2 Highway Commercial District
104/22	12-12-2022	Rezoning the property known PID #16.035.7000 to R-1 General Residential Zone

TABLE III: ANNEXATIONS AND BOUNDARY EXTENSIONS

Ord. No.	*Date Passed*	*Description*
18	8-9-1976	Extending the corporate limits of the city to include land beginning at the north quarter corner of Section 2, Township 108 North, Range 24 West
26	5-10-1982	Extending the corporate limits of the city to include land beginning at a point on the west line of Section 36, Township 109 North, Range 24 West
34	12-29-1992	Extending the corporate limits of the city to include not-to-exceed 200 acres
35-95	2-13-1995	Extending the corporate limits of the city to include property commencing at a point 1,119.40 feet north and 1,486 feet east of the west quarter section of Section 35, Township 109 North, Range 24 West
34-A-95	6-12-1995	Amendment; annexing a part of Silvers Campground to the city
36-95	6-12-1995	Extending the corporate limits of the city to include all of Government Lots 5 and 7 in Section 35, Township 109 North, Range 24 West
37-95	6-12-1995	Extending the corporate limits of the city to include the rearrangement of Lots 2 and 3 and also the subdivision of undeveloped Lot A in Block 1 of Chestnut's Lakeshore Division
38-96	5-22-1996	Extending the corporate limits of the city to extend to the city's Economic Development Authority of the Citizen's State Bank of Waterville
39-97	2-10-1997	Extending the corporate limits of the city to include parts of several government lots

Ord. No.	*Date Passed*	*Description*
40-98	7-28-1998	Extending the corporate limits of the city to include all of Government Lots 5 and 6 in Section 35, Township 109 North, Range 24 West
41-98	7-28-1998	Amendment; extending the corporate limits of the city to include all of Government Lots 5 and 6 in Section 35, Township 109 North, Range 24 West (some exclusions)
42-98	7-28-1998	Extending the corporate limits of the city to include all of Government Lots 5 and 6 in Section 35, Township 109 North, Range 24 West
43/99	2-8-1999	Amendment; extending the corporate limits of the city to include parts of several government lots
44/00	3-13-2000	Amendment; extending the corporate limits of the city to include parts of several government lots
47-03	8-21-2003	Extending the corporate limits of the city to include property known as the Oswald Annexation
55-05	1-10-2005	Extending the corporate limits of the city to include property known as the James annexation area (Rays Lake Estates)
56/05	2-15-2005	Extending the corporate limits of the city to include several lots in Section 27, Township 109, Range 24 West and the Murra property (some exceptions)
57/05	5-2-2005	Extending the corporate limits of the city to include property commencing at a point 12 rods south of the quarter post at the southeast corner of the southwest quarter of Section 35, Township 109 North, Range 24 West (some exceptions)
64/06	5-17-2006	Extending the corporate limits of the city to include Lots 1, 2, 3, 4 and 5 of Chestnut's Lakeshore Subdivision No. 3
64/06	11-29-2006	Amendment; extending the corporate limits of the city to include Lot 1 of Chestnut's Lakeshore Subdivision No. 3

Ord. No.	*Date Passed*	*Description*
74/13	5-13-2013	Extending the corporate limits of the city to include property beginning at a point 117.60 feet north and 190.56 feet east of Meander Corner No. 19 and property beginning at a point 180.60 feet north and 191.93 feet east of Meander Corner No. 19

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References to Ordinances

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18.75 et seq.	96.02
18.77 subd. 8	96.02
326B.148	150.01
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