CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

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

State Law References: Codification of ordinances, Minn. Stats. § 415.021.

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

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

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

City. The term "city" means the City of Grant, Washington County, Minnesota. The term includes designated representatives of the city.

City council, council. The term "city council" or "council" means the council of the City of Grant, Minnesota.

Code. The term "Code" means the Grant, Minnesota City Code, as designated in section 1-1.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items,

conditions, provisions or events are connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows, except that when appropriate from the context, the terms "and" and "or" are interchangeable:

(1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.

(2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

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

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

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

Following. The term "following" means next after.

Gender. Words of one gender include all other genders.

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

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

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

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

Minn. Rules. The abbreviation "Minn. Rules " means the Minnesota Rules, as amended.

Minn. Stats. The abbreviation "Minn. Stats." means the Minnesota Statutes, as amended.

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

Must. The term "must" shall be construed as being mandatory.

Number. Words in the singular include the plural. Words in the plural include the singular.

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

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

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

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

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

Preceding. The term "preceding" means next before.

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

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

Public property, public place. The terms "public property" and "public place" mean any place, property or premises dedicated to public use, owned by the city, occupied by the city as a lessee, or occupied by the city as a street by reason of an easement, including, but not limited to, streets, parks or parking lots so owned or occupied.

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

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

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

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

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

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

Tenant, occupant. The term "tenant" or "occupant," as applied to a building or land, includes:

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

(2) Any person who either alone or with others occupies such building or land.

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

Will. The term "will" is to be construed as being mandatory and not permissive.

Writing. The term "writing" includes any form of recorded message capable of comprehension by ordinary visual means.

Year. The term "year" means a calendar year.

Sec. 1-3. Computation of time.

(a) When the term "successive weeks" is used in any ordinance providing for the publication of notices, the term "weeks" shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which the publication is made.

(b) When in any ordinance the lapse of a number of months before or after a certain day is required, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and including the day of the month in which the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

(c) Where the performance or doing of any act, duty, matter, payment or thing is ordered or directed, and the period of time or duration for the performance or doing thereof is prescribed and fixed by law or ordinance, the time, except as otherwise provided in subsections (a) and (b) of this section, shall be computed so as to exclude the first and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on a Saturday, Sunday or legal holiday, that day shall be omitted from the computation.

(d) When an application, payment, return, claim, statement or other document is to be delivered to or filed with a department, agency or instrumentality of the city on or before a prescribed date and the prescribed date falls on a Saturday, Sunday or legal holiday, it is timely delivered or filed if it is delivered or filed on the next succeeding day which is not a Saturday, Sunday or legal holiday.

State Law References: Similar provisions, Minn. Stats. §§ 645.13--645.151.

Sec. 1-4. Catchlines of sections; history notes; references.

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

(b) The history or source notes appearing in parenthesis after sections in this Code have no legal

effect and only indicate legislative history. Editor's notes and state law references and other footnotes that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

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

State Law References: Similar provisions, Minn. Stats. § 645.49.

Sec. 1-5. Effect of repeal of ordinances.

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

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

State Law References: Similar provisions, Minn. Stats. §§ 645.35, 645.36.

Sec. 1-6. Amendments to Code; effect of new ordinances; amendatory language.

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

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

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

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

Sec. 1-7. Supplementation of Code.

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

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

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

(1) Arrange the material into appropriate organizational units.

(2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.

(3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.

(4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.

(5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or insert section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code.

(6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Sec. 1-8. General penalty; continuing violations.

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

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

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation, a misdemeanor or a petty misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(4) Counseling, aiding or abetting a violation of this Code as defined above.

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

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

(d) Except as otherwise provided by law or ordinance:

(1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.

(2) With respect to violations that are not continuous with respect to time, each act is a separate offense.

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

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

State Law References: Authorized penalty for ordinance violations, Minn. Stats. §§ 410.33, 412.231, 609.0332, 609.034.

Sec. 1-9. Severability.

The sections, subsections, paragraphs, sentences, clauses and phrases of this Code and all provisions adopted by reference in this Code are severable so that if any section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code, for the council declares that it is its intent that it would have enacted this Code and all provisions adopted by reference in this Code without such invalid or unconstitutional provisions. If any provision of this Code is declared to be inapplicable to specific property by a valid judgment of a court of competent jurisdiction, such judgment shall not restrict the applicability of such provision to other property.

Sec. 1-10. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the city relating to the same subject matter, shall be construed as restatement and continuation thereof and not as new enactments.

Sec. 1-11. Code does not affect prior offenses or rights.

Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of the ordinance adopting this Code. Nothing in this Code or the ordinance adopting this Code creates or eliminates any preexisting nonconforming uses.

Sec. 1-12. Certain ordinances not affected by Code.

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

(1) Annexing property into the city.

(2) Deannexing property or excluding property from the city.

(3) Providing for salaries or other employee benefits not codified in this Code.

(4) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.

(5) Authorizing or approving any contract, deed, or agreement.

(6) Making or approving any appropriation or budget.

(7) Fixing or establishing any fee or charge.

(8) Granting any right or franchise.

(9) Vacating any easement or parkland.

(10) Adopting or amending the comprehensive plan.

(11) Levying or imposing any special assessment.

(12) Creating a special district that is not codified in this Code.

(13) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street.

(14) Establishing the grade of any street or sidewalk.

(15) Dedicating, accepting or vacating any plat or subdivision.

(16) Levying, imposing or otherwise relating to taxes not codified in this Code.

(17) Establishing traffic regulations for specific locations not codified in this Code.

(18) Rezoning specific property.

(19) That is temporary, although general in effect.

(20) That is special, although permanent in effect.

(21) The purpose of which has been accomplished.

Chapter 2

ADMINISTRATION*

* **State Law References:** Statutory cities, Minn. Stats. ch. 412.

ARTICLE I.

IN GENERAL

Secs. 2-1--2-18. Reserved.

ARTICLE II.

CITY COUNCIL

Secs. 2-19--2-39. Reserved.

ARTICLE III.

OFFICERS AND EMPLOYEES

Sec. 2-40. City clerk and city treasurer.

(a) *City clerk.* The separate office of city clerk is hereby reestablished. The city clerk shall be

responsible for the duties provided by law as well as those duties directed by the city council.

(b) *City treasurer.* The separate office of city treasurer is hereby reestablished. The city treasurer shall be responsible for the duties provided by law as well as those duties directed by the city council.

(c) *Term of office.* The city clerk and the city treasurer shall be appointed by the city council for a term beginning on the first Monday of January in each year until a successor city clerk and city treasurer is sworn in to take the office. The appointment shall be made at the first city council meeting of each year.

(d) *Resignation or termination.* The city council shall appoint a new city clerk or city treasurer upon the resignation, termination or expiration of the term of the city clerk or city treasurer.

(e) *Compensation.* The city council shall determine the compensation to be paid to the city clerk and city treasurer.

(Ord. No. 2005-115, §§ 2--6, 6-7-2005)

State Law References: Authority to combine or uncombine officers of clerk and treasurer, Minn. Stats. § 412.591; duties of clerk, Minn. Stats. § 412.151; duties of treasurer, Minn. Stats. § 412.141.

Secs. 2-41--2-68. Reserved.

ARTICLE IV.

FINANCE*

* **State Law References:** Municipal finance and taxation, Minn. Stats. ch. 426.

Sec. 2-69. Adoption of fee schedule.

The 2009 Master Fee and Escrow Schedule which is attached to Ord. No. 2009-06 is incorporated herein by reference as exhibit A and is hereby adopted.

(Ord. No. 2009-06, § 2, 1-6-2009)

Sec. 2-70. Escrow accounts.

(a) Applicants may be required to escrow money with the city in order to pay for the fees charged to the city by the city attorney, engineer or planner for review of an application or license.

(b) In those cases where an escrow account is required, the applicant shall be required to replenish the escrow account when the balance in the escrow account contains $1,000.00 or less, unless the city council by formal motion determines that the project is complete or this requirement is waived by formal action of the city council.

(c) Any project, application or request made to the city which has a negative escrow balance will not be further reviewed by the city until the escrow account is current or will be denied for failure to keep the escrow account current.

(Ord. No. 2009-06, § 3, 1-6-2009)

Secs. 2-71--2-98. Reserved.

ARTICLE V.

ORDINANCE VIOLATIONS

Sec. 2-99. Findings and purpose.

(a) The city regulates many types of activities. For many of these activities, the city issues licenses or permits. Licenses or permits are issued for those activities which have the most profound effect (or potential effect) upon the health, safety and welfare of the citizens.

(b) From time to time, the city is also called upon to determine if the holder of a license or a permit has violated the terms of that license or permit. Similarly, there are sometimes allegations that the license or permit holder has violated a statute, ordinance or rule which also regulates the proper operation of that activity.

(c) This article shall delineate what remedies are available to the city to ensure that licenses and permits are properly followed in the future so as to properly protect the health, safety and welfare of the city's residents.

(d) This article is designed to establish a uniform method of determining whether or not violations of any ordinance have occurred. It is the intent of the city council to establish a system which would provide fair and adequate notice of the alleged violation to the permit/license holder or person accused of the violation and a hearing before the city council. The possible penalties which are provided for are designed to protect the public from future violations. Specifically, the sanctions should deter a violator from engaging in future violations and should serve as a warning to other individuals engaged in the same types of activities that the city council will respond appropriately to proven violations.
(Ord. No. 1996-70, § 70.10, 6-4-1996)

Sec. 2-100. General applicability.

The terms of this article shall apply to all licenses and permits of any kind issued by the city and to violations of any ordinance.
(Ord. No. 1996-70, § 70.20, 6-4-1996)

Sec. 2-101. Hearing requirements.

(a) All hearings as envisioned within this article shall take place before the city council at the city hall or at such other place as is convenient and proper, given the nature of the matter under consideration.

(b) None of the civil sanctions authorized herein shall be imposed by the city council until the license/permit holder or accused has been given an opportunity for a hearing before the city council.

(c) Hearings shall be conducted in accordance with the provisions found in Minn. Stats. §§ 14.57--14.69.

(d) This article does not require the city to conduct its hearing before an employee of the office of administrative hearings. Rather, it is intended that hearings will take place before the city council.
(Ord. No. 1996-70, § 70.30, 6-4-1996)

Sec. 2-102. Civil sanctions.

If the city council finds that a license or permit holder has failed to comply with his license or permit, or has failed to comply with any applicable statute, rule or ordinance related to the operation of the activity for which a license or permit has been granted by the city, then the city council may revoke the license or permit, suspend the license or permit for a period of up to 60 days, impose a civil penalty of up to $2,000.00 for each violation, or impose any combination of these sanctions.
(Ord. No. 1996-70, § 70.40, 6-4-1996)

Sec. 2-103. Payment of fines.

(a) If the council imposes a civil fine, the council shall also allow the license/permit holder a reasonable time to pay the fine. A reasonable time to pay means that all fines shall be paid within 60 days unless the council determines that a longer period of time is justified under the circumstances of the case.

(b) Failure of a license/permit holder to pay a fine within 60 days (or within the time otherwise allowed by the council) shall cause that license or permit to become immediately suspended until full payment is received by the city clerk.
(Ord. No. 1996-70, § 70.50, 6-4-1996)

Sec. 2-104. Revocation or suspension.

Any license/permit holder who has had his license or permit suspended or revoked pursuant to any of the terms of this article shall not be allowed to operate the activity which required the license or permit until the license or permit is reinstated. Any operation during a period of suspension or revocation shall be deemed to be an additional violation of the terms of the permit or license.
(Ord. No. 1996-70, § 70.60, 6-4-1996)

Chapter 4

ALCOHOLIC BEVERAGES*

* **State Law References:** Alcoholic beverages, Minn. Stats. ch. 340A; local restrictions on sale of alcohol, Minn. Stats. § 340A.509.

ARTICLE I.

IN GENERAL

Sec. 4-1. Definitions.

All terms used in this chapter shall have the meanings prescribed by Minn. Stats. ch. 340A unless specifically indicated otherwise.
(Ord. No. 1997-76, § 2, 4-1-1997)

Sec. 4-2. Provisions of state law adopted.

The provisions of Minn. Stats. ch. 340A, relating to the definitions of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale, and all matters pertaining to the retail sale, distribution,

and consumption of intoxicating liquor and nonintoxicating malt liquor are adopted and made a part of this chapter as if set out in full.
(Ord. No. 1997-76, § 1, 4-1-1997)

Sec. 4-3. Restrictions on purchase and consumption.

(a) *Intoxicating liquor or 3.2 percent malt liquor on unlicensed places.* No person shall mix or prepare intoxicating liquor for sale in any public place of business unless it has a license to sell intoxicating liquor on-sale or a consumption and display permit from the commissioner of public safety, and no person shall consume intoxicating liquor or 3.2 percent malt liquor in such a place.

(b) *Consumption in public places.* No person shall consume intoxicating liquor or 3.2 percent malt liquor on a public highway, public park, or other public space, or on the premises of an off-sale license holder, without the written consent of the city council.
(Ord. No. 1997-76, § 11, 4-1-1997)

State Law References: Consumption and display permits, Minn. Stats. § 340A.414; alcohol and underage persons, Minn. Stats. § 340A.503.

Secs. 4-4--4-24. Reserved.

ARTICLE II.

DEALERS

DIVISION 1.

GENERALLY

Secs. 4-25--4-51. Reserved.

DIVISION 2.

LICENSE*

* **State Law References:** Intoxicating liquor and 3.2 percent malt liquor licenses, Minn. Stats. § 340A.401 et seq.

Sec. 4-52. Required.

(a) *General restriction.* No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor or 3.2 percent malt liquor without a license to do so as provided in this division. Intoxicating liquor and 3.2 percent malt liquor licenses shall be of nine kinds:

(1) On-sale intoxicating liquor.

(2) Club on-sale.

(3) On-sale Sunday.

(4) One-day permit.

(5) On-sale wine.

(6) Consumption and display.

(7) On-sale 3.2 percent malt liquor.

(8) Off-sale 3.2 percent malt liquor.

(9) Off-sale intoxicating liquor.

(b) *Consumption and display licenses.* A consumption and display license shall be considered the approval of a consumption and display permit by the council under law.

(c) *On-sale Sunday licenses.* A special on-sale license for the sale of intoxicating liquor on Sundays may be issued only to a restaurant having a seating capacity for at least 30 persons holding a regular on-sale license.

(d) *On-sale 3.2 percent malt liquor.* On-sale 3.2 percent malt liquor licenses shall only be granted to clubs, 3.2 percent malt liquor stores, drugstores, restaurants, hotels, and bowling centers where food is prepared and served for consumption on the premises.

(e) *Off-sale 3.2 percent malt liquor.* Off-sale 3.2 percent malt liquor licenses shall only permit the sale of 3.2 percent malt liquor at retail, in the original package for consumption off the premises of the licensee. Off-sale 3.2 percent malt liquor licenses shall only be granted to grocery stores, convenience stores selling food and drink for consumption off the premises, and persons holding on-sale intoxicating liquor or on-sale 3.2 percent malt liquor licenses for use on the same premises as their on-sale license.
(Ord. No. 1997-76, § 3, 4-1-1997)

State Law References: On-sale intoxicating liquor licenses, Minn. Stats. § 340A.403; off-sale intoxicating liquor licenses, Minn. Stats. § 340A.405; 3.2 percent malt liquor licenses, Minn. Stats. § 340A.403; local approval of sale and consumption permits, Minn. Stats. § 340A.414, subd. 6.

Sec. 4-53. Application.

(a) *Form.* Every application for license to sell intoxicating liquor or 3.2 percent malt liquor shall be in the form prescribed by the city and include the name of the applicant, his age, representations as to the applicant's character (with such references as the council may require), citizenship, the type of license applied for, the business or organization in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long the business has been at that location, and such other reasonable and/or necessary information as the council may require from time to time. Every application shall also include a copy of each summons received by the applicant under Minn. Stats. § 340A.802 during the preceding year.

(b) *Accuracy of application.* No person shall knowingly make a false or misleading statement on any application for an intoxicating liquor or 3.2 percent malt liquor license, or in any proceeding regarding the issuing of an intoxicating liquor, 3.2 percent malt liquor or wine license.
(Ord. No. 1997-76, § 4, 4-1-1997)

Sec. 4-54. Fees.

(a) *Established.* The fees for licenses issued under this division shall be as established by ordinance.

(b) *Payment.* Each application for a license shall be accompanied by a receipt from the city for payment in full of the license fee and the fixed investigation fee under section 4-55, if any. All fees shall be paid into the general fund. If any application for a license is rejected, the city shall refund the amount paid as the license fee.

(c) *License terms and pro rata fees.* Each license, except one-day permits, shall be issued for a period of one year. If an application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee. Such pro rata fee is to be determined on the number of months remaining in the year, with each unexpired fraction of a month being counted as one month. Every license shall expire on December 31 of each year.

(d) *Refunds.* Refunds of license fees shall be made only if:

(1) The business ceases to operate because of destruction or damage not caused by the unlawful actions of the licensee, and such damage made the business unusable;

(2) The licensee dies; or

(3) The business loses its lawful authority to operate due to an act of legislature or local option election.

The refund shall be based on a pro rata basis determined by the number of months remaining until the end of the license year, with any fraction of a month remaining not being credited as part of the refund. Refunds shall be made only after the business ceases to operate.
(Ord. No. 1997-76, § 6, 4-1-1997)
State Law References: License fees, Minn. Stats. § 340A.408.

Sec. 4-55. Granting procedure.

(a) *New licenses; investigation fee.* On an initial application for an on-sale intoxicating liquor or off-sale intoxicating liquor license and on application for transfer of an existing on-sale or off-sale intoxicating liquor license, the applicant shall pay with his application an investigation fee in the amount established by ordinance.

(b) *Renewals.* Applications for renewal of a license issued in accordance with this division shall be the same, in form and procedure, as an initial application, except an initial investigation fee shall only be charged only if the council determines that such an investigation is warranted.

(c) *Hearing and issuance.* The city council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to subsection (a) of this section. Opportunity shall be given to any person to be heard for and against the granting of the license. After investigation and hearing, the council shall, at its discretion, grant or refuse the application.

(d) *Assignability and transferability.* Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without city council approval. Any transfer of stock of a corporate license is deemed a transfer of the license, and transfer of stock without prior council approval is a ground for revocation of the license. In case a licensee dies, his personal representative may continue operation of the business within the terms of the license for a period not to exceed 90 days.
(Ord. No. 1997-76, § 7, 4-1-1997)

State Law References: Persons eligible for licenses, Minn. Stats. § 340.402; limitations on issuance of intoxicating liquor licenses, Minn. Stats. § 340A.412; restrictions on number of intoxicating liquor licenses, Minn. Stats. § 340A.413.

Sec. 4-56. Ineligible places.

No license shall be granted or renewed for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent or unpaid.
(Ord. No. 1997-76, § 9, 4-1-1997)

Sec. 4-57. Conditions.

(a) *Generally.* Every license is subject to the conditions specified in this division and of any other applicable ordinance, state law or regulation.

(b) *Closing hours.* Every holder of any on-sale license shall cause the premises to be vacated of all persons except the owner or manager within one hour after the licensed premises closes. All intoxicating liquor or 3.2 percent malt liquor shall be stored out of public view after closing time. No licensee shall give or sell intoxicating liquor or 3.2 percent malt liquor to any employee while such employee is working on the premises. All customers or persons not employed by a licensee shall vacate the premises within one-half hour after the established closing time.

(c) *Inspections.* 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.

(d) *Display.* No establishment shall display intoxicating liquor to the public during hours when the sale of intoxicating liquor is prohibited.

(e) *Employment of minors.* No person under the age of 18 years shall be employed on the premises of any establishment selling intoxicating liquor or 3.2 percent malt liquor when such beverages are on display and offered for sale. This prohibition shall not apply to restaurants. In no case may a person under 18 years of age offer for sale, mix, or serve intoxicating liquor or 3.2 percent malt liquor in any licensed establishment.
(Ord. No. 1997-76, § 10, 4-1-1997)

State Law References: General conditions of license, Minn. Stats. § 340A.410; responsibility of licensee, Minn. Stats. § 340A.501; days and hours of sale, Minn. Stats. § 340A.504.

Sec. 4-58. Suspension and revocation.

Lapse of required dram shop insurance, any required bond, or withdrawal of a required deposit of cash or securities shall effect an immediate suspension of any license issued pursuant to this division without further action of the city council. Notice of cancellation or lapse of a current intoxicating liquor liability policy or bond, or withdrawal of deposited cash or securities shall constitute notice to the licensee of suspension of license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon and if such request is made in writing to the city clerk, a hearing shall be granted within ten days or such longer period as may be requested. Any suspension under this section shall continue until the city council determines the financial responsibility requirements have been met.
(Ord. No. 1997-76, § 12, 4-1-1997)

State Law References: License suspension or revocation, Minn. Stats. § 340A.415.

Secs. 4-59--4-89. Reserved.

DIVISION 3.

SALES TO UNDERAGE PERSONS*

* **State Law References:** Sales to underage persons, Minn. Stats. § 340A.503.

Sec. 4-90. Definitions.

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

Licensed establishment means any place of business where alcoholic beverages are available for sale to the general public. Licensed establishments shall include, but not be limited to, bars, restaurants and clubs.

Licensed premises means the premises described in the approved license application, subject to the provision of Minn. Stats. § 340A.410, subd. 7. In the case of a restaurant, club or exclusive liquor store licensed for on-sale of alcohol located on a golf course, the term "licensed premises" means the entire golf course except for areas where motor vehicles are regularly parked or operated.

Licensee means any person, individual, firm, corporation, partnership, association, limited liability company, government agency, club or organization of any kind licensed by the city under the authority contained in Minn. Stats. ch. 340A.

Retail means sale for consumption.

Sale means any transfer for money, trade, barter or other consideration.

Underage person means a person under the age of 21 years.
(Ord. No. 2002-92, § 2, 3-12-2002)

Sec. 4-91. Purpose and scope.

(a) *Purpose.* The city recognizes many persons under the age of 21 years attempt to purchase or otherwise obtain, possess and use alcohol. In order to more strictly enforce the prohibitions against the sale of alcohol to underage persons, the council enacts this provision imposing civil penalties on licensees and establishing license suspension and revocation procedures for violations of the prohibitions contained in this division. The prohibitions created and sanctions imposed by this provision are not exclusive and are in addition to any other sanctions available to the city under any other statute, rule or ordinance.

(b) *Scope.* This division applies to any establishment licensed by the city under the authority contained in Minn. Stats. ch. 340A.

(c) *State law adopted.* The provisions of Minn. Stats. § 340A.503 are adopted by reference.
(Ord. No. 2002-92, §§ 1, 4, 3-12-2002)

Sec. 4-92. Inspection and compliance checks.

To ensure that alcohol is not sold to underage persons, law enforcement officers or other designated employees or independent contractors of the city shall periodically perform inspections and compliance checks. Additional inspections and compliance checks may be performed as a result of failed inspections or failed compliance checks.

(1) *Inspections.* All licensed premises shall be open to inspection by any law enforcement officer, or other designated officer, employee or contractor of the city, at any time there are persons within the licensed premises. The city shall from time to time perform compliance checks to determine if retailers are in compliance with state statute and local ordinance.

(2) *Compliance checks.* The city shall conduct compliance checks by using underage persons over the age of 16 years to enter the licensed premises to attempt to purchase alcohol. Minors may be used for compliance checks with the written consent of the minor's parent or guardian. Designated law enforcement personnel shall supervise underage persons used for compliance checks. Underage persons used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of alcohol when such alcohol is obtained or attempted to be obtained as part of the compliance check. No underage person used in the compliance check shall attempt to use a false identification misrepresenting the underage person's age and all underage persons lawfully engaged in a compliance check shall answer all questions about the underage person's age asked by the licensee or his employee and shall produce any identification, if any exists, for which he is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research or training purposes or required for the enforcement of a particular state or federal law.
(Ord. No. 2002-92, § 5, 3-12-2002)

Sec. 4-93. Enforcement and penalties.

(a) *Enforcement.* Violations of the prescriptions established in this division may be enforced through

criminal and/or civil sanctions. The administrative penalty provisions of this division shall be enforced pursuant to chapter 2, article V.

(b) *Administrative penalties.* The city may issue the following administrative penalties for violations of this division:

(1) *First violation.* Any licensee found to have violated this division shall be charged an administrative penalty of $500.00; the sum of $250.00 will be waived if all employees attend alcohol awareness training within three months of the violation.

(2) *Second violation.* Any licensee found to have violated this division two times within a 12-month period will be subject to a $1,000.00 administrative penalty.

(3) *Third violation.* Any licensee found to have violated this division three times within a 12-month period will be subject to a $2,000.00 administrative penalty. In addition, a one-day suspension of the liquor license shall be imposed.

(4) *Fourth violation.* Any licensee found to have violated this division four times within a 12-month period will be subject to a $2,000.00 administrative penalty. In addition, a ten-day suspension of the liquor license shall be imposed.

(5) *Fifth violation.* Any licensee found to have violated this division five times within a 12-month period shall have his liquor license revoked.

(c) *Appeal.*

(1) The licensee shall appeal the imposition of an administrative penalty pursuant to chapter 2, article V.

(2) A licensee may appeal a suspension or revocation of a license to the city council pursuant to Minn. Stats. §§ 14.57--14.69. No suspension or revocation shall take effect until the time for appeal has run; or, if appeal is brought, until the city council has rendered a decision.

(Ord. No. 2002-92, § 6, 3-12-2002)

Sec. 4-94. Alcohol awareness training.

(a) *Required.* License holders are encouraged to train all employees authorized to serve or sell alcoholic beverages on the licensed premises through an alcohol awareness program approved by the licensing agency or its designee.

(b) *Alcohol awareness checklist.* Every employee authorized to serve or sell alcoholic beverages is encouraged to use an alcohol awareness checklist. Alcohol awareness checklists are available through the city.

(Ord. No. 2002-92, § 7, 3-12-2002)

Chapter 6

ANIMALS*

* **State Law References:** Animal health, Minn. Stats. ch. 35; dogs and cats, Minn. Stats. ch. 347; cruelty to animals, Minn. Stats. § 343.20 et seq.

Article I. In General

Article II. Wild, Dangerous or Undomesticated Animals

Article III. Dogs

Division 1. Generally

Division 2. Administration and Enforcement

Article IV. Animal Waste

ARTICLE I.

IN GENERAL

Secs. 6-1--6-18. Reserved.

ARTICLE II.

WILD, DANGEROUS OR UNDOMESTICATED ANIMALS

Sec. 6-19. Purpose; prohibited ownership.

To protect the health, safety and welfare of the citizens of the city, it shall be unlawful to keep any wild, dangerous or undomesticated animal within the corporate limits of the city, except as permitted pursuant to the provisions of this article.
(Ord. No. 66, § 1, 12-3-1991)

Sec. 6-20. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Wild animal means and includes any mammal, amphibian, or reptile which is of a species which is wild by nature or of a species which, due to size, vicious nature or other characteristic, is inherently dangerous to human beings. Examples of wild animals considered capable of inflicting severe bodily harm to humans include but are not limited to:

(1) Any large cat of the family Felidae, such as lions, tigers, jaguars, leopards, cougars and ocelots, except commonly accepted domesticated house cats.

(2) Any member of the family Canidae, such as wolves, coyotes, dingos, and jackals, except domesticated dogs.

(3) Any crossbreed such as crossbreeds between dogs and coyotes, or dogs and wolves, but does not include crossbred domesticated animals.

(4) Any poisonous snake such as a rattlesnake, coral snake, water moccasin, puff adder or cobra.

(5) Any snake or reptile which by its size, vicious nature or other characteristic is dangerous to human beings.

(6) Any skunk, raccoon, fox, or ferret, unless certified by a veterinarian to be free of rabies, and kept pursuant to a valid DNR permit, said certification to be obtained within seven days of receipt of the animal.

(7) Any bear, ape, gorilla, monkey (except as exempted by this article), or badger.

(8) Any other animal or reptile which is commonly considered wild and not domesticated, excluding wild horses.

(Ord. No. 66, § 2, 12-3-1991)

Sec. 6-21. Conditional use permit required; exceptions.

(a) Any person desiring to keep an animal prohibited by this article may apply for a temporary conditional use permit from the city council. Such permit may be issued for a period not to exceed 30 days and shall specify conditions under which such animals shall be kept; provided, however, that no such permit shall be issued unless such prohibited animal is brought into the city for entertainment, exhibition or show purposes only, or by persons keeping animals for a public zoo as volunteers, docents or otherwise. A public zoo or other institution engaged in a permanent display of animals, any bona fide research institution or veterinary hospital may be issued a permanent conditional use permit provided applicable zoning requirements are met.

(b) Nonpoisonous snakes or snakes not prohibited by this article, birds kept indoors, hamsters, mice, rabbits, lizards and similar small animals capable of being kept in cages continuously are also exempt and do not require a permit.

(c) Persons with handicaps may keep monkeys trained as personal helpers by conditional use permit subject to annual review.

(d) The raising of wild animals for pelts may be permitted by conditional use permit provided all applicable zoning requirements and all applicable state requirements are met.

(e) Before issuance of any temporary or permanent conditional use permit, the applicant shall provide the city with proof of insurance, including public liability insurance with limits of not less than $1,000,000.00. The insurance shall provide coverage for liability resulting from the ownership or possession of the specific animals being permitted.
(Ord. No. 66, § 3, 12-3-1991)

Sec. 6-22. Impounding of wild animals.

Any wild animal kept in violation of this article may be impounded by the city unless such impounded animal is reclaimed and removed from the city or issued a permit to allow it to remain in the city, or unless the owner petitions the district court for a determination that the animal is exempt from the provisions of this article. The animal may be destroyed or sold five days following notice to the owner of such animal of its impoundment and the provisions of this article.
(Ord. No. 66, § 4, 12-3-1991)

Secs. 6-23--6-47. Reserved.

ARTICLE III.

DOGS*

* **State Law References:** Dangerous dogs, Minn. Stats. § 347.50 et seq.

DIVISION 1.

GENERALLY

Sec. 6-48. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Abandoned means to leave a dog or other domestic animal at large within the city without intending to return to or recover it. It shall also mean to purposefully leave a dog or other domestic animal in the possession of the enforcement officer to avoid paying impoundment and/or boarding costs.

Altered means any female dog that has been spayed or any male dog that has been castrated.

At large means off the premises of the owner and not under the physical control (by leash or by voice) of the owner, a member of the owner's immediate family, or a person designated by the owner.

Enforcement officer means the person designated to enforce the provisions of this article.

Kennel, commercial, means any place where four or more of any type of dog over four months of age, are boarded, bred, trained or offered for sale.
(Ord. No. 98-84, § 84.1, 10-6-1998)

Sec. 6-49. Exemptions.

Except where duties are expressly stated, this article does not apply to hospitals, clinics, and other premises operated by licensed veterinarians exclusively for the care and treatment of dogs.
(Ord. No. 98-84, § 84.2, 10-6-1998)

Sec. 6-50. Interference with enforcement.

No unauthorized person shall break open the pound or attempt to do so, or to take or let out any animals therefrom, or to take or attempt to take from any enforcement officer any dog taken up by him in compliance with the city ordinances or statutes, or in any manner to interfere with or hinder such enforcement officer in the discharge of duties.
(Ord. No. 98-84, § 84.5, 10-6-1998)

Sec. 6-51. Rabies inoculation.

(a) All dogs in the city over the age of six months shall be inoculated for rabies and shall be reinoculated according to standard veterinary practices thereafter. Such vaccination must be performed by or under the direct supervision of a veterinarian duly licensed to practice veterinary medicine in the state in which the vaccine is administered. A certificate from the veterinarian inoculating said dogs shall be exhibited to the enforcement officer upon demand as written proof of such vaccination.

(b) Each dog shall wear a sturdy collar for aid in identification with the veterinarian's metal tag showing proof of said current rabies inoculation. At the owner's discretion, an implanted microchip may be used in lieu of the collar and tag if the microchip identification numbers are placed on file at the American Kennel Club.
(Ord. No. 98-84, § 84.7, 10-6-1998)

State Law References: Rabies control generally, Minn. Stats. § 35.67 et seq.

Sec. 6-52. Nuisances.

(a) *Declared.* The following are public nuisances and unlawful:

(1) Any dog that damages property (that is not the property of the owner), including plantings, lawns or structures, or that deposits fecal matter off of the owner's property that the owner fails to remove promptly.

(2) Any dog that, without provocation, chases, molests or approaches any person in a threatening manner upon the streets, sidewalks, rights-of-way, or any public property, or habitually chases automobiles on the public streets or highways.

(3) Any dog that is kept under unsanitary and/or inhumane conditions such that the maintenance or keeping of the animal creates odors to the annoyance of the public in the vicinity.

(4) Any dog that kills or attacks another animal or livestock without provocation while off the owner's property.

(5) The owning, keeping, or harboring of any dog which shall by any noise unreasonably and/or excessively disturb the peace and quiet of any reasonable person in the vicinity. The phrase "unreasonably and/or excessively disturb the peace and quiet" shall include, but is not limited to, the creation of any noise by a dog which can be heard by any person, including an enforcement officer or law enforcement officer, from a location off the dog owner's property where the dog is being kept, and which noise occurs repeatedly over at least a five-minute period of time with one minute or less lapse of time between each animal noise during the five-minute period. This provision shall not apply to dogs that are responding to trespassers or to dogs that are teased or similarly provoked to bark.

(b) *Complaint.* Any person may, by telephone, notify the city clerk, enforcement officer, or law enforcement officer of an alleged violation of this article. A telephone call does not, however, constitute a formal complaint to initiate the citation process. All formal complaints shall be submitted in writing to the attention of the city clerk, or other elected city official, and shall describe the dog, state the acts committed by the dog, the name and address of the person owning or harboring the dog, and the name and address of the person making the complaint. The city clerk shall then promptly notify the person owning or harboring the dog of the acts complained of, either by letter or door tag, and shall request that the nuisance be abated or eliminated within a specified time period. The city clerk shall also cause the enforcement officer or law enforcement officer to investigate and file a report on the complaint.

(c) *Notification.* Upon receipt of a second complaint of a violation of this article, the city clerk, or other elected city official, shall cause the enforcement officer or law enforcement officer to investigate and file a second report on the complaint. If the offense is corroborated by the investigation, the city clerk shall, by certified letter, notify the person owning or harboring the dog of the violations complained of, and require that the nuisance be abated or eliminated within 24 hours or some other reasonable time specified in the letter. A copy of the letter shall be mailed to the enforcement officer and a copy shall be mailed to the person making the complaint.

(d) *Failure to comply.* If the owner fails to take corrective action within 24 hours or within the time specified in the letter, the city clerk shall contact the appropriate law enforcement agency and/or the city attorney, inform them of the alleged violation, and request that the owner be cited.
(Ord. No. 98-84, § 84.11, 10-6-1998)

Sec. 6-53. Animal bites and animals exposed to rabies.

(a) *Right of entry.* Any law enforcement officer or enforcement officer may enter upon the private property of any person while in pursuit of any dog under probable cause to believe that such dog has bitten a person or animal, or that such dog is rabid.

(b) *Quarantine required.* Subsection (a) of this section notwithstanding, whenever any person who owns, possesses or harbors any dog within the city learns that the dog has bitten any human being, such person shall immediately quarantine such dog for a period of at least ten days, keeping it apart from other animals until it is determined whether the dog has rabies. The quarantine may be by the person owning the dog if such dog has a current rabies vaccination at the time the bite occurred. If the dog does not have a current rabies vaccination at the time the bite occurred, the dog must be impounded at a licensed pound or with a licensed veterinarian at the owner's expense. After the required ten-day quarantine, the dog shall be examined by a licensed veterinarian to ensure that there are no clinical signs of rabies. If the dog is found to be rabid, it shall be humanely euthanized.

(c) *Unclaimed dogs.* If the dog owner cannot be located or advised of the dog bite within eight hours of the occurrence, or if the owner fails to quarantine the dog as required by this article, the enforcement officer shall cause the dog to be impounded and so quarantined. After the required ten-day quarantine, if the dog is still unclaimed, the dog shall be humanely euthanized and tested for rabies; if claimed, the dog shall be examined by a licensed veterinarian to ensure there are no clinical signs of rabies. If no signs of rabies are observed, the dog can be released to the owner. If the dog is found to be rabid, it shall be humanely euthanized.

(d) *Monitoring and ending quarantine.* The enforcement officer, or other designate of the city shall have the authority to verify if the dog is properly quarantined. Any veterinarian quarantining an animal shall notify

the enforcement officer before the release of such animal.

(e) *Exposure to rabies.* Any dog known to have been bitten by a rabid dog or exposed to rabies shall be impounded. If, however, the dog is at large and cannot be apprehended after reasonable effort, the dog may be immediately destroyed. After impoundment, if proof of rabies immunization is furnished and booster injections are given by a licensed veterinarian at the expense of the owner, the dog may be released to the owner. If it cannot be proven that the animal has a current rabies immunization, the owner may, at his discretion, make provision for a suitable quarantine for a period of not less than six months.
(Ord. No. 98-84, § 84.8, 10-6-1998)

Sec. 6-54. Running at large prohibited.

No person shall allow a dog to run at large at any time.
(Ord. No. 98-84, § 84.9, 10-6-1998)

Sec. 6-55. Females in heat.

Every female dog in heat shall be confined in a building or other secure enclosure in such manner that such female cannot come in contact with another dog, except for the express purpose of planned breeding, or shall be controlled on a leash while being exercised.
(Ord. No. 98-84, § 84.13, 10-6-1998)

Sec. 6-56. Abandonment prohibited.

No person shall abandon any dog, or other domestic animal, within the city.
(Ord. No. 98-84, § 84.10, 10-6-1998)

Sec. 6-57. Sanitation.

Any person who owns, keeps or harbors any dog must remove all dog feces, on a daily basis, from all enclosed dog runs or kennels, and must remove, on a daily basis, any accumulations of dog feces which are visible from any location outside the borders of that person's property.
(Ord. No. 98-84, § 84.15, 10-6-1998)

Secs. 6-58--6-87. Reserved.

DIVISION 2.

ADMINISTRATION AND ENFORCEMENT

Sec. 6-88. Enforcement officer.

The enforcement officer shall have police powers necessary for enforcement of this article, including authority to issue complaints for violations.
(Ord. No. 98-84, § 84.3, 10-6-1998)

Sec. 6-89. Seizure of dogs; impounding.

Any person may seize, impound, or restrain any dog found running at large. Any person or officer (other than the enforcement officer) impounding or restraining such dog shall immediately deliver the same to the enforcement officer. If the animal is collarless, the enforcement officer shall immediately ascertain whether the dog has a tattoo or embedded microchip as a means of identification. The enforcement officer shall thereupon give notice of the impoundment to the owner or, if the owner is unknown, or cannot reasonably be reached, shall post notice of the impoundment at the city hall (and at such other places as may be designated by the city council). If such dog is not claimed within five calendar days of such posted notice and all fees and charges paid, the

enforcement officer shall deliver said dog to the custody of the city designated animal shelter. Any dog restrained or impounded shall receive humane treatment and sufficient food, water and shelter.
(Ord. No. 98-84, § 84.14, 10-6-1998; Ord. No. 2004-108, § 1, 3-3-2004)

Sec. 6-90. Impounding and boarding fees.

(a) The enforcement officer may charge such reasonable impounding fees for the care and council of any dog restrained or impounded and any and all such fees so imposed shall be paid to the enforcement officer at the time of reclaiming the dog. The city council shall annually review all fees so imposed by the enforcement officer to determine their reasonableness, and may, by resolution, impose such additional fees reasonably related to the necessary and reasonable expenses incurred by the city for the capture, transportation, and/or care of impounded dogs. All such fees must be paid to the enforcement officer prior to release of the animal. The enforcement officer shall issue a receipt to the owner evidencing such payment.

(b) In the case where any dog has been impounded whose rabies vaccination is not current, said dog shall not be released unless the owner first obtains written evidence, from a licensed veterinarian, that arrangements have been made to have the dog vaccinated upon its release. Any written evidence submitted pursuant to this provision shall be deemed inadmissible in any criminal court action against the owner of the dog.
(Ord. No. 98-84, § 84.16, 10-6-1998)

ARTICLE IV.

ANIMAL WASTE

Sec. 6-91. Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Animal means a dog, cat or other animal kept for amusement or companionship.

Owner/Custodian means any person who harbors, feeds, boards, possesses, keeps or has custody of an animal.

Immediately means at once, without delay.

Soil/defile means to make unclean from excrement.

Waste means solid matter expelled from the bowels of the pet; excrement.

Sec. 6-92. Purpose and Intent.

(a) No order or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk, public way, play area, or upon private property other than that of the owner, unless such owner immediately removes and disposes of all feces deposited by such animal in a sanitary manner.

(b) It is unlawful for any person owning, keeping or harboring an animal to cause or permit said animal to be on any public or private property not owned or possessed by such person without having in his/her immediate possession a device for the removal of feces and depository for the transmission of excrement to a proper receptacle located on the property owned or possessed by such person.

(c) It is unlawful for any person in control of, causing or permitting any animal to be on any public or private

property not owned or possessed by such person, to fail to remove feces left by such animal and dispose of it properly as described in section (d).

(d) Proper disposal of animal waste shall be limited to burial where lawfully permitted, flushing in the toilet, bagging for disposal in the owner or keepers waste receptacle, and bagging for disposal in a waste receptacle designated for animal waste in a public park or park area.

(e) Disposal of animal waste in storm drains is prohibited.

(f) Disposal of animal waste in public compost is prohibited.

(g) The provisions of this section shall not apply to the ownership or use of any properly identified service animals, animals when used for police activities, farm animals or tracking animals when used by or with permission of the appropriate authorities.

(h) Any duly authorized agent should be responsible for issuing the citations.

(i) Any person violating any provision of this ordinance may be subject to a forfeiture of not less than $200 nor more than $500.

(Ord. No. 2022-70, 10-4-2022)

Chapter 8

BUILDINGS AND BUILDING REGULATION*

* **State Law References:** Authority to regulate building construction, Minn. Stats. § 412.221, subd. 28.

ARTICLE I.

IN GENERAL

Secs. 8-1--8-18. Reserved.

ARTICLE II.

BUILDING CODE*

* **State Law References:** State building code, Minn. Stats. ch. 326B.

Sec. 8-19. Code adopted by reference.

The Minnesota State Building Code, as adopted by the commissioner of administration pursuant to Minn. Stats. ch. 326B, including all of the amendments, rules and regulations established, adopted and published from time to time by the state commissioner of administration through the building codes and standards division is hereby adopted by reference with the exception of the optional appendix chapters, unless specifically adopted in this article. The Minnesota State Building Code is hereby incorporated in this article as if fully set forth herein.
(Ord. No. 2005-113, § 1, 3-8-2005)

Sec. 8-20. Application, administration and enforcement.

(a) The application, administration, and enforcement of the code shall be in accordance with the state building code. The code shall be enforced within the extraterritorial limits permitted by Minn. Stats. § 326B.121, subd. 2 when so established by this article.

(b) The code enforcement agency of the city is called the building inspector. The zoning

administrator for the city is the council.

(c) This code shall be enforced by the state-certified building official (building inspector) designated by the city to administer the code pursuant to Minn. Stats. § 326B.133, subd. 1.
(Ord. No. 2005-113, § 2, 3-8-2005)

Sec. 8-21. Permit issuance and fees.

(a) The issuance of permits and the collection of fees shall be as authorized by Minn. Stats. § 326B.121, subd. 1.

(b) Permit fees shall be assessed for work governed by the state building code pursuant to the fee schedule established by ordinance. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minn. Stats. § 326B.148.
(Ord. No. 2005-113, § 3, 3-8-2005)

Sec. 8-22. Violations.

A violation of the state building code is a misdemeanor.
(Ord. No. 2005-113, § 4, 3-8-2005)

Chapter 10

EMERGENCY MANAGEMENT AND EMERGENCY SERVICES*

* **State Law References:** Emergency management, Minn. Stats. ch. 12; local emergencies, Minn. Stats. § 12.29.

ARTICLE I.

IN GENERAL

Secs. 10-1--10-18. Reserved.

ARTICLE II.

ALARM SYSTEMS*

* **State Law References:** Alarm transmission telephone devices, Minn. Stats. § 237.47.

Sec. 10-19. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Alarm system means an assembly of equipment and devices (or a single device such as a solid state unit which plugs directly into a 110-volt AC line) arranged to signal the presence of a hazard requiring urgent attention and to which public safety personnel are expected to respond.

Audible alarm means a device designed for the detection of unauthorized entry on premises, and which, when actuated, generates an audible sound on or near the premises.

Criminal activity means entrance upon or into the property of another, taking the property of another, or damaging the property of another without permission. The term "criminal activity" includes burglary, robbery, assault, theft, damage to property, or other crimes as defined by state law.

False alarm means any alarm system triggered by some reason other than the activity the alarm is designed to detect. It does not include activation of the alarm by acts of God or by utility company power outages.

Public safety personnel means any law enforcement officer, fire department member, emergency medical response personnel, or other individuals responding in the aid of public safety or rescue.
(Ord. No. 1997-79, § 79.01, 10-20-1997)

Sec. 10-20. Response to false alarms.

(a) A fee, as established by ordinance, shall be paid to the city for the fourth response and each subsequent response by the city's public safety personnel within one calendar year to a false alarm.

(b) The city may collect such fee by whatever means necessary, including the institution of a civil action against the person responsible for the payment of such fee or certifying the fee on the property tax.
(Ord. No. 1997-79, § 79.02, 10-20-1997)

Sec. 10-21. False alarm reports.

(a) The chief of police, the sheriff, the fire chief and/or fire marshal may require the person in control of the alarm system to submit a written report after any false alarm. The report shall contain information specified by the chief making the request.

(b) The chief of police, the sheriff, the fire chief and/or fire marshal may excuse false alarms associated with their respective departments when there is evidence that they are the result of an effort or order to upgrade, install, or maintain an alarm system if one or more false alarms result from the same malfunction within a seven-day period.
(Ord. No. 1997-79, § 79.03, 10-20-1997)

Sec. 10-22. Audible alarm requirements.

(a) All audible alarms shall meet the requirements of this section.

(b) Every person maintaining an audible alarm shall post a notice containing the name and telephone number of the persons to be notified to render repairs or service during any hour of the day or night that the alarm sounds. Such notice shall be posted at the main entry to such premises or near the alarm in such a position as to be legible from the ground level adjacent to the building or kept currently corrected on file with the police department, the sheriff's office, and/or the fire marshal's office.

(c) Audible alarms that sound like police and fire sirens are forbidden.

(d) Audible alarms shall have an automatic shut-off which will silence the audible alarm within a period not to exceed 20 minutes and such alarms shall not sound for more than 20 minutes during any hour.
(Ord. No. 1997-79, § 79.04, 10-20-1997)

Sec. 10-23. Dishonored checks.

In addition to the requirements of Minn. Stats. § 609.535 pertaining to the issuance of dishonored checks, whenever restitution is made by the issuer by means of a dishonored check after service of a notice of dishonor by the city, an administrative fee, as established by council ordinance, shall be paid to the city by cashier's check or money order, made payable to the city.
(Ord. No. 1997-79, § 79.05, 10-20-1997)

State Law References: Service charge for dishonored checks authorized, Minn. Stats. § 604.113.

Chapter 12

ENVIRONMENT

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ARTICLE II. JUNK AND ABANDONED PROPERTY*

DIVISION 1. GENERALLY

Sec. 12-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural equipment means any motor-powered vehicle on which rubber tires are mounted and any accessory components therefor and which is used exclusively for the operation and maintenance of farms and households. Typical uses for such agricultural equipment include but are not limited to the following: plowing fields, maintaining driveways, cutting hay and grass, planting, and harvesting. This definition shall not include any motor-powered vehicle such as a bulldozer, scraper, dump truck, semi-tractor and trailer, or backhoe, which is primarily used for excavation, construction, hauling, or any other form of nonagricultural commercial use.

Authorized city official means any city police officer, firefighter, or any other duly authorized person.

City police officer means the city constable or peace officer, any county police deputy, or any other police officer authorized by the city council to provide police services for the city.

Fully screened area means a direct visual barrier that prevents any movable property within its confines from being seen at any time from any adjoining private properties or public place.

Junk car means any motor vehicle which is inoperable, partially dismantled, used for repair of parts, or as a source of repair or replacement parts for other vehicles, or kept for scrapping, dismantling, burning or salvage of any kind, or which is not properly licensed for operation in the state.

Motor vehicle means any motor-powered vehicle having motor-driven wheels, tracks, or any other mechanical form of propulsion which is used for transportation of goods, people, or animals; for digging or any form of movement of dirt or any other natural or manmade material; or for pulling or pushing any form of load; and any accessory components thereon.

Movable property means any form of property which can be moved on or off any private or public land either under its own power or through pushing, towing or carrying by a vehicle, person, or animal. This definition includes all forms of motor vehicles.

Nuisance movable property means any movable property declared to be a public nuisance under section 12-20.

Public place means any street, avenue, alley, road, highway, boulevard, parking lot or facility, park, or any other public property or premises.

Recreational equipment means any movable property used solely for recreational purposes.

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* **State Law References:** Abandoned motor vehicles, Minn. Stats. ch. 168B.

Setback means the minimum horizontal distance between a structure and street right-of way, lot line, or other reference point as provided by ordinance. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure.

Unclaimed movable property means any impounded movable property not claimed by or for any reason not released to the owner thereof within 24 hours after notice is either received by the owner or notice mailed to him as

provided herein.
(Ord. No. 63, § 1, 11-1-1988)

Sec. 12-20. Movable property declared a public nuisance.

(a) *Conditions for declaration as nuisance.* Any motor vehicle or other movable property that is found stopped, standing, or parked in violation of the traffic regulations and provisions or zoning restrictions of the city or that is violating the conditions of any conditional or special use permit issued by the city or that is reported stolen, or that is found impeding firefighting, snow removal, road maintenance, or the flow of traffic, or that is a junk car on any public place or on any private land or premises, unless it shall be in a building or fully screened area or that is otherwise located on any public place or private premises in violation of the terms of this article shall be deemed and declared a public nuisance and such nuisance may be abated in the manner hereinafter set forth.

(b) *Removal and impounding.* Any authorized city official may immediately order such nuisance motor vehicle removed and impounded in the manner hereinafter provided and it shall be surrendered to the duly identified owner thereof by the removal contractor only upon payment of the fees hereinafter provided which are declared to be the movable property pound fees covering such movable property.

(c) *Verbal warning; citation.* Any city police officer may issue a verbal warning to the owner of any movable property suspected of being in violation of this article. This verbal warning shall be reported to the city clerk who shall duly record said warning in permanent records of the city. Any city police officer may issue a citation, upon the direction of the city council, for the removal of any nuisance removable property from any public place or private land that is in violation of any aspect of section 12-23.
(Ord. No. 63, § 2, 11-1-1988)

Sec. 12-21. Conflict with statute.

In the event of a conflict between this article and Minn. Stats. ch. 168B, the more restrictive provision shall control.

State Law References: Abandoned motor vehicles, Minn. Stats. ch. 168B.

Sec. 12-22. Written notice for nuisance movable property.

Upon issuance of a citation for the removal of any nuisance movable property or any nuisance junk car from any public place or private property by any authorized city official, the city clerk shall give written notice to the owner of said nuisance movable property thereof as shown by the records of the county tax assessor or in records of the state registrar of motor vehicles or other pertinent registering agency. Such notice shall be sent by registered or certified mail or delivered by any city police officer to the address as indicated on said records. Such notice shall include a description of said movable property.
(Ord. No. 63, § 8, 11-1-1988)

Sec. 12-23. Storage, parking, etc., of movable property prohibited; exceptions.

In all zoning districts within the city, no person shall store, park, keep, place, or permit the parking or storage of, or repair of any movable property on any public or private land except:

(1) For temporary outdoor use; or

(2) Within a permanent building or fully screened area and subject to the following exceptions:

a. Properly licensed motor vehicles, including recreational vehicles or any other form of movable recreation equipment, provided that such movable property is less than 40 feet in length and is owned and licensed in the name of the current resident of the property on which it is parked, stored, or placed.

b. Construction and landscaping equipment currently being used on the premises. The term "currently being used" is defined as the period of time that construction is actively occurring on the premises. In no case may this period of time exceed a period of 200 continuous days in any annual period without a conditional use permit for such purpose being issued by the city council.

c. Unoccupied licensed trailers which are owned and licensed in the name of the current resident of the property on which it is parked, stored, or placed, less than 25 feet in length, which are used only for agricultural purposes.

d. Agricultural equipment owned and licensed in the name of the current resident of the property on which it is parked, stored, kept, and placed and used exclusively on the premises and which conform to all terms of this article and are not stored, parked, kept, and placed on any public or private land located between any lot line, street, or other reference point and the closest established setback line.

e. Within all areas contained within the general business (GB) zoning district of the city, any motorized vehicle, trailer, construction equipment, or any other vehicle not having been permitted through a conditional use permit issued by the city council and having hauling capacity of one ton or greater or having a gross weight exceeding 12,000 pounds or length greater than 25 feet so long as such movable property is parked on the premises for loading or unloading purposes and in no case longer than any period of seven continuous days.

f. Laundry drying.

g. Patio furniture or any other form of outdoor furnishings or decoration and woodpiles (except diseased wood from tree removal governed by county ordinances and state statutes).

Movable property shall be deemed stored, parked, placed, or kept for temporary outdoor use only if the movable property is not a junk car and is located on the premises outside of a building or fully screened area for a period aggregating no more than 72 hours in a calendar week or a period aggregating no more than 14 days in a calendar year.
(Ord. No. 63, § 3, 11-1-1988)

Sec. 12-24. Fully screened area.

Screening shall in combination or singularly consist of earth mounds, berms or ground forms, fences and walls, landscaping fixtures (such as timbers), or living evergreen trees or bushes of sufficient height and density to prevent any movable property contained within the fully screened area from being seen at any time from any adjoining public place or private property.
(Ord. No. 63, § 4, 11-1-1988)

Sec. 12-25. Parking, storage, repair, or maintenance on junk cars or other movable property.

No person shall park, keep, place, store or permit the parking or storage of or repair or replace parts or do maintenance work on any junk car on any public place or on any private lands or premises unless such movable property shall be within a building or fully screened area on such private premises so as not to be visible from any adjoining private properties or public place.
(Ord. No. 63, § 5, 11-1-1988)

Sec. 12-26. Abandonment.

No person shall abandon any junk car or any movable property or any part thereof upon any public place in the city.
(Ord. No. 63, § 6, 11-1-1988)

Sec. 12-27. Partially dismantled, wrecked, junked, discarded, or nonoperating movable property on public or private property.

It shall be unlawful for any person in charge or in control of any property within the city to allow any junk car or other partially dismantled, nonoperating, wrecked, junked or discarded movable property, including any parts thereof or therefrom, to remain on any public or private property for any period longer than 72 hours unless the junk car or other movable property is located within an enclosed building or fully screened area.
(Ord. No. 63, § 7, 11-1-1988)

Secs. 12-28--12-57. Reserved.

DIVISION 2. IMPOUNDMENT

Sec. 12-58. Impounding, removal, and release.

The city removal contractor shall take immediate possession of any nuisance motor vehicle or any nuisance movable property duly ordered impounded and ticketed by any city police officer for any traffic or parking violation and shall tow such movable property to the designated storage pound. The city removal contractor shall take possession of any nuisance movable property from any public place or private properties after a citation has been issued by any city police officer and the police officer has ordered the removal and impoundment of such nuisance movable property and 72 hours after written notification has been sent to the address of the owner of said nuisance movable property, and shall tow such movable property to the designated storage pound. No such movable property shall thereafter be released without authorization of the city clerk or any city police officer. The removal contractor shall immediately after impounding said movable property notify the city clerk and the city police officer who orders the impoundment of all such impounded movable properties including description, license number, and any other pertinent information.
(Ord. No. 63, § 10, 11-1-1988)

Sec. 12-59. Notification to the owner.

The city clerk shall give notice of the impounding of any such movable property to the owner thereof as shown upon or in records of the state registrar of motor vehicles or other pertinent registering agency. Such notice shall be by registered or certified mail and shall be sent or delivered by any city police officer to the address as

indicated on said records. Such notice shall include a description of the movable property impounded and a statement of the intent of the city to dispose of such movable property after 30 days unless such movable property is released.
(Ord. No. 63, § 11, 11-1-1988)

Sec. 12-60. Removal and storage charges.

The removal and storage charges in connection with impounding or any movable property shall not exceed the amount agreed upon in the contract between the city and the duly appointed removal contractor.
(Ord. No. 63, § 12, 11-1-1988)

Sec. 12-61. Release of impounded movable properties.

The removal contractor during the time the movable property is impounded shall not permit the movable property to be removed or released to the owner until the impounding and storage fees hereinafter provided have been paid. At the time of the return of the movable property the removal contractor shall release the same by a release in writing which shall state the date of such release together with the charges enumerated thereon and the purpose for which such charges were made.
(Ord. No. 63, § 13, 11-1-1988)

Sec. 12-62. Report by impounding official; receipt by removal contractor.

Any authorized city official directing the impounding of any nuisance movable property shall prepare written report of such movable property which report shall among other things include the following: make and type of movable property, license number, motor number, number of tires or other form of propulsion, tools, and other separate articles of personal property, general description of the movable property with regard to condition, damaged parts, and other such information as may be necessary to describe adequately the movable property and such property delivered to the removal contractor. The removal contractor shall receipt for and verify such report and his signature thereon shall be considered a receipt for the movable property and the property described therein.
(Ord. No. 63, § 14, 11-1-1988)

Sec. 12-63. Sale of movable properties.

Any movable property which is impounded, pursuant to this article or any other ordinance or statute and which is not released within 30 days of mailed notice to the owner, may be sold by the city to the highest bidder at public auction or sale following reasonable published notice thereof. The proceeds of such sale shall first be applied towards the cost of handling, storing, and sale of such movable property. The net proceeds shall be placed in the general fund. If within six months of such sale the former owner applies to the city clerk for payment of such net proceeds and if satisfactory proof of ownership is presented, the net proceeds shall be paid to the former owner.
(Ord. No. 63, § 15, 11-1-1988)

Sec. 12-64. Owner of movable property unknown.

If any such movable property is found and removed under circumstances which do not give the authorized city official directing the impoundment or the removal contractor knowledge or means of inquiry as to the true owner thereof, the authorized city official shall immediately report such facts to the city clerk. Any such movable property or property unclaimed or abandoned by any owner for a period of 30 days from and after such impounding shall be sold by the city clerk or the city at a public sale.
(Ord. No. 63, § 16, 11-1-1988)

Secs. 12-65--12-86. Reserved.

ARTICLE III. OPEN BURNING*

Sec. 12-87. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approved waste burner means an incinerator or other burner constructed of fire-resistant material having a capacity of not less than three bushels, a cover which is closed when in use, and maximum openings in the top or sides no greater than one inch in diameter.

Building material means lumber, wood shakes, and other wood products but shall not include composite shingles, tar paper, insulation, wall board wiring, or other similar smoke producing materials.

Diseased shade tree means any tree infected by Dutch elm disease or oak wilt disease or any tree constituting a hazard to a disease control program established by the department of agriculture.

Disposal facility means a facility or site permitted by the state pollution control agency for the intermediate or final disposal of solid waste.

Garbage means discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.

Open burning means the burning of any matter whereby the resultant combustion products are emitted directly to the atmosphere without passing through an adequate stack, duct, or chimney.

Refuse collection service means a public or private operation engaged in solid waste collection and transportation.

Rubbish means nonputrescible solid waste, such as paper, card board, yard clippings, and other natural matter not including garbage.

* **State Law References:** Open burning, Minn. Stats. § 88.171.

Wetland means natural marsh where water stands near, at, or above the soil surface during a significant portion of most years.
(Ord. No. 64, pt. 1-7005.0700, 4-4-1989)

Sec. 12-88. General prohibition.

No person shall cause, allow, or permit open burning.
(Ord. No. 64, pt. 2-7005.0710, 4-4-1989)

Sec. 12-89. Restrictions related to salvage operations.

(a) *Generally.* No person shall conduct, cause, or permit salvage operations by open burning.

(b) *Motor vehicles and scrap metals reduced by burning.* No person shall possess, transport, or process motor vehicles or scrap metals which have been reduced by open burning or incineration in a device or equipment which has not received an operating permit from the state pollution control agency.
(Ord. No. 64, pt. 4-7005.0730, 4-4-1989)

Sec. 12-90. Permit issued by city.

Open burning may be conducted if an open burning permit issued by the city is obtained pursuant to this article and the open burning is conducted in accordance with the requirements of this article and the conditions of the permit.
(Ord. No. 64, pt. 5-7005.0740, 4-4-1989)

Sec. 12-91. Critera for permits; attached conditions.

(a) *Criteria.* Application for open burning permits may be made in cases where fires are proposed to be set for the following purposes:

(1) Bona fide instruction and training of firefighting personnel and for the testing of fire extinguishing equipment;

(2) Elimination of fire or health hazards which cannot be abated by any other practicable means;

(3) Activities in accordance with accepted forest or game management;

(4) Ground thawing for utility repair and construction;

(5) The disposal of trees, brush, grass, and other vegetative matter in the development of land and right-of-way maintenance;

(6) The disposal of diseased shade trees;

(7) The disposal of trees and brush in areas outside the metropolitan area;

(8) Activities in accordance with accepted agricultural practices;

(9) The disposal of building material generated by construction; and

(10) The disposal of building material generated by the demolition of noncommercial or noninstitutional structures.

(b) *Conditions.* A burning permit shall be issued on a prescribed form to the applicant if the burning is for one of the purposes set forth in subsection (a) of this section and the applicant agrees that all burning shall be conducted under the following circumstances:

(1) The prevailing wind at the time of the burning shall be away from nearby residences.

(2) The burning shall be conducted as far away as practical from any highway or public road and controlled so that a traffic hazard is not created.

(3) The burning may not be conducted during the duration of an air pollution alert, warning, or emergency.

(4) The recipient of the permit or his authorized representative shall be present for the duration of any fire authorized by the permit.

(5) Prior notice shall be given to the local department of natural resources forest officer, local fire marshal, or local fire chief of the time and location of any fire authorized by the permit.

(6) Open burning for ground thawing shall be conducted in accordance with the following additional restrictions:

a. Fuels and starting materials shall be of a kind which do not generate appreciable smoke.

b. Coke used for ground thawing within 500 feet of dwellings or occupied buildings shall contain less than one percent sulfur.

c. Ambient air quality standards for sulfur dioxide and carbon monoxide shall not be exceeded at occupied residences other than those located on the property on which the burning is being conducted.

d. Propane gas thawing torches or other devices causing minimal pollution shall be used when practicable.

(7) Open burning of materials pursuant to subsection (a) of this section shall be conducted in accordance with the following additional restrictions:

a. The location of the burning shall not be within 600 feet of an occupied residence other than those located on the property on which the burning is conducted.

b. Oils, rubber, and other similar smoke producing materials shall not be burned or used as starting materials.

c. The burning shall not be conducted within one mile of any airport or landing strip.

(8) Open burning of materials pursuant to subsection (a)(1) of this section shall also only be conducted under controlled burning methods approved by the director.

(9) The burning is conducted under such other reasonable conditions as the permit issuing authority may impose.

(Ord. No. 64, pt. 6-7005.0750, 4-4-1989)

Sec. 12-92. Denial.

Any permit application submitted pursuant to this article shall be denied if:

(1) A reasonable, practical alternative method of disposal of the material is available; or

(2) A nuisance condition would result from the burning.

(Ord. No. 64, pt. 8-7005.0760, 4-4-1989)

Sec. 12-93. Revocation.

Any permit is subject to revocation at the discretion of the director, the local fire marshal or fire chief, or the permit issuer, if:

(1) A reasonable practical method of disposal of the material is found;

(2) A fire hazard exists or develops during the course of the burning; or

(3) Any of the conditions of the permit are violated.

(Ord. No. 64, pt. 9-7005.0790, 4-4-1989)

Sec. 12-94. Liability.

Exemption to conduct open burning or the granting of an open burning permit under any provisions of this article does not excuse a person from the consequences, damages, or injuries which may result therefrom.
(Ord. No. 64, pt. 10-7005.0790, 4-4-1989)

Sec. 12-95. Conflicting laws.

Nothing in this article shall be construed to allow open burning in those areas in which open burning is prohibited by other laws, regulations, or ordinances.
(Ord. No. 64, pt. 11-7005.0800, 4-4-1989)

Sec. 12-96. Recreational fires.

Fires set for recreational, ceremonial, food preparation, or social purposes are permitted provided only wood, coal, or charcoal is burned.
(Ord. No. 64, pt. 12-7005.0610, 4-4-1989)

Sec. 12-97. Diseased shade tree open burning site.

(a) *Conditions.* Open burning of diseased shade trees shall be permitted provided no reasonable alternate method of disposal exists as determined by the state pollution control agency, a permit is obtained pursuant to this article; and the open burning is conducted in accordance with the requirements of this article and the conditions of the permit.

(b) *Site location.* The site shall be located in accordance with the following conditions or as approved by the director of air quality:

(1) Not less than 1,000 feet from an occupied building;

(2) Not less than 1,000 feet from a public roadway;

(3) Not less than one mile from an airport or landing strip;

(4) Not less than 300 feet from a stream; and

(5) Not within wetlands.

(c) *Site preparation.* The site shall be prepared in accordance with the following:

(1) Access to the site shall be controlled by a gate which shall be locked when an attendant is not on duty.

(2) Approach roads to the disposal site and access roads on the site shall be maintained so that they shall be passable at all specified times.

(3) A permanent sign identifying the operation indicating the hours and days the site is open for use, rates, the penalty for nonconforming dumping, and other pertinent information shall be posted at the site entrance.

(4) Surface water drainage shall be diverted around and away from the operating area and ash storage areas.

(d) *Site operation.* The site shall be operated in accordance with the following conditions:

(1) Only diseased shade trees and/or tree trimmings shall be disposed of on the site.

(2) Qualified personnel for general direction and operation of the site shall be on duty at all times while

the site is open for use and for the duration of any fire on the site.

(3) Burning shall be conducted only when weather conditions are such that a nuisance, health or safety hazard will not be created.

(4) Prior notice shall be given to the local fire authority of the time and duration of each fire.

(5) Adequate dust control shall be provided on the site and on the roads leading to the site.

(6) Ash residue shall be collected on a periodic basis and disposed of in an agency-permitted sanitary landfill.

(e) *Site termination.* The site shall be terminated in accordance with the following: All materials extraneous to the site shall be removed and disposed of in an appropriate manner. The site shall be returned to a state equal to its original condition.

(Ord. No. 64, pt. 13-7005.0620, 4-4-1989)

Sec. 12-98. Permit fees.

The city council hereby authorizes the collection of reasonable permit fees in the amount established by ordinance for activities under this article.
(Ord. No. 64, pt. 14, 4-4-1989)

Secs. 12-99--12-124. Reserved.

ARTICLE IV. INDIVIDUAL SEWAGE TREATMENT SYSTEMS*

Sec. 12-144. Washington County Regulations relating to sewage treatment.

The City adopts by reference the most current Washington County Regulations related to Individual Sewage Treatment Systems; and all systems shall meet the standards as permitted by the County. The City Clerk shall keep on file a current copy of the Washington County Regulations at the City Offices.. If conflicts occur between the county regulations and other relevant sections of the City Code, then the most restrictive standard shall govern.
(Ord. No. 2016-48, 12-6-2016)

Secs. 12-145--12-169. Reserved.

ARTICLE V. EXCAVATION OF SAND, GRAVEL OR OTHER SOIL

DIVISION 1. GENERALLY

Sec. 12-170. Gravel contractor inspection fee.

Gravel contractors shall pay to the city a fee established by ordinance on the basis of the amount of gravel hauled, the fee and the amount hauled to be submitted to the city on an annual basis. The purpose of this fee is to cover all costs incurred by the city regarding inspection and supervision of the gravel operation, it being anticipated that an inspector will inspect the gravel operation on a weekly basis.
(Ord. No. 40, § 2(G), 2-4-1975)

Secs. 12-171--12-193. Reserved.

DIVISION 2. PERMIT

Sec. 12-194. Required; exception.

(a) *Activities requiring permit.* No person shall do any of the following acts within the city without first obtaining a permit therefor from the city:

(1) Open, operate or maintain any sand, gravel or other pit or place or grounds for the excavation of sand, gravel or other soil.

(2) Excavate, remove, or store any sand, gravel, rock, dirt, clay or any other material deposits.

(b) *Exception.* No permit shall be required by the owner of land to take gravel or sand for the use on the premises or to take products which are to be used on said premises. Such permits shall be renewable annually and shall expire one year from the date of issuance. Failure to comply with the conditions of such permit as hereinafter set forth shall be grounds for revocation of the same or for refusal to renew the same upon expiration thereof.

(Ord. No. 40, § 1, 2-4-1975)

Sec. 12-195. Application.

Prior to the issuance of such a permit, the following requirements shall be complied with:

(1) The application for special use permit shall contain the following:

a. A legal description of the lands from which it is proposed to remove earthly deposits.

b. The name and address of the applicant and the owner of the land.

c. Copies of any agreements contemplated or entered into between the owner of such lands and any other person, firm or corporation for the operation of maintenance of such removal of earthly deposits.

d. The purpose of the removal. Soil-boring samples may be required to determine the nature of the materials to be mined or extracted and the extent of the deposits.

e. The estimated time required to complete the removal.

f. The highways, streets, or other public ways within the city upon and along which the material removal shall be transported.

g. In the event that water is used in the operation of a pit, then in that event approval from the state department of health shall be obtained as to the type, location and depth of said well and included with said application.

(2) The applicant shall also submit a plan showing the following:

a. The nature and location of the processing of earthly deposits.

b. The area, depth and grade of such processing and the estimated quantity of earthly deposits to be added to or removed from the premises.

c. The drainage of surface water at all stages of processing.

d. The distance of the processing from the lot lines and from any structures in the immediate vicinity.

e. The proposed finished elevations as compared to the elevations prior to the extraction based on sea level readings.

(Ord. No. 40, § 2(A), (B), 2-4-1975)

Sec. 12-196. Fees and application expenses.

(a) Except as hereinafter provided, the annual fee for such permit shall be as established by ordinance and shall accompany the application. In the event that such application is denied, the city council shall retain such amount of said fee as shall be necessary to defray the costs of engineering and legal services incurred by the city council in connection with such application, and the balance, if any, shall be returned to the applicant.

(b) In the event the cost of engineering and legal services exceed said sum, then in that event the applicant shall, upon notice from the city, reimburse the city for the same. The application shall be in such form and shall furnish such information as shall be required by the city council.
(Ord. No. 40, § 2(E), 2-4-1975)

Sec. 12-197. Insurance requirements.

(a) *Casualty insurance; certificate required.* The gravel contractor or lessor of the land involved shall secure and maintain such insurances from an insurance company authorized to write casualty insurance in the state as will protect himself and his agents and the city from claims for bodily injury, death or property damage which may arise from operations under a gravel permit duly issued under this article. A gravel contractor shall not commence work under this article and under a permit duly issued by the city until he has obtained all insurance required under this section and shall have filed a certificate of insurance or the certified copy of an insurance policy with the city. Each insurance policy shall contain a clause providing that it shall not be cancelled by the insurance company without ten days' written notice to the city of intention to cancel.

(b) *Insurance levels.* The amounts of such insurance shall not be less than the following:

(1) Worker's compensation and employer's liability insurance shall be secured and maintained as required by the state.

(2) Public liability, personal injury, and property damage:

a. Injury or death of one person--$250,000.00.

b. Injury to more than one person in a single accident--$500,000.00.

c. Property damage--$200,000.00.

(3) Automobile and truck public liability, personal injury and property damage, including owned and nonowned vehicles:

a. Injury or death of one person--$250,000.00.

b. Injury to more than one person in a single accident--$500,000.00.

c. Property damage--$100,000.00.

(c) *Insurance for other hazards.* The gravel contractor is responsible for any damage as a result of the work, operations, acts, omissions, neglect, equipment failure or other clauses arising out of this contract, including such damage as may be caused by or result from water. Insurance for hazards other than protected by insurance specified in this section is at the contractor's option.
(Ord. No. 40, § 2(F), 2-4-1975)

Sec. 12-198. Restrictions on special use permits.

The city council may impose the following restrictions and requirements in agreement form upon the applicant for a special use permit or any other person interested in the issuance of such permit, either as a prerequisite to the granting of said permit, or after such permit has been granted as follows:

(1) *Fencing.* That the owner or applicant properly fence any pit so that said pit or any standing waters therein may not be a hazard to children.

(2) *Slope limitations, maintenance.* That the applicant or owner slope the banks and otherwise guard and keep any pit in such condition as not to be dangerous to persons or property because of sliding or caving banks; provided, however, that the maximum slopes shall be as follows: Slopes on interior or working portions of the pit shall be at one foot horizontal to one foot vertical; slopes or any edge contiguous to property owned by others or railroads shall be four feet horizontal to one foot vertical.

(3) *Prevention of runoff.* That the owner or applicant prevent water runoff damage, including erosion on adjacent property and the deposit of material by water runoff on adjacent property.

(4) *Dust and noise prevention.* That the owner or applicant employ all reasonable means to reduce dust, noise and nuisances, including, but not limited to, spraying the material that is being processed with water.

(5) *Screening.* That the applicant or owner shall plant suitable and fast-growing screening trees which shall be a minimum of six feet high placed in two rows staggered with trees not more than ten feet apart in each row, when necessary to eliminate unsightly view of the operations.

(6) *Restoration of site.* On completion of the operation, the applicant shall properly drain and level off any pit and restore the contour of the site of the operation to a condition that is reasonably similar to the condition that existed prior to the commencement of the operation. Such condition must not adversely affect the surrounding land/or future development of the site on which the operation was conducted. Upon closing operations or leaving any particular excavation or area in the site, the applicant shall regrade that area which was excavated or disturbed in order that no slopes are in excess of three feet horizontal to one foot vertical.

(7) *Removal of material.* The applicant or owner shall remove any extracted material upon and along the highways, streets, and other public ways in the city as the city engineer shall order and direct.

(8) *Inspections; costs.* The applicant or owner shall reimburse the city for the cost of periodic inspections by the city engineer or other city employee for the purpose of seeing that the terms under which the permit has been issued are being complied with.

(9) *Compliance with other requirements.* The applicant or owner shall satisfy such other requirements as the city council shall from time to time deem proper and necessary for the general welfare and for the protection of the citizens of the city.

(10) *Map of removal transportation route.* The applicant and/or owner shall submit to the city council a detailed map of the highways, streets, roads and other public ways within the city upon and along which the material removed shall be transported. The city engineer shall inspect such roads proposed to be used by the applicant and/or owner and shall recommend to the city council necessary upgrading or repairing of such roads prior to their use as haul roads by the applicant and/or owner. The city council shall designate haul roads and shall incorporate the recommendations of the engineer into the permit issued to the applicant; it shall be the responsibility of the applicant and/or owner to maintain such haul roads in accordance with the terms as set forth in the permit. The city engineer shall make periodic inspections of such haul roads to ensure compliance with the permit, and upon completion of the operational period of the gravel pit, the owner and/or operator shall make any necessary repairs to the haul roads as recommended by the city engineer. All costs of the inspections described shall be borne by the owner and/or operator. Dust control shall be the continuous obligation of the owner and/or operator during any operational period on all haul roads, and the use of such roads shall further be subject to any road and weight restrictions imposed by the city. The city council shall further designate the maximum speed limit which the trucks of the owner and/or operator shall be driven over said haul roads.

(11) *Other conditions imposed.* The city council may at its discretion attach such other additional conditions to said permits as they may deem necessary in the interest of public health, welfare and safety of the community.

(12) *Distance from other property and rights-of-way.* No material may be removed or excavated from or stockpiled upon an area contiguous to private property or roadway rights-of-way closer than 100 feet.

(13) *Hours of operation.* The hours of operation shall be limited to 7:00 a.m. to 7:00 p.m. daily, provided, however, that no excavation or processing work shall be conducted on Sundays or legal holidays as set forth in the state statutes. The term "operation" shall be defined to include the driving of all hauling trucks or equipment into or out of a gravel pit; loading, repairing; roadwork; or engine start-up of any kind. No drainage pumps of whatsoever kind or other similar units shall be run at any time other than during those hours specified in this subsection. It is the specific intent of this section that no activity of any kind shall take place on or upon any gravel pit area

other than during those hours specified in this subsection.

(14) *Annual report.* The applicant shall submit annually in writing to the city council the estimated quantity of gravel to be removed, the anticipated route over which the trucks are to travel, the beginning and completion time for the operation, and the area in the pit which will be used for excavation. It is understood that this information may not at all times be submitted with certainty, but it is the intent of this provision to keep the city as well-informed as possible regarding the anticipated operation for the year in question.

(15) *Lake development.* In the event that a development plan is submitted which anticipates a lake about which lots will be platted, said lake must be planned for at least a 15-foot depth. Any development plan indicating a lake development shall provide a means for level control or computations which proves that the lake can contain drainage directly to it by freeboard storage utilizing 100-year storm data. It is understood that the water table in the area in question is unstable and any problems arising regarding the depth of the lake created shall be referred to the city consulting engineer.

(16) *Nearby wells.* The operation of the gravel pit shall not affect the safety or quantity of any well within one-quarter mile from the pit. Proof that the hydraulic or static effect is not detrimental to any such well shall be provided by the applicant.

(17) *Equipment muffler.* All equipment run by fossil fuels and used in the operation of any gravel pit in the city shall be equipped at all times with a muffler in good working order which blends the exhaust noise into the overall noise of said equipment and is in constant operation to prevent excessive or unusual noise. The exhaust system of such equipment shall not emit or produce a sharp, popping, or crackling sound.

(Ord. No. 40, § 2(C), 2-4-1975)

Sec. 12-199. Bond.

The applicant must file with the city clerk a surety bond, in such form and sum as the city council may require, running to the city, conditioned to pay the city the cost and expense of repairing any highways, streets, or other public ways within the city, made necessary by the special burden resulting from the hauling and transporting of earthly deposits thereon by the applicant. The amount of such cost and expense shall be determined by the city engineer. The surety bond shall be further conditioned to comply with all the requirements of this article and the particular permit, and to save the city free and harmless from any and all suits and claims for damages resulting from the negligent removal or storage of earthly deposits within the city.

(Ord. No. 40, § 2(D), 2-4-1975)

Secs. 12-200--12-221. Reserved.

ARTICLE VI.

TREE DISEASE AND TREE PROTECTION

Sec. 12-222. Intent.

The city has determined that there are many trees growing on public and private premises within the city, the loss of which would substantially depreciate the value of public and private premises and impair the safety, good order, general welfare and convenience of the public. The city council has determined that the health and life of such trees is threatened by fatal diseases such as Dutch elm, oak wilt and others. The city council hereby declares its intention to control and prevent the spread of such diseases and the insect pests and vectors which carry such diseases and declares them a public nuisance.

(Ord. No. 41, § 1, 5-6-1975)

Sec. 12-223. Tree inspector.

The position of tree inspector is hereby created. It is the duty of the tree inspector to coordinate, under the direction and control of the city council, all activities of the town relating to the control and prevention of Dutch elm, oak wilt, or similar plant pests or plant diseases. He shall recommend to the city council the details of a program for the control of Dutch elm disease, oak wilt, or similar plant pests or plant diseases, and perform the duties incident to such program adopted by the city council.
(Ord. No. 41, § 2, 5-6-1975)

Sec. 12-224. Pest control program.

It is the intention of the city council to conduct a program of plant pest control. The program is directed specifically at the control and elimination of Dutch elm disease, oak wilt, fungus, and elm bark beetles and other epidemic diseases of shade trees, and is undertaken at the recommendation of the commissioner of agriculture. The tree inspector shall act as coordinator between the commissioner of agriculture and the city council in the conduct of this program.
(Ord. No. 41, § 3, 5-6-1975)

Sec. 12-225. Nuisances 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 Moreau; or which harbors any of the elm bark beetles, Scolytus multistraitus (Eich.) or Hylurgopinus rufipes (Marsh);

(2) Any living or standing oak tree or part thereof infected to any degree with the oak wilt fungus, Ceratocystis fagacerarum;

(3) Any dead elm or oak tree or part thereof, including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned.

(Ord. No. 41, § 4, 5-6-1975)

Sec. 12-226. Unlawful to permit nuisance to remain.

It is unlawful for any person to permit any public nuisance as defined in section 12-225 to remain on any premises owned or controlled by him within the city. Such nuisance may be abated in the manner prescribed by section 12-223.
(Ord. No. 41, § 5, 5-6-1975)

Sec. 12-227. Inspections authorized; removal of specimens.

(a) The tree inspector, or his authorized agent, shall inspect all premises and places within the city as often as practical to determine whether any condition described in section 12-225 exists thereon. He shall investigate all reported incidents of infestation by Dutch elm fungus, elm bark beetles and oak wilt disease. The tree inspector, or his duly authorized officers, employees or agents, may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them under this article.

(b) Whenever necessary to determine the existence of Dutch elm disease, elm bark beetles or oak wilt in any tree, the person inspecting such tree may remove or cut specimens from the tree in such manner as to avoid permanent injury thereto and may forward such specimens to the state department of agriculture for analysis to determine the presence of such nuisances. No action to remove living trees or wood shall be taken until positive diagnosis of the nuisance has been made or upon written consent by the owner if positive diagnosis is in doubt.

(Ord. No. 41, § 6, 5-6-1975)

Sec. 12-228. Report of nuisance; notice; failure to abate; costs.

(a) Whenever the tree inspector has reason to believe that a nuisance, as defined in section 12-225, exists on any private property in the city, he shall report his findings to the city council. If the city council determines that a nuisance exists, the owner or person in control of such property on which the nuisance is found shall be notified by certified mail of the infestation and the notice shall direct that the infestation be removed or otherwise effectively treated in an approved manner by such owner or person in charge within 20 days of receipt of such notice, or provision for the abatement made. The notice shall also state that if such nuisance shall not have been abated within the time provided, nor provision for the abatement satisfactorily made, the city may abate the nuisance at the expense of the owner, and the unpaid charge or a portion thereof for such work will be made a special assessment against the property concerned.

(b) If the owner or person in control of any private premises fails to have such a tree so removed or otherwise effectively treated within 20 days after receipt of notification by mail, or when the owner or person in control cannot be located, the tree inspector may proceed to have the tree removed and burned or otherwise effectively treated, and any expense incurred by the town in so doing may be a charge and lien upon said property and shall be collected as a special assessment against the property concerned.

(c) The tree inspector shall keep a record of the cost of abatement done under this section and shall report to the city council all work done for which assessments are to be made, stating and certifying the description of the lots and parcels involved and the amount chargeable to each lot and parcel.

(d) As soon as the abatement has been completed and the cost determined, the tree inspector shall prepare a bill and mail it to the owner, and thereupon the amount shall be immediately due and payable at the town hall.

(e) On or before September 1 of each year, the tree inspector shall list the total unpaid charges for each lot or parcel to which they are attributable under this article. The city council may then spread the charges against the property benefited as a special assessment under Minn. Stats. § 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.
(Ord. No. 41, § 7, 5-6-1975)

Sec. 12-229. Transporting diseased wood.

It shall be unlawful for any person to transport within the city any diseased or infected bark-bearing elm wood or oak wood, known to be infected, without having obtained a written permit from the tree inspector. The said inspector shall grant such permits only when the purpose of this article shall be served thereby.
(Ord. No. 41, § 8, 5-6-1975)

Sec. 12-230. Unlawful to interfere with performance of duties by inspector.

It is unlawful for any person to prevent, delay or interfere with the tree inspector or his agents while they are engaged in the performance of duties imposed by this article.
(Ord. No. 41, § 9, 5-6-1975)

Secs. 12-231--12-253. Reserved.

ARTICLE VII.

SHORELAND ZONING AND PROTECTION

Sec. 12-254. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access corridor means an area where vegetation is cut or removed through the buffer to provide access to a lake, stream or wetland.

Bluff impact zone means a bluff and the land located within 20 feet from the top of a bluff.

Bluffline means a line along the top of a slope connecting the points at which the slope, proceeding away from the waterbody or adjoining watershed channel, becomes less than 18 percent and it only includes slopes greater than 18 percent that meet the following criteria:

(1) Part or all of the feature is located in a shore land area.

(2) The slope rises at least 20 feet above the ordinary high-water level of the water body.

(3) The slope must drain toward the water body.

Buffer strip means an undisturbed strip of land adjacent to shorelines and wetlands consisting of native or existing vegetation.

Buffer width, minimum, means the least buffer distance allowable measured perpendicular to the delineated wetland edge or ordinary high-water mark of the lake or stream.

Building line means a line parallel to a lot line or the ordinary high-water levels at the required setback beyond which a structure may not extend.

Commercial use means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Commissioner means the commissioner of the state department of natural resources.

Controlled access lots means lots intended to provide access to the lake for residents of a particular development.

Deck means 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 six inches above ground.

Forest land conversion means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Hardship, as used in connection with the granting of a variance, means:

(1) The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls;

(2) The plight of the landowner is due to circumstances unique to the property, not created by the landowner; and

(3) The variance, if granted, will not alter the essential character of the locality.

Economic conditions alone shall not constitute a hardship if a reasonable use for the property exists under the terms

of the development code. The board of appeals and adjustment may consider inability to use solar energy systems a hardship in granting of the variance.

Height of building means the vertical distance between the highest adjoining ground level at the building and the highest point of the roof.

Impervious surface means the percentage of the lot covered with buildings including all appurtenances, driveways and sidewalks.

Intensive vegetation clearing means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Lake, general development, means generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second and third tiers of development are fairly common.

Lake, natural environment, means generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high-water tables, exposed bedrock, and unsuitable soils.

Lakes, recreational development, means generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lakes around them. Moderate levels of recreational use and existing development often characterize them. Development consists mainly of seasonal and year-round residences and recreationally oriented commercial uses.

Lot width means the horizontal distance between the side lot lines of a lot measured at the ordinary high-water mark, setback line, and road right-of-way.

Ordinary high-water level means, at the boundary of public waters and wetlands, 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 flowage, the ordinary high-water level is the operating elevation of the normal summer pool. On lakes with an established ordinary high-water level by the state department of natural resources, that elevation shall be considered the ordinary high-water level.

Public waters means any waters as defined in Minn. Stats. § 103G.005, subd. 15.

Riparian lot means a lot with frontage on the lake.

River, transition, means a river designated as such by the state department of natural resources.

River, tributary, means watercourses mapped in the protected waters inventory that have not been assigned one of the river classes. These segments have a wide variety of existing land and recreational use characteristics.

Sensitive resource management means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Setback means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high-water level, sewage treatment system, top of a bluff, road, highway, property line or other facility.

Shore impact zone means land located between the ordinary high-water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback.

Shoreland means land which meets all of the following criteria:

(1) A portion of the lot must be located within 1,000 feet of the ordinary high-water level of any public body of water.

(2) A portion of the lot must fall within a shoreland zoning district as delineated on the zoning map (tier one lots).

(3) The lot must have lake frontage or be in the next tier of lots landward that has primary access from the same road that serves the lake lots (tier two lots).

Significant historic site means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the state register of historic sites, or is determined to be an unplatted cemetery that falls under the provisions of Minn. Stats. § 307.07. 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 archaeologist or the director of the state historical society. All unplatted cemeteries are automatically considered to be significant historic sites.

Steep slope means 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 provisions of this article. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

Tier one means a lot or parcel of land with frontage on a waterbody regulated by the shoreland management provisions.

Tier two means a lot or parcel of land that is across the street from a road that serves the lake lots.

Toe of the bluff means the lower point of a bluff with an average slope exceeding 18 percent.

Top of the bluff means the highest point of a bluff with an average slope exceeding 18 percent.

Tributary stream means a stream classified as such by the state department of natural resources.

Unclassified body of water means any lake, pond, backwater, swamp, marsh, wetland, stream, drainageway, flowage, river, floodplain or other water-oriented topographical features not designated as being a natural environment lake, recreational development lake, general development lake, or transition river or tributary stream on the zoning map.

Variance means the same as the term as defined in section 32-60 provided that when a variance to any of the standards contained in this article is applied for, the board of adjustment and appeals shall also consider whether the existing sewage treatment systems on the property need upgrading before additional development is approved and whether the properties are used seasonally or the year around.

Wetlands means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this article, wetlands must:

(1) Have a predominance of hydric soils;

(2) Be inundated saturated by surface water or groundwater at a frequency and duration sufficient to support prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(3) Under normal circumstances, support a prevalence of hydrophytic vegetation.

Wetlands generally include swamps, marshes, bogs and similar areas.
(Ord. No. 2002-91, § 3, 12-4-2002)

Sec. 12-255. Intent and purpose.

The uncontrolled use of shorelands of the city, affects the public health, safety and general welfare by contributing to pollution of public waters, and potentially decreasing property value. It is the intent and purpose of these regulations to:

(1) Regulate the placement of sanitary and waste treatment facilities on lots.

(2) Regulate the alteration of shorelands of public waters.

(3) Regulate alterations of the natural vegetation and the natural topography along shorelands.

(4) Conserve natural resources and maintain a high standard of environmental quality.

(5) Preserve and enhance the quality of surface water.

(6) Preserve the economic and natural environmental values of shorelands.

(7) Provide for the utilization of water and related land resources.

(8) Maintain water quality, reduce flooding and erosion, and provide sources of food and habitat for a variety of fish and wildlife.
(Ord. No. 2002-91, § 1, 12-4-2002)

Sec. 12-256. Scope and applicability.

(a) The provisions of this article shall apply to the shorelands of the public water bodies as classified in section 12-258 of this regulation and unclassified water bodies where applicable.

(b) The use of any shoreland of public waters; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this regulation and other applicable regulations.

(c) The regulations contained in this article are in addition to and not in lieu of other regulations contained in other chapters of the city ordinances where the standards contained in any other chapters of this Code are inconsistent with standards of this article. The standards contained in all the city ordinances shall apply.
(Ord. No. 2002-91, § 2, 12-4-2002)

Sec. 12-257. Shoreland classification system.

(a) *Protected Waters Inventory Map.* The public waters of the city have been classified below consistent with the criteria found in Minn. Rules pt. 6120.3300, in the city comprehensive plan, and the Protected Waters Inventory Map for Washington County, Minnesota.

(b) *Official zoning map.* The shoreland area for the water bodies listed in subsection (a) of this section shall be as shown on the official zoning maps of the city.

(c) *Rivers and streams.* There are no listed rivers in the city.

(1) Tributary streams.

(2) Browns Creek.

(Ord. No. 2002-91, § 4, 12-4-2002)

Sec. 12-258. Uses permitted for districts with lakes and streams.

(a) *Uses for land on lakes.*

(1) Permitted uses.

a. Single-family residential.

b. Parks and historic sites.

c. Agricultural: cropland and pasture.

(2) Uses permitted with a certificate of compliance: home occupation in accordance with section 32-245.

(3) Uses permitted with a conditional use permit: bed and breakfast in accordance with section 32-327.

(b) *Uses for land abutting tributary streams.* The underlying zoning district shall govern all lands abutting tributary streams covered by this article as it pertains to minimum lot size and permitted uses.

(Ord. No. 2002-91, § 5, 12-4-2002)

Sec. 12-259. Lot requirements.

(a) *Lot area and width standards.* The lot area and lot width standards (at road, shoreline and building setback line) for single residential lots created after the date of enactment of the ordinance from which this article is derived for lake and river/stream classifications are the same as for all other lots in the city. Property fronting on streams shall meet underlying zoning density restrictions.

(b) *Additional special provisions.*

(1) Lot width standards must be met at the ordinary high-water level and at the building setback line.

(2) In any new subdivision, lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible, providing all of the following standards are met:

a. The lot must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots;

b. Docking, mooring, or over-water storage of more than six watercraft is prohibited;

c. The lots must be jointly owned by all purchasers of lots in the subdivision or by all

purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and

d. A development agreement is entered into between the developer and the city specifying which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The development agreement must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, stored over water, or parked on the property, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions. No structures are allowed to be constructed on these lots except for docking facilities as approved by the state department of natural resources and the county.

(3) Any individual lots which do not contain a seasonal or permanent home may have one dock with the capacity to accommodate up to three watercraft. No other temporary or permanent structures or recreational vehicles are allowed.

(Ord. No. 2002-91, § 6, 12-4-2002)

Sec. 12-260. Structure and sewer setback and other design criteria.

(a) *Placement of structures on lots.* When more than one setback applies to a site, all structures and facilities must be located to meet all setbacks.

(1) *Structure and on-site sewage system setbacks from ordinary high-water level.* The following setbacks apply in regard to structures and sewage systems by classes of public waters:

Classes of Public Waters	Setbacks (in feet)	
	Structures	Sewage systems
Natural environment	200	150
Unclassified waterbodies	75	75
Tributary streams	200	150
Recreational development	100	75
Wetland Types: 3, 4, 5	75	See subsection (3) of this section.

(2) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the waterbody:

Setback from	Setback (in feet)
Top of bluffline	30
Unplatted cemetery	50
Arterial road	150 from centerline or 75 from road right-of-way, whichever is greater

Right-of-way line of city road, or public street or road	40
Other roads or streets not classified without sewer	30
Sideyard setback	10

(b) *High-water elevations.* The lowest floor including basement of any structure constructed in a shoreland area must be two feet above the 100-year flood elevation or three feet above the highest known water level, whichever is greater.

(c) *Height.* No structure shall exceed 35 feet in height.

(d) *Lot coverage.* A maximum of 25 percent of the lot may be covered with impervious surface. This includes all structures, decks, patios, walks, and surfaced or unsurfaced driveways.

(e) *Stairways, lifts and landings.* Stairways and lifts are the only permitted alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet all of the following design requirements:

(1) Stairways and lifts must not exceed four feet in width;

(2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area;

(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 handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections (e)(1) through (5) of this section are complied with in addition to the requirements of Minn. Rules ch. 1340; and

(7) A certificate of compliance is required.

(f) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(g) *Steep slopes.* The zoning administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. If necessary, conditions must be attached to permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
(Ord. No. 2002-91, § 7, 12-4-2002)

(3) On-site sewage system setbacks from Wetlands of Type 3,4 or 5. The setback of any on-site subsurface sewage treatment system shall be determined from the Watershed District in which the property is located. If no setback requirement exists within the Watershed District's adopted rules and regulations, then the subsurface sewage treatment system shall be setback a minimum of 50-feet from the delineated wetland edge.

(Ord. No. 2020-61, 4-7-2020)

Sec. 12-261. Shoreland alterations.

(a) *Vegetation alterations.*

(1) No cutting or removal of trees over six inches in diameter measured at a point two feet above ground level within the required building setback shall be permitted unless the trees are dead, diseased, or pose a documented safety hazard. A certificate of compliance must be obtained prior to the removal of any trees.

(2) Selective removal of natural vegetation shall be allowed, provided sufficient vegetative cover remains to screen cars, dwellings and other structures, piers, docks and marinas, when viewed from the water.

(3) In order to retard surface runoff and soil erosion, natural vegetation shall be restored insofar as feasible after any construction project is completed.

(4) The provisions of this section shall not apply to normal maintenance of trees such as pruning or removal of limbs or branches that are dead or pose safety hazards.

(5) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas under validly issued construction permits are exempt from these vegetation alteration standards.

(b) *Topographic alterations/grading and filling.*

(1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit, provided the building plans included with the permit address all issues and meets all requirements and provisions of subsection (c) of this section.

(2) Grading or filling is prohibited within the bluff impact zone or shore impact zone. Grading/filling outside these areas shall require a grading permit. Standards for land alteration and grading contained in the city ordinances must be followed.

(3) The filling of any wetland below the normal ordinary high-water mark must be permitted by appropriate federal, state, and local units of government with jurisdiction.

(4) Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors will be allowed only after the department of natural resources has approved the proposed connection to public waters.

(5) Placement of natural rock riprap, 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 riprap is within ten feet of the ordinary high-water mark, and the height of the riprap above the ordinary high-water level does not exceed three feet. A permit must be obtained from the state department of natural resources and a grading permit is obtained

from the zoning administrator.

(c) *Placement and design of roads, driveways and parking areas.*

(1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. All roads and parking areas must be designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(2) All new roads, driveways, and parking areas must meet the lake setback requirements and must not be placed within bluff and shore impact zones.

(3) 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 of this subsection (c) are met and a certificate of compliance is issued by the zoning administrator. Grading and filling provisions of the city ordinances must also be met.

(d) *Buffer strips.* In order to maintain water quality, reduce flooding and erosion, and to provide sources of food and habitat for a variety of fish and wildlife, a buffer strip shall be provided and maintained around all natural environment lakes and streams and type 3, 4 and 5 wetlands.

(1) Lake, wetland, stream buffer widths.

a. The minimum buffer width shall apply to all buffer widths including those that are restored, replaced or enhanced.

b. The city may require a variable buffer width to protect valuable adjacent habitat when considering variances for building setbacks.

c. The following buffer widths shall be maintained:

	Minimum Buffer Width (feet)
Natural environment lake	50
Type 3, 4, 5 wetland	50
Stormwater pond	10
Building setback from outer edge of buffer	10

(2) An access corridor 50 feet wide is permitted to gain access to the water body.
(Ord. No. 2002-91, § 8, 12-4-2002)

Sec. 12-262. Land adjacent to waters.

Any permitted use of land adjacent to public water which needs to have access to and use of public waters must meet the following standards in addition to any other requirements of this article or the county development code:

(1) *Screening requirements.* In addition to meeting impervious coverage limits, setbacks, and other

zoning standards in this Code, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

(2) *Limitations on signs.* 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.

(3) *Limitations on lighting.* 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.

(Ord. No. 2002-91, § 10, 12-4-2002)

Sec. 12-263. Agricultural use standards.

General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management system) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high-water level.
(Ord. No. 2002-91, § 11, 12-4-2002)

Sec. 12-264. Forest management standards.

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment--Forestry and the provisions of Water Quality in Forest Management: Best Management Practices in Minnesota.
(Ord. No. 2002-91, § 12, 12-4-2002)

Sec. 12-265. Conditional uses.

(a) *Criteria.* Conditional uses allowable within shoreland areas shall be subject to review and approval procedures, and criteria and conditions for review of conditional uses established in the city ordinances. A thorough evaluation of the waterbody and the topographic, vegetative, and soils conditions on the site must be made to ensure:

(1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

(2) Limited visibility of structures and other facilities as viewed from public waters.

(3) The site is adequate for water supply and on-site sewage treatment.

(4) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

(b) *Conditions attached to conditional use permits.* The city, upon consideration of the criteria listed in subsection (a) of this section and the purposes of the article, shall attach such conditions to the issuance of the conditional use permits, as it deems necessary to fulfill the purposes of this article. Such conditions may include, but are not limited to, the following:

(1) Increased setbacks from the ordinary high-water level.

(2) Limitations on the natural vegetation to be removed or the requirement that additional vegetation

be planted.

(3) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(Ord. No. 2002-91, § 13, 12-4-2002)

Sec. 12-266. Certificate of compliance.

The city shall issue a certificate of compliance for each activity requiring a building permit or grading permit. The certificate will specify that the use of land conforms to the requirements of this article. Any use, arrangement, or construction at variance with that authorized permit shall be deemed a violation of this article.
(Ord. No. 2002-91, § 14, 12-4-2002)

Sec. 12-267. Water supply.

Any private supply of water for domestic purposes must meet or exceed standards for water quality of the state department of health and the state pollution control agency.
(Ord. No. 2002-91, § 15, 12-4-2002)

Sec. 12-268. Sewage disposal.

(a) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment in accordance with article IV of this chapter and meet appropriate setback requirements as contained in section 12-260.

(b) *Nonconforming sewage treatment systems.* Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with section 12-260(a) and article IV of this chapter. A sewage treatment system not meeting the requirements of article IV of this chapter must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property, with the exception of nonhabitable spaces.
(Ord. No. 2002-91, § 16, 12-4-2002)

Sec. 12-269. Fences.

In addition to the standards required elsewhere in this Code, the following standards must also be met on shoreland property:

(1) No fence shall exceed four feet in height unless all required building setbacks are met. If the fence is located so as to meet required building setbacks, a six-foot high fence is permitted.

(2) No fence shall be constructed closer to the lake than the required lake setback requirement unless the existing home is located closer to the lake than the required setback, in which case the fence may be constructed even with the lake side of the home.

(Ord. No. 2002-91, § 17, 12-4-2002)

Sec. 12-270. Nonconforming situations.

Nonconforming situations shall be regulated in accordance with ordinances, including but not limited to chapter 32, article II, division 3, pertaining to nonconformities, and with the following exceptions:

(1) A lot or parcel of land which was of record as a separate lot or parcel in the office of the county recorder or registrar of titles, on or before January 1, 1973, which is in a residential or agricultural district, and is not a contiguous lot or parcel as that term is described and regulated under the city's

ordinances, may be used for single-family detached dwelling purposes, without a variance, provided that:

a. Area and width thereof are within the minimum requirements elsewhere in the city.

b. All setback requirements of this article can be maintained.

c. It can be demonstrated that two safe and adequate sewage treatment systems can be installed to service such permanent dwelling.

d. On natural environment lakes, any separate lot or parcel of record legally created and recorded prior to the adoption of the ordinance from which this article is derived may be used for single-family detached dwelling purposes without a variance if it meets the minimum requirements elsewhere in the city.

(2) 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 percent 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.

d. No deck on a nonconforming structure shall exceed ten feet in width.

e. The deck is constructed primarily of wood, and is not roofed or screened.

f. A certificate of compliance is obtained from the zoning administrator.

(Ord. No. 2002-91, § 18, 12-4-2002)

Sec. 12-271. Land suitability for subdivision.

Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

(Ord. No. 2002-91, § 19, 12-4-2002)

Sec. 12-272. Notifications to the department of natural resources.

(a) *Public hearings.* Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under this article must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearing. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(b) *Amendments, plats, variances, conditional uses, etc.* A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under this article must be sent to the commissioner of the department of natural resources or the commissioner's designated representative and be

postmarked within ten days of final action.
(Ord. No. 2002-91, § 20, 12-4-2002)

ARTICLE VIII.

CHLORIDE REDUCTION

Sec. 12-273. Definitions.

The following words, terms, phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Anti-icing means the application of a liquid deicer prior to the onset of a snow event.

Best Management Practice (BMP) means structural, vegetative, or managerial practices used to treat, prevent, or reduce water pollution.

Certified Salt Applicator means an individual who apples deicer and has completed Minnesota Pollution Control Agency Smart Salting training (Level 1 or 2).

Deicer means any substance used to melt snow and ice or used for it's anti-icing effects.

Winter Maintenance Professional means an individual who applies deicer for hire (i.e. snow plow drivers, salt truck drivers).

Sec. 12-274. Intent and purpose.

(a) The removal of snow and ice from roadways is essential o both public safety and to the local economy and in order to protect the public safety, during and after winter storm events, the use of pavement deicing chemical is a widely accepter means of keeping roadways passable; and
(b) Pavement deicing is typically accomplished through the use of deicers which can be corrosive to vehicles, roadway surfaces, and bridges and has been found to have adverse effects on the surface waters, groundwater and to environmentally sensitive areas; and
(c) The restoration of surface and ground water quality and ecosystems in such areas can be very difficult and costly, if not impossible to rehabilitate through reverse osmosis, once the events of contamination occur; and
(d) Proper utilization and management of deicing materials is critical to ensure that the environmental impacts of related practices are reduced to the maximum extent possible; and
(e) Negative environmental impacts may occur when salt and other deicers are not properly stored and transported; and
(f) One of the primary sources of chloride entering the ground water is salt spillage that is either plowed of washed from maintenance yards, unloading and loading areas and it is necessary to regulate all persons engaged in the storage and use of bulk deicing materials on their property and elsewhere in order to reduce the costly impacts of such use to the surrounding vegetation, surface water and ground water; and

Sec. 12-275. Occupational Licensure for Winter Maintenance Professionals

(a) *Applicability.* No person will engage in the operation of a winter maintenance business for the private operation of a snowplowing service or the use or storage of salt and other deicing materials, or to assist others in the same for the purpose of managing ice and snow from private roadways, parking areas, and

sidewalks on commercial, industrial, institutional, office, multi-family, and private single-family residential dwellings without being in compliance with the terms and provisions of this chapter,

(b) *Certification Required.*

(1) All persons engaged in the operation of a winter maintenance business for the private operation of a snowplowing service or the use or storage of salt or other deicing materials must employ an individual who possesses current Smart Salting Level 1 and Level 2 Certification from the Minnesota Pollution Control Agency. This individual must be responsible for the application of appropriate deicing material at the proper amount and rate; the employment of correct procedures for temperature and conditions; accurate record-keeping and data recordation; and calibration of equipment annually. In the event of a major storm emergency, the licensing official may exempt winter maintenance professionals from the requirements of this section for services completed under contract with the City of Grant

(c) *Deicer Storage Requirements.*

(1) All persons must employ best management practices to minimize the discharge of polluted runoff from salt and deicer storage and application as follows:

i. Designated salt and deicer storage areas must be covered or indoors.

ii. Designated salt and deicer storage areas must be located on an impervious surface; and

iii. Implementation of practices to reduce exposure when transferring material in designated salt and deicer storage areas (e.g., sweeping, diversions, and/or containment).

Sec, 12-276. Deicer Bulk Storage Facility Regulations.

(a) *Applicability.*

(1) The following sections apply to all indoor and outdoor bulk deicer storage facilities (temporary and permanent) including salt piles, salt bag storage, sand piles and other storage of deicing materials. Bulk storage, as regulated by this chapter, is defined as storage of any material used for deicing and/or traction during winter conditions that is more than five tons in solid form (or 1,000 gallons in liquid form).

(b) *General Requirements.*

(1) Indoor operations for the storage of deicing materials must be provided wherever possible in order to prevent such materials from being affected by rain, snow and melt water.

(2) All salt, sand and other deicing materials stored outdoors must be covered at all times.

i. When not using a permanent roof, a waterproof impermeable, flexible cover must be placed over all storage piles (to protect against precipitation and surface water runoff). The cover must prevent runoff and leachate from being generated by the outdoor storage piles. The cover must be secured to prevent removal by wind or other storm events. Piles must be formed in a conical shape and covered as necessary to prevent leaching.

ii. Any roof leaks, tears or damage should be temporarily repaired during winter to reduce the entrance of precipitation. Permanent repairs must be completed prior to the next winter season.

(c) *Facility Siting.*

(1) The facility must be in close proximity to the area in which the deicing materials are to be used, if practical.

(2) Each facility must be located outside of floodplains and 300 feet from lakes, streams, ditches, storm drains, manholes, catch basins, wetlands and any other areas likely to absorb runoff. A facility must not be located in close proximity to surface water features, water supplies, wells or drywells.

(3) A facility must be located on impermeable surfaces.

(4) The property slope must be away from the facility's salt, deicer, and sand storage area.

(5) Salt vulnerable/intolerant natural areas should be avoided as storage facilities to the extent possible. Where they cannot be avoided, specific measures should be instituted to protect vulnerable areas. Salt vulnerable/intolerable natural areas include, but are not limited to:

i. Areas with salt sensitive vegetation.

ii. Areas serving as a source of drinking water (surface water and ground water)
iii. Areas with bodies of water with low dilution, low volume or salt sensitive species.
iv. Areas associated with ground water recharge zones or shallow water table, with medium to high permeable soils.

(d) *Snow Piles*

(1) Snow piles must be located downslope from salt and deicer storage areas to prevent the snow melt from flowing through storage areas and carrying material to the nearest drainage system or waterway.

(e) *Deicer Tuck Wash Water*

(1) Deicer- and salt-containing truck wash water must be captured, treated, and recycled for use as saltbrine in pre-wetting and anti-icing activities.

(f) *Transfer of Materials*

(1) Practices must be implemented in oder to reduce exposure (e.g., sweeping, diversions, and/or containment when transferring salt or other deicing material.

Sec. 12-277. Land Disturbance Permitting.

(a) *Chloride Management*

(1) An applicant for a permit for land-disturbing activity on property other than individual single-family home sites must provide a plan for post construction management of chloride use on the site that includes, at a minimum:
i. Designation of an induvial authorized to implement the chloride-use plan; and
ii. Designation of a Minnesota Pollution Control Agency Smart Salting-certified salt applicator engaged in the implementation of the chloride-use plan for the site.

Sec. 12-278. Parking Lot, Sidewalk and Private Road Sweeping Requirements.

(a) *Sweeping of Parking Lots, Sidewalk, and Private Roads*

(1) Every owner or occupant of any dwelling or other residential builsing, proprietor or lessee of any business, commercial or public premises, or [insert other entities as appropriate such as homeowner's associations] within the City of Grant, must conform to ice and snow removal specified under [code section]. If dry deicing material is spread, it must be properly swept and disposed of immediately after snow melt. If an owner, occupant, proprietor or lessee neglects or refuses to sweep excess deicing material, the City of Grant may sweep such material or authorize some person to do the same on behalf of the City of Grant. The City of Grant, in its sole discretion, may issue notices of violation to an owner, lessee, proprotor, or occupant for violations of this section.

(Ord. No. 2022-69, 10-4-2022)

AMENDMENT HISTORY OF THIS CHAPTER SINCE CODIFICATION

Amended December 6, 2016 (Ordinance 2016-48). *Repealing sections of the City Cod relating to Individual Sewage Treatment Systems and incorporating the Washington County regulations and standards by Reference.*

Amended April 4, 2020 (Ordinance 2020-61). *Amending Section 12-260 (a) Placement of Structures on lots*

Amended October 4, 2022 (Ordinance 2022-69). *Adding Article VII Chloride Reduction.*

Chapter 14

FLOODPLAIN MANAGEMENT*

* **State Law References:** Floodplain Management Law, Minn. Stats. § 103F.101 et seq.; local floodplain management ordinances, Minn. Stats. § 103F.121.

Sec. 14-1. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

Accessory use or structure means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Basement means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Flood fringe means that portion of the floodplain outside of the floodway.

Floodplain means the channel or beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. Floodplain areas within the city shall encompass all areas designated as zone A on the flood insurance rate map.

Floodway means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

Obstruction means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection,

excavation, dredged spoil, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, stockpile of sand or gravel or other material, or matter in, along, across, or projecting into any channel, watercourse, lake bed, or regulatory floodplain which may impede, retard, or change the direction of flow, either in itself or by catching or collecting debris carried by floodwater.

Regional flood means a flood which is representative of large floods known to have occurred generally in the state and reasonably characteristics of what can be expected to occur on an average frequency and magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the flood insurance rate map.

Regulatory flood protection elevation means an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Structure means anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, and travel trailers/vehicles not meeting the exemption criteria specified in section 14-19 and other similar items.
(Ord. No. 2002-94, § 2.4, 9-3-2002)

Sec. 14-2. Penalties for violation.

(a) *Misdemeanor.* A violation of the provisions of this chapter or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variance, shall constitute a misdemeanor.

(b) *Enforcement mandatory.* In responding to a suspected ordinance violation, the zoning administrator and the city may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The city must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(c) *Investigation.* When an ordinance violation is either discovered by or brought to the attention of the zoning administrator, the zoning administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the state department of natural resources and the Federal Emergency Management Agency regional office along with the city's plan of action to correct the violation to the degree possible.

(d) *Notification.* The zoning administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the zoning administrator may order the construction or development immediately halted until a proper permit or approval is granted by the city. If the construction or development is already completed, then the zoning administrator may either:

(1) Issue an order identifying the corrective actions that must be made within a specified time period

to bring the use or structure into compliance with the official controls; or

(2) Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

(e) *Failure to respond.* If the responsible party does not appropriately respond to the zoning administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this chapter and shall be prosecuted accordingly. The zoning administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this chapter.
(Ord. No. 2002-94, § 10, 9-3-2002)

Sec. 14-3. Statutory authorization.

The legislature of the state has, in Minn. Stats. chs. 103F and 462, delegated the authority to local governmental units to adopt regulations designed to minimize flood losses. The provisions of Minn. Stats. ch. 103F further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program. Therefore the city does ordain as provided in this chapter.
(Ord. No. 2002-94, § 1.1, 9-3-2002)

Sec. 14-4. Statement of purpose.

The purpose of this chapter is to maintain the city eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including loss of life, loss of 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, all of which adversely affect the public health, safety and general welfare.
(Ord. No. 2002-94, § 1.2, 9-3-2002)

Sec. 14-5. Warning of disclaimer of liability.

This chapter does not imply that areas outside of the floodplain district or land uses permitted within such districts will be free from flooding and flood damages. This chapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decisions lawfully made thereunder.
(Ord. No. 2002-94, § 1.3, 9-3-2002)

Sec. 14-6. Applicability.

This chapter shall apply to all lands designated as floodplain within the jurisdiction of the city.
(Ord. No. 2002-94, § 2.2, 9-3-2002)

Sec. 14-7. Adoption of flood insurance rate map.

The flood insurance rate map for the county, panels 30, 40, 125, and 150, dated May 17, 1982, developed by the Federal Emergency Management Agency, is hereby adopted by reference as the official

floodplain zoning district map and made a part of this chapter.
(Ord. No. 2002-94, § 2.1, 9-3-2002)

Sec. 14-8. Interpretation.

The boundaries of the floodplain district shall be determined by scaling distances on the official floodplain zoning district map. Where interpretation is needed as to the exact location of the boundaries of the floodplain district, the city shall make the necessary interpretation based on elevations on the regional (100-year) flood profile, if available. If 100-year flood elevations are not available, the city shall:

(1) Require a floodplain evaluation consistent with section 14-16 to determine a 100-year flood elevation for the site; or

(2) Base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the floodplain.

(Ord. No. 2002-94, § 2.3, 9-3-2002)

Sec. 14-9. Conflict with preexisting zoning regulations and general compliance.

(a) *Floodplain district as overlay zoning district.* The floodplain zoning district shall be considered an overlay zoning district to all existing land use regulations of the city. The uses permitted in sections 14-14 through 14-17 shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this chapter shall apply in addition to other legally established regulations of the city and where this chapter imposes greater restrictions, the provisions of this chapter shall apply.

(b) *Compliance.* No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the floodway and flood fringe, all uses not listed as permitted uses in sections 14-14--14-16 shall be prohibited. In addition, a caution is provided here that:

(1) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically sections 14-14--14-16 and 14-19.

(2) Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically section 14-12.

(3) As-built elevations for elevated structures must be certified by ground surveys as stated in section 14-10.

(Ord. No. 2002-94, § 3, 9-3-2002)

Sec. 14-10. Administration.

(a) *Permit required.* A permit issued by the city clerk shall be secured prior to the construction,

addition, or alteration of any building or structure; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to excavation or the placement of an obstruction within the floodplain.

(b) *State and federal permits.* Prior to granting a permit or processing an application for a variance, the city engineer shall require that the applicant has obtained all necessary state and federal permits.

(c) *Certification of lowest floor elevations.* The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. The city clerk shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the floodplain district.
(Ord. No. 2002-94, § 7, 9-3-2002)

Sec. 14-11. Variances.

(a) A variance means a modification of a specific permitted development standard required in an official control, including this chapter, to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in the city's planning and zoning enabling legislation.

(b) The board of adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this chapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in Minn. Stats. § 462.357, subd. 6. In the granting of such variance, the board of adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance.

(c) Variances from the provisions of this chapter may be authorized where the board of adjustment has determined the variance will not be contrary to the public interest and the spirit and intent of this chapter. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the regulatory flood protection elevation. Variances may be used to modify permissible methods of flood protection.

(d) The board shall submit by mail to the state commissioner of natural resources a copy of the application for proposed variance sufficiently in advance so that the commissioner will receive at least ten days' notice of the hearing. A copy of all decisions granting a variance shall be forwarded by mail to the commissioner of natural resources within ten days of such action.

(e) Appeals from any decision of the board may be made, and as specified in this city's official controls and also state statutes.

(f) The zoning administrator shall notify the applicant for a variance that:

(1) The issuance of a variance to construct a structure below the base flood level will result in

increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

(2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

(g) The city shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the National Flood Insurance Program.
(Ord. No. 2002-94, § 8, 9-3-2002)

Sec. 14-12. Nonconformities.

A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance from which this chapter is derived but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

(1) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

(2) An alteration within the inside dimensions of a nonconforming use or structure is permissible provided it will not result in increasing the flood damage potential of that use or structure.

(3) The cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor, if the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of sections 14-14--14-16 for new structures.

(4) If any nonconforming use of a structure or land or nonconforming structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. The city may issue a permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this chapter.
(Ord. No. 2002-94, § 9, 9-3-2002)

Sec. 14-13. Amendments.

All amendments to this chapter, including revisions to the official floodplain zoning district map, shall be submitted to and approved by the state commissioner of natural resources prior to adoption. The floodplain designation on the official floodplain zoning district map shall not be removed unless the area is filled to an

elevation at or above the regulatory flood protection elevation and is contiguous to lands outside of the floodplain. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The commissioner of natural resources must be given ten days' written notice of all hearings to consider an amendment to this chapter and said notice shall include a draft of the ordinance amendment or technical study under consideration.
(Ord. No. 2002-94, § 11.0, 9-3-2002)

Sec. 14-14. Permitted uses in the floodplain.

The following uses of land are permitted uses in the floodplain district:

(1) Any use of land which does not involve a structure, an addition to the outside dimensions to an existing structure or an obstruction to flood flows such as fill, excavation, or storage of materials or equipment.

(2) Any use of land involving the construction of new structures, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure or obstructions such as fill or storage of materials or equipment, provided these activities are located in the flood fringe portion of the floodplain. These uses shall be subject to the development standards in section 14-15 and the floodplain evaluation criteria in section 14-16 for determining floodway and flood fringe boundaries.

(3) Travel trailers and travel vehicles are regulated by section 14-19.
(Ord. No. 2002-94, § 4.1, 9-3-2002)

Sec. 14-15. Standards for floodplain permitted uses.

(a) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(b) Storage of materials and equipment.

(1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the regulatory flood protection elevation.

(c) No use shall be permitted which will adversely affect the capacity of the channels or floodways

of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.

(d) All structures, including accessory structures, additions to existing structures, and manufactured homes shall be constructed on fill so that the basement floor, or first floor if there is no basement, is two feet above the 100-year flood elevation or three feet above the highest known water level, whichever is greater. The finished fill elevation must be no lower than one foot below the regulatory flood protection elevation and shall extend at such elevation at least 15 feet beyond the limits of the structure constructed thereon.

(e) Uses that do not have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation to lands outside of the floodplain shall not be permitted unless granted a variance by the board of adjustment. In granting a variance, the board shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist.

(f) Accessory land uses, such as yards, railroad tracks, and parking lots, may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

(g) Where public utilities are not provided:

(1) On-site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems; and

(2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

(h) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
(Ord. No. 2002-94, § 4.2, 9-3-2002)

Sec. 14-16. Floodplain evaluation.

(a) Upon receipt of an application for a permit, manufactured home park development or subdivision approval within the floodplain district, the city shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist specifying the nature of the development and whether the proposed use is located in the floodway or flood fringe and the regulatory flood protection elevation for the site. Procedures consistent with Minn. Rules pts. 6120.5600 (Technical Standards and Requirements For Floodplain Evaluation) and 6120.5700 (Minimum Floodplain Management Standards for

Local Ordinances) shall be followed during the technical evaluation and review of the development proposal.

(b) The city clerk shall submit one copy of all information required by subsection (a) of this section to the state department of natural resources area hydrologist for review and comment at least 20 days prior to the granting of a permit or manufactured home park development/subdivision approval by the city. The city clerk shall notify the state department of natural resources area hydrologist within ten days after a permit or manufactured home park development/subdivision approval is granted.
(Ord. No. 2002-94, § 4.3, 9-3-2002)

Sec. 14-17. Utilities, railroads, roads and bridges in the floodplain district.

All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with state floodplain management standards contained in Minn. Rules pts. 6120.5000--6120.6200.
(Ord. No. 2002-94, § 5.0, 9-3-2002)

Sec. 14-18. Subdivisions.

(a) No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be unsuitable by the city for reason of flooding inadequate drainage, water supply or sewage treatment facilities. The city shall review the subdivision/development proposal to ensure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.

(b) In the floodplain district, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in section 14-15(a). The city engineer shall evaluate the proposed subdivision or manufactured home park development in accordance with the standards established in sections 14-15, 14-16 and 14-17.

(c) For all subdivisions in the floodplain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(d) The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
(Ord. No. 2002-94, § 6, 9-3-2002)

Sec. 14-19. Travel trailers and travel vehicles.

(a) Travel trailers and travel vehicles that do not meet the exemption criteria specified in subsection (a)(1) of this section shall be subject to the provisions of this chapter and as specifically spelled out in subsections (b) and (c) of this section.

(1) Travel trailers and travel vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in subsection (a)(2) of this section and further they meet the following criteria:

a. The travel trailers and travel vehicles have current licenses required for highway use.

b. The travel trailers and travel vehicles are highway-ready, meaning on wheels or the internal jacking system are attached to the site only by quick-disconnect-type utilities commonly used in campgrounds and trailer parks, and the travel trailer/travel vehicle has no permanent structural-type additions attached to it.

c. The travel trailer or travel vehicle and associated use must be permissible in any preexisting underlying zoning use district.

(2) Areas exempted for placement of travel/recreational vehicles are as follows:

a. Individual lots or parcels of record.

b. Existing commercial recreational vehicle parks or campgrounds.

c. Existing condominium-type associations.

(b) Travel trailers and travel vehicles exempted in subsection (a)(1) of this section lose this exemption when development occurs on the parcel exceeding $500.00 for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in sections 14-14--14-16.

(c) New commercial travel trailer or travel vehicle parks or campgrounds and new residential-type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following:

(1) Any new or replacement travel trailer or travel vehicle will be allowed in the floodway or flood fringe districts provided said trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation determined in accordance with the provisions of section 14-16 and proper elevated road access to the site exists in accordance with sections 14-14--14-16. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.

(2) All new or replacement travel trailers or travel vehicles not meeting the criteria of section 14-16 may, as an alternative, be allowed if in accordance with the following provisions: The applicant for a permit must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or

contaminated during times of flooding in accordance with section 14-15(g).

(Ord. No. 2002-94, § 12, 9-3-2002)

Chapter 16

HISTORIC PRESERVATION*

* **State Law References:** Municipal heritage preservation, Minn. Stats. § 471.193.

Sec. 16-1. Purpose and intent; definition.

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

Heritage preservation site means any area, place, building, structure, lands, districts, or other objects that have been duly designed heritage preservation sites pursuant to this chapter.

(b) *Declaration of public policy and purpose.* The city council declares that the preservation, protection, perpetuation and use of areas, places, buildings, structures and other objects having a special historical, community or aesthetic interest or value is of public value and will promote the health, prosperity, and welfare of the community. The purposes of the heritage preservation committee are to:

(1) Safeguard the city's heritage by preserving sites and structures which reflect elements of the city's cultural, social, economic, political, visual or architectural history;

(2) Protect and enhance the city's appeal and attraction;

(3) Enhance the visual and aesthetic character, diversity and interest of the city;

(4) Foster civic pride in the beauty and notable accomplishments of the past; and

(5) Promote the preservation and continued use of historic sites and structures for the education and general welfare of the city's residents.

(Ord. No. 2000-90, § 90.01, 9-5-2000)

Sec. 16-2. Establishment of committee.

The heritage preservation committee shall consist of at least three members who shall be residents of the city, serve without compensation, and be appointed by the city council.

(Ord. No. 2000-90, § 90.02, 9-5-2000; Ord. No. 2007-01, § 1, 4-10-2007)

Sec. 16-3. Designation of heritage preservation sites.

(a) *Criteria.* The historic preservation committee shall recommend areas, buildings, districts or objects to be designated heritage preservation sites. In considering the designation of heritage preservation sites, the committee shall apply the following criteria, where applicable:

(1) The character, interest or value as part of the development heritage or cultural characteristics of the city, state or county.

(2) The location as a site of significant historic event.

(3) The identification with a person who significantly contributed to the city's culture and development.

(4) The embodiment of distinguishing characteristics of an architectural style, period, form or treatment.

(5) The identification as work of an architect or master builder whose individual work has influenced the city's development.

(6) The embodiment of elements of architectural design, detail, materials or craftsmanship that represent a significant architectural innovation.

(7) The unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the city.

(b) *Limitation.* No application may be accepted or considered under this chapter unless the fee simple owner of the subject property signs the application.

(c) *Public hearing.* Prior to the committee recommending to the planning commission or city council any building, district or object for designation as a heritage preservation site, the committee shall first hold a public hearing and seek the recommendations of concerned citizens. Prior to the hearing, the committee shall cause to be published in the city's official newspaper notice of the hearing at least 20 days prior to the date of the hearing, and notice of the hearing shall be sent to all owners of the property proposed to be designated a historic preservation site and to all property owners within 300 feet of the boundary of the area to be designated.

(d) *Planning commission review.* If the committee preliminarily determines to recommend approval of an application for a heritage preservation site, it shall first advise the city's planning commission of its proposed recommendation, including boundaries, and any proposed program for the preservation of the site.

(1) The city planning commission shall give its recommendation of approval, rejection or modification of the proposed designation. The planning commission shall consider:

a. The relationship of the proposed heritage preservation designation to the comprehensive plan;

b. The effect of the proposed designation upon the surrounding neighborhood; and

c. Any other planning considerations, which may be relevant to the proposed designation.

(2) The committee may make modifications, changes, and alterations concerning the proposed designation as it deems necessary in consideration of the recommendations of the city planning commission.

(e) *Findings and recommendations.* Following the committee's public hearing and following review by the planning commission, the committee shall determine whether or not to recommend a proposed site be designated as a heritage preservation site. The committee shall transmit its recommendation to the city council along with any proposed program for site preservation.

(f) *City council designation.* The city council retains sole authority to designate, by ordinance, a site as a heritage preservation site.

(g) *Communications with state historical society.* A copy of the city's designation of a heritage preservation site, including boundaries, and the approved program, if any, for the preservation of a heritage preservation site shall be sent, by the city clerk, to the state historical society.

(h) *Acquisition of property.* The committee may recommend to the city council, after review and comment by the city planning commission, that a certain property eligible for designation as a heritage preservation site be acquired by gift, purchase or negotiation.
(Ord. No. 2000-90, § 90.03, 9-5-2000)

Sec. 16-4. Administration.

(a) *Recording of heritage preservation sites.* The city clerk shall record with the county recorder or registrar of titles any ordinances passed by the city council, along with the legal description of all lands designated as heritage preservation sites.

(b) *Authorization of plaque.* Upon approval of a site as a heritage preservation site, the city shall authorize, but not fund, the posting of an appropriate plaque commemorating the site as a heritage preservation site.
(Ord. No. 2000-90, § 90.04, 9-5-2000)

Sec. 16-5. Zoning exceptions.

The city in ruling upon variance requests shall take the status of a site as a heritage preservation site into consideration. Variances shall be granted for heritage preservation sites from the literal provisions of the provision in question where the strict enforcement would otherwise result in the substantial destruction of the heritage preservation site. The city may not, however, permit as a variance any use that is not permitted under the provisions for the property in the zone where the affected land is located. Additionally, variances shall be granted only to the minimum extent necessary to protect the heritage preservation site. Finally, no variances will be granted unless a program approved by the city council is in place to protect and preserve the heritage preservation site.
(Ord. No. 2000-90, § 90.05, 9-5-2000)

Sec. 16-6. Removal of designation.

The city council, for good cause shown and following a public hearing, may remove, by ordinance, the heritage preservation site designation for any site.
(Ord. No. 2000-90, § 90.06, 9-5-2000)

Chapter 16

HISTORIC PRESERVATION*

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(6) The embodiment of elements of architectural design, detail, materials or craftsmanship that represent a significant architectural innovation.

(7) The unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the city.

(b) *Limitation.* No application may be accepted or considered under this chapter unless the fee simple owner of the subject property signs the application.

(c) *Public hearing.* Prior to the committee recommending to the planning commission or city council any building, district or object for designation as a heritage preservation site, the committee shall first hold a public hearing and seek the recommendations of concerned citizens. Prior to the hearing, the committee shall cause to be published in the city's official newspaper notice of the hearing at least 20 days prior to the date of the hearing, and notice of the hearing shall be sent to all owners of the property proposed to be designated a historic preservation site and to all property owners within 300 feet of the boundary of the area to be designated.

(d) *Planning commission review.* If the committee preliminarily determines to recommend approval of an application for a heritage preservation site, it shall first advise the city's planning commission of its proposed recommendation, including boundaries, and any proposed program for the preservation of the site.

(1) The city planning commission shall give its recommendation of approval, rejection or modification of the proposed designation. The planning commission shall consider:

a. The relationship of the proposed heritage preservation designation to the comprehensive plan;

b. The effect of the proposed designation upon the surrounding neighborhood; and

c. Any other planning considerations, which may be relevant to the proposed designation.

(2) The committee may make modifications, changes, and alterations concerning the proposed designation as it deems necessary in consideration of the recommendations of the city planning commission.

(e) *Findings and recommendations.* Following the committee's public hearing and following review by the planning commission, the committee shall determine whether or not to recommend a proposed site be designated as a heritage preservation site. The committee shall transmit its recommendation to the city council along with any proposed program for site preservation.

(f) *City council designation.* The city council retains sole authority to designate, by ordinance, a site as a heritage preservation site.

(g) *Communications with state historical society.* A copy of the city's designation of a heritage preservation site, including boundaries, and the approved program, if any, for the preservation of a heritage preservation site shall be sent, by the city clerk, to the state historical society.

(h) *Acquisition of property.* The committee may recommend to the city council, after review and comment by the city planning commission, that a certain property eligible for designation as a heritage preservation site be acquired by gift, purchase or negotiation.
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(a) *Recording of heritage preservation sites.* The city clerk shall record with the county recorder or registrar of titles any ordinances passed by the city council, along with the legal description of all lands designated as heritage preservation sites.

(b) *Authorization of plaque.* Upon approval of a site as a heritage preservation site, the city shall authorize, but not fund, the posting of an appropriate plaque commemorating the site as a heritage preservation site.
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Sec. 16-5. Zoning exceptions.

The city in ruling upon variance requests shall take the status of a site as a heritage preservation site into consideration. Variances shall be granted for heritage preservation sites from the literal provisions of the provision in question where the strict enforcement would otherwise result in the substantial destruction of the heritage preservation site. The city may not, however, permit as a variance any use that is not permitted under the provisions for the property in the zone where the affected land is located. Additionally, variances shall be granted only to the minimum extent necessary to protect the heritage preservation site. Finally, no variances will be granted unless a program approved by the city council is in place to protect and preserve the heritage preservation site.
(Ord. No. 2000-90, § 90.05, 9-5-2000)

Sec. 16-6. Removal of designation.

The city council, for good cause shown and following a public hearing, may remove, by ordinance, the heritage preservation site designation for any site.
(Ord. No. 2000-90, § 90.06, 9-5-2000)

Chapter 18

LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE I.

IN GENERAL

Secs. 18-1--18-18. Reserved.

ARTICLE II.

ADULT USES*

* **State Law References:** Adult entertainment establishments, Minn. Stats. § 617.242.

Sec. 18-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult uses means and includes adult bookstores; adult motion picture theaters; adult mini-motion picture theaters; adult massage parlors; adult steam room/bathhouse/sauna facilities; adult companionship establishments; adult rap/conversation parlors; adult health/sports clubs; adult cabarets; adult novelty businesses; adult motion picture arcades; adult modeling studios; adult hotels/motels; adult body painting studios; and other premises, enterprises, establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas which are capable of being seen by members of the public. Activities classified as obscene as defined by Minn. Stats. § 617.241 are not lawful and are not included in the definition of adult uses.

Adult uses, accessory, means the offering of goods and/or services which are classified as adult uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

Adult uses, principal, means the offering of goods and/or services which are classified as adult uses as a primary or sole activity of a business or establishment, and include but are not limited to the following:

> *Body painting studio, adult,* means an establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas.
>
> *Bookstore, adult,* means a business engaging in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, videotapes, motion picture film, or any other similar materials, if such shop is not open to the public generally but only to one or more classes of the public,

excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Cabaret, adult, means an establishment which provides dancing or other live entertainment if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction, or description of specified sexual activities or specified anatomical areas.

Companionship establishment, adult, means a companionship establishment if such establishment excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Entertainment, adult, means adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studios, and other adult establishments.

Establishment, adult, means a business engaging in any of the following activities or which utilizes any of the following business procedures or practices:

(1) Any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage thereat either by law or by the operators of such business; or

(2) Any other business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

Hotel or motel, adult, means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Massage parlor, adult, or *health club, adult,* means a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Mini-motion picture theater, adult, means a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized

by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons therein.

Modeling studio, adult, means an establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Motion picture arcade, adult, means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Motion picture theaters, adult, means a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

Novelty business, adult, means a business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

Sauna, adult, means a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Special use permit means a permit granted pursuant to this article which is for a specific length of time and is required to be renewed on an annual basis.

Specified anatomical areas means anatomical areas consisting of:

(1) Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means activities consisting of the following:

(1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy,

coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquierism, sapphism, zooerasty;

(2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;

(3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

(4) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast;

(5) Situations involving a person, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint or any such persons;

(6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

(7) Human excretion (i.e., urination, menstruation, vaginal or anal).

(Ord. No. 2003-97, § 2, 4-1-2003)

Sec. 18-20. Statement of policy.

(a) The city council deems it necessary to provide for the special and express regulation of businesses or commercial enterprises which operate as adult body painting studios; adult bookstore; adult cabarets; adult companionship establishments; adult hotels or motels; adult massage parlors or health clubs; adult mini-motion picture theaters; adult modeling studios; adult motion picture arcades or theaters; adult novelty businesses; adult saunas and similar adult oriented services operating under different names in order to protect the public health, safety and welfare, and to guard against the inception and transmission of disease. The city council further finds that the commercial enterprises such as the types described in this subsection and all other similar establishments whose services include sessions offered to adults conducted in private by members of the same or opposite sex, and employing personnel with no specialized training, are susceptible to operation in a manner contravening, subverting or endangering the morals of the community by being the site of acts of prostitution, illicit sex and occasions of violent crimes, and thus requiring close inspection, licensing and regulation.

(b) The city council also finds that control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by the sheriff's department and other departments of the city. As a consequence, the concentrated use of city services in such control detracts from and reduces the level of service available to the rest of the community and thereby diminishes the ability of the city to promote the general health, welfare, morals and safety of the community. In consideration for the necessity on the part of the city to provide numerous services to all segments of the community without a concentration of public services in one area working to the detriment of the members of the general public, it is hereby decided that the uses described in subsection (a) of this section should be limited to the general business zoning district as a special use and as a permitted accessory use in the general business zoning districts, and should require the issuance of licenses.

(Ord. No. 2003-97, § 1, 4-1-2003)

Sec. 18-21. Licenses.

(a) *Required.* No person, firm, or corporation shall operate an adult use in the city without having first secured a license as hereinafter provided. Licenses shall be one of two types:

(1) Adult use, principal;

(2) Adult use, accessory.

(b) *Applications.* The application for an adult use license shall include:

(1) The name, residence, phone number and birth date of the applicant, if an individual; and if a corporation, the names, residences, phone numbers and birth dates of those owners holding more than five percent of the outstanding stock of the corporation;

(2) The name, address, phone number and birth date of the manager of such operation, if different from the owners;

(3) The premises wherein the adult use is to be located;

(4) A statement detailing each gross misdemeanor or felony relating to a sex offense and/or the operation of adult uses and related activities of which the applicant or, in the case of a corporation, the owners of more than five percent of the outstanding stock of the corporation, have been convicted, and whether or not the applicant has ever applied for or held a license to operate a similar type of business in other communities;

(5) The activities and types of business to be conducted;

(6) The hours of operation;

(7) The provisions made to restrict access by minors;

(8) A building plan of the premises detailing all internal operations and activities.

(c) *Fees; payment, collection, and refunds.*

(1) Each application for a license shall be accompanied by a receipt from the city treasurer or clerk for payment in full of the required fee for the license as established by city council resolution from time to time. All fees shall be paid into the general fund of the city. Upon rejection of any application for a license, the city clerk or treasurer shall refund the amount paid.

(2) All licenses shall expire on June 30 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 rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

(3) The annual fee for an adult use license shall be as established by city council resolution from time to time.

(4) No part of the fee paid for any license issued under this article shall be refunded except in the following instances upon application to the city administrator within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:

a. Destruction or damage of the licensed premises by fire or other catastrophe;

b. The licensee's illness;

c. The licensee's death;

d. A change in the legal status making it unlawful for the licensed business to continue.

(d) *Granting procedure.*

(1) The city shall investigate all facts set out in the application including conducting a background check on the licensee and all shareholders of the licensee. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and a public hearing, the city council shall grant or refuse the application.

(2) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the city council.

(e) *Ineligible persons.* No license shall be granted or held by any person:

(1) Under 21 years of age.

(2) Who has been convicted of a felony or of violating any law of this state or local ordinance relating to sex offenses and/or audit uses.

(3) Who is not the proprietor of the establishment for which the license is issued.

(f) *Ineligible places.*

(1) No license shall be granted for adult uses on any premises where a licensee has been convicted of a violation of this article, or where any license hereunder has been revoked for cause, until one year has elapsed after such conviction or revocation.

(2) Except for uses lawfully existing at the time of adoption of the ordinance from which this article is derived, no license shall be granted for any adult use which is not in compliance with the city's zoning regulations.

(g) *Nonconforming uses.* Any adult use existing on the effective date of the adoption of the ordinance from which this article is derived may be continued subject to the following provisions:

(1) No such adult use shall be expanded or enlarged except in conformity with the provisions of this article;

(2) A nonconforming adult use shall be required to apply for and receive an adult use license. No public hearing shall be required prior to the issuance of the license for the nonconforming adult use.

(Ord. No. 2003-97, § 3, 4-1-2003)

State Law References: Ownership or management restrictions on adult business establishments, Minn. Stats. § 609B.545.

Sec. 18-22. Conditions of license--Generally.

(a) Every license shall be granted subject to the conditions in this section and all other provisions of this article, and of any applicable sections of other ordinances of the city or state law.

(b) All licensed premises shall have the license posted in a conspicuous place at all times.

(c) In the case of an adult use, principal, no minor shall be permitted on the licensed premises unless accompanied by his parent or legal guardian.

(d) Any designated inspection officer or law enforcement officer of the city shall have the unqualified right to enter, inspect, and search the premises of a licensee during business hours within a search and seizure warrant.

(e) Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of this order.

(Ord. No. 2003-97, § 4, 4-1-2003)

Sec. 18-23. Same--Principal adult use.

Principal adult use businesses shall be permitted in the general business zoning district subject to the issuance of a special use permit and subject to the following requirements:

(1) A principal adult use business shall not be allowed within 1,000 feet of another existing adult use measured in a straight line from the buildings.

(2) A principal adult use business shall not be located within 1,000 feet measured in a straight line from any building located in any general business zoning district in the city.

(3) A principal adult use business shall not be located within 1,000 feet measured in a straight line from any existing school, day care center or place of worship.

(4) A principal adult use business shall not sell or dispense nonintoxicating or intoxicating liquors nor shall it be located in a building which contains a business that sells or dispenses

nonintoxicating or intoxicating liquors.

(5) No principal adult use business entertainment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment which is prohibited by any ordinance of the city, the laws of the state, or the United States of America. Nothing in this article shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

(6) No principal adult use business shall be conducted in any manner that permits from any property not approved as an adult use the perception or observation of any materials depicting, describing or related to specified sexual activities or specified anatomical areas by any visual or auditory media, including display, declaration, sign, show window, sound transmission or other means.

(7) All principal adult use businesses shall prominently display a sign at the entrance and located within two feet of the door-opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states: "This business sells or displays material containing adult themes. Persons under age 18 years of age shall not enter." Said sign shall have letters at least three-eighths-inch in height and no more than two inches in height.

(8) No person under the age of 18 shall be permitted on the premises of an adult entertainment establishment. No person under the age of 18 years shall be permitted access to material displayed or offered for sale or rent by a principal adult use business establishment.

(9) Principal adult use businesses shall not be open between the hours of 1:00 a.m. and 10:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday.

(Ord. No. 2003-97, § 5, 4-1-2003)

Sec. 18-24. Same--Accessory adult use.

Accessory adult use licenses may be issued to businesses located in the general business zoning districts subject to the following requirements:

(1) The accessory adult use shall comprise no more than ten percent of the floor area of the establishment in which it is located.

(2) Display areas for movie rentals or other similar products shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the person responsible for the operation.

(3) Magazines and publications or other similar products classified or qualified as adult uses shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any materials other than the publication title.

(4) Accessory adult uses shall be prohibited from both internal and external advertising and signing

of adult materials and products.
(Ord. No. 2003-97, § 6, 4-1-2003)

Sec. 18-25. Revocation, suspension or nonrenewal of license.

(a) *Authority to initiate upon recommendation of city attorney.* The license may be revoked, suspended, or not renewed by the city council upon recommendation of the city attorney by showing that the licensee, its owners, managers, employees, agents or any other interested parties have engaged in any of the following conduct:

(1) Fraud, deception or misrepresentation in connection with the securing of the license.

(2) Habitual drunkenness or intemperance in the use of drugs including, but not limited to, the use of drugs defined in Minn. Stats. § 152.01, barbiturates, hallucinogenic drugs, amphetamines, benzedrine, dexedrine or other sedatives, depressants, stimulants or tranquilizers.

(3) Engaging in conduct involving moral turpitude or permitting or allowing others within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers, or employees in engaging in conduct involving moral turpitude.

(4) Failure to fully comply with any requirements of the ordinances of the city regarding sanitary and safety conditions, zoning requirements, building code requirements or ordinances, the violation of which involves moral turpitude, or failure to comply fully with any requirements of this article.

(5) Conviction of an offense involving moral turpitude.

(b) *Appeal.* The certificate holder may appeal such suspension, revocation or nonrenewal to the city council. The council shall consider the appeal at a regularly scheduled public hearing on or after ten days from service of the notice of appeal to the city clerk. At the conclusion of the hearing, the council may order:

(1) That the revocation, suspension or nonrenewal be affirmed.

(2) That the revocation, suspension or nonrenewal be lifted and that the certificate be returned to the certificate holder.

(c) *Additional constraints.* The city council may base either suspension or issuance of the certificate upon any additional terms, conditions, and stipulations which the council may, in its sole discretion, impose.
(Ord. No. 2003-97, § 7, 4-1-2003)

Sec. 18-26. Penalty for violation.

Any person violating any provision of this article is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.
(Ord. No. 2003-97, § 8, 4-1-2003)

Secs. 18-27--18-55. Reserved.

ARTICLE III.

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS*

* **State Law References:** Authority to regulate transient commerce, Minn. Stats. § 412.221, subd. 19; authority to regulate transient merchants, Minn. Stats. § 437.02.

DIVISION 1.

GENERALLY

Sec. 18-56. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Peddler means any person or organization who goes from house to house, from place to place, or from street to street carrying or transporting goods, wares, merchandise or services, and offering or exposing the same for sale, or making unsolicited sales and deliveries to purchasers.

Solicitor means any person or organization who goes from house to house, from place to place, or from street to street soliciting or taking or attempting to take orders for any goods, wares, merchandise, or services, including books, periodicals, magazines, or personal property of any nature whatsoever for future delivery.

Transient merchant means any person, firm or corporation who engages temporarily in the business of selling and delivering goods, wares, merchandise or services within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot, motor vehicle or trailer.
(Ord. No. 2003-102, § 1, 12-2-2003)

Sec. 18-57. Penalty.

Violations of this article are a misdemeanor punishable as provided in section 1-8.

Sec. 18-58. Practices prohibited.

No peddler, solicitor, or transient merchant shall call attention to his business or to his merchandise by crying out, blowing a horn, ringing a bell, or any loud or unusual noise.
(Ord. No. 2003-102, § 5, 12-2-2003)

Sec. 18-59. Premises from which excluded.

(a) Any resident of the city who wishes to exclude peddlers or solicitors from premises occupied by him may place upon or near the usual entrance to such premises a printed placard or sign bearing the following notice: "No Solicitation Allowed."

(b) No peddler or solicitor shall enter in or upon any premises, or attempt to enter in or upon any premises, where such placard or sign is placed and maintained.

(c) No person other than the person occupying such premises shall remove, injure or deface such placard or sign.
(Ord. No. 2003-102, § 6, 12-2-2003)

Secs. 18-60--18-76. Reserved.

DIVISION 2.

LICENSE

Sec. 18-77. Required.

No peddler, solicitor or transient merchant shall sell or offer for sale any goods, wares, merchandise or services within the city unless a license therefor shall first be secured as provided in this division.
(Ord. No. 2003-102, § 2, 12-2-2003)

Sec. 18-78. Application and issuance.

(a) Application for such license shall be made to the city clerk on a form supplied by the city. The application shall state:

(1) The name and address of the applicant and of all persons associated with him in his business;

(2) The type of business for which the license is desired;

(3) In case of transient merchants:

a. The place where the business is to be carried on;

b. The length of time for which the license is desired;

c. The general description of the things to be sold;

(4) The places of residence of the applicant for the five years preceding the date of application.

(b) Blank applications shall be issued on payment of $1.00, which amount shall be credited on the license fee if the license is granted. Every application shall bear the written report and recommendation of the city clerk or mayor after an investigation of the moral character of the applicant. The completed application shall be presented to the council for its consideration; and if granted by the council, a license shall be issued by the city clerk upon payment of the fee established by ordinance.
(Ord. No. 2003-102, § 3, 12-2-2003)

Sec. 18-79. Revocation.

Any license may be revoked by the council for a violation of any provision of this division if the licensee has been given a reasonable notice and an opportunity to be heard.
(Ord. No. 2003-102, § 4, 12-2-2003)

Secs. 18-80--18-101. Reserved.

ARTICLE IV.

ELECTRIC FRANCHISE FEE ON NORTHERN STATES POWER D/B/A XCEL ENERGY

Sec. 18-102. Purpose.

(a) The city council has determined that it is in the best interest of the city to impose a franchise fee on those public utility companies that provide electric services within the city.

(b) Pursuant to city Ordinance No. 2003-103, a franchise agreement between the city and Northern States Power Company, d/b/a Xcel Energy, the city has the right to impose a franchise fee on Xcel Energy in amount and fee design as set forth in section 9.1 of the Xcel Energy Franchise and in the fee schedule attached hereto as exhibit A attached to Ordinance No. 2003-104.
(Ord. No. 2003-104, § 1, 12-2-2003)

Sec. 18-103. Franchise fee statement.

(a) A franchise fee is hereby imposed on Xcel Energy under its electric franchise in accordance with the schedule attached hereto and made a part of this article, commencing with the Xcel Energy's February 2004 billing month. This fee is an account-based fee on each premises and not a meter-based fee. In the event that an entity covered by this article has more than one meter at a single premises, but only one account, only one fee shall be assessed to that account. If a premises has two or more meters being billed at different rates, the company may have an account for each rate classification, which will result in more than one franchise fee assessment for electric service to that premises.

(b) If the company combines the rate classifications into a single account, the franchise fee assessed to the account will be the largest franchise fee applicable to a single rate classification for energy delivered to that premises. In the event any entities covered by this article have more than one premises, each premises (address) shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any premises, the company's manner of billing for energy used at all similar premises in the city will control.
(Ord. No. 2003-104, § 2, 12-2-2003)

Sec. 18-104. Payment.

The franchise fee shall be payable to the city in accordance with the terms set forth in section 9.4 of the franchise.
(Ord. No. 2003-104, § 3, 12-2-2003)

Sec. 18-105. Surcharge.

The city recognizes that the state public utilities commission allows the utility company to add a surcharge to customer rates to reimburse such utility company for the cost of the fee and that Xcel Energy will surcharge its customers in the city the amount of the fee.
(Ord. No. 2003-104, § 4, 12-2-2003)

Sec. 18-106. Record support for payment.

Xcel Energy shall make each payment when due and, if requested by the city, shall provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.
(Ord. No. 2003-104, § 5, 12-2-2003)

Sec. 18-107. Enforcement.

Any dispute, including enforcement of a default regarding this article, will be resolved in accordance with section 2.5 of the franchise agreement.
(Ord. No. 2003-104, § 6, 12-2-2003)

Sec. 18-108. Sunset clause.

This article shall automatically sunset on December 31, 2009, unless the city council acts to renew or extend the fee at least six months prior to the sunset date.
(Ord. No. 2003-104, § 1, 12-2-2003)

Exhibit A
XCEL ENERGY ELECTRIC FRANCHISE FEE SCHEDULE

Class	Fee Per Premise
Residential	$2.35
Sm C & I--Non--Dem	$2.00
Sm C & I--Demand	$14.00
Large C & I	$75.00
Public Street Ltg	$ 2.00
Muni Pumping--N/D	$2.00
Muni Pumping--Dem	$2.00

Franchise fees are to be collected by the utility in the amounts set forth in the above schedule, and submitted to the city on a quarterly basis as follows:

January--March collections due by April 30.

April--June collections due by July 31.

July--September collections due by October 31.

October--December collections due by January 31.

Secs. 18-109--18-120. Reserved.

ARTICLE V.

CHARITABLE GAMBLING*

* **State Law References:** Lawful gambling, Minn. Stats. ch. 349; local regulation of lawful gambling, Minn. Stats. § 349.213.

Sec. 18-121. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Active member means a member who has paid all his dues to the organization and has been a member of the organization for at least six months.

Bingo means a game where each player has a card or board, for which a consideration has been paid, containing five horizontal rows of spaces, with each row, except the center one, containing five figures. The central row has four figures with the word "free" marked in the center space thereof. The term "bingo" also includes games which are as described in this definition except for the use of cards where the figures are not preprinted, but are filled in by the players. A player wins a game of bingo by completing a preannounced combination of spaces or, in the absence of a preannouncement of a combination of spaces, any combination of five spaces in a row, either vertical, horizontal or diagonal.

Bingo occasion means a single gathering or session at which a series of one or more successive bingo games is played.

Checker means a person who records the number of bingo cards purchased and played during each game and records the prizes awarded to the recorded cards but does not collect the payment for the cards.

Exempt organization means any fraternal, religious, veterans, or other nonprofit organization conducting not more than one lawful charitable gaming event each calendar year. Each charitable gaming event shall be limited to five or less consecutive days in duration.

Exempt permit means that permit which is required to be obtained by every exempt organization seeking to conduct local charitable gaming within the corporate limits of the city.

Gambling equipment means bingo cards and devices for selecting bingo numbers, pull-tabs, ticket jars, paddlewheels, and tipboards.

Gambling manager means a person who has paid all dues to an organization, has been a member of the organization for at least two years, and has been designated by the organization to supervise lawful gambling

conducted by it.

Lawful gambling means the operation, conduct or sale of bingo, raffles, paddlewheels, tipboards and pull-tabs.

Lawful purpose means as defined by Minn. Stats. § 349.12, subd. 25.

Organization means any fraternal, religious, veterans, or other nonprofit organization.

Paddlewheel means a wheel marked off into sections containing one or more numbers, and which, after being turned or spun, uses a pointer or marker to indicate winning chances.

Profit means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes and taxes imposed by this chapter.

Pull-tab means a single folded or banded ticket or a card with a face covered to conceal one or more numbers or symbols, where one or more of each set of tickets or cards has been designated in advance as a winner. The term "pull-tab" includes a ticket sold in a gambling device known as a ticket jar.

Raffle means a game in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing to take place at a location and date printed upon the ticket.

Tipboard means a board, placard or other device marked off in a grid or columns, in which each section contains a hidden number or numbers, or other symbol which determines the winning changes.
(Ord. No. 2008-05, § 1, 12-1-2008)

Sec. 18-122. Purpose and intent.

This article is enacted to promote the health, safety and general welfare of the inhabitants of the city by closely regulating the conduct of lawful gambling.
(Ord. No. 2008-05, § 2, 12-1-2008)

Sec. 18-123. Findings.

The city council finds that lawful gambling is a nuisance-prone activity and, as such, is subject to restrictive regulation. The council further finds and declares that the ability to conduct lawful gambling and participate in lawful gambling is a privilege rather than a right.
(Ord. No. 2008-05, § 3, 12-1-2008)

Sec. 18-124. State law adopted.

The provisions of Minn. Stats. ch. 349 relating to the definition of terms, licensing and restrictions of lawful gambling are adopted and made a part of this section as if set out in full.
(Ord. No. 2008-05, § 4, 12-1-2008)

Sec. 18-125. Nonlicensed gambling.

This article shall not regulate the conduct of nonlicensed gambling as defined by Minn. Stats. ch. 349.
(Ord. No. 2008-05, § 5, 12-1-2008)

Sec. 18-126. Local approval of state-licensed organizations.

Pursuant to Minn. Stats. § 349.213, the charitable gambling control board for the state must notify the city council before issuing or renewing an organization license for lawful gambling at the state level for those organizations whose premises are located within the city. The city council must either adopt a resolution approving or denying the state license request. Approval or denial of the request must be based upon the purpose and intent of this article as stated in section 18-122. If the city council adopts a resolution disapproving the state license and so informs the board within 30 days of such notice, the license may not be issued or renewed.
(Ord. No. 2008-05, § 6, 12-1-2008)

Sec. 18-127. Obligations of state-licensed organizations.

The applicant shall provide to the city clerk copies of all information which such organization provides to the charitable gambling control board. Such copies shall be provided to the city clerk within seven days after the state-licensed organization sends such information to the state. Failure of the applicant to provide such copies shall constitute a basis for denial of the license or renewal by the city council.
(Ord. No. 2008-05, § 7, 12-1-2008)

Sec. 18-128. Use of proceeds of charitable gambling.

(a) The organization licensed to conduct lawful gambling in the city shall contribute ten percent of the net profits it derives from the lawful gambling activity in the city to a fund regulated by the city for disbursement of such contributions for lawful purposes as defined by Minn. Stats. § 349.12, subd. 25. In addition, the organization licensed to conduct lawful gambling in the city shall expend a minimum of 70 percent of the net proceeds it derives from the lawful gambling activity conducting in the city for lawful purposes as defined by Minn. Stats. § 349.12, subd. 25, that will directly benefit the citizens living in the city. Such expenditures must occur within the same or following fiscal year that such proceeds are received by the organization conducting the lawful gambling in the city.

(b) For purposes of this section, net proceeds shall be computed as follows: gross receipts from lawful gambling activity conducted in the city, less reasonable sums necessarily and actually expended to conduct lawful gambling activities in the city for the following items:

(1) Prizes;

(2) Gambling supplies and equipment, which shall be defined as those expenses authorized by the charitable gambling board in adopted rules (see Minn. Rules ch. 7861);

(3) Rent;

(4) Utilities used during gambling occasions;

(5) Compensation paid to members for conducting lawful gambling activities;

(6) State and/or federal taxes; and

(7) Maintenance of devices used in lawful gambling.

(c) The requirements of this section shall not apply to exempt organizations having first obtained an exempt permit from the city.
(Ord. No. 2008-05, § 8, 12-1-2008)

Sec. 18-129. Permitted premises; description required if leased.

(a) The use of or sale of lawful gambling supplies and equipment described as pull-tabs, paddlewheels and tipboards shall be allowed on the premises owned or leased by eligible organizations.

(b) In the event the premises are leased by the eligible organization, the specific area leased and within which the lawful gambling activity is to take place shall be clearly described in a written lease agreement and shall further be designated in a drawing attached to the lease and made a part thereof.
(Ord. No. 2008-05, § 9, 12-1-2008)

Sec. 18-130. Designated areas of leased premises; sale of alcoholic beverages prohibited.

In leased locations authorized by this article, the lawful gambling activity and the sale of pull-tabs, tipboards and the operation of paddlewheels shall take place in a designated area of the leased premises, which area shall be separate from the counter, bar or service area. No sale of any alcoholic beverages shall be allowed within the leased area. Locations authorized by this section which are owned by the licensed organization need not designate such a location within the premises.
(Ord. No. 2008-05, § 10, 12-1-2008)

Sec. 18-131. Minimum age.

Only those persons who have reached the age at which they are allowed to consume intoxicating liquor by state statutes shall be allowed to participate in the lawful gambling activity or shall be employed by the organization issued the lawful gambling license for the operation, conduct or sale of bingo, raffles, paddlewheels, tipboards and pull-tabs.
(Ord. No. 2008-05, § 11, 12-1-2008)

Sec. 18-132. Hours of operation.

(a) The use or sale of lawful gambling supplies and equipment, including pull-tabs, paddlewheels and tipboards, shall be allowed on premises owned or leased by those organizations eligible for a lawful gambling license only between the hours of 8:00 a.m. and 1:00 a.m.

(b) Notwithstanding the provisions of subsection (a) of this section, the conduct of bingo and sale of raffle tickets shall be allowed on Sundays and legal holidays when not prohibited by Minn. Stats. ch. 349.

(Ord. No. 2008-05, § 12, 12-1-2008)

Sec. 18-133. Employees.

Compensation to persons who participate in the conduct of lawful gambling may be paid only to active members of the conducting organization or its auxiliary, to the spouse or the surviving spouse of an active member, or to employees hired by the licensed organization.
(Ord. No. 2008-05, § 13, 12-1-2008)

Sec. 18-134. Authorized persons.

Only an active member of the licensed organization, the spouse or surviving spouse of the active member, or an employee hired by the licensed organization shall be involved in the operation, conduct or sale of lawful gambling activities in the city. The owner or employee of an establishment having a liquor license issued by the city which is leased by the organization conducting a lawful gambling activity may not be involved in the operation, conduct or sale of lawful gambling activities while he is then on duty with the lessor.
(Ord. No. 2008-05, § 14, 12-1-2008)

Sec. 18-135. Financial reports.

Each organization which is licensed to conduct lawful gambling within the city shall provide the city clerk with a copy of all financial reports submitted to the state charitable gambling control board on a quarterly basis if there is any charitable gambling by the organization within the reporting period.
(Ord. No. 2008-05, § 15, 12-1-2008)

Sec. 18-136. Fees and licenses.

To the extent allowed by state law, the council may by ordinance set a licensing fee for the conduct of lawful gambling within the city. The ordinance may set fees for application and processing of any application, including whatever amounts are deemed appropriate to defray the cost of investigation of the proposed applicant by the council, city administrator, or chief of police and to make a determination of the propriety of granting the license. The city clerk shall prepare a local application form and shall include verification that the applicant agrees to abide by all local ordinances concerning the conduct of licensed lawful gambling.
(Ord. No. 2008-05, § 16, 12-1-2008)

Chapter 20

MOTOR VEHICLES AND TRAFFIC*

* **State Law References:** Traffic generally, Minn. Stats. chs. 168--171; powers of local authorities, Minn. Stats. §§ 169.02, 169.04.

Sec. 20-1. Adoption of state statutes.

The provisions of Minn. Stats. chs. 168--171 are adopted by reference.
(Ord. No. 31, § 1, 10-6-1970)

Sec. 20-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Motor vehicle means every vehicle which is self-propelled and not deriving its power from overhead wires.

Unreasonable acceleration means to start or accelerate a motor vehicle in an unsafe, unreasonable or imprudent manner or in a manner that evidences an unnecessary exhibition of speed or creates unnecessary noise or nuisance.
(Ord. No. 48, § 1, 9-2-1980)

Sec. 20-3. Unreasonable acceleration prohibited.

Unreasonable acceleration of any motor vehicle on any street, highway, roadway, private road or driveway within the city is hereby declared to be unlawful and a public nuisance.
(Ord. No. 48, § 2, 9-2-1980)

Sec. 20-4. Standard of evidence.

It shall be prima facie evidence of unreasonable acceleration if a motor vehicle shall be observed starting or accelerating in such a manner as to cause squealing or screeching sounds emitted by the motor vehicle's tires, fishtailing of the motor vehicle, or the throwing of sand or gravel by the tires of said motor vehicle, or any combination of said actions.
(Ord. No. 48, § 3, 9-2-1980)

Sec. 20-5. Parking lots.

Parking of vehicles in lots used by the public for parking shall conform to the markings of stalls or positions for parking designated on the surface of the parking area and no vehicle shall be parked or allowed to stand in any area of such parking lot which has been designated or is used for a lane for moving traffic.
(Ord. No. 36, § IV, 6-5-1973)

Sec. 20-6. Weight limits.

(a) *Findings.* The streets, roads and public ways of the city will be seriously damaged or destroyed by reason of climactic conditions unless the usage of vehicles thereon is prohibited or restricted, or unless permissible weights allowed are reduced during certain seasons of the year.

(b) *Spring load limits.* Vehicles traveling or parked on the public streets, roads and other public ways of the city may not exceed five tons gross weight per axle during the spring thaw period. The spring thaw period for city streets, roads, and other public ways will be as determined by the state department of transportation for state roads in the same area. Weight limit may be further reduced by the city engineer or road commissioner where necessary to protect public safety or the public's investment in roadways by the posting of signs identifying the reduced weight limit on the street or roadway where the reduced weight limit is to apply.

(c) *Exemptions.* The load limits hereby set forth are not applicable to emergency vehicles, or to public school buses operated by or under contract to any of the school districts serving residents of the city.

(d) *Temporary suspension.* The load limits established herein may be temporarily suspended by the city council in specific cases involving the public health, safety and/or welfare.
(Ord. No. 1998-82, §§ 80-1--80-4, 3-3-1998)

State Law References: Local weight limits, Minn. Stats. § 169.87.

Sec. 20-7. Snowmobiles and other recreational vehicles.

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

Recreational vehicle means any self-propelled vehicle which is designed for travel on nonroadway surfaces and includes, but is not limited to, snowmobiles, trail bikes, and all-terrain vehicles.

(b) *Purpose.* It is the purpose of this section to provide for the public safety by regulating the manner in which recreational vehicles are operated.

(c) *Adoption of state regulations.* The regulations regarding snowmobiles provided for by Minn. Stats. §§ 84.81--84.89 are hereby adopted and made a part of this section by reference as if fully set forth herein.

(d) *Unlawful operation.* It shall be unlawful for any person to operate a snowmobile or other recreational vehicle on private property of another without permission of the owner or person in control of said property.

(e) *Traffic ordinances.* Traffic ordinances shall apply to the operation of snowmobiles and other recreational vehicles upon streets and highways, except for those relating to required equipment, and except those which by their nature have no application.

(f) *Prohibited places.* No person shall operate a snowmobile or other recreational vehicle in any of the following places:

(1) Upon any property owned by the city unless said property has been clearly marked with signs erected by authority of the city council permitting snowmobile operation and such operation shall then be limited to the area so designated.

(2) Upon any school grounds without express permission of a school administrator.

(3) Within 100 feet of any fisherman, pedestrian, skating rink, or sliding area where the operation would conflict with the use or endanger other persons or property.

(Ord. No. 34, §§ I--VI, 2-19-1972)

State Law References: Snowmobiles, Minn. Stats. § 84.81 et seq.; recreational motor vehicles, Minn. Stats. § 84.90.

Sec. 20-8. Riding of animals and driving animal-drawn vehicles.

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

Animal means horse, pony or any other animal that can be ridden or used to draw a conveyance.

Minor child means a child of less than 13 years of age.

(b) *Purpose.* It is the purpose of this section to provide for the public safety by regulating the manner in which animals are ridden or driven on public thoroughfares.

(c) *Rules and regulations.*

(1) No minor child shall ride an animal upon a public thoroughfare unless such animal is equipped with a saddle or bareback pad and also bridle and/or hackamore. No person shall ride an animal on any public thoroughfare unless such animal is under proper control. No person shall drive an animal drawn conveyance upon a public thoroughfare unless such animal is equipped with a bridle and a harness suitable to ensure proper control of such animal.

(2) Animals may not be ridden or driven more than two abreast on any public thoroughfare; provided, however, that on a paved road in the city, animals must be ridden or driven single file.

(3) Animals must be ridden or driven on the right-hand shoulders of public thoroughfares whenever possible.

(4) Animals must not be ridden or driven on private lawns, crop lands or other private property without the owner's permission.

(5) When approaching a blind intersection obscured by a high hedge, embankments or snow, the rider of an animal or driver of an animal-drawn vehicle shall come to a complete stop and proceed through said intersection at a pace no faster than a walk.

(6) When crossing a road, animals must be lead or walked and under no circumstances ridden at a pace faster than a walk.

(7) Any person riding an animal or driving an animal-drawn vehicle on a public thoroughfare shall comply with the traffic laws of the state, and violation thereof shall be deemed to be a violation of this chapter.

(d) *Display of regulations.* All persons who board animals shall post a copy of these regulations in a conspicuous place on the premises.
(Ord. No. 45, §§ 1--4, 1-2-1979)

Chapter 22

OFFENSES AND MISCELLANEOUS PROVISIONS

Sec. 22-1. Discharge of firearms, airguns or bows and arrows.

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

Airgun means any rifle, pistol or revolver by which a projectile is discharged by means of compressed gas, but does not include the so-called BB guns.

Firearm means any weapon from which shot, a bullet or other projectile is discharged by a solid propellant.

Private target range means an area for the discharge of weapons for sport which area and the use thereof is controlled by a club or association and, except for special events, use thereof is limited to members of the group or association.

Public places includes all property owned by the state, the county, the city or other political subdivision of the state; public roadways and streets within the city; cemeteries; and places of public accommodation.

Public target range means an area for the discharge of weapons for sport under controlled conditions which is privately owned but open to the public, and for the use thereof a fee is charged.

Shotgun means a shoulder firearm from which shot or a legal shotgun slug is discharged by means of a solid propellant; muzzle-loading rifles of legal caliber are included in this category.

(b) *Illegal use of firearms.*

(1) Except as hereinafter provided, no person shall discharge upon, over, or onto the land of another a firearm of any kind; bow and arrow, crossbow, or any airgun, BB gun, slingshot, or other devices for the propulsion of shots or metal pellets by means of compressed air, gas or mechanical spring action, without the express written and dated permission of the owner or lessee of such property to discharge such firearms, weapons or other devices thereon.

(2) Except at target ranges as defined in subsection (a) of this section, no person shall discharge at any time whatsoever a rifle, pistol or revolver of a caliber greater than a .22 long rifle.

(c) *Unlawful discharge.*

(1) It shall be unlawful for any person, within one-half mile, to discharge any rifle, pistol or revolver in the direction of any building, excepting the owner or lessee of said building.

(2) Shotguns, bows and arrows, crossbows, airguns, slingshots or any other similar devices for the propulsion of shots or metal pellets by means of compressed air, gas or mechanical spring action may not be discharged within 500 feet in the direction of any building except by the owner or lessee of the building.

(3) It shall be unlawful for any person to discharge any gun, pistol, revolver, or other firearm or airgun in any public place.

(Ord. No. 57, §§ 1--3, 5, 4-2-1985; Ord. No. 87, § 2, 3-7-2000)

State Law References: Local regulation of firearms, Minn. Stats. § 471.663.

Chapter 24

PLANNING

Article I. In General

Article II. Planning Commission

Article III. Uniform System for Naming Streets and Numbering Properties and Principal Buildings

ARTICLE I.

IN GENERAL

Sec. 24-1. Fees.

(a) *Due upon application.* At the time of filing an application for rezoning, subdivision, variance, special use permit, conditional use permit, street vacation or any other application for a permit or other approval required under an official control established pursuant to Minn. Stats. ch. 462, the applicant shall pay to the city an amount of money sufficient to cover the city's administrative and other costs incurred in the processing of the application.

(b) *Amounts of fee and deposits.* The city may require the applicant to deposit at the time the application is filed an amount of money sufficient to pay the costs of public notices, materials and staff consultant time and research for preparation of materials necessary to the processing of each application in addition to the application fee. At the time of filing of the application, the applicant shall pay to the city the amount of fees established by ordinance. Additional fees shall be paid whenever the council or its designee determines that the actual costs will exceed those initially set by council resolution. No action on the application shall be taken by the city until all fees are paid as required.

(c) *Payment to precede permit issuance.* No permit shall be issued until all costs and fees as provided herein have been paid.

(d) *Waiver by city council.* The council may waive any and all fees provided herein.
(Ord. No. 49, §§1--4, 8-3-1982)

State Law References: Fees in connection with official controls, Minn. Stats. § 462.353, subds. 4, 4a.

Secs. 24-2--24-20. Reserved.

ARTICLE II.

PLANNING COMMISSION

Sec. 24-21. Establishment.

A planning commission for the city is hereby established pursuant to Minn. Stats. §§ 462.351 to 462.364.
(Ord. No. 2005-114, § 1, 4-5-2005; Ord. No. 2009-08, § 1, 3-3-2009)

State Law References: Planning commission authorized, Minn. Stats. § 462.354, subd. 1.

Sec. 24-22. Composition.

(a) The planning commission shall consist of seven to 11 members, and the members shall be appointed by the city council by a majority vote of the city council. Each year at least three members of the planning commission shall be appointed for a three-year term. The term of office, unless appointed to fill an unexpired term, shall begin at the first regular city council meeting in March of each year. Both original and successive appointees shall hold office until their successors are appointed and have qualified.

(b) In March of each year the members of the planning commission shall annually elect one member as chair and one member as vice-chair.

(c) The city council shall appoint one of the members of the city council to serve as an ex officio member of the city planning commission, who shall not have a vote nor participate in any proceedings before said planning commission or hold any office. The ex officio member may participate in discussion as a resident and member of the audience.

(d) A quorum shall be at least five members present prior to any business being conducted at the meetings.

(e) The meeting shall be conducted As described in the most current Planning Commission Rules of Procedure manual as adopted by the City Council.
(Ord. No. 2005-114, § 2, 4-5-2005; Ord. No. 2009-08, § 2, 3-3-2009; Ord. No. 2017-50, 2-7-2017)

Sec. 24-23. Qualifications; constraints pertaining to membership; committee expenditures.

(a) Every member of the planning commission shall be a registered voter in the city.

(b) Every member shall, before entering upon the disposition of duties, take an oath to faithfully perform the duties of such office.

(c) All members shall serve without compensation, and may be removed by a majority vote of the city council. In the event a planning commission member is removed, the member will be notified by the city.

(d) Any member who fails to attend five regular meetings of the planning commission during any consecutive 12-month period shall have the appointment reviewed by the city council.

(e) No member of the planning commission may participate on any issue or proceeding in which the member has a conflict of interest. While not an exhaustive list, a member has a conflict of interest if the member has a financial interest, is married to the applicant, is related to the applicant within the first degree of kinship, or is employed by the applicant, or if the applicant is employed by the member. Any members having a conflict of interest on a specific zoning review or application is required to recuse himself and step down during planning commission discussion and action. If there is any question regarding a conflict, the planning commission member may consult with the city attorney. The planning commissioner may participate in discussion as a resident and member of the audience.

(f) Expenditures of the planning commission shall be within amounts appropriated for that purpose by the city council.
(Ord. No. 2005-114, § 3, 4-5-2005; Ord. No. 2009-08, § 3, 3-3-2009)

Sec. 24-24. Vacancies.

(a) Vacancies due to resignation, the expiration of a term, or when the city council determines not to reappoint a planning commission member whose term is expiring shall be filled by each applicant making an application requesting to be appointed or reappointed. The city council shall review the applications upon completion of the process set forth below and shall appoint a planning commission member by a majority vote of the city council.

(b) The city clerk shall publish in the official newspaper of the city, on an annual basis, a notice that a vacancy on the planning commission exists and that any interested person may make an application for appointment by the city council.

(c) Applicants for appointment/reappointment shall apply in writing using the appropriate forms as may be required, and the city council shall interview those candidates that it deems appropriate before appointment to the planning commission by the city council.

(d) The appointment process shall be handled by the city council at a regular or special meeting in March of each year in order to allow an opportunity for candidates to file applications and to interview applicants.
(Ord. No. 2005-114, § 5, 4-5-2005; Ord. No. 2009-08, § 5, 3-3-2009)

Sec. 24-25. Meetings; records; reports.

The planning commission shall hold at least one regular meeting each month, unless there is no business to

conduct. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, and findings, which shall be a public record. At each regular monthly meeting of the city council, the commission shall submit to the city council a report of its work during the preceding month.
(Ord. No. 2005-114, § 6, 4-5-2005; Ord. No. 2009-08, § 6, 3-3-2009)

Sec. 24-26. Duties.

(a) The planning commission shall have the duty to review, study and make recommendations to the city council on the following:

(1) Comprehensive plan for the land use of said city;

(2) Applications for rezoning, conditional use permits, variances, subdivisions and related matters;

(3) Conducting such public hearings, as they are required to do by law and/or at the request of the city council;

(4) Initiate and review ordinances for consideration by the city council;

(5) Attend joint meetings between the city council and planning commission;

(6) Such other duties as the city council may delegate.

(b) Such recommendations shall then be acted upon in accordance with Minn. Stats. § 15.99, as amended, if applicable, and Minn. Stats. § 462.358, subd. 3b, as amended and if applicable, and all other laws of the state.
(Ord. No. 2005-114, § 4, 4-5-2005; Ord. No. 2009-08, § 4, 3-3-2009)

State Law References: Time deadlines for actions, Minn. Stats. §§ 15.99, 462.358, subd. 3b.

Secs. 24-27--24-55. Reserved.

ARTICLE III.

UNIFORM SYSTEM FOR NAMING STREETS AND NUMBERING PROPERTIES AND PRINCIPAL BUILDINGS

Sec. 24-56. Uniform naming and numbering system adopted.

A uniform system of naming streets and numbering properties and principal buildings, as shown in the manual of procedures identified by the title "Uniform Street Naming and Property Numbering System," which is filed in the county courthouse, is hereby adopted for use in the city. This map and all explanatory matter thereon is hereby adopted and made a part of this article.
(Ord. No. 35, § 1, 7-14-1972)

Sec. 24-57. Assignment of names and numbers.

(a) All properties or parcels of land within the city shall hereafter be identified by reference to the uniform numbering system adopted herein, provided all existing numbers of property and buildings not now in conformity with provisions of this article shall be changed to conform to the system herein adopted within three months from the date of passage of the ordinance from which this article is derived. The names of all streets in the city shall be as designated by the uniform street naming system.

(b) It shall be the duty of the property owner of every house, commercial or other building to have proper house or building numbers either by affixing such number in metal, glass, or plastic or other durable material. The numbers shall not be less than three inches in height, in a color contrasting to the building. Said numbers shall be either lighted or made of some reflective material and so placed to be easily seen from the street, or placed on the

mailbox if the mailbox is on the street of the property and the numbers placed on the house cannot be easily seen from the street. If no such mailbox is available, the numbers shall be attached to a separate post which shall be placed within 30 feet of the street. Numbers fixed to either a mailbox or separate post must be clearly seen from the street when approached from either direction.

(c) In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.
(Ord. No. 35, § 2, 7-14-1972; Ord. No. 65, § 1, 4-3-1990)

Sec. 24-58. Administration.

(a) The building inspector shall be responsible for maintaining the numbering system. In the performance of this responsibility, he shall be guided by the provisions of section 24-57.

(b) The city clerk shall keep a record of all numbers assigned under this article.

(c) The city clerk shall assign to any property owner in the city upon request a number for each principal building or separate front entrance to such building. In doing so, he shall assign such building under the provisions of this article; provided, however, that the recorder may assign additional numerals in accord with the official numbering system whenever a property has been subdivided, a new front entrance opened, or undue hardship has been worked on any property owner.
(Ord. No. 35, § 3, 7-14-1972)

Chapter 26

SOLID WASTE*

* **State Law References:** Waste Management Act, Minn. Stats. ch. 115A; littering, Minn. Stats. §§ 169.42, 609.671, subd. 13.

ARTICLE I.

IN GENERAL

Secs. 26-1--26-18. Reserved.

ARTICLE II.

COLLECTION OF RECYCLABLES

Sec. 26-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial establishment means any premises where a commercial or industrial enterprise of any kind is carried on. This includes restaurants, clubs, churches, and schools where food is prepared or served.

Mixed municipal solid waste (MSW) means garbage, other refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining wastes, sludges, tree and agricultural wastes, tires, lead-acid batteries, motor and vehicle fluids and filters, and other materials collected, processed and disposed of as separate waste streams, but does include source separated compostable materials.

Multiple residential dwelling means any building used for residential purposes consisting of more than five dwelling units with individual kitchen units for each.

Recyclables means materials that are separated from mixed municipal solid waste which may be recycled or reused through recycling processes and includes paper, glass, plastics, metals, automobile oil, and batteries as well as targeted recyclables. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

Residential dwelling means any single building consisting of five or less dwelling units with individual kitchen facilities for each.

Targeted recyclables means metal beverage containers, tin cans, glass containers (clear, green and brown glass containers and excludes all window pane glass), newsprint, glossy magazines, corrugated cardboard, plastics types 1 and 2, or other materials as defined by city resolution.

Yard waste means leaves and grass clippings or other similar soft organic materials.
(Ord. No. 2003-101, § 3, 11-5-2003)

Sec. 26-20. Purpose and intent.

It is the intent of the city by this article to establish the rules and regulations for targeted recycling collection within the city and to establish fees to be collected for the costs of recycling incurred by the city from each resident or landowner to ensure that the disposal of such materials is accomplished in a sanitary manner, safeguarding the health of the residents of the city, and to implement the state's recycling and solid waste mandates.
(Ord. No. 2003-101, § 1, 11-5-2003)

Sec. 26-21. Regulations.

(a) Nothing in this article shall prevent persons from hauling recyclables from their own residences or commercial establishments, provided the following rules are observed:

(b) The disposal method must ensure that all recyclables are:

(1) Disposed of at a recycling facility, an organized recycling drive or through a licensed recycling hauler (not contracted by the city).

(2) Hauled in containers that are watertight on all sides and the bottom, and with tightfitting covers on top.

(3) Hauled in vehicles with leakproof bodies and completely covered or enclosed by canvas or other means of material so as to completely eliminate the possibility of loss of cargo.

(c) Yard waste may be composted privately, be disposed of at an approved composting facility, or through a licensed garbage and refuse hauler.
(Ord. No. 2003-101, § 7, 11-5-2003)

Sec. 26-22. Disposal practices and standards.

(a) *City to enter into contract.* The city shall enter into a contract with a recycling hauler for curbside collection and disposal of targeted recyclables in the city.

(b) *Accumulation more than 30 days unlawful.* It shall be unlawful for any person to fail to dispose of recyclables that may accumulate upon property owned or occupied by that person at least once every 30 days.

(c) *Yard waste.*

(1) It shall be unlawful for any person to dispose of targeted recyclables, yard and tree waste into the mixed municipal solid waste stream. Yard waste shall be disposed of by:

(2) Contracting with a private collector to haul the yard waste to an appropriately licensed site.

(3) The resident transporting the yard waste to an approved compost site.

(4) Composting the yard waste on the resident's property.

(5) Burning in compliance with city ordinance.

(d) *Collection of major appliances.* Major appliances may be collected by a private hauler who is a state pollution control agency approved appliance collector.

(e) *Recyclables to be separated.* Residents of residential dwelling units and commercial establishments are required to separate targeted recyclables from the wastestream for recycling.
(Ord. No. 2003-101, § 4, 11-5-2003)

Sec. 26-23. Littering.

The discharging or depositing of targeted recyclables on any street, alley, drive, park, playground, or other public place or any privately owned lot in the city by any person is unlawful. Targeted recyclables are the responsibility of the property owner until such time as trash is collected by the recycling hauler.
(Ord. No. 2003-101, § 5, 11-5-2003)

Sec. 26-24. Scavenging prohibited.

It is unlawful for any person to scavenge or otherwise collect targeted recyclable materials at the curb or from recyclable containers without a contract with the city or an account relationship with the owner of the premises.
(Ord. No. 2003-101, § 6, 11-5-2003)

Sec. 26-25. Duties and obligations of the recycling hauler.

(a) *Compliance with provisions of contract and this article.* All recycling haulers of recycling products and materials shall comply with the operational requirements of this section, in addition to any

requirements of their contract with the city. Failure to observe these provisions may be the basis for suspension or revocation of a license or imposition of fines by the city council.

(b) *Notification required for change.* The licensee shall operate in a manner consistent with its request for proposal and application materials, and shall provide notice to the city within ten days of any change of the information, forms, or certificates filed as part of the application process.

(c) *Further compliance requirements.* The licensee shall comply with all city, county, state and federal laws and regulations.

(d) *Days and hours of collection.* No collection of recycling materials shall be made except between the hours of 6:00 a.m. and 5:00 p.m. Monday through Friday. Operation during these hours may have service moved back or forward one day to accommodate recognized national holidays, poor weather conditions, and natural disasters. Customers shall be reasonably notified of the specific day for the collection of their recyclables, and the licensee shall collect the materials on those days. Multiple residential dwellings, as defined in this article, and manufactured home parks are not restricted to these days of collection where combined collection service is provided through a homeowner's association or facilities management firm.

(e) *Standards for collection equipment and vehicles.* Each recycling hauler shall use only vehicles and equipment so constructed that the contents will not leak, spill, or blow out of the vehicles. Each collector shall cycle their collection equipment as is necessary to minimize the leaking or spilling of material from the vehicles. The vehicles and equipment shall also be kept clean and as free from offensive odors as possible, and shall not stand in any public place longer than is reasonably necessary to collect the recyclables. The recycling hauler shall also ensure that the immediate collection site is left tidy and free of litter.

(f) *Minimum frequency of collections.* Each licensed MSW hauler shall provide its customers with an opportunity to recycle through at least semimonthly collection of targeted recyclables.

(g) *Collection point.* The curbside collection of targeted recyclables shall be from a location at or near the customer's collection point for other materials or some other location mutually agreeable to the hauler and the customer.

(h) *Materials to be collected.* At a minimum, the materials collected shall be those designated as targeted recyclables by the city.

(i) *Notification required for rejected materials.* In each instance where a recycling hauler does not collect recyclable materials from a residence or business, adequate notification as to why the recyclable material was not picked up must be left with recyclable materials left at the curbside.

(j) *Ownership of collected recyclables.* The recycling hauler is also deemed the owner of the recyclables upon collection. The licensee is responsible for marketing or disposing of targeted recyclables to the appropriate recycling facility.

(k) *Documentation required.* The recycling hauler shall provide to the city on a quarterly basis documentation to show the types of targeted recyclables collected and the tonnage.
(Ord. No. 2003-101, § 9, 11-5-2003)

Sec. 26-26. Process for designating targeted recyclables.

Additional recyclable materials may be designated as recyclables by resolution of the city council after the effective date of the ordinance from which this article is derived. The designation process will be as follows:

(1) The recycling hauler shall be given 90 days' notice of the proposed additions to the list of targeted recyclables. The notice shall specifically describe the designated materials proposed for addition, and describe how the addition might affect the duties and obligations of the licensee.

(2) The recycling hauler shall also be given written notice of at least ten days in advance of the time and date of the council meeting that will consider the proposed addition to a list of targeted recyclables.

(3) Notice shall be given by regular U.S. mail to the address provided on the most recent request for proposal or contract filed with the city.

(Ord. No. 2003-101, § 10, 11-5-2003)

Sec. 26-27. Suspension, revocation of contract or imposition of fines.

The city council may suspend or revoke the contract of the recycling hauler whose conduct is found to be in violation of this article, or which poses a threat to the public's health, safety, or welfare. The city council may impose fines under its administrative fines and fees ordinance. Such revocation or suspension or imposition of fines may only occur following a public hearing of which the recycling hauler has received prior notice. Sufficient notice to the recycling hauler shall be a written statement of the date, time, location, and purpose of the hearing, deposited, postage paid, with the U.S. postal service, at least ten days prior to the hearing, and addressed to the recycling hauler's business address, as listed on the recycling hauler's most recent contract or written notice to the city of address change.

(Ord. No. 2003-101, § 11, 11-5-2003)

Sec. 26-28. Storage and placement for collection.

(a) Platted residential areas of the city shall have targeted recyclables placed at curbside on the day of collection. In platted estate and rural areas of the city, containers and bags may be placed at the end of the driveway on collection day. At all other times, the containers shall be so located, insofar as possible, out of public view in a secure place.

(b) Any targeted recyclable container exceeding 90 gallons in size, and located on a commercial establishment used for purposes other than single-family residential, shall be contained within a building or within a secure area which has an impermeable floor surface, and is enclosed and screened within a 90 percent or greater opaque wooden or metal fence or masonry wall not less than six feet in height having a gate or doorway which remains closed except for access purposes. All enclosures must be large enough to allow for storage of recyclable material containers.

(c) All containers for recyclables shall be made of suitable material, which is rodentproof and waterproof and which will not easily corrode. Containers shall be kept tightly closed. Recyclables including

targeted recyclables may be kept in a plastic bag of such strength that the contents therein will not rip, tear, or puncture the plastic bag.
(Ord. No. 2003-101, § 12, 11-5-2003)

Chapter 28

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

Article I. In General

Article II. Driveways

Article III. Treadways, Pathways on New or Upgraded Roads

Article IV. Right-of-Way Management

ARTICLE I.

IN GENERAL

Secs. 28-1--28-18. Reserved.

ARTICLE II.

DRIVEWAYS

Sec. 28-19. Variance.

A variance from the standards set forth in this article may be allowed by the city council when the variance will facilitate the safe, efficient use of the property for a lawful purpose and will not interfere with the construction, maintenance or safe and efficient use of the street and its appurtenances by the public.
(Ord. No. 38, § 5, 11-6-1974)

Sec. 28-20. Permits required.

No person, firm or corporation shall construct or lay out any driveway providing for access by vehicles from a public street of the city onto adjacent private property unless there shall have first been issued a permit by the building inspector for such driveway access to the public street. Such permit shall be granted by the building inspector upon application in writing by the owner or occupant of the premises, accompanied by a layout of the property and proposed driveway. The driveway layout shall include buildings or proposed buildings and any other relevant present or planned appurtenances that would affect the traffic pattern.
(Ord. No. 38, § 1, 11-6-1974)

Sec. 28-21. Fee.

The fee for each such driveway permit shall be as established by ordinance and which shall be paid to the building inspector at the time the application is submitted.
(Ord. No. 38, § 2, 11-6-1974)

Sec. 28-22. Driveway requirements.

The building inspector shall determine the appropriate location, size and design of such driveways and may limit the number of driveways in the interest of public safety and efficient traffic flow. The building inspector shall also determine if a culvert is necessary and, if so, the required dimensions of the culvert.
(Ord. No. 38, § 3, 11-6-1974)

Sec. 28-23. Hard-surface driveways.

No driveway from private property entering a public street of the city shall be covered with a bituminous, cement or other hard surface beyond the outer edge of the road right-of-way.
(Ord. No. 38, § 4, 11-6-1974)

Secs. 28-24--28-47. Reserved.

ARTICLE III.

TREADWAYS, PATHWAYS ON NEW OR UPGRADED ROADS

Sec. 28-48. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to

them in this section, except where the context clearly indicates a different meaning:

Treadway or *pathway* are used interchangeably in this article. Either term means an area, separate from the main-traveled portion of the road, which is designed for nonmotorized travel (such as pedestrians, bicyclists, and/or equestrians).

Upgrade of existing roads means when an existing road is upgraded from a gravel road to a paved road or when a paved road is rebuilt so that the existing pavement is removed, subgrade corrective (repair) work is done, and the road is repaved.
(Ord. No. 2000-86, § 86.02, 2-1-2000)

Sec. 28-49. Purpose and requirement.

(a) *Purpose.* This article is passed in order to meet the two main goals expressed with the transportation component of the city's comprehensive plan, namely as follows:

(1) *Goal 1.* Maintain a transportation network at reasonable costs and adequate to meet the safety, health and welfare needs of the community.

(2) *Goal 2.* Enhance the rural character of the community through the design and construction of roadways.

(b) *Requirement.* Treadways shall be constructed within the right-of-way of new and upgraded roads within the city. Treadways shall be designed to enhance a sense of community connectivity and to provide rural recreational opportunities and alternative transportation avenues.
(Ord. No. 2000-86, § 86.01, 2-1-2000)

Sec. 28-50. Exceptions.

As the city is already a partially developed community, it is clear that some areas of the city will not be conducive to the establishment of treadways. In evaluating whether or not a treadway, or treadway segment, should be required, the city council shall take into consideration the existing topography, structures, landscape, and/or features of the area that have particular historic, cultural or aesthetic beauty. It is envisioned that rarely, if ever, will exceptions exist with respect to new developments. Exceptions will generally be considered only as it relates to the upgrading of an existing road. The council will be guided in determining when exceptions should exist by the "key policy" outlined within goal 2 of the comprehensive plan set forth in section 28-49(a)(2), namely that roadway design and layout criteria shall be established to work with the existing physical characteristics of the landscape in order to maintain the rural character and quality of the city. Additionally, economic considerations alone shall not be considered as grounds for the approval of an exemption as authorized under this article.
(Ord. No. 2000-86, § 86.04, 2-1-2000)

Sec. 28-51. Design standard.

The city shall, with the advice of the city engineer (and others), approve of a design standard for treadways. It is not the intent of the city council that all treadways will be alike, but that, instead, they shall be tailored to meet the needs of the neighborhood where they will be constructed. Some treadways will be built on ditch bottoms. Others could be built along the side of a paved public road (for example, by extending two additional feet onto a gravel shoulder). All proposed treadways and pathways shall be evaluated to ensure that they promote the purposes and intent of this article.
(Ord. No. 2000-86, § 86.03, 2-1-2000)

ARTICLE IV.

Right-of-Way Management

Section 28-52. Findings, Purpose, and Intent.

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 good repair and free from unnecessary encumbrances. Accordingly, the city enacts this Article IV of Chapter 28 of the Code establishing reasonable regulations concerning the placement and maintenance of facilities and equipment within the city's rights-of-way and obstructions of such rights-of-way.

This Article is intended to implement Minnesota Statutes Sections 237.162 and 237.163 Minnesota Rules 7819.0050 – 7819.9950, and other applicable laws governing use of rights-of-way. Pursuant to Minnesota Statutes, Sections 237.163 subdivision 2(b), and all authority granted to the city, the city hereby elects to manage rights-of-way within its jurisdiction.

Section 28-53. Definitions.

Abandoned Facility means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use.

Applicant means any person that has applied for a permit to excavate or obstruct a right-of-way.

City means the city of Grant, Minnesota, its elected officials, officers, employees and agents.

Collocate or *collocation* means to install, mount, maintain operate, or replace a Small Wireless Facility, on, under, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the City or other governmental unit.

Commission means the Minnesota Public Utilities Commission.

Congested Right-of-Way means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes, Section 216D.04. Subdivision 3, over a continuous length in excess of 500 feet.

Construction Performance Bond means any of the following forms of security provided at a permittee's option:

(1) Individual project bond;
(2) Cash deposit;
(3) Security of a form listed or approved under Minnesota Statutes, section 15.73, subdivision;
(4) Letter of Credit, in a form acceptable to the city;
(5) Self-insurance, in a form acceptable to the city;
(6) A blanket bond for projects within the city, or other form of construction bond, for a time specifice3d and in a form acceptable to the city.

Degradation means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

Degradation Cost means the cost, subject to Minnesota Rules 7819.1100, 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 Minnesota Rules parts 7819.9900 to 7819.9950.

Degradation Fee means the fee established by the city at the time of permitting in an amount estimated to recover the degradation cost.

Department means the office of the City Engineer.

Department Inspector means any person authorized by the city to carry out inspections related to the provisions of this article.

Director means the City Engineer of the city, or his or her designee.

Emergency means 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 means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

Excavate means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

Excavation permit means the permit that, pursuant to this article, must be obtained before a person may excavate in a right-of-way. An Excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

Excavation permit fee means money paid to the city by an applicant to cover the costs as provided by section 28-63.

Facility or Facilities means any tangible asset in the public right-of-way required to provide a service.

Local Representative means a local person authorized by a right-of-way user to accept service and to make decisions for that right-of-way user regarding all matters within the scope of this Article IV.

Management Costs means the actual costs the city incurs in managing its rights-of-way, including costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications;' inspecting job sites and restoration projects' maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment for the use of the right-of-way or the fees and costs of any litigation or appeals relating to this Article IV.

Micro wireless facility means a small wireless facility that is no longer than twenty-four (24) inches long, fifteen (15) inches wide, and twelve (12) inches high, and whose exterior antenna, if any, is no longer than eleven (11) inches.

Obstruct means to place any tangible object in the right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

Obstruction Permit means the permit that, pursuant to this article, 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 means money paid to the city by a permittee to cover the costs as provided in section 28-63.

Patch or Patching means a method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions.

Pavement means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

Permit has the meaning given "right-of-way permit" in Minnesota Statutes, section 237.162.

Permittee means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this Article IV.

Person means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

Potholing means excavating the area above an underground facility to determine the precise location of the underground facility, without damage to it, before excavating within two feet of the marked location of the underground facility, as required in Minn. Stats. ch. 216D subd. 3a.

Probation means the status of a person that has not complied with the conditions of this article.

Probationary period means one year from the date that a person has been notified in writing that they have been put on probation.

Public Right-of-Way or Right-of-Way has the meaning given it in Minnesota Statutes, section 237.162, subdivision 3.

Registrant means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupy 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 means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

Restoration Cost means the amount of money paid to the city by a right-of-way user to achieve the level of restoration according to plates 1 to 13 of Minnesota Rule 7819.1100 Subpart 1.

Right-of-Way User means any person who has or seeks to have its equipment or facilities located in any right-of-way.

Service means and includes (1) services provided by a public utility as defined in Minnesota Statutes 216B.02, subdivisions 4 and 6; (2) services of a telecommunications provided including transporting of voice or data information; (3) services of a cable communications system as defined in Minnesota Statutes, chapter 238.02, subdivision 3; (4) natural gas or electric energy or telecommunications services provided by a local government unit; (5) services provided by a cooperate electric association organized under Minnesota Statutes, chapter 308A.

Service Lateral means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

Small wireless facility means a wireless facility that meets both of the following qualifications: (1) each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and (2) all other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than twenty-eight (28) cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

Small-wireless-facility permit means the permit which, pursuant to this article, must be obtained before a person may install, place, maintain, or operate a small wireless facility in a public right of way to provide wireless service. A small-wireless-facility permit allows the holder to conduct such activities in that part of the right-of-way described in such permit. A small-wireless-facility permit does not authorize (1) providing any service other than a wireless service, or (2) installation, placement, maintenance, or operation of a wireline backhaul facility in the right of way.

Small-Wireless-Facility Permit Fee means money paid to the city by a permittee to cover the costs as provided section 28-63.

Supplementary Application means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend or supply additional information to, a permit that had already been submitted or issued.

Telecommunication right-of-way user means a person owning or controlling a facility in the right-of-way, or seeking to own or control a Facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this article, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. Sec. 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453 and 453A, or a cooperative electric association organized under Minn. Stat. Chap. 308A, are not telecommunications right-of-way users for purposes of this article except to the extent such entity is offering wireless service.

Temporary Surface means the compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city's pavement management plan, in which case it is considered full restoration.

Trench means an excavation in the right-of-way, with the excavation having a length equal to or greater than the width of the pavement of adjacent pavement.

Utility pole means a pole that is used in whole or in part to facilitate telecommunications or electric service.

Wireless facility means equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, that are not otherwise immediately adjacent to and directly associated with a specific antenna.

Wireless service means any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

Wireless support structure means a new or existing structure in a right of way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

Wireline backhaul facility means a facility used to transport communications data by wire from a wireless facility to a communications network.

Section 28-54. Administration

The City Engineer is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The City Engineer may delegate any or all of the duties hereunder.

Section 28-55. Conduct Prohibited.

Except as authorized pursuant to a permit issued by the city, no person shall:

(a) Obstruct or excavate any right-of-way.
(b) Place any equipment, facilities, or structures in any right-of-way.
(c) Deposit snow or ice on any right-of-way.
(d) Erect a fence or other barrier on or across any right-of-way.
(e) Obstruct any ditch in or abutting a right-of-way.

(f) Place any advertisement or sign other than a traffic control sign or other governmental sign in any right-of-way.
(g) Deface, mar, damage or tamper with any sign, marker, signal, monument, equipment facility, structure, material, tools, or any appurtenance in any right-of-way.
(h) Drive a vehicle over, through, around, or past any fence, barrier, sign, or obstruction erected to prevent traffic from passing over the right-of-way, or portion of the right-of-way.

Section 28-56. Registration and Right-of-Way Occupancy.

(a) *Registration.* Each right-of-way user, including persons with installation and maintenance responsibilities by contract, lease, sublease or assignment, must register with the city. Registration will consist of providing registration information and paying a registration fee.

(b) *Registration prior to work.* No person may construct, install, repair remove, relocate any equipment or facilities or perform any other work in any right-of-way without first being registered with the city.

(c) *Exceptions.* Persons shall not be required to register, obtain permits or satisfy any other requirements under this Section for the following:

(1) Construction and maintenance of driveways, sidewalks, curb and gutter, or parking lots pursuant to a driveway permit, except repairs or restoration necessitated by utility cuts or other work;
(2) Plowing and preparing the land for planting a perennial hay crop, and harvesting said crop;
(3) Snow removal activities;
(4) Placement of flexible fiberglass markers at the edge of the paved road to assist snow plow operators (metal posts are prohibited).

Nothing herein relieves a person from complying with the provisions of the Minnesota Statutes, chapter 216D, Gopher One Call Law.

Section 28-57. Registration Information.

(a) Information Required. The information provided to the city at the time of registration shall include, but not be limited to:

(1) The right-of-way user's name, Gopher One-Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers;
(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of local representative accessible for consultation at all times. Current contact information shall be provided at the time of registration.
(3) A certificate of insurance or self-insurance:
    i. Verifying that an insurance policy has been issued to the right-of-way user by an insurance company authorized to do business in the State of Minnesota, or a form of self-insurance acceptable to the city;
    ii. Verifying that the right-of-way user is insured against claims for personal injury, including deal, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the right-of-way user, its officers, agents, employees and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the right-of-way user, its officers, agents, employees and permittees, including but not limited to, protection against liability rising from completed operations, damage of underground facilities and collapse of property;
    iii. Either naming the city as an additional insured or otherwise providing evidence satisfactory to the Administrator that the city is fully covered and will be defended;
    iv. Requiring that the city be notified thirty (30) days in advance of cancellation of the policy or material modification off a coverage term;
    v. Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this Article.

vi. Evidencing adequate third part claim coverage and city indemnification for all actions included in Minnesota Rule part 7819.1250.

(4) Such evidence as the city may require to demonstrate that the person is authorized to do business in Minnesota.

(5) Such evidence as the city may require to demonstrate that the person is authorized to use or occupy the right-of-way.

(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 fifteen (15) days following the date on which the registrant has knowledge of any change.

Section 28-58. Reporting Obligations.

(a) *Operations.* Each right-of-way user shall, at the time of registration and by December 1 of each year, file a construction and maintenance plan for underground facilities with the city. Such plan shall be submitted using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

(b) *Plan.* The plan shall include, but not be limited to, the following information:

(1) 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

(2) 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").

(c) *Failure to Include Projects in Plan.* The city may deny an application for a right-of-way permit for failure to include a project in the plan submitted to the city for next-year projects unless the right-of-way user demonstrates that it used commercially reasonable efforts to identify the project. The city may annually produce for inspection a list of all planned projects for inspection.

Section 28-59. Permit Requirement.

(a) *Permit Required.* A permit is required to excavate the right-of-way, to place equipment of facilities in or on the right-of-way, or to obstruct or otherwise hinder free and open passage over the right-of-way. The permit shall specify the extent and the duration of the work permitted.

(1) *Excavation Permit.* An excavation permit is required by a registrant to excavate that part of the right-of-way described in such 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 such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked. No small-wireless-facility permit is required to solely conduct (i) routine maintenance of a small wireless facility; (ii) replacement of a small wireless facility with a new facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced; or (iii) installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes, however, a service provider is required to make written notice of such activities to the city if the work will obstruct a public right of way.

(4) *Special/Conditional Use Permit*. A special or conditional use permit is required to install a new wireless support structure for the siting of a small wireless facility in a right of way in a district or area that is zoned for single-family residential use or within a historic district established by federal or state law or city ordinance as of the date of application for a small wireless facility permit.

(b) *Permit Extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

(c) *Delay Penalty.* In accordance with Minnesota Rule 7819.1000 subp. 3, the city may 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. A delay penalty will not be imposed for delays due to force majeure, including inclement weather, civil strife, acts of God, or other circumstances beyond the control of the applicant.

(d) *Permit Delay.* Permits issued under this Section shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

Section 28-60. Permit Applications.

An application for a permit is made to the city. Right-of-way permit applications shall contain, and will only be considered complete upon compliance with the following:

(a) Registration with the city pursuant to this Article.

(b) 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.

(c) Payment of money due to the city for:

(1) Permit fees, estimated restoration costs and other management costs;

(2) Prior obstructions or excavations;

(3) 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;

(4) Franchise fees or other charges, if applicable.

(d) Payment of disputed amounts due to the city by posting security or depositing in an escrow account an amount equal to at least 100% of the amount owing.

(e) Posting an additional or larger construction performance bond should the city deem the existing construction performance bond inadequate.

Section 28-61. Issuance of Permit; Conditions.

(a) *Permit Issuance.* If the Applicant has satisfied the requirements of this Article IV the city shall issue a permit.

(1) An excavation or obstruction permit within five (5) business days.

(2) A Small-Wireless-Facilities permit within ninety (90) days.

(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. The city may establish and define location and relocation requirements for equipment and facilities to be located in the right-of-way. In addition, a permittee shall comply with all requirements of local, state, and federal laws, including but not limited to Minn. Stat. §§216D.01-0.9 (Gopher One Call Excavation Notice System) and Minn. R. ch. 7560.

(c) *Small wireless facility conditions.* In addition to subd. (b), 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 fifty (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 fifty (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 (10) feet above its wireless support structure.
(4) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and existing wireless support structure or other facilities in and around the right-of-way.
(5) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
(6) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement or relocation requirements on the replacement of such structure.

(d) *Small wireless facility agreement*. A small wireless facility permit shall only be issued after the applicant has executed a standard small wireless facility collocation and lease agreement with the city. The standard collocation agreement may require payment of the following:

(1) Up to $150 per year for rent to collocate on the city structure;
(2) $25 per year for maintenance associated with the collocation;
(3) If the provider obtains electrical service through the city, a monthly fee for electrical service as follows:
  (i) $73 per radio node less than or equal to 100 maximum watts;
  (ii) $182 per radio node over 100 maximum watts; or
  (iii) The actual costs of electricity, if the actual cost exceed the foregoing.

The standard collocation agreement shall be in addition to, and no 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.

Section 28-62. Action on small-wireless facility permit applications.

(a) *Deadline for action.* The city shall approve or deny a small wireless facility permit application within ninety (90) days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approval if the city fails to approve or deny the application within the review period established in this section.

(b) *Consolidated applications.* An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to fifteen (15) small wireless facilities, or a greater number if agreed to be a local government unit, provided that all small wireless facilities in the application:

(1) Are located within a two-mile radius;

(2) Consist of substantially similar requirement;

(3) And are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but it may not use denial of one or more

(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 thirty (30) small wireless facilities within a seven (7) day period. In such cases, the city may extend the deadline for all such applications by thirty (30) days by informing the affected applicants in writing of such extension.
(2) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness, with specificity as to the missing information, to the applicant within thirty (30) days of receipt of the application. Upon submission of additional documents of information, the city shall have ten (10) days to notify the applicant in writing of any still-missing information.
(3) The city and small wireless facility applicant agree in writing to toll the review period.

Section 28-63. Permit Fee.

(a) *Fee Schedule and Fee Allocation.* The city's permit fees shall be designed to recover the city's actual costs and shall be based on an allocation among all users of the right-of-way, including the city.
(b) *Permit Fee Amount.* The city shall establish a permit fee sufficient to recover the following costs:
    (1) The city's management costs;
    (2) Degradation costs, if applicable
(c) *Payment of Permit Fees.* No permit shall be issued without payment of permit fees. The city may allow an applicant to pay such fees within thirty (30) days of billing. Permit fees paid for a permit that the city has revoked for a breach are not refundable.
(d) *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.

Section 28-64. Right-of-Way Patching and Restoration.

(a) *Timing.* The work to be done under a permit, and the required patching and restoration of the right-of-way, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under Section 28-66 (b).

(b) *Patching.* The permittee must patch its own work.

(c) *Restoration.* The city may choose either to have the permittee restore the surface and subgrading portions of right-of-way or the city may restore the surface portion of right-of-way itself. If the city restores the surface portion of right-of way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within thirty (30) days of billing, all costs associated with correcting the defective work. If the permittee restores the right-of-way itself, it shall at the time of filing the permit application post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000.

(d) *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 in an amount identified by the city. However, the right-of-way user shall remain responsible for replacing and compacting the subgrade and aggregate base material in the excavation and degradation fee shall not include the cost to accomplish these responsibilities.

(e) *Standards.* The permittee shall perform patching and restoration according to the standards in Minnesota Rule 7819.1100, and with the materials specified by the city.

(f) *Duty to correct defects.* The permittee shall correct defects in patching, or restoration performed by permittee or its agents upon notification from the city, using the method required by the city.

(g) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city shall notify the permittee in writing of the specific alleged failure or failures and shall allow the permittee ten (10) days from receipt of notice to cure said failure or failures. In the even the permittee fails to cure, the city may at its option perform the necessary work and permittee shall pay to the city, within thirty (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.

Section 28-65. 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 that determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) 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 state 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.

Section 28-66. Other Obligations.

(a) *Compliance with other laws.* Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to apply 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 Minn. Statute 216D.01-.09 (Gopher One Call Excavation Notice System). A permittee shall perform all work in conformance with the applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(b) *Prohibited Work.* Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

(c) *Interference with right-of-way.* A permittee shall not so obstruct or interfere with the natural passage of water through the gutters or other waterways. Private vehicles must be parked in conformance with city parking regulations. Unless specifically authorized by a permit, trucks must be loaded and unloaded within the defined permit area.

(d) *Traffic control.* A permittee shall implement traffic control measures in the area of the work and use traffic control procedures in accordance with the most recent manuals on uniform traffic control, traffic control devices and traffic zone layouts published by the State of Minnesota.

Section 28-67. Denial of Permit.

(a) Reasons for Denial. The city may deny a permit for failure to meet the requirements and conditions of this article or if the city determindes that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use and future uses. The city may deny a permit if the utility has failed to comply with previous permit conditions. The city may withhold issuance of a permit until the applicant is in compliance with the conditions of a previous permit.

(b) Procedural Requirements. The denial of a right-of-way permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within three (3) business days of the decision to deny a permit. If an application is denied, the right-of-way user may cure the deficiencies identified by the city and resubmit its application. If the application is resubmitted within thirty (30) days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within thirty (30) days after submission.

Section 28-68. Installation Requirements.

The installation of facilities in the right-of-way and associated excavation, backfilling, patching, and restoration work shall be done in conformance with Minnesota Rule 7819.1100 and other applicable local requirements.

Section 28-69. Inspection.

(a) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minnesota Rule 7819.1300.

(b) *Site Inspection.* The permittee shall make the work site available to the city for inspection at all reasonable times during the execution of and upon completion of the work.

(c) *Authority of Director.* 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, or order the permittee to correct work that does not conform to the terms of the permit or other applicable standards, conditions, or code. If the work failure is a "substantial breach" within the meaning of Minnesota Statute 237.163 subd. 4(c), the order shall state the failure to correct the violation will be cause for revocation of the permit after a specified period determined by the director. The permittee shall present proof to the director that the violation has been timely corrected. If the violation is not timely corrected, the director may revoke the permit.

Section 28-70. Work Done without a Permit.

(a) *Emergency Situation.* Each right-of-way user shall immediately notify the director of any event regarding its facilities that the right-of-way user considers to be an emergency. The right-of-way user may take whatever actions are necessary to respond to the emergency. Within two (2) business days after the occurrence of the emergency the right-of-way user shall apply for the necessary permits and fulfill the rest of the requirements necessary to comply with this Article.

(b) If the city becomes aware of an emergency affecting facilities in the right-of-way, the city will attempt to contact the local representative of each potentially affected right-of-way user. The city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by affected right-of-way users.

(c) *Non-Emergency Situation.* 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, pay an unauthorized work permit fee in an amount established from time to time by the city council, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all the requirements of this Article.

Section 28-71. Revocation of Permits.

(a) *Substantial Breach.* The city reserves its right 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 a permit

(2) An evasion or attempt to evade any material provision of a 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 permit;

(4) The failure to complete work in a timely manner; or

(5) The failure to correct, in a timely manner, work that does not conform to a condition indicated in an order issued by the director.

(b) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of term or condition of any statute, ordinance, rule regulation or any condition of the permit the city shall follow the procedural requirements of Sec. 28-97 (b) of this article.. 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 to place additional or revised conditions on the permit to mitigate and remedy the breach.

(c) *Response to notice of breach.* Within a time established by the director following permittee's receipt of notification of the breach, permittee shall provide the city with a plan to cure the breach, acceptable to the city. Permittee's failure to submit a timely and acceptable plan, or permittee's failure to timely implement the approved plan, shall be cause for immediate revocation of the permit.

(d) *Cause for Probation.* From time to time, the city may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one (1) full year, such as, but not limited to, working out 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 outlines above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one (1) full year, except for emergency repairs.

(f) *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

Section 28-72. Mapping Data.

Each right-of-way user and permittee shall provide mapping informational a form required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100.

Section 28-73. Location and Relocation of Facilities.

(a) *Compliance.* Placement, location, and reclocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100,to the extent the rules do not limit authority otherwise available to cities.

(b) *Corridors.* 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 facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

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 in writing by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

(c) *Nuisance.* One year after the passage of this article, any unregistered facilities that are found in the right-of-way and that are required by this article to be registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

(d) *Limitation of Space.* To protect health, safety and welfare, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects that have been determined to be in the public interest.

(e) *Relocation.* A right-of-way user shall promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way when it is necessary to prevent interference, and not merely for the convenience of the city, in connection with: (1) a present of future city use of the right-of-way for a public project; (2) the public health or safety; or (3) the safety and convenience of travel over the right-of-way.

Section 28-74. Pre-excavation Facilities Location

In addition to complying with the requirements of Minn. Stat. 216D.01-.09 ("One Call Excavation Notice System") before the state 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 the approximate vertical placement (or assumed vertical placement is accurate data is not available) of all said facilities. Any registrant whose facilities are less than twenty (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.

Section 28-75. Damage to Other Facilities.

The provisions of Minn. Stat. 216D shall apply to all situations involving damages to facilities during excavation operations. Each registrant shall be responsible for the cost of repairing or the value of damage to any facilities in the right-of-way that it or its facilities damages. This provision includes costs for damages to boulevard amenities, such as trees, landscaping, irrigation systems and invisible fences placed by property owners. It is the registrant's responsibility to provide immediate notice of such damages to the affected property owners. 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.

Section 28-76. Interference by Other Facilities.

When the city does work in the right-of-way and finds it necessary to maintain, support, or move a right-of-way user's facilities to carry out the work without damaging right-of-way user's facilities, the city shall notify the local representative as early as is reasonable possible. The city costs associated therewith will be billed to that right-of-way user and must be paid within thirty (30) days form the date of billing. Each right-of-way user shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages.

Section 28-77. Right-of-Way Vacation.

If the city vacates a right-of-way that contains the facilities of a right-of-way user, the right-of-way user's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

Section 28-78. Indemnification and Liability.

By registering with the city, or by accepting a permit under this Article, a right-of-way user or permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rule 7819.1250.

Section 28-79. Abandoned and Unusable Facilities.

(a) *Discontinued Operations.* A right-of-way user who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the right-of-way user's obligations for its facilities in the right-of-way under this Article have been lawfully assumed by another right-of-way user.

(b) *Removal.* Any right-of-way user 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.

Section 28-80. Appeal.

A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; or (4) believes that the fees imposed are not in conformity with Minnesota Statute 237.163, Section 410.06 may have the denial, revocation, or fee imposition reviewed, upon written request, by the city council. The city council shall act on a timely written request at its next regularly scheduled meeting. A decision by the city council affirming the denial, revocation, or fee imposition will be in writing.

Section 28-81. Reservation of Regulatory and Policy Powers.

A permittee's or right-of-way user's rights are subject to the regulatory and police power authority of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

Section 28-82. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Article IV is for any reason held invalid or unconstitutional by any court, regulatory body or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 28-83. Penalty.

Any person violating any provision of this Article IV, or any permit or order issued hereunder, shall, upon conviction thereof, be guilty of a misdemeanor punishable in accordance with Section 2-102 of the City Code.

(Ord. No. 2017-51, 3-6-2017; Ord. No. 2017-55, 1-18-2018)

ARTICLE V.

Small Wireless Facilities

Section 28-79. Findings, Purpose, and Intent

The purpose of this Article is to establish specific requirements for obtaining a Small Wireless Facility Permit for the installation, mounting, maintenance, modification, operation, and replacement of Small Wireless Facilities and installation or replacement of Wireless Support Structures by Commercial Wireless Providers on public and private property, including in the Public Right-of-Way. Where this ordinance is inconsistent with Article IV of this Chapter, pertaining only to Small Wireless Facilities as defined herein, the rules and regulations contained in this Article shall be enforced.

This Article does not apply to any Wireline Facilities, including Wireline Backhaul Facilities. A Wireless Provider must obtain a right-of-way permit pursuant to Article IV, Chapter 28 or other applicable authorization.

Section 28-80. Definitions.

Applicant means any person, group or company that has applied for a permit to excavate or obstruct a right-of-way.

City means the City of Grant, Minnesota, its elected officials, officers, employees and agents.

Collocate or *Collocation* means to install, mount, maintain, modify, operate, or replace a Small Wireless Facility on, under, within, or adjacent to an existing Wireless Support Structure that is owned privately or by the City.

Decorative Pole means a Utility Pole owned, managed, or operated by or on behalf of the City or any other governmental entity that: (a) is specifically designed and placed for an aesthetic purpose; and (b)(i) on which a nondiscriminatory rule or code prohibits an appurtenance or attachment, other than: (A) a Small Wireless Facility, (B) a specialty designed informational or directional sign; or (C) a temporary holiday or special event attachment; or (b)(ii) on which no appurtenance or attachment has been placed, other than: (A) a Small Wireless Facility, (B) a specialty designed informational or directional sign; or (C) a temporary holiday or special event attachment.

Director means the City Engineer of the City, or his or her designee.

Excavate means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

Micro Wireless Facility means a Small Wireless Facility that is no larger than twenty-four (24) inches long, fifteen (15) inches wide, and twelve (12) inches high, and whose exterior antenna, if any, is no longer than eleven (11) inches.

Permitee means a person, group, company, or similar that has been granted a Small Wireless Facility Permit by the City.

Small Wireless Facility means: (a) a Wireless Facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six (6) cubit feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six (6) cubit feet; and (ii) all other wireless equipment associated with the Small Wireless Facility, excluding 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, in aggregate no more than twenty eight (28) cubic feet in volume; or (b) a Micro Wireless Facility.

Small Wireless Facility Permit (Permit) means a permit issued by the City authorizing the installation, mounting, maintenance, modification, operation, or replacement of a Small Wireless Facility or installation or replacement of a Wireless Support Structure in addition to Collocation of a Small Wireless Facility on the Wireless Support Structure.

Utility Pole means a pole that is used in whole or in part to facilitate telecommunications or electric service. It does not include a traffic signal pole.

Wireless Facility means equipment at a fixed location that enables the provision of Wireless Service between user equipment and a wireless service network, including a) equipment associated with Wireless Service; b) a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration; and c) a Small Wireless Facility. Wireless Facility does not include: a) Wireless Support Structures; b) Wireline Backhaul Facilities; or c) Coaxial or fiber-optic cables (i) between utility Poles or Wireless Support Structures, or (ii) that are not otherwise immediately adjacent to or directly associated with a specific antenna.

Wireless Provider means a provider of Wireless Service, including, but not limited to, radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves and which permits a user generally to receive a call that originates and/or terminates on the public switched network or its functional equivalent, regardless of the radio frequencies used.

Wireless Service means any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using Wireless Facilities. Wireless Service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including a cable service under United States Code, title 47, section 522, clause (6).

Wireless Support Structure means a new or existing structure in a Public Right-of-Way designed to support or capable of supporting Small Wireless Facilities, including, but not limited to, a Utility Pole or a building, as reasonable determined by the City.

Wireline Backhaul Facility means a facility used to transport communications data by wire from wireless facility to a communications network.

Section 28-81. Administration

The City Engineer, Director, is the principal city official responsible for the administration of the Small Wireless Permit and the ordinances related thereto. The City Engineer may delegate any or all of the duties hereunder.

Section 28-82. Permit Requirement and Application.

(a) *Permit Required.* A Small Wireless Facility Permit is required, in addition to any required right-of-way permits, to excavate the right-of-way, to place Small Wireless equipment or facilities in or on the

right-of-way, or to obstruct or otherwise hinder free and open passage over the right-of-way. The Small Wireless Facility permit shall specify the extent and the duration of the work permitted, and the conditions which vary from those of a standard right-of-way permit.

(b) *Complete Application.* A form of Application will be provided to the Applicant, and such form must be complete prior to any permit being issued. To the extent possible, Consolidated Applications pursuant to the following section shall be permitted.

(c) *Consolidated Application.* A Wireless Provider may apply for up to 15 Small Wireless Facility Permits in a Consolidated Application, provided all Small Wireless Facilities in the Consolidated Application are located within a two-mile radius, consist of substantially similar equipment, and are to be Collocated on similar types of Wireless Support Structures. The City shall review a Consolidated Application as allowed by this Article. If necessary, the applied for Small Wireless Facility Permits in a Consolidated Application may be approved or denied individually, but the City may not use the denial of one or more permits as a basis to deny all Small Wireless Facility Permits in a Consolidated Application. Any Small Wireless Facility Permits denied in a Consolidated Application shall be subject to a single appeal.

Section 28-83. General Standards for Small Wireless Facilities and Wireless Support Structures.

General Standards. The Director shall establish and maintain a set of standards for the installation, mounting, maintenance, modification, operation, or replacement of Small Wireless Facilities and placing new or replacement Wireless Support structures in the Public Right-of-way applicable to all Permittees under this section (the "General Standards"). The General Standards shall include, but not be limited to, information to be required in a Small Wireless Facility Permit Application, design and aesthetic standards, construction standards, a form Application, permitting conditions, insurance and security requirements, and Rates and Fees.

(a) *Design and Aesthetic Standards.* Any design standards established by the Director shall be: (a) reasonable and nondiscriminatory, and (b) include additional installation and construction details that do not conflict with this Article, or Article IV, of this Chapter, including, but not limited to, a requirement that: (i) an industry standards pole load analysis be completed and submitted to the City indicating that the Wireless Support Structure to which the Small Wireless Facility is to be attached will safely support the load, and (ii) Small Wireless Facility equipment on new and existing Wireless Support Structures be placed higher than fifteen (15) feet above ground level. The Director shall additionally include the following in any design standards established under this Section:

    i. Any Wireless Support Structure installed in the Public Right-of-Way after May 31, 2017 may not exceed fifty (50) feet above ground level, unless the City agrees to a greater height, subject to local zoning regulations, and may be subject to separation requirements in relation to other Wireless Support Structures.
    ii. Any Wireless Support Structure replacing an existing Wireless Support Structure that is more than fifty (50) feet above ground level may be placed at the height of the existing Wireless Support Structure, unless the City agrees to a greater height, subject to zoning regulations.
    iii. Wireless Facilities constructed in the Public Right-of-Way after May 31, 2017 may not extend more than ten (10) feet above an existing Wireless Support Structure in place as of May 31, 2017.
    iv. And reasonable accommodations for a decorative pole.

(b) *Construction Standards.* Any construction standards established by the Director shall include at least the following terms and conditions:

    i. *Compliance with Applicable Law.* To the extent this requirement is not preempted or otherwise legally unenforceable, a Permittee shall comply with all Applicable Law and applicable industry standards.
    ii. *Prevent Interference.* A Permittee shall Collocate, install, and continuously operate any authorized Small Wireless Facilities and Wireless Support Structures in a manner that prevents interference with other Wireless Facilities and other facilities in the

Right-of-Way and the operation thereof. With appropriate permissions from the City, a Permittee shall, as is necessary for the safe and reliable operation and maintenance of its facilities, maintain landscaping and trees as prescribed by standards promulgated by the City.

iii. *Other Rights not Affected.* A Permittee shall not construe a contract, permit, correspondence, or other communication from the City as affecting a right, privilege, or duty previously conferred or imposed by the City to or on another person.

iv. *Restoration.* Restoration shall be completed in compliance with the standards as specified within Article IV Right-of-Way of this Chapter.

v. *Permittee's Liability.* A Permittee is solely responsible for the risk and expense of the Collocation of the Permittee's Small Wireless Facility and installing or replacing the Permittee's Wireless Support Structure. The City neither warrants nor represents that any area within the Public Right-of-Way is suitable for such Collocation or installation or replacement. A Permittee shall accept the Public Right-of-Way "as is" and "where is" and assumes all risks related to any use. The City is not liable for damage to Small Wireless Facilities due to an event of damage to a Wireless Support Structure in the Public Right-of-Way.

Section 28-84. Permit Application Review Process.

An Application shall be eligible for review if the Application conforms to the General Standards adopted by the Director. A Small Wireless Facility Permit issued pursuant to any Application processed hereunder shall authorize: (1) the installation, mounting, modification, operation, and replacement of a Small Wireless Facility in the Public Right-of-way or City-owned property; or (2) construction of a new, or replacement of an existing, Wireless Support Structure, and Collocation of a Small Wireless Facility on a Wireless Support Structure.

(f) *Review Process.* An Application submitted pursuant to this Section shall be review as follows:

i. *Submission of Application.* Applicant shall submit a complete Application accompanied by the appropriate application fee as set forth in Section 28-86. Prior to submitting a Small Wireless Facility Permit Application, an Applicant shall inspect any Wireless Support Structure on which it proposed to Collocate a Small Wireless Facility and determine, based on a structural engineering analysis by a Minnesota registered professional engineer, the suitability of the Wireless Support Structure for the proposed Collocation. The structural engineering analysis shall be submitted to the City with the Application, and shall certify that the Wireless Support structure is capable of safely supporting the proposed Small Wireless Facility considering conditions at the proposed location, including the condition of the Public Right-of-Way, hazards from traffic, exposure to wind, snow and/or ice, and other conditions affecting the proposed Small Wireless Facility that may be reasonably be anticipated.

ii. *Application Review Period.* The City shall, within sixty (60) days after the date of a complete Application issue or deny a Small Wireless Facility Permit pursuant to the Application. The City shall within ninety (90) days after the date a complete Application for a new or replacement Wireless Support Structure in addition to the Collocation of a Small Wireless Facility is submitted to the City, issue or deny a Small Wireless Facility Permit pursuant to the Application. If the City receives applications within a single seven-day period from one or more Applicants seeking approval of a Small Wireless Facility Permit for more than thirty (30) Small Wireless Facilities of ten (10) Wireless Support Structures, the City may extend the ninety (90) day review period of this Article by an additional thirty (30) days. IF the City elects to invoke this extension, it must inform in writing any Applicant to whom the extension will be applied.

iii. *Completeness Determination.* The City shall review a Small Wireless Facility Permit Application for completeness following submittal. The City shall provide a written notice of incompleteness to the Applicant within ten (10) days of receipt of the Application, clearly and specifically identifying all missing documents or information. If an Applicant fails to respond

to the City's notice of incompleteness within ninety (90) days, the Application shall be deemed expired and no Small Wireless Facility Permit shall be issued. Upon an Applicants submittal of additional documents or information in response to a notice of incompleteness, the City shall within ten (10) days of submission notify the Applicant in writing of any information requested in the initial notice of incompleteness that is still missing. Second or subsequent notices of incompleteness may not specify documents or information that were not identified in the original notice of incompleteness.

iv. *Reset and Tolling of Review Period.* In the event that a Small Wireless Facility Permit Application is incomplete, and the City has provided a timely and complete written notice of incompleteness, then the applicable review period shall be reset, pending the time between when a notice is mailed and the submittal of information in compliance with the notice. Subsequent notices shall toll the applicable review period. An Applicant and the City can mutually agree in writing to toll applicable review period at any time.

v. *Permit Not Required.* A Permittee shall provide thirty (30) days advance written notice to the City, but shall not be required to obtain a Small Wireless Permit, or pay an additional Small Wireless Facility Permit fee for:
   a. Routine maintenance;
   b. The replacement of a Small Wireless Facility with a Small Wireless Facility that is substantially similar to or smaller in size; or
   c. The installation, placement, maintenance, operation, or replacement of a Micro Wireless Facility that is strung on a cable between existing Utility Poles, in compliance with the National Electrical Safety Code.

Section 28-85. Issuance of Permit; Conditions.

(e) *Permit Issuance.* If the Applicant has satisfied the requirements of this Article V the City shall issue a permit.

(f) *Conditions.* The City may impose reasonable conditions upon the issuance of the Small Wireless 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. Additional conditions may address:

i. Reasonable accommodations for a Decorative Pole;
ii. Any reasonable restocking, replacement, or relocation requirement when a new Wireless Support Structure is placed in the Public Right-of-Way;
iii. Construction of the proposed Small Wireless Facility within six (6) months from the date the Small Wireless Facility Permit is issued;
iv. Obtaining additional authorization for use of the Public Right-of-Way for the construction of Wireless Backhaul Facilities or any other wired facilities;
v. Compliance with applicable sections of Article IV of this Chapter, and other applicable City Code;
vi. Compliance with Applicable Law.

(g) *Authorized Use.* An approval of a Small Wireless Facility Permit under this Section authorizes the Collocation of a Small Wireless Facility on an existing Wireless Support Structure to provide Wireless Services, or the installation or replacement of a Wireless Support Structure and Collocation of a Small Wireless Facility, and shall not be construed to confer authorization to:

i. Provide any service other than Wireless Service;
ii. Construct, install, maintain, or operate any Small Wireless Facility or Wireless Support Structure in a Right-of-Way other than the approved Small Wireless Facility or Wireless Support Structure; or
iii. Install, place, maintain or operation a Wireline Backhaul facility in the Right-of-Way

(h) *Other Permits Required*. Any Applicant desiring to obstruct or perform excavation in a Public Right-of-Way within the City for purposes of Collocating a Small Wireless Facility or installing or replacing a Wireless Support Structure shall, consistent with Article IV of this Chapter, obtain the necessary permit from the City prior to conducting such activities.

(i) *Exclusive Arrangement Prohibited*. The City shall not enter into an exclusive arrangement with an Applicant for use of a Public Right-of-Way for the Collocation of a Small Wireless Facility or for the installation or operation of a Wireless Support Structure.

(j) *Unauthorized Small Wireless Facility*. No Applicant shall install, mount, modify, operate, or replace a Small Wireless Facility in the Public Right-of-Way or on City-owned property, or install or replace a Wireless Support Structure without first obtaining a Small Wireless Facility Permit from the City. If the City determines that any activity has occurred without the required permit the procedures set forth in Article IV pertaining to removal shall be followed.

(k) *Relocation*. The City may require a Permittee to relocate or modify a Small Wireless Facility or Wireless Support Structure in a Public Right-of-Way or on City-owned property in a timely manner and at the Permittee's cost if the City determines that such relocation or modification is required to protect pubic health, safety and welfare, or to prevent interference with other facilities authorized pursuant to this Article and Article IV of this Chapter, or to prevent interference with public works projects of the City.

(l) *Security Required.* Each Permittee shall submit and maintain with the City a bond, cash deposit, or other security acceptable to the City, in a form and amount determined by the City in accordance with the General Standards, securing the faithful performance of the obligations of the Permittee and its agents under any and all Small Wireless Facility Permits issued to the Permittee under this Article. If, in accordance with this Article, the City deducts an amount from such security, the Permittee must restore the full amount of the security prior to the City's issuance of any subsequent Small Wireless Facility Permit. The City shall return or cancel the security, less any fees necessary to restore the Right-of-Way and the City owned appurtenances to an acceptable condition to the Director, should the Permittee cease to operate any Small Wireless Facility in the Right-of-Way.

(m) *Insurance Required.* Each Permittee shall maintain in full force and effect, throughout the term of a Small Wireless Facility Permit, an insurance policy or policies issued by an insurance company satisfactory to the City. Such insurance shall be required to meet the requirements as stated within Article IV of this Chapter.

(n) *Payment of Fees Required.* A Small Wireless Facility Permit shall not be issued prior to the complete payment of all applicable Fees.

(o) *Notice of Assignment Required.* A Permittee upon or within ten (10) calendar days after transfer, assignment, conveyance, or sublet of an attachment that changes the permit and/or billing entity or ownership responsibilities shall provide written notification to the City.

(p) *Term.* A Small Wireless Facility Permit for a Small Wireless Facility in the Public Right-of-Way shall have a term equal to the length of time that the Small Wireless Facility in use, unless the Small Wireless Facility Permit is revoked under this Article or is otherwise allowed to be limited by Applicable Law. The term for all other Small Wireless Facility Permits shall be for a period of up to ten (10) years.

(q) *Revocation.* The City may revoke a Small Wireless Facility Permit, with or without refund, in the event of a substantial breach of the terms and conditions of any statute, ordinance, rule, regulation, or any material condition of the Small Wireless Facility Permit. Substantial Breach and the process of Revocation shall follow the applicable sections contained within Article IV of this Chapter.

(r) *Written Notice Required.* Any denial or revocation of a Small Wireless Facility Permit shall be made in writing and shall document the basis for the denial or revocation. If a Small Wireless Facility Permit Application is denied, the Applicant may cure the deficiencies identified by the City and submit its Application. If the Applicant resubmits the Application within thirty (30) days of receiving written notice of the denial, it may not be charged an additional filing or processing fee. The City must approve or deny the revised application within thirty (30) days after the revised application is submitted. If a Small Wireless Facility Permit or a Wireless Support Structure Permit is revoked, the Small Wireless Facility or Wireless Support Structure shall be subject to removal.

Section 28-86. Permit Fee.

(e) *Fee Schedule and Fee Allocation.* The City's permit fees shall be designed to recover the City's actual costs and shall be based on an allocation among all users of the right-of-way, including the City.

(f) *Permit Fee Amount.* The City shall charge a fee for reviewing and processing a Small Wireless Facility Permit Application. The purpose of this fee is to enable the City to recover its costs directly associated with reviewing a Small Wireless Facility Permit Application

(1) The City shall charge a fee of $500 for a Small Wireless Facility Permit Application seeking to Collocate up to five (5) Small Wireless Facilities. This fee shall increase by $100 for each additional Small Wireless Facility that an Applicant seeks to Collocate.

(2) The City shall charge a fee of $1,000 for a Small Wireless Facility Permit Application seeking to install or replace a Wireless Support Structure in addition to Collocating of a Small Wireless Facility on the Wireless Support Structure.

(3) Commencing on January 1, 2020 the City shall adjust the Application Fees annually by the consumer price index for the Minneapolis-St. Paul area.

(g) *Payment of Permit Fees.* No permit shall be issued without payment of permit fees. The City may allow an applicant to pay such fees within thirty (30) days of billing. Permit fees paid for a permit that the City has revoked for a breach are not refundable.

(h) *Annual Small Wireless Permit Fee.* The City shall charge an Annual Small Wireless Permit Fee for each Small Wireless Facility Permit issued to a Permittee. The Annual Small Wireless Permit Fee shall be determined by the City and listed in the City's Fee Schedule. The Annual Small Wireless Permit Fee shall be based upon the recovery of the City's right-of-way management costs.

(i) *City*-owned Wireless Support Structure Fees. The City shall charge the following fees to the owner of any Small Wireless Facility Collocated on a Wireless Support Structure owned by the City or its assigns located in the Public Right-of-Way:

(1) $150 per year for rent to occupy space on the Wireless Support Structure;

(2) $25 per year for maintenance associated with the space occupied on the Wireless Support Structure; and

(3) A monthly fee for electricity used to operate the Small Wireless Facility, if not purchased directly from a utility, at the rate of:

i. $73 per radio node less than or equal to 100 max watts;

ii. $182 per radio node over 100 max watts; or

iii. Actual costs of electricity, if the actual costs exceed the above.

(j) *Discretion to Require Additional Fees*. In instances where the review of a Small Wireless Facility Permit Application is or will be unusually costly to the City, the Director, in his or her discretion, may require an Applicant to pay a sum in excess of the other fee amounts charged pursuant to this Article. This additional sum shall be sufficient to recover the actual, reasonable costs incurred by the City and/or other regulatory reviewers, in connection with a Small Wireless Facility Permit Application and shall be charged on a time and materials basis. Whenever additional fees are charged, the Director, upon request, shall provide in writing the basis for the additional fees and an estimate of the additional fees. The City may not require a fee imposed under this Chapter through the provision of in-kind services by an Applicant as a condition of consent to use the City's Public Right-of-Ways or to obtain a Small Wireless Facility Permit.

(k) *Reimbursement of City Costs*. The City may determine that it requires the services of an expert in order to evaluate a Small Wireless Facility Permit Application. In such cases, the City shall not issue a Small Wireless Facility Permit pursuant to the Application unless the Applicant agrees to reimburse the City for the actual, reasonable costs incurred for the services of a technical expert.

Section 28-87. Denial of Permit.

The City may deny a permit for failure to meet the requirements and conditions of this Article, to protect the public health, safety, and welfare, or to protect the right-of-way and its current use. Such denial shall be provided in writing and will delineate all reasons for such denial.

Section 28-89. Inspection.

(d) *Notice of completion.* When the work under any permit hereunder is completed, the Permittee shall furnish a completion certificate in accordance with Minnesota Rule 7819.1300.

(e) *Site Inspection.* The Permittee shall make the work site available to the City for inspection at all reasonable times during the execution of and upon completion of the work. The City may inspect, at any time, a

Permittee's Collocation of Small Wireless Facility or installation or replacement of a Wireless Support Structure. The City shall determine during an inspection whether the Permittee's Small Wireless Facility or Wireless Support Structure is in accordance with the requirements of the Small Wireless Facility Permit and other Applicable Law.

(f) *Authority of Director.* 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, or order the Permittee to correct work that does not conform to the terms of the Permit or other applicable standards, conditions, or code. If the work failure is a "substantial breach" within the meaning of Minnesota Statute 237.163 subd. 4(c), the order shall state the failure to correct the violation will be cause for revocation of the permit after a specified period determined by the Director. The Permittee shall present proof to the Director that the violation has been timely corrected. If the violation is not timely corrected, the Director may revoke the Permit.

Section 28-90. Mapping Data.

Each right-of-way user and Permittee shall provide mapping information in a form required by the City in accordance with Minnesota Rules 7819.4000 and 7819.4100.

Section 28-91. Right-of-Way Vacation.

If the City vacates a right-of-way that contains the facilities of a right-of-way user, the right-of-way user's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

Section 28-92. Indemnification and Liability.

By accepting a permit under this Article, a right-of-way user or Permittee agrees to defend and indemnify the City in accordance with the provisions of Minnesota Rule 7819.1250.

Section 28-93. Abandoned and Unusable Facilities.

(c) *Discontinued Operations.* A right-of-way user who has determined to discontinue all or a portion of its operations in the City must provide information satisfactory to the City that the right-of-way user's obligations for its facilities in the right-of-way under this Article have been lawfully assumed by another right-of-way user.

(d) *Removal.* Any right-of-way user 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.

Section 28-94. Appeal.

A right-of-way user that: (1) has been denied a permit; (2) has had a permit revoked; or (3) believes that the fees imposed are not in conformity with Minnesota Statute 237.163, Section 410.06 may have the denial, revocation, or fee imposition reviewed, upon written request, by the city council. The city council shall act on a timely written request at its next regularly scheduled meeting. A decision by the city council affirming the denial, revocation, or fee imposition will be in writing.

Section 28-95. Reservation of Regulatory and Policy Powers.

A Permittee's or right-of-way user's rights are subject to the regulatory and police power authority of the City to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

Section 28-96. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Article V is for any reason held invalid or unconstitutional by any court, regulatory body or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 28-97. Penalty.

Any person, group or company violating any provision of this Article V, or any permit or order issued hereunder, shall, upon conviction thereof, be guilty of a misdemeanor punishable in accordance with Section 2-102 of the City Code.

(Ord. No. 2019-59, 4-2-2019)

Chapter 30

SUBDIVISIONS*

Article I. In General

Article II. Platting

Division 1. Generally

Division 2. Preliminary Plat

Division 3. Final Plat

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* **State Law References:** Subdivision ordinances, Minn. Stats. § 462.358.

Article III. Minimum Design Standards

Division 1. Generally

Division 2. Streets

Article IV. Engineering Standards

Article V. Required Improvements and Financial Arrangements

ARTICLE I. IN GENERAL

Sec. 30-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means any dedicated public right-of-way providing a secondary means of access to abutting property.

Applicant means the owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.

Arterial, minor, means a road intended to move traffic through and from adjacent subregions and activity centers within subregions.

Attorney means the attorney employed by the city unless otherwise stated.

Best Management Practices (BMPs) means the most effective and practicable means of erosion prevention and sediment control, and water quality management practices that are the most effective and practicable means of to control, prevent, and minimize degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies.

Block means the enclosed area within the perimeter of roads, property lines or boundaries of the subdivision.

Bond means any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the city council. All bonds shall be approved by the city council wherever a bond is required by these regulations.

Boulevard means the portion of the street right-of-way between the curbline and the property line.

Building means and includes a structure; the term "building" or "structure" includes any part thereof.

Butt lot means a lot at the end of a block and located between two corner lots.

Cluster development means a pattern of subdivision development which places detached houses, duplexes or townhouse units into compact groupings while providing a network of commonly owned or dedicated open space.

Collector street or road means a road intended to move traffic from local roads to secondary roads.

Community means the city.

Comprehensive development plan means a comprehensive plan prepared by the city including a compilation of policy statements, goals, standards and maps indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the city and includes any unit or part of such plan or parts thereof.

Contour map means a map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

Copy means a print or reproduction made from a tracing.

Corner lot means a lot bordered on at least two adjacent sides by using streets.

County means Washington County, Minnesota.

Cul-de-sac means a minor street with only one outlet and having a turnaround.

Developer means the owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.

Development means the act of building structures and installing site improvements.

Dewatering means the removal of water for construction activity. It can be a discharge of appropriated surface or ground water to dry and/or solidify a construction site. It may require Minnesota department of natural resources permits to be appropriated and if contaminated may require other MPCA permits to be discharged.

Double frontage lots means a lot of record on December 7, 1982, having frontage on two (2) streets which do not intersect at a corner of the lot.

Drainage course means a watercourse or indentation for the drainage of surface water.

Easement means a grant by an owner of land for a specific use by persons other than the owner.

Engineer means the registered engineer employed by the city unless otherwise stated.

Erosion means any process that wears away the surface of the land by the action of water.

Erosion control means the methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

Escrow means a deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be deposited by the city/administrator in a separate account.

Final plat means the map or plan or record of a subdivision and any accompanying material, as described in these regulations.

Final stabilization means:

A. All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent (70%) of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed;

B. For individual lots in residential construction by either: 1) the homebuilder completing final stabilization as specified above, or 2) the homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization. (Homeowners typically have an incentive to put in the landscaping functionally equivalent to final stabilization as quick as possible to keep mud out of their homes and off sidewalks and driveways.); or

C. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land) final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters and drainage systems, and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria in subsection A or B of this definition.

Grade means the slope of a road, street, or other public way, specified in percentage terms.

Impervious surface means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

Individual sewage disposal system means a sewage treatment system or part thereof, serving a dwelling or other establishment, or group thereof, consisting of one or more septic tanks and a soil treatment system.

Land disturbing or development activities means any change of the land surface including removing vegetative cover, excavating, filling, grading, and the construction of any structure.

Local road or street means a road intended to provide access to other roads from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

Lot means a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

Lot, corner, means a lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

Major subdivision means all subdivisions not classified as minor subdivisions, including but not limited to subdivisions of three or more lots, or any size subdivision requiring any new street or extension of the local government facilities, or the creation of any public improvements.

Marginal access street (service road) means a minor street parallel to and adjacent to high volume arterial streets and highways, which provide access to abutting properties and protection of through traffic.

Metes and bounds means a method of describing land by measure of length (metes) of the boundary lines (bounds). Most common method is to recite direction and length of each line as one would walk around the perimeter. In general, the metes and bounds can be recited by reference to record, natural or artificial monuments at the corners; and by reference to record, natural or cultural boundary lines.

Minimum subdivision design standards means the guides, principles and specifications for the preparation of subdivision plans indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the plan.

Minor subdivision means any subdivision containing not more than two 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 provisions or portion of the master plan, official map, chapter 32, or these regulations.

National Pollutant Discharge Elimination System (NPDES) means the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the clean water act (sections 301, 318, 402, and 405) and United States Code of Federal Regulations title 33, sections 1317, 1328, 1342, and 1345.

Natural waterway means a natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also includes all drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.

Nonresidential subdivision means a subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.

Outlot means a parcel of land included in a plat, of which the use or development is restricted. Such outlot may be a large tract that could be subdivided in the future or may be too small to comply with the minimum size requirements of zoning and subdivision chapters or otherwise unsuitable for development and therefore not usable as a building site. A recorded plat development shall specify restrictions on such lot.

Owner means an individual, firm, association, syndicate, copartnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

Pedestrian way means a public right-of-way across or within a block, to be used by pedestrians.

Perimeter control means a barrier that prevents sediment from leaving a site by filtering sediment laden runoff or diverting it to a sediment trap or basin

Preliminary plat means the preliminary drawing, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the city council for approval. The preliminary plat shall contain data required as outlined in division 2 of article II of this chapter.

Private street means a street serving as vehicular access to two or more parcels of land and which is not dedicated to the public but is owned by one or more private parties.

Protective covenants means contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners, and to provide mutual protection against aspects of development which would tend to impair stability of values.

Reserve strips means a narrow strip of land placed between lot lines and streets to control access.

Resubdivision means a change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Right-of-way means the land covered by a public road or land dedicated for public use or for certain private use such as land over which a power line passes.

Road, dead-end, means a road or a portion of a street with only one vehicular traffic outlet.

Sediment means the product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, wind, or ice, and has come to rest on the earth's surface either above or below water level.

Sediment control means the measures and methods employed to prevent sediment from leaving the site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

Sketch plan means a drawing showing the proposed subdivision of property. This plan shall be drawn to scale.

Sketch plat means a sketch preparatory to the preparation of the preliminary plat (or subdivision plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the city and planning department as to the form of the plat and the objectives of these regulations.

Stormwater is defined under Minnesota rules 7077.0105, subp. 41(b), and includes precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff and drainage.

Street means a way for vehicular traffic, whether designated as street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, drive, court, or otherwise designated.

Street width means the shortest distance between the lines delineating the right-of-way of a street.

Subdivider means the owner, agent, or person having control of such land as the term is used in this chapter.

Subdivision means the division of a parcel of land after the effective date of the ordinance from which this chapter is derived into two or more lots or parcels, for the purpose of transfer of ownership or building development. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

Survey, land, means the process of determining boundaries and areas of tracts of land. The term cadastral survey is sometimes used to designate a land survey, but in this country its use should be restricted to the surveys of public lands of the United States. Also called property survey; boundary survey.

Surveyor means a land surveyor registered under Minnesota state laws.

Thoroughfare means a street primarily designated to carry large volumes of traffic and provide for vehicular movement between and among large areas.

Used or *occupied*, as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."

Vicinity map means a map drawn to comparatively small scale which definitely shows the area proposed to be platted in relation to known geographical features, e.g., town centers, lakes, roads.
(Ord. No. 1996-01, §§ 301.01, 301.03, 302, 10-22-1996)

Sec. 30-2. Conflicting provisions.

In the event of conflicting provisions in the text of this regulation, the more restrictive shall apply.
(Ord. No. 1996-01, § 301.04, 10-22-1996)

Sec. 30-3. Enforcement.

(a) *Building permits.* No building permit shall be issued for any construction, enlargement, alteration, repair, demolition or moving of any building or structure on any lot or parcel until all the requirements of this regulation have been fully met.

(b) Notice of Violation. When the City determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation to the owner of the property the notice of violation shall contain:

(1) The name and address of the owner of applicant;

(2) The address when available or description of the land upon which the violation is occurring;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to bring the development activity into compliance with this ordinance and a time schedule for the completion of such remedial action;

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and

(6) A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 15 days of receipt of the notice of violation.

(c) Stop Work Order. Persons receiving a Stop Work Order will be required to halt all construction activities immediately. This Stop Work Order will be in effect until the city confirms that the land disturbing

activity is in compliance and the violation has been satisfactorily addressed. Failure to address a Stop Work Order in a timely manner may result in consequences as described the following section.

(d) *Violation and penalties.* Any firm, person or corporation who violates any of the provisions of these regulations, or who sells, leases or offers for sale or lease any lot, block or tract of land herewith regulated before all the requirements of these regulations have been complied with shall be guilty of a misdemeanor and upon conviction thereof shall be subject to fine and/or imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense.
(Ord. No. 1996-01, § 10, 10-22-1996 Ord. No. 2015-38,

Sec. 30-4. Purpose.

(a) The process of dividing raw land into home sites, or separate parcels for other uses, is one of the most important factors in the growth of any community. Few activities have a more lasting effect upon its appearance and environment. Once the land has been subdivided into urban lots, and the streets, homes, and other structures have been constructed, the basic character of this permanent addition to the community has become firmly established. It is then virtually impossible to alter its basic character without substantial expense. In most subdivisions, roads and streets must be maintained and various public service must be provided. The welfare of the entire community is thereby affected in many important respects. It is, therefore, to the interest of the general public, the developer, and the future owners that subdivisions be conceived, designed, and developed in accordance with sound rules and proper standards.

(b) All subdivisions of land hereafter submitted for approval shall fully comply, in all respects, with the regulations set forth herein. It is the purpose of these regulations to:

(1) Encourage well-planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction.

(2) Provide for the health and safety of residents by requiring properly designed streets and adequate individual sewage treatment facilities.

(3) Place the cost of improvements against those benefiting from their construction.

(4) Secure the rights of the public with respect to public lands and waters.

(5) Set the minimum requirements necessary to protect the public health, safety, comfort, convenience, and general welfare.

(Ord. No. 1996-01, § 1, 10-22-1996)

Sec. 30-5. Scope.

The rules and regulations governing plats and subdivision of land contained herein shall apply within the city and other land as permitted by state statutes. In the event of overlapping jurisdiction within the prescribed area, the extent of jurisdiction shall be determined and agreed upon between the city and other municipalities concerned. Except in the case of resubdivision, this chapter shall not apply to any lot forming a part of a subdivision recorded in the office of the county recorder prior to the 1972 effective date of the first county subdivision ordinance, nor is it intended by this chapter to repeal, annul or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by, or in conflict with this chapter, or with private restrictions placed upon property by deed, covenant, or other private agreement, or with restrictive covenants governing the land. Where this chapter imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.
(Ord. No. 1996-01, § 2, 10-22-1996)

Sec. 30-6. Variances.

(a) *Conditions.* The city council may grant a variance in any particular case where the subdivider can

show that by reason of the exceptional topography or other physical conditions the strict compliance to these regulations could cause an exceptional and undue hardship on the enjoyment of a substantial property right. Such relief may be granted provided there is no detriment to the public welfare and no impairment of intended purpose of this regulation.

(b) *Application.* Application for any such variance shall be made in writing by the subdivider at the time when the plat is filed for consideration. Such application shall state fully all facts relied upon by the subdivider, and shall be supplemented with maps, plans or other additional data which may aid the city council in the analysis of the proposed project. Such variances shall be considered at the next regular meeting held by the city council. The plans for such development shall include any covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the proposed plat. Any variance or modifications thus granted shall be recorded and entered in the minutes setting forth the reasons for granting the variance.
(Ord. No. 1996-01, § 911, 10-22-1996)

State Law References: Variance from subdivision regulations, Minn. Stats. § 462.358, subd. 6.

Sec. 30-7. Land with unapproved or lack of surveys or plats.

(a) *Conveyance restrictions.* No conveyance of land to which these regulations are applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961, or to an unapproved plat.

(b) *Exemptions.* Subsection (a) of this section does not apply to a conveyance if the land described:

(1) Was a separate parcel of record April 1, 1945 or the date of adoption of subdivision regulations under Laws 1945, chapter 287, whichever is the later, or of the adoption of subdivision regulations pursuant to a home rule charter;

(2) Was the subject of a written agreement to convey entered into prior to such time;

(3) Was a separate parcel not less than 2 1/2 acres in area and 150 feet in width on January 1, 1966;

(4) Was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980;

(5) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width; or

(6) Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

(c) *Waiver for hardship.* In any case in which compliance with the foregoing restrictions will create an unnecessary hardship, and failure to comply does not interfere with the purpose of the subdivision regulations, the platting authority may waive such compliance.

(d) *Penalty.* Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this chapter shall pay to the municipality a penalty (no criminal sanction) of not less than $100.00 for each lot or parcel so conveyed. The city may enjoin such conveyance or may recover such penalty by a civil action in any court of competent jurisdiction.
(Ord. No. 1996-01, § 910, 10-22-1996)

Sec. 30-8. Security interest.

Creation of a security interest in a portion of a parcel less than the entire parcel does not entitle the property

to subdivision even in the event of foreclosure of the security interest, unless otherwise approved by the city council and the parcel is in conformance with this chapter and chapter 32, pertaining to zoning.
(Ord. No. 1996-01, § 912, 10-22-1996)

Sec. 30-9. Minor subdivisions.

(a) *Application of regulations; requirements for approval.*

(1) In the case of a subdivision resulting in two or less parcels situated in a locality where conditions are well defined, the city council may exempt the subdivider from complying with some of the requirements of these regulations.

(2) In the case of a request to subdivide a lot which is a part of a recorded plat, or where the subdivision is to permit the adding of a parcel of land to an abutting lot or to create not more than two new lots, and the newly created property lines will not cause any resulting lot to be in violation of these regulations or chapter 32, pertaining to zoning, the division may be approved by the city council after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.

(3) The newly created parcels shall meet all requirements of chapter 32, pertaining to zoning. Topographic data at two-foot contour intervals, driveway access points, drainage plans, and soil tests for the installation of an on-site septic system shall be submitted for minor subdivision review. A certificate of survey shall be prepared by a registered land surveyor showing the boundaries of the newly created lots, limits of any wetland, one acre of buildable area, elevation of building site above any lake, stream, wetland, etc.

(4) Prior to approval of a minor subdivision, the city council reserves the right to require the dedication of streets, utility easements.

(5) A maximum of two lots in a five-year period are permitted utilizing the minor subdivision procedure.

(6) In cases where the new lot and resulting lots created exceed 20 acres and have 500 feet of frontage on a public road, subdivision approval is not required.

(b) *Procedure to propose subdivision.*

(1) Any proposed minor subdivision which includes land abutting upon any existing or established trunk highway or proposed highway which has been designated by a centerline order filed in the office of the county recorder shall first be presented to the commissioner of transportation for his written comments and recommendations.

(2) Where any minor subdivision includes land abutting upon an existing or established county or county state-aid highway, it shall first be submitted to the county engineer for his written comments and recommendations.

(3) Minor subdivision involving both a trunk highway and a highway under county jurisdiction shall be submitted to the commissioner of transportation and the county highway engineer.

(4) Plats shall be submitted for review at least 30 days prior to the city taking final action on the minor subdivision. The commissioner of transportation and/or the county highway engineer shall submit the written comments and recommendations to the city within 30 days after receipt by them of such a plat.

(5) Final action on such a plat by the city shall not be taken until after these required comments and recommendations have been received or until the 30-day period has elapsed. A legible preliminary

drawing or print of a proposed minor subdivision shall be acceptable for purposes of review by the commissioner of transportation of the county highway engineer. To such drawing or print there shall be attached a written statement describing:

a. The outlet for and means of disposal of surface waters from the proposed subdivided area;

b. The land use designation or zoning category of the proposed subdivided area;

c. The locations of ingress and egress to the proposed subdivided area; and

d. A preliminary site plan for the proposed subdivided area, if one has been prepared.

(c) *Certification and other requirements.* Failure to obtain the written comments and recommendations of the commissioner of transportation or the county highway engineer shall in no manner affect the title to the lands included in the plat or the platting of said lands. A certificate or other evidence shall be required to or upon the plat for filing in the office of the county recorder or registrar of titles as to the submission of or the obtaining of such written comments and recommendations. The city shall provide the certificate or other evidence to the county recorder or registrar of titles.
(Ord. No. 1996-01, § 905, 10-22-1996)

Sec. 30-10. Resubdivision/rearrangement.

(a) *Restrictions on subdividing and rearranging parcels.* Land which is located within a recorded plat shall not be resubdivided and/or rearranged into smaller parcels except as stated in this section.

(b) *Increase in density not allowed.* Land which is located within a recorded plat may be resubdivided and/or rearranged unless said resubdivision or rearrangement would result in an increase in the density of the plat as a whole.

(c) *Prior right established.* Notwithstanding subsection (a) of this section, land within a recorded plat may be resubdivided or rearranged if, at the time of the recording of the original plat, the plat, development agreement, or other written and recorded document, signed by the city, specifically reserved the right to resubdivide and/or rearrange land within that plat.

(d) *Compliance with regulations.* All applications for the resubdivision and/or rearrangement of a recorded plat must follow all city ordinances for the resubdivision of land. The proper procedure to follow pursuant to city ordinances shall be based upon the total number of new lots proposed to be created and/or rearranged pursuant to said application for resubdivision and/or rearrangement.
(Ord. No. 1996-01, § 906, 10-22-1996; Ord. No. 1996-72, § A, 8-6-1996)

Sec. 30-11. Land division, special cases.

(a) *Proposed divisions not elsewhere addressed.* In any case where the division of land into two or more lots or parcels for the purpose of transfer of ownership or building improvement is not specifically provided for in the provision of these regulations, a description of such land division shall be filed with the clerk. No building permit shall be issued for any construction, enlargement, alteration, or repair, demolition or moving of any building or structure on any lot or parcel resulting from such division, until such division has been approved by the city council. Prior to the consideration of such division, the city council shall require that a certified survey be submitted.

(b) *Exchange of lands.* In cases where adjoining contiguous property owners wish to exchange or otherwise divide land with the intent of enlarging one of the parcels and as a result of such division neither parcel will be nonconforming in accordance with chapter 32, pertaining to zoning, approval must be obtained from the city council following the minor subdivision process. Some of the requirements for minor subdivision approval may be waived; however, the newly acquired land must be combined on the deed for recording purposes with the remainder

of the owner's property.
(Ord. No. 1996-01, § 907, 10-22-1996)

Sec. 30-12. Registered land surveys.

All registered land surveys shall be filed subject to the same procedure as required for the filing of a plat for platting purposes. The standards and requirements set forth in these regulations shall apply to all registered land surveys.
(Ord. No. 1996-01, § 908, 10-22-1996)

Sec. 30-13. Conveyance by metes and bounds; building permit requirement.

(a) Conveyance by metes and bounds shall be permitted only in minor subdivision after submission of a survey and on parcels at least 20 acres in area with no less than 500 feet of frontage on a public road.

(b) No building permit shall be issued for any structure on any parcel of land less than 20 acres in area and having a width of less than 500 feet on an improved public road until a subdivision has been approved by the city council in accordance with the regulations of this chapter and chapter 32, pertaining to zoning, and the parcel is recorded with the county recorder.

(c) When a conveyance is made by metes and bounds, no building permit shall be issued until a survey is submitted and the parcel is recorded with the county recorder's office. A survey is not required for parcels in excess of 20 acres.
(Ord. No. 1996-01, § 909, 10-22-1996)

Sec. 30-14. Protection of natural features.

(a) The city council reserves the right to decline approval of a subdivision if due regard is not shown for the preservation of all natural features such as large trees, watercourses, scenic points, historical spots and similar community assets which, if preserved, will add attractiveness and stability to the proposed development of the property.

(b) Subdivision review shall be coordinated with the requirements and procedures for environmental assessment and impact statements contained in chapter 32, pertaining to zoning. Any mandatory environmental assessment worksheet or impact statement as required by the state environmental quality board regulations shall be submitted as part of the application for preliminary plat approval.
(Ord. No. 1996-01, § 901, 10-22-1996)

Sec. 30-15. Planned unit developments.

A planned unit development (PUD), as defined in the chapter 32, pertaining to zoning, is prohibited.
(Ord. No. 1996-01, § 904, 10-22-1996; Ord. No. 2005-117, § 2, 11-1-2005)

Sec. 30-16. Incorporation by reference.

(a) The following are incorporated into this chapter by reference:

(1) The Grant comprehensive plan.

(2) The National Pollutant Discharge Elimination System Permit, MN R100001 (NPDES general construction permit) issued by the Minnesota Pollution Control Agency, August 1, 2013, as amended.

(3) The Grant Engineering and Design Guidelines document.

(4) The Rules of the Valley Branch Watershed District, as amended, pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B, 103 D, and 103G, and Minnesota Rules 8410 and 8420.

(5) The Rules of the Rice Creek Watershed District, as amended, pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B, 103 D, and 103G, and Minnesota Rules 8410 and 8420.

Secs. 30-17--30-33. Reserved.

ARTICLE II. PLATTING

DIVISION 1. GENERALLY

Sec. 30-34. Sketch plan.

(a) In order to ensure that all applicants are informed of the procedural requirements and standards of this article, and the requirements or limitations imposed by city ordinances and the comprehensive plan, all applicants shall submit to the city planner and the planning staff a sketch plan prior to preparing a preliminary plat.

(b) The sketch plan shall be drawn to scale and contain as a minimum the following information:

(1) Tract boundaries and dimensions.

(2) Significant topographic and physical features.

(3) Proposed general street and lot layout.

(4) General location of proposed public and private open space areas.

(5) General drainage plan.

(6) Existing easements

(7) Existing buildings.

(Ord. No. 1996-01, § 401, 10-22-1996)

Secs. 30-35--30-56. Reserved.

DIVISION 2.

PRELIMINARY PLAT

Sec. 30-57. Preparation and submission.

(a) When the subdivider feels he is ready to prepare the preliminary plat, he shall have his surveyor and/or planner prepare one which is in conformity with the requirements of this division.

(b) The subdivider shall fill out a zoning request application, or other applicable forms as may be required.

(c) The subdivider shall furnish the city clerk with 23 copies of the preliminary plat and provide seven copies to the county surveyor's office.

(d) The subdivider shall furnish copies to appropriate permitting agencies such as the watershed district, watershed management organization, state department of natural resources, county and state transportation agencies, and other agencies as may be required.

(e) If the owner and developer are not the same, a consent of owner shall be filed.
(Ord. No. 1996-01, § 402, 10-22-1996)

Sec. 30-58. Data required.

(a) *Identification and description.*

(1) Proposed name of subdivision, which name shall not duplicate or be alike in pronunciation of the name of any plat theretofore recorded in the county.

(2) Legal description of property.

(3) Name and address of the record owner, and any agent having control of the land, subdivider, land surveyor, engineer and designer of the plan.

(4) Plat graphic scale shall be not less than one inch to 200 feet, and grading plan graphic scale not less than one inch to 100 feet on plat/plan sheet paper sized to either 20 inches by 30 inches, 22 inches by 34 inches or 24 inches by 36 inches.

(5) North point and vicinity map of area showing well-known geographical points for orientation within a one-half mile radius.

(6) List of adjoining property owners within 1,250 feet of the proposed plat.

(7) Date of preparation.

(b) *Existing conditions.*

(1) Boundary lines shall be shown clearly and to such a degree of accuracy that conforms to the plat in that no major changes are necessary in preparing the final plat.

(2) Existing zoning classifications for land in and abutting the subdivision.

(3) Approximate total acreage.

(4) Location, right-of-way width, and names of existing or platted streets or other public ways, parks and other public lands, permanent buildings and structures, easements, and section, corporate and school district lines shown within the plat and to a distance 100 feet beyond shall also be indicated.

(5) Location and size of existing sewers, water mains, culverts, wells, septic systems, or other underground facilities within the preliminary plat area and to a distance of 100 feet beyond. Such data as grades, and locations of catchbasins, manholes, hydrants, and street pavement width and type shall also be shown.

(6) Boundary lines of adjoining unsubdivided or subdivided land within 100 feet, identified by name and ownership, but including all contiguous land owned or controlled by the subdivider.

(7) Topographic data, including contours at vertical intervals of not more than two feet, except where the horizontal contour interval is 100 feet or more a one-foot vertical interval shall be shown. Watercourses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. National Geodetic Vertical Datum

1929 Adjustment shall be used for all topographic mapping.

(8) A copy of all proposed private restrictions shall be submitted.

(9) In areas where public sewer is not available, four soil borings shall be completed on each lot with results being submitted to the city building inspector. If it appears soil may not be suitable on any lot for the installation of an on-site septic system, additional borings and percolation tests may be required.

(10) Soil types and location of limits of each soil type as shown in the Soil Survey of Washington County.

(11) All slopes in excess of 12 percent shall be delineated.

(12) If severe soil limitations for the intended use are noted in the soil survey on file in the county planning department and the county soil and water conservation district office, a plan or statement indicating the soil conservation practices to be used to overcome said limitation shall be made part of the permit application.

(13) On all lakes, ponds, and wetlands, all water surface elevations, natural ordinary high elevation, and present and proposed 100-year flood elevations shall be denoted. The lowest floor elevation for each lot shall be indicated and shall be at least two feet above the 100-year flood elevation or two feet above the water body outlet, whichever is higher, and at least four feet above the groundwater elevation.

(c) *Subdivision design features.*

(1) Layout of proposed streets, showing right-of-way widths and proposed names of streets. The name of any street shall conform to the provisions of chapter 24, article III.

(2) Locations and widths of proposed alleys, pedestrian ways and utility easements.

(3) Lot and block numbers and preliminary dimensions of lots and blocks and the area of each lot.

(4) Proposed front, side, and rear building setback lines.

(5) Gradients of proposed streets. Plans and profiles showing locations and typical cross sections of street pavement including ditches, curbs, gutters, sidewalks, drainage easements, service rights-of-way, manholes and catchbasins.

(6) Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such areas in acres.

(7) Grading and drainage plan for entire subdivision. If any fill or excavation is proposed in a wetland or lake, approval must be obtained from the state department of natural resources and Army Corps of Engineers or watershed or water management organization, county soil and water conservation district, or other permitting authority that has jurisdiction.

(8) Erosion and sediment control plan.

(9) Stormwater management plan.

(d) *Other information required.*

(1) Statement of the proposed use of lots stating type of residential buildings with the number of

proposed dwelling units and type of business or industry so as to reveal the effect of the development on traffic, fire hazards, and congestion of population.

(2) Source of water supply.

(3) Provisions for sewage disposal, surface water drainage and flood control.

(4) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions.

(5) Such other information as may be requested by the engineer, planning staff, city planning commission, or city council.

(6) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the city council may require that the subdivider submit a sketch plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions and land use.

(Ord. No. 1996-01, § 501, 10-22-1996; Ord. No. 2015-38, 3-3-2015)

Sec. 30-59. Review and approval.

(a) *Distribution of application and plat to city officials.* The city clerk shall, upon receipt of the plat and application, refer one copy of the plat and application to each member of the city council and planning commission, and one copy of the plat to the city attorney, engineer, and planner. One copy of the plat shall also be referred to the county planning coordinator and one copy of the plat to the school district.

(b) *Presentation to commissioner of transportation.* Any proposed preliminary plat which includes lands abutting upon any existing or established trunk highway or proposed highway which has been designated by a centerline order filed in the office of the county recorder shall first be presented to the commissioner of transportation for his written comments and recommendations.

(c) *Submission to county engineer.* Where any preliminary plat includes land abutting upon an existing or established county or county state-aid highway, it shall first be submitted to the county engineer for his written comments and recommendations.

(d) *Submission to commissioner and county engineer.* Preliminary plans involving both a trunk highway and a highway under county jurisdiction shall be submitted to the commissioner of transportation and the county highway engineer.

(e) *Time frame for submission, comments and action.* Plats shall be submitted for review at least 30 days prior to the city taking final action on the preliminary plat. The commissioner of transportation and/or the county highway engineer shall submit the written comments and recommendations to the city within 30 days after receipt by them of such a plat. Final action on such plat by the city shall not be taken until after these required comments and recommendations have been received, or until the 30-day period has elapsed.

(f) *Plat and information requirements.* A legible preliminary drawing or print of a proposed preliminary plat shall be acceptable for purposes of review by the commissioner or transportation or the county highway engineer. To such drawing or print there shall be attached a written statement describing:

(1) The outlet for and means of disposal of surface waters from the proposed platted area;

(2) The land use designation or zoning category of the proposed platted area;

(3) The locations of ingress and egress to the proposed platted area; and

(4) A preliminary site plan for the proposed platted area, if one has been prepared.

(g) *Certification and other information.* Failure to obtain the written comments and recommendations of the commissioner of transportation or the county highway engineer shall in no manner affect the title of the lands included in the plat or the platting of said lands. A certificate or other evidence shall be required to or upon the plat for filing in the office of the county recorder or registrar of titles as to the submission of or the obtaining of such written comments and recommendations. The city shall provide the certificate or other evidence to the county recorder or registrar of titles.

(h) *Recommendations.* The engineer, school board, county planning coordinator, and the district highway engineer, if appropriate, shall within 30 days submit reports to the city council expressing recommendations for approval, disapproval or revisions. If no report is received within 30 days, it will be assumed by the planning commission that there are no objections to the plat as submitted.

(i) *Public hearing.* After the preliminary plat is filed and application fees are paid, the planning commission must hold a public hearing on the subdivision. Notice of the purpose, time, and place of such public hearing shall be published in the official newspaper at least ten days prior to the day of hearing.

(j) *Conditions placed by city council.* The city council may require modifications, changes and revisions of the preliminary plat, as it deems necessary to protect the health, safety, morals, comfort, convenience and general welfare of the city.

(k) *Reasons for disapproval.* If the preliminary plat is not approved by the city council, the reasons for such action shall be recorded in the proceedings and transmitted to the applicant.

(l) *Amendment to plat.* Should the subdivider desire to amend the plat as approved, he may submit an amended plat which shall follow the same procedure as a new plat, except for the public hearing and fee, unless the amendment is, in the opinion of the city council, of such scope as to constitute a new plat; then it shall be refiled.

(m) *Other approvals required.* Any plat proposed in a shoreland district must have approval of the state department of natural resources. If a watershed district, or water management organization exists in the area of the proposed platted property, approval must be obtained from those agencies.
(Ord. No. 1996-01, § 403, 10-22-1996)

State Law References: Review of plats, Minn. Stats. § 462.358, subd. 3b.

Secs. 30-60--30-76. Reserved.

DIVISION 3.

FINAL PLAT

Sec. 30-77. Preparation and submission.

(a) *Conformance to preliminary plat and required modifications.* After approval of the preliminary plat, the final plat may be prepared. It shall incorporate all changes, modifications, and revisions required; otherwise, it shall conform to the approved preliminary plat.

(b) *Submission for portions of approved plat.* In the case of large subdivisions to be developed in stages, the subdivider may be granted permission to prepare a final plat for only the portion of the approved plat which he proposes to develop at this time, provided such portion conforms with all the requirements of these regulations. The subdivider may be required, as a condition of approval, to submit an estimated time schedule for further staging of the platting and recording.

(c) *Compliances required.* All plats shall comply with the provisions of state statutes, the standard procedures for platting in the county, and the requirements of this article.

(d) *Time limit.* The subdivider shall submit ten copies of the final plat to the city clerk not later than one year after the date of approval of the preliminary plat. The approval of the preliminary plat will be considered void after one year unless an extension is requested in writing by the subdivider and granted by the city council.

(e) *Title opinion required.* The subdivider shall submit, with the final plat, an opinion of title by the subdivider's attorney.
(Ord. No. 1996-01, § 404, 10-22-1996)

State Law References: Effect of preliminary plat approval, Minn. Stats. § 462.358, subd. 3c.

Sec. 30-78. Compliance requirements.

The final plat shall be prepared by a land surveyor who is registered in the state and shall comply with the provisions of state statutes, this article and the manual of Standard Procedures for Platting in Washington County.
(Ord. No. 1996-01, § 502, 10-22-1996)

Sec. 30-79. Review and approval.

(a) *Review by county surveyor.* After attaining approval of the preliminary plat, the subdivider shall submit ten copies of the final plat along with plat checking fee to the county surveyor for review by the county surveyor. This shall be within one year after the date of approval of the preliminary plat.

(b) *Preapproval requirements.* Prior to approval of the final plat approved by the city council, the subdivider must have installed all required improvements or executed an agreement with the city for their installation. Required improvements shall conform to approved engineering standards and be in compliance with these regulations.

(c) *Disapproval by council.* If the final plat is not approved, the reasons for such action shall be recorded in the official proceedings and transmitted to the subdivider.

(d) *Approval by surveyor.* The final plat must be approved by the county surveyor in accordance with the Standard Procedures for Platting in Washington County.

(e) *Recording after approval.* Upon receiving final plat approval by the city council, the subdivider shall then record it with the county recorder within 120 days or the approved plat shall be considered void.

(f) *Subsequent approvals.* Upon receiving approval of the final plat for a portion of the approved plat, the subdivider shall not be required to request a continuation of the recognition of the plat so as to maintain its approval, except that in the event a zoning amendment is adopted which requires a larger minimum lot size for land not yet platted and recorded, the larger minimum lot size may be required for any additional platting.
(Ord. No. 1996-01, § 405, 10-22-1996)

Secs. 30-80--30-101. Reserved.

ARTICLE III.

MINIMUM DESIGN STANDARDS

DIVISION 1.

GENERALLY

Sec. 30-102. Conformity with the comprehensive development plan.

The proposed subdivision shall conform to the comprehensive development plan and policies as adopted by the city.

(Ord. No. 1996-01, § 601, 10-22-1996)

Sec. 30-103. Land requirements.

(a) Permits required.

(1) Grading permit. Land disturbing activities that disturb more than 50 cubic yards to 5,000 cubic yards will require a grading permit from the city.

(2) Conditional use permit. Land disturbing activities that disturb 5,000 cubic yards or greater will require a conditional use permit from the city.

(b) *Suitability of terrain.* 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 purposes of the kind proposed by reason of potential flooding, topography, or adverse earth or rock formations. The design of all subdivisions shall coordinate and be respective of the zoning map and ordinances, the city comprehensive plan, official map, street plan, and any other planning guides adopted by the city.

(c) *Presence of hazards.* Land subject to hazards to life, health or property shall not be subdivided for residential purposes until all such hazards have been eliminated or unless adequate safeguards against such hazards are provided by the subdivision plan.

(d) *Coordination of development.* Proposed subdivisions shall be coordinated with existing nearby municipalities or neighborhoods so that the community as a whole may develop harmoniously.
(Ord. No. 1996-01, § 602, 10-22-1996; Ord. No. 2015-38, 3-3-2015)

Sec. 30-104. Drainage.

A complete and adequate drainage system design shall be required for the subdivision and may include a storm sewer system or a system of open ditches, culverts, pipes and catchbasins, and ponding areas, or both such systems, and submitted to the engineer for approval.
(Ord. No. 1996-01, § 607, 10-22-1996)

Sec. 30-105. Easements.

(a) *Required for utilities.* Easements of at least 20 feet wide, centered on rear and other lot lines as required, shall be provided for utilities where necessary. Where underground utilities are being installed, a ten-foot-wide front or side yard easement may be required. These easements shall be dedicated on the final plat.

(b) *Required for drainage.* Easements shall be provided along each side of the centerline of any watercourse or drainage channel, whether or not shown on the comprehensive plan, to a sufficient width to provide proper maintenance and protection and to provide for stormwater runoff and installation and maintenance of storm sewers.

(c) *Dedication.* Utility and drainage easements shall be dedicated for the required use.
(Ord. No. 1996-01, § 608, 10-22-1996)

Sec. 30-106. Block design.

(a) 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 chapter 32, pertaining to zoning, and to provide for convenient access, circulation control, and safety of street traffic.

(b) In residential areas, other than water frontage, blocks shall not be less than 600 feet or more than 1,800 feet in length measured along the greatest dimension of the enclosed block area, unless minor variances are

necessitated by topography or conformance with an adjoining plat.

(c) Blocks for commercial and industrial areas may vary from the elements of design contained in this section if the nature of the use requires other treatment. In such cases, off-street parking for employees and customers shall be provided along with safe and convenient limited access to the street system. Space for off-street loading shall also be provided with similar access. Extension of roads, railroad access right-of-way, and utilities shall be provided as necessary.

(d) Blocks shall be wide enough to allow two tiers of lots with a minimum depth as required by chapter 32, pertaining to zoning, except adjoining a lake, stream, railroad or thoroughfare, or where one tier of lots is necessary because of topographic conditions.
(Ord. No. 1996-01, § 610, 10-22-1996)

Sec. 30-107. Lot requirements.

(a) *Side lots.* Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines or radial to lake or stream shores unless topographic conditions necessitate a different arrangement.

(b) *Frontage.* Each lot shall front upon a public street.

(c) *Minimum area and width.* No lot shall have less area or width than is required by zoning regulations applying to the area in which is it located, except as herein provided. Irregular-shaped lots designed for the sole purpose of attempting to meet a subdivision design or zoning regulation shall be prohibited.

(d) *Loading and parking facilities.* Lots designed for commercial or industrial purposes shall provide adequate off-the-street service, loading and parking facilities.

(e) *Corner lots.* Corner lots shall be platted at least 20 feet wider than interior lots.

(f) *Butt lots.* Butt lots in any subdivision are to be discouraged. Where such lots must be used to fit a particular type of design, they shall be platted at least five feet wider than the average width of interior lots in the block.

(g) *Through or double frontage lots.* Such lots shall not be permitted except where such lots abut a thoroughfare or major highway. Such lots shall have an additional depth of ten feet for screen planting along the rear lot line.

(h) *Watercourse.* Lots abutting upon a watercourse, drainageway, channel or stream shall have an additional depth or width, as required to ensure building sites that are not subject to flooding.

(i) *Lakeshore frontage.* Lots with lakeshore frontage shall be designed so that the lot lines extended shall maintain the closest approximation to riparian rights.

(j) *Natural features.* In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, watercourses, historic spots, or similar conditions, which if preserved will add attractiveness and stability to the proposed development.

(k) *Lot remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, or a plan acceptable to the city shown as to future use, rather than allowed to remain as unusable parcels.

(l) *Access to major arterials.* In the case where a proposed plat is adjacent to a major or minor arterial, there shall be no direct vehicular access from individual lots to such streets and roads. In the platting of small tracts of land fronting on limited access highways or thoroughfares where there is no other alternative, a temporary entrance may be granted; as neighboring land becomes subdivided and more preferable access

arrangements become possible, such temporary access permits shall become void. Driveway access on collector streets must be a minimum of 300 feet apart and meet appropriate safety standards.

(m) *Political subdivision and school district lines.* No lot shall extend over a political subdivision boundary. No building shall extend over a school district line.
(Ord. No. 1996-01, § 611, 10-22-1996)

Secs. 30-108--30-127. Reserved.

DIVISION 2.

STREETS

Sec. 30-128. Street plan.

(a) *Conformance.* Proposed streets shall conform to the state road and county highway plans or preliminary plans as have been prepared, adopted and/or filed as prescribed by law.

(b) *Relation to topography.* Streets shall be logically related to the topography so as to produce usable lots and reasonable grades.

(c) *Access to parcels.* Access shall be given to all lots and portions of the tract in the subdivision, and to adjacent unsubdivided parcels unless the topography clearly indicates that such connection is not feasible. Reserved strips and landlocked areas shall not be created.

(d) *Arrangement.* The arrangement of streets in new subdivisions shall make provisions for the appropriate continuation of the existing streets in adjoining areas.

(e) *Preparation for future extension.* Where adjoining areas are not subdivided, but may be subdivided, the arrangement of streets in a new subdivision shall make provision for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations. Streets must be rough-graded or documented that grading can be accomplished within the right-of-way.

(f) *Minor streets and thoroughfares.* Minor streets shall be laid out to discourage their use by through traffic. Thoroughfares shall be reserved for through traffic by providing marginal access streets, interior streets for serving lots, or other means.

(g) *Partial streets within subdivision.* Half or partial streets will not be permitted except where essential to reasonable subdivision of a tract in conformance with the other requirements and standards of these regulations and where, in addition, satisfactory assurance for dedication of the remaining part of the street can be secured.

(h) *Partial streets adjoining subdivision.* Wherever a tract to be subdivided adjoins an existing half, or partial street, the part of the street within such tract shall be platted.

(i) *Dead-end streets, cul-de-sacs.* Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts, or when designed as cul-de-sac streets. Stubs for future street extension shall include a temporary cul-de-sac and associated easements until the extended roadway is constructed.

(j) *Private streets, reserve strips.* Private streets and reserve strips shall be prohibited and no public improvements shall be approved for any private street. All streets shall be dedicated for public use except in cluster developments or planned unit developments.

(k) *Service streets.* Where a subdivision abuts or contains an existing or planned major thoroughfare or a railroad right-of-way, a street approximately parallel to and on each side of such thoroughfare and right-of-way

may be required for adequate protection of residential properties and separation of through traffic and local traffic. Such service streets shall be located at a distance from the major thoroughfare or railroad right-of-way suitable for the appropriate use of the intervening land, such as for park purposes in residential districts, or for commercial and industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

(l) *Access to adjoining property.* The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.
(Ord. No. 1996-01, § 603, 10-22-1996)

Sec. 30-129. Cul-de-sac streets.

(a) Cul-de-sac streets, temporarily or permanently designed as such, shall not exceed 1,320 feet in length.

(b) Lots with frontage at the end of the cul-de-sac shall have a minimum of 60 feet of road frontage and meet the lot width requirement at the building setback line for the zoning district in which the property is located.

(c) Unless future extension is clearly impractical or undesirable, the turnaround right-of-way shall be placed adjacent to a property line and a right-of-way of the same width as the street shall be carried to said property line in such a way as to permit future extension of the street into the adjoining tract. At such time as such a street is extended, the acreage covered by the turnaround outside the boundaries of the extended street shall revert in ownership to the property owner fronting on the temporary turnaround. To ensure such streets can be constructed according to this Code, the street shall be rough graded or typical sections shall be submitted and approved by the city engineer.
(Ord. No. 1996-01, § 604, 10-22-1996)

Sec. 30-130. Street design.

(a) *Minimum widths.* Minimum right-of-way widths and pavement widths (face to face of curb) for each type of public street or road shall be as follows:

Type of Street	Right-of-way Roadway Width	Width (Including Shoulders)
Minor arterial	120 feet minimum	as determined by traffic needs
Collector	80 feet minimum	44 feet
Commercial/industrial street	80 feet minimum	44 feet
Local street	66 feet minimum	28 feet
Cul-de-sac	66 feet minimum	48-foot turnaround radius

(b) *Widening existing streets.* Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet the standards of subsection (a) of this section.

(c) *Additional width requirements.* Additional right-of-way and roadway widths may be required to promote public safety and convenience when special conditions require it or to provide parking space in areas of intensive use.

(d) *Restriction of access.* Access of local streets onto state, county state-aid highways, and county highways shall be discouraged at intervals of less than 500 feet.

(e) *Street jog.* Street jogs with centerline offsets of less than 150 feet shall not be allowed. Greater

offsets may be required on collector and arterial streets.

(f) *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 centerline radius of not less than 300 feet.

(g) *Grades.* Centerline gradients shall be at least 0.5 percent and grades shall not exceed eight percent.

(h) *Vertical curves.* Different connecting street gradients shall be connected with vertical curves. Minimum length of these curves shall meet state department of transportation criteria for stopping sight distance at 30 miles per hour.

(i) *Angle of intersection.* The angle formed by any intersecting of streets shall not be less than 70 degrees, with 90-degree intersections preferred.

(j) *Size of intersection.* Intersections of more than four corners shall be prohibited.

(k) *Corner radii.* Roadways of street intersections shall be rounded by a radius of not less than 15 feet. Roadways of alley-street intersections shall be rounded by a radius of not less than six feet. Corners at the entrances of the turnaround portions of the cul-de-sacs shall be rounded by a radius of not less than 15 feet.

(l) *Curb and gutter.* Local roadway sections shall be in accordance with city standards. The city roadway standard is a rural section 28 feet wide with 22 feet of bituminous pavement surface. Curb and gutter may be included at the discretion of the city as part of the required street surface improvement and shall thus be designed for installation along both sides of all roadways for urban design.
(Ord. No. 1996-01, § 605, 10-22-1996)

Sec. 30-131. Private streets.

Private streets are not permitted.
(Ord. No. 1996-01, § 606, 10-22-1996)

Sec. 30-132. Street names.

Names of new streets shall not duplicate existing or platted street names unless a new street is a continuation of or in alignment with the existing or platted street. In that event it shall bear the same name of the existing or platted street so in alignment Street names shall conform as applicable to chapter 24, article III, pertaining to the uniform street naming and property numbering system.
(Ord. No. 1996-01, § 609, 10-22-1996)

Secs. 30-133--30-162. Reserved.

ARTICLE IV.

ENGINEERING STANDARDS

Sec. 30-163. Inspection.

All required improvements shall be inspected by the engineer during construction at the expense of the subdivider.
(Ord. No. 1996-01, § 708, 10-22-1996)

Sec. 30-164. Street construction.

(a) *Street grading.* Streets shall be graded in accordance with a plan approved by the engineer. In the case of an urban street design the grading shall include the entire width of the right-of-way and shall provide a

boulevard section in addition to the minimum pavement width. Grading plans shall be at a scale of not less than one inch equals 100 feet. Street plan and profile sheets shall be at not less than a scale of one inch equals 50 feet.

(b) *Street pavement.* The design of street pavement for all streets covered by this regulation shall be in accordance with the State of Minnesota Highway Department Road Design Manual No. 5-291 for flexible pavements. The designed thickness of the surfacing elements shall be in accordance with the flexible pavement design standard for road classifications as follows:

Classification Pavement Design	Axle Load
Arterials, collector street	As determined by traffic needs
Local streets	7-ton minimum

(c) *Soil tests.* To determine subgrade soil classifications, soil samples shall be collected and analyzed by a reputable testing laboratory. Reports of the soil analysis shall be submitted with the pavement plans to the engineer and shall include "R" values and pavement recommendations certified by a registered soils engineer. Soil samples shall be taken along the centerline of the proposed road at intervals not exceeding 300 feet. Soil report shall include groundwater elevations.

(d) *Curb and gutter.* Local roadway sections shall be in accordance with city standards. The city roadway standard is a rural section 28 feet wide with 22 feet of bituminous pavement surface. Curb and gutter may be included at the discretion of the city as part of the required street surface improvement and shall thus be designed for installation along both sides of all roadways for urban design.

(e) *Boulevards.* All boulevards shall have four inches of topsoil (black dirt) placed on them and then shall be seeded or sodded as approved by the engineer.

(f) *Sidewalks and pedestrian ways.* All required walks shall be concrete four inches thick placed on a four-inch gravel base. Grades shall be as approved by the city engineer. Sidewalks shall be placed in the public right-of-way.
(Ord. No. 1996-01, § 701, 10-22-1996)

Sec. 30-165. Utilities.

(a) *Extended service facilities.* Where a larger-size storm drain or similar facility is required to serve areas outside the subdivision, the larger facility required must be constructed. Additional cost is to be borne by the benefitting properties, and the assessments are to be determined by the city council.

(b) *Installation of private utilities.* Private utilities such as electricity, telephone, gas, and cable television shall be installed within the platted drainage and utility easements, outside of public right-of-way.
(Ord. No. 1996-01, § 702, 10-22-1996)

Sec. 30-166. Sanitary sewerage systems.

(a) *Individual sewage disposal systems.* Where lots cannot be connected with a public sewerage system, provision must be made for sanitary sewerage facilities, consisting of individual disposal devices for each lot in accordance with article IV of chapter 12, pertaining to individual sewage treatment systems. This does not mean that the installation of individual disposal devices shall be at the expense of the subdivider.

(b) *Soil suitability tests required.* Any subdivision or lot not provided with off-site sewer facilities shall be subject to soil and percolation tests to determine whether the lot size proposed will meet minimum standards of health and sanitation due to limitations of soils as shown on existing soils maps. The lot area and topography must be such that it will accommodate an adequate disposal system to serve the residence for the estimated unsewered years, as determined by the city council. Such test shall be made at the expense of the subdivider, and a sketch map

shall be submitted to identify the specific locations where tests were made. Four soil borings shall be performed on each proposed lot by a certified soil tester. Additional testing may be required if serious limitations for the installation of an on-site septic system are found.

(c) *Compliance with standards.* All sewage disposal systems shall comply with the standards of the article IV of chapter 12, pertaining to individual sewage treatment systems, the county department of health, environment, and land management, the state department of health, and the state pollution control agency.
(Ord. No. 1996-01, § 703, 10-22-1996)

Sec. 30-167. Water supply.

An individual well shall produce at least ten gallons per minute, have a well casing at least four inches in diameter and be grouted to provide a safe, potable water supply.
(Ord. No. 1996-01, § 704, 10-22-1996)

Sec. 30-168. Stormwater drainage.

(a) *Design requirements; approval.* A drainage system design shall be required, and may include a storm sewer system or a system of open ditches, culverts, pipes, catchbasins and ponding areas, or both systems. Such facilities and easements shall be installed as will adequately provide for the drainage of surface waters. Drainageway easements or land dedication may be required when such easements or land is needed in the public interest for purposes of floodplain management, proper drainage, prevention of erosion, pedestrian access to water bodies, or other public purposes. If there is a watershed district or water management organization, that board must approve all surface water drainage.

(b) *Easements.*

(1) Easements at least 20 feet wide, centered on rear and other lot lines as required, shall be provided for utilities where necessary. Where underground utilities are being installed, a ten-foot-wide front or side yard easement may be required. These easements shall be dedicated on the plat.

(2) Easements shall be provided along each side of the centerline of any watercourse or drainage channel, whether or not shown on the comprehensive plan, to a width sufficient to allow for maintenance and to provide for stormwater runoff and installation and maintenance of storm sewers.

(3) Utility and drainage easements shall be dedicated for the required use.
(Ord. No. 1996-01, § 705, 10-22-1996)

Sec. 30-169. Street signs.

All street signs shall be provided and installed by the city at the expense of the subdivider.
(Ord. No. 1996-01, § 706, 10-22-1996)

Sec. 30-170. Utilities location.

When practicable and feasible, all utilities shall be placed underground and completed prior to street surfacing. All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles.
(Ord. No. 1996-01, § 707, 10-22-1996)

Sec. 30-171. Inspection.

All required improvements shall be inspected by the engineer during construction at the expense of the subdivider.

(Ord. No. 1996-01, § 708, 10-22-1996)

Sec. 30-172 Erosion and sediment control plans.

(a) Applicability. Construction activity that results in land disturbance of equal to or greater than one acre or a common plan of development or sale that disturbs one acre will be required to submit an erosion and sediment control plan to the city prior to construction. All construction sites regardless of size will be required to provide and maintain minimum erosion control measures during construction.

(b) General criteria. Projects requiring an erosion and sediment control plan shall include the following criteria:

(1) Erosion Control
(2) Sediment Control
(3) Temporary Sediment Basins
(4) Dewatering and Basin Draining
(5) Inspection and Maintenance
(6) Pollution Management Measures/Construction Site Waste Control
(7) Final Stabilization
(8) Training

(c) Specifications. All erosion and sediment control plans shall meet the specifications set forth in the city's Engineering Design Guidelines, the NPDES Construction Stormwater Permit and applicable Watershed District Rules.

(Ord. No. 2015-38, 3-3-2015)

Sec. 30-173. Stormwater management plans.

(a) Applicability. All projects either creating or disturbing one acre or greater of new impervious will require the submittal of a stormwater management plan to the city prior to construction.

(b) General criteria. At a minimum, the stormwater management plan shall meet the criteria as described in the city's Engineering Design Guidelines, the NPDES Construction Stormwater Permit, and applicable Watershed District Rules.

(c) Specifications. Unless determined by the City to be exempt or granted a waiver, all site designs shall establish storm water management facilities to control the peak flow rates and pollutants of stormwater discharge associated with specified design storms and runoff volumes, as detailed in the city's Engineering Design Guidelines, the NPDES Construction Stormwater Permit, and applicable Watershed District Rules.

(d) *Maintenance Agreement.* All permanent stormwater management facilities must provide a maintenance agreement with the City that documents all responsibilities for operation and maintenance of long-term stormwater management facilities. Such responsibility shall be documented in a maintenance plan and executed through a maintenance agreement. All maintenance agreements must be approved by the City and recorded at Washington County recorder's office prior to final plan approval. At a minimum, the maintenance agreement shall describe the inspection and maintenance obligations:

(1) The responsible party who is permanently responsible for inspection and maintenance of the structural and nonstructural measures.

(2) Pass responsibilities for such maintenance to successors in title

(3) Allow the City and its representatives the right of entry for the purposes of inspecting all permanent stormwater management systems.

(4) Allow the City the right to repair and maintain the facility, if necessary maintenance is not performed after proper and reasonable notice to the responsible party of the permanent stormwater management system.

(5) Include a maintenance plan that contains, but is not limited to the following:

a. Identification of all structural permanent stormwater management systems
b. A schedule for regular inspections, monitoring, and maintenance for each practice. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to quality, temperature, and quantity of runoff.
c. Identification of the responsible party for conducting the inspection, monitoring and maintenance for each practice.
d. Include a schedule and format for reporting compliance with the maintenance agreement to the City.
e. Right of Entry. The issuance of a permit constitutes a right-of-entry for the community or its contractor to enter upon the construction site. The applicant shall allow the community and their authorized representatives, upon presentation of credentials, to:

i. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
ii. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
iii. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit.
iv. Inspect the stormwater pollution control measures.
v. Sample and monitor any items or activities pertaining to stormwater pollution control measures.
vi. Correct deficiencies in stormwater and erosion and sediment control measures.

(Ord. No. 2015-38, 3-3-2015)

Secs. 30-174--30-193. Reserved.

ARTICLE V.

REQUIRED IMPROVEMENTS AND FINANCIAL ARRANGEMENTS

Sec. 30-194. Improvements required.

Prior to the approval of a plat by the city council, the subdivider shall have agreed, in the manner set forth below, to install, in conformity with approved construction plans and in conformity with all applicable standards and ordinances, the following improvements on the site:

(1) *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.

(2) *Grading.* The full width of the right-of-way of each street and alley dedicated in the plat shall be graded.

(3) *Pavement.* All streets and alleys shall be improved with concrete or bituminous surface except as may be approved by action of the city council.

(4) *Curb and gutter.* Local roadway sections shall be in accordance with city standards. The city roadway standard is a rural section 28 feet wide with 22 feet of bituminous pavement surface. Curb and gutter may be included at the discretion of the city as part of the required street surface improvement and shall thus be designed for installation along both sides of all roadways for urban design.

(5) *Drainage facilities.* Such facilities and easements shall be installed as will adequately provide for the drainage of surface waters; a storm sewer system may be required. Drainageway easements or land dedication may be required when such easements or land is needed in the public interest for purposes of floodplain management, proper drainage, prevention of erosion, pedestrian access to water bodies, or other public purpose. If there is a watershed district or water management organization, that board must approve all surface water drainage.

(6) *Miscellaneous facilities.* Tree planting, street name signs, traffic control signs, oversized utility trunk lines, pedestrian ways, and other improvements may be required.

(7) *Approval by engineer prior to building.* No building permits shall be issued for any lot until the street subgrade and aggregate base has been tested and approved by the engineer.

(Ord. No. 1996-01, § 801, 10-22-1996)

Sec. 30-195. Installation of improvements--Payment and expense.

The required improvements as listed elsewhere are to be furnished and installed at the sole expense of the subdivider. However, if the cost of an improvement would by general policy be assessed only in part to the improved property and the remaining cost paid out of general tax levy, provision may be made for the payment of a portion of the cost by the city. Further, if any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvements, representing the benefit to such lands, to be assessed against the same. In such a situation, the subdivider will be required only to pay for such portion of the whole cost of said improvement as will represent the benefit to the property within the subdivision.

(Ord. No. 1996-01, § 802, 10-22-1996)

Sec. 30-196. Same--Agreement with city; deposit or bond; former defaulters.

(a) *Contract with city required in advance of construction.* Prior to the installation of any required improvements and prior to approval of the plat, the subdivider shall enter into a contract in writing with the city requiring the subdivider to furnish and construct said improvements at his sole cost and in accordance with plans and specifications and usual contract conditions. This shall include provisions for supervision of details of construction by the engineer and shall grant to the engineer authority to correlate the work to be done under said contract by any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the city in the vicinity.

(b) *Escrow deposit or bond required.* The agreement shall require the subdivider to make an escrow deposit or, in lieu thereof, to furnish a performance bond, the amount of the deposit or penal amount of the bond to be equal to 125 percent of the engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection. On request of the subdivider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat. In such event the amount of the deposit or bond may be reduced in a sum equal to the estimated cost of improvements so completed prior to the acceptance of the plat. The time for connection of the work and the several parts thereof shall be determined by the city council upon recommendation of the engineer after consultation with the subdivider. It shall be reasonable with relation to the work to be done, the seasons of the year, and proper correlation with construction activities in the plat and subdivision.

(c) *Special approval for former defaulters.* No subdivider shall be permitted to start work on any other subdivision without special approval of the city council if he has previously defaulted on work or

commitments.
(Ord. No. 1996-01, § 803, 10-22-1996)

Sec. 30-197. Financial guarantee.

Financial guarantee required as part of the subdivision agreement shall be one of the following:

(1) *Escrow deposit.* A cash escrow deposit may be made with the city treasurer in a sum equal to 125 percent of the total costs, as estimated by the engineer, of all the improvements to be furnished and installed by the subdivider pursuant to the subdivision agreement. The total costs shall include costs of inspection by the city engineer. The city shall be entitled to reimburse itself out of such deposit for any cost or expense incurred by the city for completion of the work in case of default of the subdivider under such contract, and for any damages sustained on account of any breach thereof.

(2) *Performance bond.* The subdivider may furnish a performance and payment bond with corporate surety, in a penal sum equal to 125 percent of the total cost, as estimated by the engineer, of all the improvements to be furnished and installed by the subdivider pursuant to the subdivision agreement. The total costs shall include costs for inspection by the city engineer. The bond shall be approved as to form by the attorney and filed with the clerk.

(3) *Letter of credit.* The subdivider may deposit with the city, from a bank or other reputable institution or individual subject to the approval of the city council, an irrevocable letter of credit which shall certify the following:

a. That the creditor does guarantee funds in an amount equal to 125 percent of the total cost as estimated by the city engineer, or completing all required improvements.

b. That in the case of failure on the part of the subdivider to complete the specified improvements within the required time period, the creditor shall pay to the city immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.

c. That this letter of credit may not be withdrawn, or reduced in amount until released by the city council.

(Ord. No. 1996-01, § 804, 10-22-1996)

Sec. 30-198. Construction plans and inspection.

(a) *Plan certification, approval, and inclusion in contract.* Construction plans for the required improvements conforming in all respects with the standards and ordinances of the city shall be prepared at the subdivider's expense by a professional engineer who is registered in the state, and said plans shall contain his certificate. Such plans together with the quantities of construction items shall be submitted to the engineer for his approval and for his estimate of the total costs of the required improvement. Upon approval, such plans shall become a part of the required contract. The tracings of the plans approved by the engineer plus two prints shall be furnished to the city to be filed as a public record.

(b) *Inspections.* All required improvements on the site that are to be installed under the provisions of this regulation shall be inspected during the course of construction by the city engineer at the subdivider's expense, and acceptance by the city shall be subject to the engineer's certificate of compliance with the contract.
(Ord. No. 1996-01, § 805, 10-22-1996)

Sec. 30-199. Improvements completed prior to approval of the plat.

Improvements within a subdivision which have been completed prior to application for approval of the plat

or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements only if the engineer shall certify that he is satisfied that the existing improvements conform to applicable standards.
(Ord. No. 1996-01, § 806, 10-22-1996)

AMENDMENT HISTORY OF THIS CHAPTER

Amended March 3, 2015 (Ordinance 2015-38). *Amended Sections 30-1 Definitions; 30-3 Enforcement; 30-58 Data Required; and 30-103 Land Requirements. Added Sections 30-16 Incorporation by Reference; 30-172 Erosion and Sediment Control Plans; and 30-173 Stormwater Management Plans. Additions and amendments were made to comply with the Minnesota Pollution Control Agency's standards for municipal separate storm sewer systems.*

Chapter 32

ZONING[1]

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ARTICLE I. IN GENERAL

Sec. 32-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a subordinate building, or a portion of the main building, which is located on the same lot as the main building and the purpose of which is clearly incidental to that of the principal building. (See section 32-313.)

Accessory use means a use incidental or subordinate to the principal use of the same land.

Access, shared, means a single accessway onto a public street, within the road right-of-way, for the use of more than one property owner to gain access to a private driveway.

Administrator means the city council.

Agricultural building means a structure on agricultural land as defined in farm, rural of this section, designed, constructed and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee or sublessee of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products.

Agricultural business, seasonal, means a seasonal business located on a minimum of five acres of land which offers for sale to the general public produce or any derivative thereof. Accessory items may also be sold if they are approved by the city council. The produce or derivatives must be grown on land owned or leased by the applicant.

Agriculture. See *Farm, rural* and section 32-245.

Animal unit means a unit of measure used to compare differences in the production of animal wastes which has a standard as the amount of waste produced on a regular basis by a slaughter steer or heifer.

Animals, domestic farm, means cattle, hogs, horses, bees, sheep, goats, chickens and other animals commonly kept for commercial food-producing purposes.

Animals, domestic pet, means dogs, cats, birds and similar animals commonly kept in a residence. Animals considered wild, exotic or nondomestic, such as bears, lions, wolves, ocelots and similar animals shall not be considered domestic pets.

Apartment means a room or suite of rooms with cooking facilities designed to be occupied as a residency by a single family.

Archery Range means an area or facility designated or operated primarily for a shooting range of bow-and-arrow as defined within Minnesota State Statues (chapter 87A). Such facilities may be located indoors or outdoors and shall be operated in compliance with the applicable Minnesota State Statutes. Outdoor (archery) shooting ranges shall be setback a minimum of 750-feet from all property lines, or as regulated within MN State Statues, whichever is greater. Such facilities shall have primary access and frontage on a county or state roadway.

Area, net developable, means those lands within a development parcel remaining after the deletion of floodplains, wetlands, slopes greater than 12 percent and unbuildable easements or rights-of-way.

Armory, or convention halls means a large building able to accommodate individuals and groups that gather to promote and share a common interest. Such facilities typically include auditoriums, concert halls, lecture

halls, meeting rooms and conference rooms.

Arterials, means principal arterial routes as defined in the City's Comprehensive Plan, adopted by the City Council on May 5, 2009.

Attorney means the city attorney.

Auto or motor vehicle reduction yard means a lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage or abandonment. (See also *Junkyard.*)

Automobile repair means the replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission or differential; incidental body and fender work, minor painting and upholstering service when said service above stated is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross vehicle weight.

Automobile service station (gas station) means a place where any motor fuel, lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. This definition includes greasing, oiling or sale of automobile accessories on the premises. This definition also includes minor repairs and replacement of parts and motor services to passenger automobiles and trucks not exceeding 1 1/2 tons capacity. This definition shall not include major repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overhaul, painting or paint job; vehicle steam cleaning or automatic car or vehicle washing devices.

Automobile service uses means those uses catering to the traveling public. These include auto and truck laundries, drive-in businesses, service stations, repair garages, public garages, motels, hotels, seasonal produce sales, motor vehicle sales, trailer sales and rental, boat sales, rental services and restaurants.

Basement means a portion of a building between floor and ceiling, located partly above and partly below grade, and having one-half or less of its floor-to-ceiling height below the average grade of the adjoining ground. Earth-sheltered houses that meet all other requirements of the building code shall not be considered basements.

Bed and breakfast means an owner-managed and owner-occupied residential structure used as a lodging establishment where rooms are rented on a nightly basis, and in which only breakfast is included as part of the basic compensation.

Boardinghouse means a building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging are provided for three or more unrelated persons, but not to exceed eight persons.

Broadcasting Studio means a facility or building where the production and transmission of radio or television broadcasts originate, which may include ancillary office and business spaces to support the operations.

Building means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal or property of any kind. When any portion thereof is completely separated from every other part thereof by area separation, each portion of such building shall be deemed as a separate building.

Building code means the Minnesota State Building Code.

Building height means the vertical distance between the lowest grade level at the building line and the uppermost point on the roof.

Building official means the officer or other designated authority, certified by the state, charged with the administration and enforcement of the state building code, or his duly authorized representative.

Building setback means the minimum horizontal distance between the building and the lot line.

Building setback line means a line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluffline or a high-water mark or line, behind which buildings or structures must be placed.

Business means any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

Business, Seasonal means a business which operates for not more than six (6) months of any calendar year, and whose primary product or service offered is based on agricultural products or activities produced on site and may or may not include a permanent structure for operations. Examples of such businesses include, but are not limited to: the sale of locally produced produce or any derivative thereof grown or raised on the property, outdoor/indoor seasonal sales such as Christmas trees, plants, flowers, etc., which may be produced in a greenhouse or outdoors, seasonal events such as hayrides, apple orchards and associated activities, which may include associated retail sales.

Carport means an automobile shelter having one or more sides open.

Cellar means that portion of the building having more than one-half of the clear floor-to-ceiling height below the average grade of the adjoining ground. Underground buildings that meet all other requirements of the building code shall not be considered cellars.

Certificate of compliance. See section 32-35.

Certificate of occupancy. See section 32-187.

Channel means a natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water, including but not limited to streams, rivers, creeks, ditches, drainageways, canals, conduits, culverts, waterways, gulleys, ravines or washes, and including any area adjacent thereto which is required to carry and discharge the regional flood. (See chapter 14, pertaining to flood prevention.)

Channel flow means that water which is flowing within the limits of a channel.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Club or *lodge* means a nonprofit association of persons who are bona fide members paying annual dues, use of premises being restricted to members and their guests.

Cluster development means a pattern of subdivision development which places detached houses, duplexes or townhouse units into compact groupings while providing a network of commonly owned or dedicated open space.

Commercial food producing farm operations. See *Farm, rural* and section 32-245.

Comprehensive plan means the policies, statements, goals and interrelated plans for private and public land and water use, transportation and city facilities, including recommendations for planned execution, documented in texts, ordinances and maps which constitute the guide for the future development of the city or any portion of the city.

Conditional use means a land use or development as defined by ordinance that may not be appropriate generally, but may be allowed with appropriate restrictions as provided by official controls upon a finding that:

(1) Certain conditions as detailed in the zoning ordinances exist;

(2) The use or development conforms to the comprehensive land use plan of the city; and

(3) The use or development is compatible with the existing neighborhood.

Condominium. See *Dwelling, multiple.*

Curb level means the grade elevation of the curb in front of the center of a building. Where no curb has been established, the city engineer shall determine a curb level or its equivalent for the purpose of this chapter.

Decibel means the unit of sound measured on the "A" weighing scale of a sound level meter, set on slow response, the weighing characteristics of which are specified in the "Standards on Sound Level Meters of the USA Standards Institute."

Depth of lot means the horizontal distance between the frontage right-of-way lien and rear lot line. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.

Depth of rear yard means the horizontal distance between the rear building line and the rear lot line.

Disposal area, on-site sewage treatment. See chapter 12, article IV.

Dredging means the process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.

Drive-in means 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.

Driveways, shared, means an accessway, standing partly on one owner's land and partly on an adjacent owner's land, over which both owners hold a right-of-way.

Dwelling means a building or one or more portions thereof occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, boardinghouses, nor trailers, tents, cabins, or trailer coaches. (Also see *Dwelling unit.*)

Dwelling, attached, means a dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

Dwelling, detached, means a dwelling which is entirely surrounded by open space on the same lot.

Dwelling, duplex or two-family, means a residential building containing two complete dwelling units.

Dwelling, multiple or *apartment building*, means a residential building, or portion of a building, containing three or more dwelling units served by a common entrance.

Dwelling, seasonal, means a residential building not capable of year-round occupancy due to nonwinterized construction or inadequate nonconforming year-round on-site sewage treatment systems.

Dwelling, single, means a residential building containing one detached dwelling unit.

Dwelling, townhouse, means a residential building containing two or more dwelling units with at least one common wall, each unit so oriented as to have all exits directly to the out-of-doors.

Dwelling unit means a residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used or intended for use exclusively as living quarters for one family.

Engineer means the city engineer.

Essential services--Governmental uses, buildings and storage means governmental services such as office buildings, garages, temporary open space, open storage when not the principal use, fire and police stations, recreational areas, training centers, correctional facilities or other essential uses proposed by federal, state, county, local, special districts and school districts, except that schools shall not be permitted under this provision.

Essential services--Public utility uses means underground or overhead gas, electrical, distribution systems; collection, communication, supply or disposal system, including poles, wires, pipes, conduits, cables, traffic signals, or other similar equipment and accessories, but not including buildings or transmission services.

Essential services--Public utility uses, transmission services, buildings and storage means transmission service such as electrical power lines of a voltage of 35 kv or greater, or bulk gas or fuel being transferred from station to station and not intended for en route consumption or other similar equipment and accessories.

Exterior storage includes the term "open storage" and means the storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

Family means an individual, or two or more persons each related by blood, marriage, adoption or foster care arrangement, living together as a single housekeeping unit, or a group of not more than four persons not so related, maintaining a common household, exclusive of servants.

Farm, rural, means a commercial food-producing use on ten or more contiguous acres and is defined in Minn. Stats. § 273.111, subd. 7, to wit: Real property shall be considered to be in agricultural use provided that annually it is devoted to the production for sale of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, apiary products.

Feedlot means the place of housing or feeding of livestock or other animals for food, fur, pleasure or resale purposes in yards, lots, pens, buildings or other areas not normally used for pasture or crops and in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals.

Fence means a partition, structure, wall or gate erected as a dividing marker, visual or physical barrier, or enclosure.

Fill means any act by which soil, earth, sand, gravel, rock or any similar material is deposited, placed, pushed, or transported and shall include the conditions resulting therefrom.

Final plat means a drawing or map of an approved subdivision, meeting all requirements of chapter 30, pertaining to subdivisions, and in such form as required by the city for purposes of recording.

Floor area means the gross area of the main floor of a residential building measured in square feet and not an attached garage, breezeway or similar attachment.

Floor area, gross, means the sum or the gross area of the various floors of a building measured in square feet means the basement floor area shall not be included unless such area constitutes a story.

Floor area ratio means the numerical value obtained through dividing the gross floor area of a building by the net area of the lot or parcel of land on which such building is located.

Floor plan, general, means a graphic representation of the anticipated use of the floor area within a building or structure.

Forestry Products and Processing means the storage and processing of forestry products on a site that does not include public retail sales. Any processing conducted as part of the use may not use any chemicals and may not produce any hazardous waste. Examples of such use may include, but is not limited to, firewood processing, wood processing, wood storage or logging. This use does not include the removal of existing trees or vegetation on the site

for processing, which may be subject to a different land use and permitting process.

Frontage means that boundary of a lot which abuts a public street or private road.

Garage, private, means a detached one-story accessory building, or portion of the principal building, including a carport, which is used primarily for the storing of passenger vehicles, trailers or farm trucks.

Garage, repair, means a building or space for the repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junkyards.

Garage, storage, means any premises, except those described as a private or public garage used exclusively for the storage of power-driven vehicles.

Golf Course means an area of land laid out for a minimum of nine (9) holes to play golf each including a tee, fairway, and putting green to include natural and artificial hazards. The golf course operations and grounds may include a clubhouse, driving range, maintenance buildings and other uses which support the principal operations (such as, but not limited to swimming pools, tennis courts, etc.) of the golf course.

Gun Range or Gun Club, indoor means an indoor facility designated or operated primarily for the use of firearms as defined within the applicable Minnesota State Statutes and laws. All operations related to the shooting range, and the discharge of firearms, shall be permitted only within a fully enclosed facility, and shall be regulated by the applicable Minnesota State Statutes including, but not limited to, chapter 87A Shooting Ranges. Such facilities shall have primary access and frontage on a county or state road and shall be setback a minimum of 150-feet from any property line.

Grazable acres, means the area of the parcel or site that excludes 1) wetlands other than Types 1 and 2, 2) any wetland less than ¼ acre, and 3) the Homesite.

Home occupation means any gainful occupation or profession engaged in by an occupant only of a dwelling unit which is a use that is clearly incidental to the use of the dwelling unit for residential purposes, when conducted on the premises. The following criteria must be met, or the proposed use must be established as a conditional use in the zoning district proposed and proper permit obtained:

(a) No persons other than members of the Family who reside on the premises shall be engaged in such occupation;

(b) The use of the Dwelling Unit for the Home Occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than thirty percent (30%) of floor area of the Dwelling Unit shall be used in the conduct of the Home Occupation.

(c) Any business operations conducted in an Accessory Building or garage shall be conducted entirely within the accessory building, and no exterior modifications to the building shall be permitted which would indicate that the structure is being used for commercial activity, except as permitted in Section d.

(d) There shall be no change in the outside appearance of the Principal Building or Premises, or other visible evidence of the conduct of such Home Occupation other than any signage as permitted by the City's ordinances.

(e) No traffic shall be generated by such Home Occupation in greater volume than would normally be expected to a residence in a residential neighborhood, and the driveway shall be designed accordingly.

(f) Parking areas may not exceed four (4) stalls and shall not be located in any required yard setback area and must be screened from any adjacent residential use.

(g) No equipment, activity, or process shall be used in such Home Occupation which creates, noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the Lot.

(h) No outside storage is permitted.

Homesite, means the residence, all outbuildings permitted by the City's Code of Ordinances and the immediately adjacent property mowed and utilized by the property owner for any purpose. In determining the number of Grazable acres in as required by Section 32-337(b), the Homesite area shall constitute half (½) acre for parcels of six acres or less, and one (1) acre for parcels greater than six acres.

Horse boarding and training facilities means a facility for the purpose of containing, caring for (not including a veterinary use), riding, driving or training of horses. A horse boarding and training facility may include showing, riding, providing lessons, team sorting and other such activities associated with the boarding and training of horses.

Hotel means a building having provision for nine or more guests, in which lodging is provided with or without meals, for compensation, and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

Hotel or Motel means a building which provides a common entrance, lobby, halls and stairway and in which ten or more people are, for compensation, lodged with or without meals. Such operations may include a single building or a group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to accommodate each unit.

Institutional housing means housing for students who are mentally or physically handicapped and similar housing of a specialized nature.

Junkyard means an area where discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber products, bottles and used building materials. Storage of such material in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.

Kennel, commercial, means any place where four or more of any type of domestic pets over four months of age are boarded, bred, trained or offered for sale.

Kennel, private, means any place where four or more of any type of domestic pets over four months of age are owned by any member or members of the household.

Land alteration means the excavation or grading of land involving movement of earth and materials in excess of 50 cubic yards.

Land reclamation means the reclaiming of land by depositing material so as to elevate the grade. Depositing a total of more than 50 cubic yards of material per lot or parcel, either by hauling in or regrading the area.

Landscaping means planting trees, shrubs and turf covers such as grasses and shrubs.

Loading space means a space, accessible from a street, alley or way, in or outside of a building, for the use of trucks while loading and unloading merchandise or materials.

Lodging room means a room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room.

Lot means a parcel of land designated by metes and bounds, registered land survey, plat or other means, and which description is either recorded in the office of the county recorder or registrar of titles or used by the

county treasurer or county assessor to separate such parcel from other lands for tax purposes.

Lot, double frontage, means a lot of record on December 7, 1982, having frontage on two (2) streets which do not intersect at a corner of the lot.

Lot area means the area of a horizontal plane within the lot lines.

Lot area, minimum per dwelling unit, means the minimum number of square feet or acres of lot area required per dwelling unit.

Lot, buildable, means a lot which meets or exceeds all requirements of the city land use and development ordinances without the necessity of variances.

Lot, corner, means a lot situated at the junction of and abutting two or more intersecting streets; or a lot at the point of a deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.

Lot depth means the mean horizontal distance between the front and rear lines of a lot.

Lot, interior, means a lot other than a corner lot, including through lots.

Lot line means a lot line is the property line bounding a lot, except that where any portion of a lot extends into a public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line.

Lot line, front, means that boundary of a lot which abuts a public street or a private road. In the case of a corner lot, it shall be the shortest dimension of a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner. In the case of a corner lot in a nonresidential area, the lot shall be deemed to have frontage on both streets.

Lot line, rear, means that boundary of a lot which is opposite to the front lot line. if the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

Lot line, side, means any boundary of a lot which is not a front lot line or a rear lot line.

Lot, through, means any lot other than a corner lot which abuts more than one street. On a through lot, all the street lines shall be considered the front lines for applying this chapter.

Lot width means the horizontal distance between the side lot lines of a lot measured at the setback line.

Manufactured home means a structure transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under Minn. Stats. § 327.31, subd. 3. No manufactured dwelling shall be moved into the city that does not meet the manufactured home building code as defined in Minn. Stats. § 327.31, subd. 3.

Manufactured home lot means a parcel of land for the placement of a single manufactured home for the exclusive use of said manufactured home.

Manufactured home park means any site or tract of land designed, maintained or intended for the placement of two or more occupied manufactured homes. Manufactured home park shall include any building,

structure, vehicle or enclosure intended for use as part of the equipment of such manufactured home park.

Manufacturing, general, means all manufacturing, compounding, processing, packaging, treatment or assembly of goods or materials which would involve a risk of offensive or dangerous noise, odor or pollution beyond the lot on which the use is located. Such uses include, but are not limited to, the following: sawmill; refineries; commercial feedlots; acid, cement; explosives; flour, feed and grain milling or storage; meat packing; slaughterhouses; coal or tar asphalt distillation; rendering of fat, grease, lard or tallow; alcoholic beverages; poisons; exterminating agents; glue; lime; gypsum; plaster of Paris; tanneries; automobiles parts; paper and paper products including storage; electric power generation facilities; vinegar works; junkyards, auto reduction yards; foundry; forge, casting of metal products; rock, stone and cement products.

Manufacturing, limited, means all compounding, processing, packaging, treatment or assembly of goods and materials, provided such use will not involve the risk of offensive odors, glare, smoke, dust, noise, vibrations or other pollution extending beyond the lot on which the use is located. Such uses include, but are not limited to, the following: lumber yard, machine shops, products assembly, sheet metal shops, plastics, electronics, general vehicle repair (repair garage), body work and painting, contractor shops and storage yard, food and nonalcoholic beverages, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing, textiles and used auto parts.

Manure means any solid or liquid containing animal excreta.

Mean flow level means the average flow elevation of a stream or river computed as the mid-point between extreme low and extreme high water.

Medical uses means those uses concerned with the diagnosis, treatment and care of human beings. These include hospitals, dental services, medical services or clinics, nursing or convalescent home, orphan's home, rest home and sanitarium.

Mining means the extraction of sand, gravel, rock, soil or other material from the land and the removal thereof from the site. For the purposes of this chapter, mining shall not include the removal of materials associated with the construction of a building, the removal of excess materials in accordance with approved plats or utility highway construction, minor agricultural and sod removal.

Modular or prefabricated home means a non-mobile dwelling unit for year-round occupancy constructed or fabricated at a central factory and transported to a building site where final installations are made permanently affixing the dwelling unit to the site. Said dwelling unit shall be equivalent to a unit constructed on the site, meeting all requirements of state law.

Motor court, motor hotel or *motel* means a building or group of buildings other than a hotel used primarily as a temporary residence of a motorist.

Motor freight terminal means a building or area in which freight brought by motor truck is transferred and/or stored for movement by motor truck.

Noise, ambient, means the all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from many sources near and far or a single predominant source.

Nonconforming lot means any legal lot 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.

Nonconforming use means any lawful use of land or any lawful use of a building or structure existing on the effective date of the ordinance from which this chapter is derived, or any amendment thereto, which use does not conform with the regulations for the district in which it is located after the effective date of the ordinance from which this chapter is derived or such amendment.

Noxious matter means material which is capable of causing injury or is in any way harmful to living organisms or is capable of causing detrimental effect upon the physical or mental health of human beings.

Nursery, day, means a use where care is provided for three or more children under kindergarten age for periods of four hours or more per day for pay.

Nursery, landscape, means a business growing and selling trees, flowering and decorative plants, and shrubs which may be conducted within a building or without.

Nursing home means a building with facilities for the care of children, the aged, or the infirm or a place of rest for those suffering bodily disorder.

Office uses means those commercial activities that take place in office buildings, where goods are not produced, sold or repaired, including but not limited to banks, professional offices, governmental offices, insurance offices, real estate offices, telephone exchanges, utility offices, radio broadcasting and similar uses.

Official control means legislatively defined and enacted policies, standards, precisely detailed maps, and other criteria, all of which control the physical development of a municipality or a county, or any part thereof, or any detail thereof, and the means of translating into ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include, but are not limited to ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes and official maps.

Official map means a map adopted in accordance with the provisions of Minn. Stats. § 462.359.

Open sales lot means lands devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed within a building.

Open storage means storage of any material outside of a building.

Owner means and includes all persons interested in a property as fee simple owner, life estate holder, encumbrance or otherwise.

Parking space means a suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

Pedestrian way means a public or private right-of-way across or within a block or tract, to be used by pedestrians.

Performance standards means the minimum development standards as adopted by the city council and on file in the office of the building official.

Person means any person, corporation or association, including governmental agencies and political entities.

Planned unit development (PUD), means any development on a single parcel of land having more than one principal use, whether commercial, residential, not-for-profit, industrial or any combination thereof; including, but not limited to townhomes, apartments, multi-use structures, mixed residential and commercial developments shall be classified as a Planned Unit Development. Notwithstanding the foregoing, any lot or parcel on which a single family dwelling is located and a second use is made by the owner of the lot or parcel shall not be classified as a Planned Unit Development.

Planning advisory commission or *planning commission* means the duly appointed planning and zoning advisory commission of the city.

Planning agency means a planning commission or department, however created, or the office of the planning or zoning director or inspector, or the office of any official designated as such planning or zoning director or inspector, together with any staff members, employees or consultants of such commission, department, director, inspector or official, and the board of adjustment and appeals and its employees or staff.

Principal use, means the primary or predominant use of any lot or parcel, as distinguished from an accessory use. The principal use shall be the purpose for which land is designated, arranged, or intended.

Protective or restrictive covenant means a contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.

Public land means land owned and/or operated by a governmental unit, including school districts.

Race track means any area where one or more animals or power-driven vehicles are raced for profit or pleasure.

Recreation, commercial outdoor means recreational uses conducted almost wholly outdoors for a fee, including, but not limited to golf driving ranges, miniature golf, Frisbee golf courses, tennis courts and outdoor skating rinks. Such uses may include support accessory structures such as a ticket booth, warming house, or small bathroom facility, but in all cases shall be clearly incidental to the principal outdoor recreational use.

Recreation equipment means play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 25 feet in length, picnic tables, lawn chairs, barbecue stands and similar equipment or structures, but not including tree houses, swimming pools, playhouses exceeding 25 square feet in floor area, or sheds utilized for storage of equipment.

Recreation, private means an accessory structure and/or use that are customary and incidental to the principal residential use of a site, including swing sets, play structures, sand boxes, tennis courts, sport courts, swimming pools and the like, intended for the enjoyment and convenience of the residents of the principal use and their occasional guests.

Recreation vehicle means any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications:

(1) Is not used as the permanent residence of the owner or occupant;

(2) Is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities;

(3) Is towed or self-propelled on public streets or highways incidental to such recreation or vacation activities.

Examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pickup campers, camping buses, and self-contained, self-propelled, truck-chassis-mounted vehicles providing living accommodations.

Recreation vehicle park means a park, court, campsite, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying the location or accommodations for any recreation vehicles as defined in this section, and upon which said recreation vehicles are parked. The term "recreation vehicle park" shall include all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the park and its facilities or not.

Research means medical, chemical, electrical, metallurgical or other scientific research and quality control, conducted in accordance with the provisions of this chapter.

Resort means any structure or group of structures containing more than two dwelling units or separate living quarters designed or intended to serve as seasonal or temporary dwellings on a rental or lease basis for profit

with the primary purpose of said structure or structures being recreational in nature. Uses may include a grocery for guests only, fish-cleaning house, marine service, boat landing and rental, recreational area and equipment and similar uses normally associated with a resort operation.

Restaurant, Tavern or *bar* means a building with facilities for the serving of food, liquor and beer. The food shall be prepared on site and consumed on the premise at either the bar counter or at tables.

Retail business uses means stores and shops selling personal service or goods for final consumption.

Roadside sale stand means a structure used on a seasonal basis only for the display and sale of products with no space for customers within the structure.

Runway means a surface of an airport landing strip.

Runway, instrument, means a runway equipped with air navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.

Rural Event Facility means a facility that operates on a for-profit basis to host outdoor or indoor gatherings. The gatherings may include, but are not limited to, events such as weddings or other ceremonies, banquets, picnics or any other gatherings of a similar nature. Such facilities shall be required to obtain a Conditional Use Permit, and must meet the following additional minimum standards:

(1) Located on a minimum of 20 acres, as defined in Section 32-246(c)4, and zoned A1 or A2;

(2) Have direct access to a County or State Road

Schools – commercial means a school established to provide for the teaching of clerical, managerial, or artistic skills including such things as karate, painting and dance. Such facilities may be owned and operated privately for profit or not-for-profit.

Schools – public and private means an institution or building in which children and young people usually under 19 receive education. Such institutions may be funded by public funds, private organizations, or private individuals. Such facilities must have frontage on an improved county or state roadway, and have a minimum of 20 contiguous acres.

Screening means and includes earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object throughout the year.

Seasonal standing or flowing water means a recognizable body of standing or flowing water that exists longer than any 30 consecutive day period within any calendar year.

Setback means the minimum horizontal distance between a structure and street right-of-way, lot line or other reference point as provided by ordinance. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure.

Shopping center means any grouping of two or more principal retail uses whether on a single lot or on abutting lots under multiple or single ownership.

Sign means a display, illustration, structure or device which directs attention to an object, product, place, activity, person, institution, organization or business. (See division 3 of article IV of this chapter.)

Solid waste landfill means demolition, sanitary, modified, hazardous, and all other types of solid landfill.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above. A basement shall be counted as a story and a cellar shall not be counted as a story.

Street means a public right-of-way which affords a primary means of access to abutting property.

(1) *Street, collector,* means a street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major road.

(2) *Street, intermediate,* or *minor arterial,* means 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 areas generating heavy traffic.

(3) *Street, local,* means a street intended to serve primarily as an access to abutting properties.

Street pavement means the wearing or exposed surface of the roadway used by vehicular traffic.

Street width means the width of the right-of-way measured at right angles to the centerline of the street.

Structural alteration means any change, other than incidental repairs, which would affect the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

Structural, historic, scenic means a building, structure, archaeological site, or other place that is listed on the national or state register of historic places, or is designated as a significant historic site of the city council. All unplatted cemeteries meeting provisions of Minn. Stats 307.08 are significant historic sites.

Subdivision means a described tract of land which is to be or has been divided into two or more lots or parcels for the purpose of transfer of ownership, building development, or for tax assessment purposes. The term "subdivision" includes resubdivision, and where it is appropriate to the context, relates to either the process of subdividing, or to the land subdivided, or to the development for which it is being subdivided.

Substandard building or *substandard structure* means any building or structure lawfully existing on the effective date of the ordinance from which this chapter is derived or any amendment thereto, which building or structure does not conform, after the effective date of the ordinance from which this chapter is derived or such amendment, with the regulations, including dimensional standards, for the district in which it is located.

Supper club means a building with facilities for the preparation and serving of meals and where meals are regularly served at tables to the general public. The building must be of sufficient size and design to permit the serving of meals to not less than 50 guests at one time. Intoxicating liquors may be sold on-sale and live entertainment and/or dancing shall be permitted.

Theater means a building or part of a building devoted to the showing of motion pictures or theatrical or performing arts productions as a principal use, but not including an outdoor drive-in theater.

Transportation terminal means truck, taxi, air, bus, train and mass transit terminal and storage area, including motor freight (solid and liquid) terminal.

Truck stop means a motor fuel station devoted principally to the needs of tractor-trailer units and trucks, and which may include eating and/or sleeping facilities.

Use means:

(1) Any purpose of which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; or

(2) Any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure, or on a tract of land.

Use, accessory, means a use subordinate to and serving the principal use or structure on the same lot and customarily incidental to such principal use.

Use, conditional. See *Conditional use.*

Use, nonconforming. See *Nonconforming use.*

Use, open, means the use of land without a building or including a building incidental to the open use.

Use, principal. See *Principal structure or use.*

Use, substandard. See *Substandard building or structure.*

Variance means a modification or variation of the strict provisions of this chapter as applied to a specific piece of property in order to provide relief for a property owner because of undue hardship or particular difficulty imposed upon the property by this chapter. A variance shall normally be limited to height, bulk, density and yard requirements. A modification in the allowable uses within a district shall not be considered a variance.

Vehicle repair means general repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including body work, framework, welding and major painting services.

Veterinary means those uses concerned with the diagnosis, treatment and medical care of animals, including animal or pet hospitals.

Warehousing means the storage, packing and crating of materials or equipment within an enclosed building or structure.

Waterfront uses, residential, means boat docks and storage, fish house, fish cleaning, water recreation equipment and other uses normally incidental to a lakeshore residence, provided such uses are for the exclusive use of the occupants and nonpaying guests.

Wholesaling means the selling of goods, equipment and materials by bulk to another person who in turn sells the same to customers.

Wind energy conversion system (WECS) means one (1) tower with rotors and motors with one conversion generator.

Yard means the open space on an occupied lot which is not covered by any structure.

Yard, front, means a yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest building line.

Yard, rear, means a yard extending across the rear of the lot between the inner side yard lines and lying between the rear line of the lot and the nearest building line.

Yard, required, means a yard area which may not be built on or covered by structures because of the dimensional setbacks for said structures within the zoning district.

Yard, side, means a yard between the side lines of the lot and the nearest building line.

Zoning district means an area within the city in which the regulations and requirements of this chapter are uniform.

(Ord. No. 50, §§ 3, 401.03, 402.01, 12-7-1982; Ord. No. 53, § 1, 7-7-1983; Ord. No. 54-B, § 1, 6-5-1984; Ord. No. 58-A, § 2(749.01), 8-5-1986; Ord. No. 54C-2003, § 1, 2-4-2003; Ord. No. 1997-78, § 719.011, 9-2-1997; Ord. No. 2004-109, § 4, 8-3-2004; Ord. No. 2005-117, § 1, 11-1-2005; Ord. No. 2015-41, 12-1-2015; Ord. No. 2015-42, 12-1-2015; Ord. No. 2015-44, 1-5-2016; Ord. No. 2016-46, 6-7-2016)

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Sec. 32-2. Intent and purpose.

(a) *General purposes.* The general purposes of this chapter are to provide for the orderly growth and renewal of the city, to protect and conserve its natural resources, its ecological systems and its economic stability by fostering appropriate land use so as to preserve and promote the public health, safety and general welfare.

(b) *Specific purposes.* It is hereby determined by the city council that in order to accomplish the general purposes of this chapter as set forth in subsection (a) of this section, it is necessary and proper to establish and enforce the regulations contained in this chapter for the following specific purposes:

(1) To stage development and redevelopment to coincide with the availability of existing services.

(2) To divide the city into districts, providing for and regulating therein the location, construction, reconstruction, alteration, and use of buildings, structures and land for residential, business, agricultural and other specified uses.

(3) To protect the character and maintain the stability of residential, business, and agricultural areas within the city, and prohibit uses, buildings or structures which are incompatible with the character of development in such areas.

(4) To provide adequate light, air, privacy and convenience of access to property.

(5) To limit congestion in public streets and to foster public safety and convenience in travel and transportation.

(6) To provide protection against fire, explosions, obnoxious fumes and other hazards in the interest of public health, safety and comfort.

(7) To prevent environmental pollution.

(8) To prevent the destruction or improvident exploitation of city resources.

(9) To preserve the value of land and buildings throughout the city.

(10) To provide for the gradual and equitable elimination of those uses of land, buildings and structures, and of those buildings and structures which do not conform to the standards for the area in which they are located and which may adversely affect the development and the value of property in such areas.

(11) To provide for the condemnation of such nonconforming buildings or structures and of land as is necessary or appropriate for the rehabilitation of the area blighted thereby.

(12) To provide for the enforcement of this chapter and to define and limit the powers and duties of the administrative officers and bodies responsible therefor.

(13) To protect and preserve economically viable agricultural land.

(14) To provide for the wise use and conservation of energy resources.

(Ord. No. 50, §§ 201, 202, 12-7-1982)

Sec. 32-3. Interpretation and construction; cumulative effect.

(a) *Interpretation.* In the application of this chapter, the provisions thereof shall be interpreted to be the minimum requirements necessary to accomplish the general and specific purposes of the chapter.

(b) *Construction.* Nothing contained in this chapter shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any building, structure or facility, or to carry on any trade, industry, occupation or activity.

(c) *Cumulative effect.* Except as herein provided, the provisions of this chapter are cumulative and in addition to the provisions of other laws and ordinances, heretofore passed or which may be passed hereafter, governing the same subject matter as this chapter.

(Ord. No. 50, §§ 203.01, 203.11, 203.12, 12-7-1982)

Sec. 32-4. Compliance.

Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended, and no land, building or structure, or part thereof, shall be occupied or used unless in conformity with regulations specified in this chapter for the district in which it is located.
(Ord. No. 50, § 401.01, 12-7-1982)

Sec. 32-5. Application to existing structures.

This chapter shall not apply to buildings and structures, nor to the use of any building, structure or land to the extent of such use existing on the effective date of the ordinance from which this chapter is derived. However, this chapter shall apply to any change in use, alteration, extension or movement of a building or structure, and to any change in the use of land subsequent to the effective date of the ordinance from which this chapter is derived.
(Ord. No. 50, § 401.02, 12-7-1982)

Sec. 32-6. Exception for single-family residential homes.

In order to maintain affordable housing stock, to maintain the historic character of the city, and to preserve the value of residential properties, the following exceptions to this chapter are recognized:

(1) Any single-family residence in existence on a parcel of land less than 2.5 acres in size shall be allowed to be expanded or improved, provided that all such expansions or improvements shall be made subject to all other applicable regulations including the building code and long-term sewage disposal regulations.

(2) Detached accessory buildings shall be allowed on nonconforming lots of record, upon which a principal residential structure exists, but subject to all other requirements of city ordinances including the building code.

(3) Nothing herein shall exempt nonconforming contiguous lots from the provisions of section 32-246(b)(3).

(Ord. No. 1999-85, § A(401.021), 7-6-1999)

Sec. 32-7. Incorporation by reference.

(a) The following are incorporated into this chapter by reference:

(1) The Grant comprehensive plan.

(2) The National Pollutant Discharge Elimination System, MN R100001 (NPDES general construction permit) issued by the Minnesota Pollution Control Agency, August 1, 2013, as amended.

(3) The Grant Engineering and Design Guidelines manual.

(4) The Rules of the Valley Branch Watershed District, pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B, 103 D, and 103G, and Minnesota Rules 8410 and 8420.

(5) The Rules of the Rice Creek Watershed District, pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B, 103 D, and 103G, and Minnesota Rules 8410 and 8420.

(Ord. No. 2015-39, 4-7-2015)

Sec. 32-8. Opt-Out of Minnesota Statutes, Section 462.3593.

Pursuant to authority granted by Minnesota Statutes, Section 462.3593, Subdivision 9, the City of Grant opts-out of the requirements of Minn. Stat. § 462.3593, which defines and regulates Temporary Family Health Care Dwellings.

This Ordinance shall be effective immediately upon its passage and publication.
(Ord. No. 2016-47, 8-2-2016)

Secs. 32-9--32-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 32-31. Administrator.

(a) *Agent of administration.* Administration of this chapter shall be by the city council until such time as it is necessary to establish the office of zoning administrator who shall be appointed by the city council and serve at its pleasure.

(b) *Duties of the administrator.* The city council, hereafter referred to as the city zoning administrator, zoning administrator or administrator, shall enforce the provisions of this chapter as provided herein; in addition to the duties and powers of the zoning administrator under this chapter, express or implied, he shall have the duty and power to:

(1) Issue permits required by this chapter.

(2) Conduct inspections of land, buildings or structures at reasonable times to determine compliance with and enforce the provisions of this chapter.

(3) Maintain all records necessary for the enforcement of this chapter, including but not limited to all maps, amendments, and special use permits, variances, appeal notices, and applications therefor.

(4) Receive, file and forward all appeals, notices, applications for variances, special use permits or other matters to the appropriate officials or boards.

(5) Institute in the name of the city, any appropriate actions or proceedings to enforce this chapter.

(6) Serve as ex officio, nonvoting member of the planning commission.

(Ord. No. 50, §§ 501, 502, 12-7-1982)

Sec. 32-32. Violations.

In the event of a violation or the threatened violation of any provision of this chapter, or any provision or condition of a permit issued pursuant to this chapter, the city in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violation.
(Ord. No. 50, § 801.04, 12-7-1982)

(a) Violations to this chapter which involve any land alteration that would cause a building permit, grading permit, or any other land altering permit to be required are also subject to the provisions contained within Article I Chapter 30 Subdivisions.
(Ord. No. 2015-39, 4-7-2015)

Sec. 32-33. Supremacy of more restrictive provisions.

(a) When any condition imposed by any provision of this chapter on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other city ordinance or regulation, the more restrictive conditions shall prevail.

(b) This chapter is not intended to abrogate any easements, restrictions or covenants relating to the use of land or imposed on lands within the city by private declaration or agreement, but where the provisions of this chapter are more restrictive than any such easement, restriction, covenant or provision of any private agreement, the provisions of this chapter shall prevail.

(Ord. No. 50, § 901.02, 12-7-1982)

Sec. 32-34. Fees.[2]

(a) There shall be an application fee for all applications made pursuant to the provisions of this chapter as established by ordinance.

(b) Municipal corporations and governmental agencies shall be exempt from the fee requirements of subsection (a) of this section.
(Ord. No. 50, § 511, 12-7-1982)

Sec. 32-35. Certificate of compliance.

(a) *Issuance.* The zoning administrator shall issue a certificate of compliance in any district for a proposed use listed in article III as a use which must obtain a certificate of compliance prior to construction or occupancy, if the proposed use will not be contrary to the provisions of this chapter, and other codes and ordinances have been fully complied with.

(b) *Conditions; review.* Conditions required by this chapter shall be applied to the issuance of the certificate of compliance, and a periodic review of the certificate and proposed use may be required. The certificate shall be granted for a particular use and not for a particular person or firm.

(c) *Records.* The zoning administrator shall maintain a record of all certificates of compliance issued including information on the use, location and conditions imposed as part of the permit such as time limits, review dates and such other information as may be appropriate.

(d) *Application.* Whenever this chapter requires a certificate of compliance, an application therefor, in writing, shall be filed with the zoning administrator.

(e) *Information to be submitted.* The application shall be accompanied by development plans of the proposed use showing such information as may be reasonably required by the zoning administrator, including but not limited to those listed below. These plans shall contain adequate information upon which the zoning administrator can determine that the proposed development will meet all development standards if the project proceeds in accordance with such plans, including:

(1) Site plan drawn to scale showing parcel and building dimensions.

(2) Location of all buildings and their square footage.

(3) Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.

(4) Landscaping and screening plans.

(5) Finished grading and drainage plans sufficient to drain and dispose of all surface water accumulated in the area.

(6) Sanitary and storm sewer plans with estimated use.

(7) Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating soil conservation practices to be used to overcome said limitation shall be made prior to the certificate application.

(8) Location of well on applicant's property and adjacent properties.

(9) Erosion and sedimentation control plans in compliance with Section 30-172.

(10) Stormwater management plans in compliance with Section 30-173.

[2] **State Law References:** Fees in connection with official controls, Minn. Stats. § 462.353, subds. 4, 4a.

(11) Permanent stormwater treatment inspection and maintenance plan, and maintenance agreement as defined in Chapter 30, sections 30-103, 30-172 and 30-173.

(12) Any additional data reasonably requested by the zoning administrator.

(f) *Action.* The zoning administrator shall issue or deny the certificate of compliance within ten days of the date on which all of the required information has been submitted.

(g) *Lack of action.* If no such action on the request for a certificate of compliance is taken within such time, the request for a certificate of compliance shall be considered denied.

(h) *Appeal.* If the request for a certificate of compliance is denied or if conditions are imposed, the applicant may appeal the decision to the board of adjustment and appeals. The procedures to be followed in this case shall be the same as those followed for an appeal to any administrative decision made by the zoning administrator. (Ord. No. 50, § 506, 12-7-1982; Ord. No. 2015-39, 4-7-2015)

Secs. 32-36--32-58. Reserved.

DIVISION 2. BOARD OF ADJUSTMENT AND APPEALS; APPEALS AND VARIANCES

Sec. 32-59. Board of adjustment and appeals.[3]

(a) *Established.* There is hereby established a board of adjustment and appeals. The board of adjustment and appeals shall have the powers provided by law.

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

Hardship means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this chapter or its amendments and no other reasonable alternate use exists; however, the plight of the landowner must be due to physical conditions unique to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same zoning district; these unique conditions of the site cannot be caused or accepted by the landowner after the effective date of the ordinance from which this chapter is derived or its amendments. Economic considerations alone shall not constitute a hardship.

(c) *Notice.* In addition to the notice of hearing required by this division, a notice shall be published in the official newspaper once at least ten days before the date of the hearing. If the board of adjustment authorizes the issuance of a permit, the council or other board or commission having jurisdiction shall have six months from the date of the decision of the board to institute proceedings to acquire such land or interest therein, and if no such proceedings are started within that time, the officer responsible for issuing building permits shall issue the permit if the application otherwise conforms to city ordinances. The board shall specify the exact location, ground area, height and other details as to the extent and character of the building for which the permit is granted.

(d) *Membership.* The board of adjustment and appeals shall consist of the city council.

(e) *Structure and conduct of board.* The chair of the board of adjustment and appeals shall be the mayor. The deputy mayor shall be the vice-chair and the city clerk shall be the secretary. Subject to such limitations as may be imposed by the city council, the board may adopt rules for the conduct of proceedings before it. Such rules may include provisions for giving of oaths to witnesses and the filing of written briefs by the parties. The board shall provide for a record of its proceedings which shall include minutes of its meetings, its findings and the action

[3] **State Law References:** Board of adjustments and appeals, Minn. Stats. §§ 462.354, subd. 2, 462.357, subd. 6, 462.359.

taken on each matter heard by it, including the final order.
(Ord. No. 50, §§ 503.01--503.03, 12-7-1982)

Sec. 32-60. Variances.

An application for a variance shall be filed with the zoning administrator. The application shall be accompanied by development plans showing such information as the zoning administrator may reasonably require for purposes of this section, including:

(1) Whom to contact.

a. Application shall be made to the city clerk at least 15 days prior to the hearing presentation.

b. All application and escrow fees must be paid and the application deemed complete in order for the public hearing to be scheduled.

c. The applicant shall appear at the Grant Town Hall, 8380 Kimbro Avenue North, at the time set for the hearing. After the city planning commission has reviewed the presentation it will make its recommendations to the city council to either approve it, deny it, or continue the matter to a later meeting if the presentation is not complete enough to make a decision.

d. When the requested matter is passed onto the city council the applicant shall appear before the council with presentation materials. After the city council has reviewed the request, it will make its decision to approve the request with conditions, to deny the request, or to continue the matter to a later meeting if information is missing which is considered necessary to making a decision.

(2) What to present.

a. A site plan of professional quality approximately three feet by three feet in size, drawn to scale, legible and visible from at least 20 feet. At least ten smaller copies, 8 1/2 inches by 11 inches, should also be available. The plan should:

1. Show location of all lot lines. If a survey map is available, it shall be presented.

2. Show all adjacent roads.

3. Show all driveways and present building locations to scale. Indicate footage from lot lines, etc.

4. Show locations of existing wells, septic systems, ponds, streams, steep grades, and other pertinent topographic features.

5. Show to scale the locations of proposed structures, wells, sanitary facilities and septic systems, landscaping, driveways, parking areas, and other information that may apply to the specific proposal.

6. Show locations of neighbors' properties and exact distance of neighbors' buildings and structures, wells, septic systems, driveways, ponding areas, and general topographic information.

7. Show plans of professional quality of proposed structures drawn to scale, with setbacks indicated.

b. Certain uses require approval of other governmental agencies such as the department of natural resources, pollution control agency, watershed district.

c. A statement of reasons why the request is made.

(Ord. No. 50, § 503.04, 12-7-1982)

Secs. 32-61--32-78. Reserved.

DIVISION 3. NONCONFORMITIES[4]

Sec. 32-79. Continuation of nonconforming uses.

Except as hereinafter provided in this division, the lawful use of land or the lawful use of a building or structure existing on the effective date of the ordinance from which this chapter is derived or on the effective date of any amendment thereto may be continued although such use does not conform to the provisions of this chapter, except as otherwise provided in this division.
(Ord. No. 50, § 402.02, 12-7-1982)

Sec. 32-80. Dimensionally substandard buildings or structures.

Except as hereinafter provided in this division, buildings or structures lawfully existing on the effective date of the ordinance from which this chapter is derived or on the effective date of any amendment thereto may be maintained although such building or structure does not conform to the dimensional standards of this chapter, but any such building or structure shall not be altered or improved beyond normal maintenance, except that any lawful dimensional substandard residential building, accessory building or structure may be altered or improved if the existing substandard dimension relates only to setback requirements and does not exceed ten percent of the minimum setback requirements, but such alteration or improvement shall conform to all of the provisions of this chapter and shall not increase the existing substandard square footage.
(Ord. No. 50, § 402.03, 12-7-1982)

Sec. 32-81. Unlawful uses, buildings and structures.

No unlawful use of property existing on the effective date of the ordinance from which this chapter is derived or any amendment thereto nor any building or structure which is unlawfully existing on such date shall be deemed a nonconforming use or a nonconforming building or structure.
(Ord. No. 50, § 402.04, 12-7-1982)

Sec. 32-82. Permit holders and permit applicants.

Any nonconforming structure that is ready for or under construction on the effective date of the ordinance from which this chapter is derived or any amendment thereto may be completed and occupied in accordance with the requirements of any valid building permit issued therefor prior to such effective date.
(Ord. No. 50, § 402.05, 12-7-1982)

Sec. 32-83. Change from one nonconforming use to another.

A nonconforming use may be changed only to a use permitted in the district in which it is located; except that if no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restrictive classification, and provided such change is approved by the board of adjustment and appeals as hereinafter provided. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.
(Ord. No. 50, § 402.06, 12-7-1982)

Sec. 32-84. Change of use with approval of the board of adjustment.

A nonconforming use all or partially conducted in buildings may be changed to another nonconforming use only upon determination by the board of adjustment, after a public hearing, that the proposed new use will be no

[4] **State Law References:** Nonconformities, Minn. Stats. § 462.357, subds. 1c--1e.

more detrimental to its neighborhood and surroundings than is the use it is to replace. In determining relative detriment, the board of adjustment shall take into consideration, among other things, traffic generated; nuisance characteristics such as emission of noise, dust and smoke; fire hazards; and hours and manner of operation.
(Ord. No. 50, § 402.07, 12-7-1982)

Sec. 32-85. Restoration of nonconforming buildings or structures.

(a) A nonconforming building or structure which is damaged and/or destroyed by a calamity such as, but not limited to, fire, flood, wind, explosion, tornado, or earthquake, to the extent of more than 50 percent of the market value of said building or structure, as determined by current records of the county assessor and for which no building permit has been applied for within 180 days of when the property was damaged, shall not be restored except in conformity with all current ordinance requirements.

(b) A nonconforming building or structure which is or becomes damaged and/or destroyed through dilapidation, lack of repair, care, and/or upkeep, or similar cause, shall not be restored except in conformity with all current ordinance requirements if no building permit has been applied for within 180 days of when the property was damaged and the dollar value of the repairs necessary to restore the building or structure to comply with all current health, safety, plumbing, electrical, and/or building codes is more than 50 percent of the market value for said building or structure as determined by current records of the county assessor.
(Ord. No. 50, § 402.08, 12-7-1982; Ord. No. 1996-71, § A, 8-6-1996; Ord. No. 1999-85, § B, 7-6-1999)

Sec. 32-86. Discontinuation of use.

A nonconforming use of a structure or parcel of land which has been discontinued for a period of 12 months or more shall not be reestablished, and any further use shall be in conformity with the regulations of all city ordinances.
(Ord. No. 50, § 4, 12-7-1982; Ord. No. 1996-71, § B, 8-6-1996)

Secs. 32-87--32-115. Reserved.

DIVISION 4. AMENDMENTS[5]

Sec. 32-116. Generally.

An amendment to this chapter may be initiated by the city council, the planning commission or by petition of affected property owners as defined herein. An amendment not initiated by the planning commission shall be referred to the planning commission for study and report, as hereinafter provided, and may not be acted upon by the council until it has received the recommendation of the planning commission.
(Ord. No. 50, § 508.01, 12-7-1982)

Sec. 32-117. Applications.

(a) The zoning administrator shall maintain a record of all applications for amendments to this chapter.

(b) Where an amendment to this chapter is proposed by a property owner, an application therefor shall be filed with the city clerk; said application shall be accompanied by development plans, if any, for the use which requires the rezoning. The development plans shall show such information as may be reasonably required by the administrator, including but not limited to those things listed in subsections (c) and (d) of this section.

[5] **State Law References:** Zoning amendments, Minn. Stats. § 462.357, subds. 3, 4.

(c) Such plans shall contain sufficient information for the city to determine whether the proposed development is in keeping with the intent and purpose of this chapter and the comprehensive plan, including:

(1) Site plan drawn to scale showing parcel and building dimensions.

(2) Location of all buildings and their size, including square footage.

(3) Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.

(4) Landscaping and screening plans, including species and size of trees and shrubs proposed.

(5) Finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated within the area.

(6) Type of business or activity and proposed number of employees.

(7) Proposed floor plan and elevations of any building with use indicated.

(8) Sanitary sewer and water plan with estimated daily flow rates.

(9) Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practices to be used to overcome said limitation shall be made part of the application.

(10) A location map showing the general location of the proposed use within the city.

(11) A map showing all principal land use within 1,250 feet of the parcel for which application is being made.

(12) Locations of wells and septic systems on adjacent properties.

(d) The application form shall be accompanied by an accurate list showing the names and the mailing addresses of the record owners of all the property within a minimum of 1,250 feet of the property for which the amendment is sought, verified as to accuracy by the applicant.
(Ord. No. 50, §§ 508.02, 508.03, 12-7-1982)

Sec. 32-118. Hearing.

(a) Once the application is deemed complete, the city clerk shall refer the application to the planning commission for consideration at its next regular meeting.

(b) Notice of the purpose, time and place of such public hearing shall be published in the official newspaper of the city and presented to each of the owners of all property located within a minimum of 1,250 feet of the property described in the application, and such other persons as the planning commission may direct, at least ten days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was presented shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the provisions of this section has been made.

(c) The application or his representative shall appear at the public hearing in order to answer questions concerning the proposed use.
(Ord. No. 50, § 508.04, 12-7-1982)

Sec. 32-119. Report to city council.

(a) The planning commission shall make its report on the application to the city council, in writing, after the public hearing. The report shall recommend that the amendment be granted or denied and shall include the planning commission's recommendation as to any conditions to be imposed if the amendment is granted, including time limits or provisions for periodic review and shall state the reasons therefor.

(b) The planning commission's report shall be filed with the city council for consideration at its next regular meeting.
(Ord. No. 50, § 508.05, 12-7-1982)

Sec. 32-120. City council action on application.

The city council shall make its decision on the application after it receives the planning commission's report. The city council shall make written findings and shall state therein the reasons for its decision and mail a copy thereof to the applicant.
(Ord. No. 50, § 508.06, 12-7-1982)

Sec. 32-121. Re-application.

No re-application for a zoning amendment shall be resubmitted for a period of six months from the date of the denial of a previous application.
(Ord. No. 50, § 508.07, 12-7-1982)

Secs. 32-122--32-140. Reserved.

DIVISION 5. CONDITIONAL USE PERMITS[6]

Sec. 32-141. Generally.

(a) The city is a unique city of mostly agricultural and low density residential uses and zones. The citizens strongly desire to preserve and protect the rural character (as defined in the comprehensive plan) of their city.

(b) The purpose of the conditional use permit is to provide the city with the discretion and flexibility to achieve the goals and objectives of the comprehensive plan and to determine what, if any, uses other than those specifically permitted in this Code may be suitable within the city zoning districts.

(c) Conditional uses as listed in section 32-245 shall be considered only if they support the goals and objectives of the comprehensive plan; protect and enhance the city's rural character; serve, in a general way, the needs of the citizens; and do not negatively affect the general welfare, public health and safety.

(d) In determining whether or not a conditional use may be allowed, the city will consider the nature of the nearby lands or buildings, the effect upon traffic into and from the premises and on adjoining roads, and all other relevant factors as the city shall deem a reasonable prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

(e) If a use is deemed suitable, reasonable conditions may be applied to issuance of a conditional use permit, and a periodic review of said permit may be required.
(Ord. No. 1997-77, § 1(505.01), 8-5-1997)

Sec. 32-142. Existing uses.

All uses permitted by this article by conditional use permit in existence prior to the adoption date of the ordinance from which this division is derived shall be automatically issued a conditional use permit by the city. Any changes in the existing use after the adoption date of the ordinance from which this division is derived shall require an amended conditional use permit.
(Ord. No. 1997-77, § 1(505.15), 8-5-1997)

Sec. 32-143. Application.

(a) *Fees and plans.* Application for a conditional use permit shall be filed with the city. In addition to required fees, the application shall be accompanied by development plans for the proposed use showing such information as may be reasonably required by the city, including but not limited to those items listed below. Such plans shall contain sufficient information for the city to determine whether the proposed development will meet all applicable development standards.

(1) Site plan drawn to scale showing parcel and building dimensions.

(2) Location of all buildings and their size, including square footage.

(3) Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.

(4) Landscaping and screening plans including species and size of trees and shrubs proposed.

(5) Approved grading and drainage plan from all applicable and appropriate regulatory agencies, such as, but not limited to, the appropriate watershed organization or district, the state department of natural resources, and the Army Corp of Engineers.

(6) Land disturbing activities that disturb 5,000 cubic yards or greater will require a conditional use

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[6] * **State Law References:** Conditional use permits, Minn. Stats. § 462.3595.

permit. Application for a grading permit and a conditional use permit shall require the submittal of an erosion and sediment control plan, and stormwater management plan. Erosion and sediment control and stormwater management standards shall comply with the City's Engineering Design Guidelines, and those standards identified in Section 30-172 and 30-173 contained with this Subdivision code.

(7) Permanent stormwater treatment inspection and maintenance plan and agreement as outlined in Chapter 30 Section 30-173.

(8) Type of business activity and proposed number of employees and patrons.

(9) Proposed floor plan and elevations of any building with use indicated.

(10) Sanitary sewer (or septic) and water (or well) plans with estimated flow rates.

(11) Soil type and soil limitations for the intended use. If soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practices to be used to overcome said limitation shall be made a part of the application.

(12) A location map showing the general location of the proposed use within the city.

(13) A map showing all principal and land uses within 1,250 feet of the parcel for which the application is being made.

(14) Proof of ownership of the property for which the conditional use permit is requested, consisting of the deed or contract for deed showing the current owner, together with any unrecorded documents whereby the applicant acquired legal or equitable ownership of the property.

(15) Proof that all property taxes have been paid and no liens or attachments are unsatisfied.

(b) *Denial for incompleteness.* An incomplete application is not a valid application and can be rejected by the city or denied on the basis of being incomplete.
(Ord. No. 1997-77, § 1(505.06), 8-5-1997; Ord. No. 2015-39, 4-7-2015)

Sec. 32-144. Planning commission hearing.

(a) The city shall refer the application to the planning commission for consideration and public hearing at its next regular meeting. Notice of the purpose, time and place of such public hearing shall be published in the official newspaper of the city and presented to each of the owners of all properties located within a minimum of one-quarter mile of the property described in the application and such other persons as the planning commission may direct, at least ten days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was presented shall be attested to by the responsible person and shall be made a part of the records of the proceedings. Failure to give notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the provisions of this section has been made.

(b) The applicant or his representative shall appear at the public hearing in order to answer questions concerning the proposed use.
(Ord. No. 1997-77, § 1(505.07), 8-5-1997)

Sec. 32-145. Burden of proof.

The applicant shall have the burden of proving that the proposed use is suitable and that all of the standards set forth have been met.
(Ord. No. 1997-77, § 1(505.02), 8-5-1997)

Sec. 32-146. Standards.

(a) When certain circumstances exist, the city council may grant a conditional use permit in any zoning district if the applicant has proven to a reasonable degree of certainty that:

(1) The proposed use is designated in section 32-245 as a conditional use for the appropriate zoning district.

(2) The proposed use conforms to the city's comprehensive plan.

(3) The proposed use will not be detrimental to or endanger the public health, safety or general welfare of the city, its residents, or the existing neighborhood.

(4) The proposed use is compatible with the existing neighborhood.

(5) The proposed use meets conditions or standards adopted by the city through resolutions or other ordinances.

(6) The proposed use will not create additional requirements for facilities and services at public cost beyond the city's normal low-density residential and agricultural uses.

(7) The proposed use will not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to people, property, or the general welfare because of production of traffic, noise, smoke, fumes, glare, odors or any other nuisances.

(8) The proposed use will not result in the destruction, loss or damage of natural, scenic or historic features of importance.

(9) The proposed use will not increase flood potential or create additional water runoff onto surrounding properties.

(b) These standards apply in addition to specific conditions as may be specified through the city's ordinances.

(Ord. No. 1997-77, § 1(505.03), 8-5-1997)

Sec. 32-147. Conditions.

(a) In reviewing applications for conditional use permits, the city may attach whatever reasonable conditions are deemed necessary to mitigate anticipated adverse impacts associated with the proposed uses, to protect the value of property within the district, and to achieve the goals of the city's comprehensive plan. In determining such conditions, special consideration shall be given to protecting nearby properties from objectionable views, noise, traffic, and other characteristics associated with such uses. Such conditions may include, but are not limited to, the following:

(1) Controlling the number, area, bulk, height, and locations of proposed uses.

(2) Regulating ingress and egress to the property and the proposed structures thereon with particular references to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.

(3) Regulating off-street parking and loading areas that may be required.

(4) Requiring berming, fencing, screening, landscaping or other means to protect nearby property.

(5) Regulating the appearance of all facilities so that they will be harmonious with the neighborhood and city.

(b) In all cases in which conditional use permits are granted:

(1) The city shall include in the conditional use permit all drawings, representations, or plans presented by the applicant.

(2) The city shall require such evidence and guarantees that are deemed necessary as proof that the standards and conditions stipulated are being and will be met.

(3) Periodic reviews, inspections or reporting may be required by the city.

(4) Applicants shall be required to comply with all conditions of approval at their own expense and in accordance with city specifications.

(5) Applicants shall also provide a financial guaranty to the city, in the form of a cash escrow or letter of credit, in an amount equal to 125 percent of the estimated cost of complying with the conditions. The city shall have the right to retain the financial guaranty until the conditions have been complied with to the reasonable satisfaction of the city.

(6) In case any conditions are reasonably deemed by the city not to have been complied with, the applicant shall recomplete those items or conditions to the reasonable satisfaction or approval of the city at the applicant's sole cost and expense.

(Ord. No. 1997-77, § 1(505.04), 8-5-1997)

Sec. 32-148. Planning commission report.

(a) The planning commission shall make its report on the application to the city council, in writing, after completing the public hearing. The report shall recommend that the conditional use permit be granted or denied and shall include the planning commission's recommendation as to any conditions to be imposed if the conditional use permit is granted, including time limits or provisions for periodic review and shall state the reasons therefor.

(b) If the planning commission fails to file a report with the city council within the required time, the application shall be referred to the city council as herein provided, without report, after the time for filing the report has expired.
(Ord. No. 1997-77, § 1(505.08), 8-5-1997)

Sec. 32-149. City council action on application.

(a) The city council shall make written findings and shall state therein the reasons for its decision.

(b) The city council may impose such conditions and restrictions, including time limits on the conditional use or periodic review as appears to be necessary and proper to protect adjacent property and comply with the intent and purposes of this chapter and the comprehensive plan.
(Ord. No. 1997-77, § 1(505.09), 8-5-1997)

Sec. 32-150. Denial.

If the city denies a conditional use permit, it shall include in its findings the ways in which the proposed use does not comply with the standards required by this ordinance or other applicable regulations.
(Ord. No. 1997-77, § 1(505.05), 8-5-1997)

Sec. 32-151. Reapplication.

No application for a conditional use permit shall be resubmitted for a period of six months from the date of the denial of a previous application.
(Ord. No. 1997-77, § 1(505.10), 8-5-1997)

Sec. 32-152. Amended applications.

An amended conditional use permit application may be administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include re-applications for permits that have been denied or permits that have expired, requests for changes in conditions, and as otherwise described in this chapter.
(Ord. No. 1997-77, § 1(505.14), 8-5-1997)

Sec. 32-153. Recording of copy with county.

A true and correct copy of approved conditional use permits shall be recorded, at the applicant's expense, in the office of the county recorder or registrar of titles.
(Ord. No. 1997-77, § 1(505.16), 8-5-1997)

Sec. 32-154. Compliance with permit; violation of conditions.

(a) *Compliance required.* Any use permitted under the terms of a conditional use permit shall be established and conducted in accordance with all of the terms, conditions and restrictions of such permit. The violation of any term, condition or restriction of a conditional use permit shall be a violation of this division.

(b) *Violations.* In the event of the violation of any term, condition or restriction of a conditional use permit, the city may institute an appropriate action or proceeding in district court for such equitable relief as may be appropriate. Additionally, permits issued pursuant to this division are subject to the provisions of article V of chapter 2, pertaining to ordinance violations.
(Ord. No. 1997-77, § 1(505.12), 8-5-1997)

Sec. 32-155. Expiration and suspension.

If, under such conditional use permit, building is commenced and subsequently determined by the city council to be abandoned for a period of 120 days, the conditional use permit shall be suspended at the end of said 120 days. Before said construction may be recommenced, a conditional use permit can be reinstated by the city council, provided that no changes or alterations in the original plan have been made. If the building permit for the construction that was determined to be abandoned became invalid prior to the recommencement of such construction, the suspended conditional use permit shall expire at the time said building permit became invalid.
(Ord. No. 1997-77, § 1(505.13), 8-5-1997)

Sec. 32-156. Annual review of issuances.

(a) *Monitoring permits issued.* The city council shall, on an annual basis, engage in a review of all conditional use permits issued within the city, for the purpose of ensuring compliance and determining whether issued permits have expired pursuant to section 32-155. The city council shall create a list of conditional use permits to review, which will be kept by the city clerk for updating on an annual basis. The city council shall undertake an informal review of all conditional use permits placed on the list.

(b) *Formal review for compliance.* In the event the city council determines it necessary to formally review a conditional use permit for compliance, the conditional use permit shall be reviewed by the planning commission at a public hearing, with notice of said hearing published in the official newspaper at least ten days prior to the hearing.

(1) The city clerk shall schedule such public hearing and notify the holder of the permit prior to the hearing.

(2) The holder of the permit shall be required to pay the conditional use permit review fee which is contained within the city's fee schedule.

(c) *Updating roster of permits.* At the conclusion of the city council's review of its conditional use permits, the city clerk shall update and maintain a current roster of the city's active conditional use permits.
(Ord. No. 1997-77, § 1(505.11), 8-5-1997; Ord. No. 2007-03, § 1(505.08), 12-3-2007)

Secs. 32-157--32-180. Reserved.

DIVISION 6. OTHER PERMITS AND CERTIFICATE OF OCCUPANCY

Sec. 32-181. Building permit and compliance with building code required.

(a) *Required.* No structure shall hereafter be erected or structurally altered until a building permit

shall have been issued, indicating that the existing or proposed structure and the use of the land comply with this chapter and all building codes.

(b) *Proposal to comply with code.* Building permits shall not be issued unless the proposed improvement meets all of the requirements of the building code.

(c) *Site preparation in advance of permit prohibited.* No site preparation work, including rough grading, driveway construction, footing excavation, tree removal or other physical changes to the site shall occur prior to the issuance of a building permit and other zoning use permits.

(d) *Application.* Applications for permits as required by this section shall be made to the city clerk or building official on forms to be furnished by him. The city clerk or building official shall maintain a record of all applications for and all permits issued under this division.

(e) *Site plan.* Application for a building permit shall be accompanied by a site plan drawn to scale showing the dimensions of the lot to be built upon, the size and location of the building, utilities including on-site septic systems, accessory buildings to be erected, the vegetation and major topographic changes, and drawings of the improvement in sufficient detail to permit checking against the building code, and such other information as the city council or building official may reasonably require to determine compliance with this chapter and the building code. In some cases, the city council may require a certificate of survey before a building permit will be issued.

(f) *Erosion and sediment control plan.* Every applicant must adhere to erosion control measure standards and specifications in strict conformance with the provisions of this chapter and the City's Engineering and Design Guidelines document. Erosion and sediment control plans shall also be consistent with the National Pollutant Discharge Elimination System General Permit, as amended, and the filing or approval requirements of relevant Watershed Districts, Watershed Management Organizations, Soil and Water Conservation Districts, or other regulatory bodies. No land shall be disturbed until the plan is approved by the city engineer and conforms to the standards set forth herein.

(g) *Stormwater management plan.* Every applicant must adhere to stormwater management standards and specifications in strict conformance with the provisions of this chapter and the City's Engineering and Design Guidelines document. Stormwater management plans shall also be consistent with the national Pollutant Discharge Elimination System General Permit, as amended, and the filing or approval requirements of relevant Watershed Districts, Watershed Management Organizations, Soil and Water Conservation Districts, or other regulatory bodies. No land shall be disturbed until the plan is approved by the city engineer and conforms to the standards set forth herein.

(h) *Issuance.* No building permit shall be issued for any improvement which would result in a use, building or structure in violation of this chapter, or the subdivision, shoreland management, floodplain, on-site sewer disposal, mining or other city regulations.

(i) *Start of work after issuance.* The work for which a building permit is issued shall commence within 60 days after the date thereof unless an application for an extension of 90 days has been submitted to the building official and approved by him. The work shall be completed within one year of the date of issuance.

(j) *Expiration.* Permits issued by the zoning administrator or building official under the provisions of this section and the building code shall expire and be null and void if the work authorized by a permit is abandoned or suspended for a period of 120 days, or in the event that work is not commenced or completed within the time limitations of section 32-181(g).

(k) *Suspension or revocation.* The building official may, in writing, suspend or revoke a permit issued under the provisions of this chapter and the building code whenever such permit is issued in error or on the basis of incorrect information supplied, or in violation of any city ordinance, regulation or code. Such violation may also be subject to the procedure identified in Section 30-3 Subdivision.

(Ord. No. 50, § 509.01, 12-7-1982; Ord. No. 2015-39, 4-7-2015)

Sec. 32-182. Moving permit.

(a) No building or structure which has been wholly or partially erected shall be moved to any other location within the city unless a permit to move said building or structure has been obtained or provided herein. Any such building or structure proposed to be moved shall meet all requirements of the building code applicable to a new building or structure.

(b) Construction sheds, agricultural buildings or temporary structures to be located on a lot for 12 months or less do not need a moving permit.
(Ord. No. 50, § 509.02, 12-7-1982)

Sec. 32-183. Septic permit.

(a) In areas without public sewer facilities, no building permit for any use requiring on-site sewage treatment and disposal shall be issued until a septic permit has first been issued.

(b) A septic permit shall be obtained by Washington County only after proof is furnished by the applicant that a suitable on-site sewage treatment and disposal system can be installed on the site that meets all of the City's dimensional standards as contained within this Chapter, and within Section 12-260 and the applicable Sections of Chapter 30 Subdivisions.. Such system shall conform to all of the requirements of the county's on-site subsurface sewage treatment and disposal regulations.
(Ord. No. 50, § 509.03, 12-7-1982; Ord No. 2020-61, 4-7-2020)

Sec. 32-184. Driveway access permit.

A driveway access permit to a public road shall be secured from the public agency with jurisdiction and maintenance responsibilities over the road, prior to the issuance of a building permit.
(Ord. No. 50, § 509.04, 12-7-1982)

Sec. 32-185. Grading permit required; exceptions.

No person shall do any grading without first having obtained a grading permit from the building official except for the following:

(1) Grading in an isolated, self-contained area if there is no danger apparent to private or public property.

(2) An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five feet after the completion of such structure.

(3) Cemetery graves.

(4) Refuse disposal sites controlled by other regulations.

(5) Excavations for wells or tunnels or utilities.

(6) Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.

(7) Exploratory excavations under the direction of soil engineers or engineering geologists.

(8) An excavation which is less than two feet in depth or which does not create a cut slope greater than five feet in height and steeper than one and one-half horizontal to one vertical.

(9) A fill less than one foot in depth, and placed on natural terrain with a slope flatter than five horizontal to one vertical, or less than three feet in depth, not intended to support structures, which does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course.

(10) All land disturbing activities which disturb more than 50 cubic yards but do not exceed 5,000 cubic yards shall require a grading permit.

(11) Any land disturbing activity which exceeds 5,000 cubic yards shall require a Conditional Use Permit.

(Ord. No. 50, § 509.05, 12-7-1982; Ord. No. 2015-39, 4-7-2015)

Sec. 32-186. Sign Permits.

Sign permits shall be required as stated in article IV, division 3 of this chapter.

(Ord. No. 50, § 509.06, 12-7-1982)

Sec. 32-187. Certificate of occupancy.

(a) *When required.* No person may change the use of any land (except for agricultural purposes or for construction of essential services and transmission lines), or occupy a new or structurally altered building used for nonagricultural use, after the effective date of the ordinance from which this chapter is derived, unless he has first obtained a certificate of occupancy.

(b) *Application; temporary certificate.* Application for a certificate of occupancy for a new building or for an existing building which has been so altered may be filed with the building official any time after the application for a building permit for such building. The certificate of occupancy shall be issued within ten days after the construction or alteration of such building or part thereof has been completed in conformity with the provisions of this chapter and the building code. Pending the issuance of said certificate, a temporary certificate of occupancy may be issued, subject to the provisions of the building code for a period not to exceed 12 months during the completion of the erection or the alteration of such a building. The temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the city relating to the use or occupancy of the premises or any other matter except under such restrictions and provisions as will adequately ensure the safety of the occupants. The use of any structure for which a building permit is required shall be considered a violation of this chapter unless a certificate of occupancy has been issued.

(c) *Issuance.* Application for a certificate of occupancy for a new use of land shall be made to the building official before any such land shall be so used. Such certificate of occupancy shall be issued within ten days after this application if the use is in conformity with the provisions of this chapter.

(d) *Record.* A record of all applications for and certificates of occupancy shall be kept on file.

(Ord. No. 50, § 510, 12-7-1982)

Secs. 32-188--32-212. Reserved.

DIVISION 7. ENVIRONMENTAL ASSESSMENT (EAW) AND IMPACT STATEMENTS (EIS)

Sec. 32-213. Environmental assessment worksheet.

(a) *Review of proposed land uses, etc., required.* No zoning, building permit, structure or land use, variance or ordinance amendment shall be approved prior to review by the planning commission to determine the necessity for completion of a state environmental assessment worksheet (EAW) as required by the Minnesota

Environmental Quality Board Regulations (1977).

(b) *Purpose of EAW.* The purpose of an EAW is to assess rapidly, in a worksheet format, whether a proposed action is a major action with the potential for significant environmental effects, or in the case of a private action, whether it is of more than local significance.

(c) *Mandatory filing.* Projects which shall be required to file a mandatory environmental assessment worksheet shall include:

(1) Construction or opening of a facility for mining gravel, other nonmetallic minerals and fuels involving more than 320 acres.

(2) An action that will eliminate or significantly alter a wetland of type 3, 4 or 5 (as defined in United States Department of Interior, Fish and Wildlife Service, Circular 39, Wetlands of the United States, 1956) of five or more acres either singly or in a complex of two or more wetlands.

(3) Construction of a new or additional residential development that includes 100 or more units in an unsewered area.

(4) Construction of a residential development consisting of 50 or more residential units, any part of which is within a shoreland area.

(5) Conversion of 20 or more contiguous acres of forest cover to a different land use.

(d) *Option by city.* An optional EAW may be required by the city council or by any project applicant on any proposed action to determine if the project has the potential for significant environmental effects or if the project is of more than city significance, provided any of the following situations exist:

(1) The proposed project is in or near an area recognized in the city comprehensive plan as being environmentally sensitive due to steep slopes, bluffline, exposed bedrock, floodplain, wetlands, streams, drainage areas, groundwater, erodible soils, prime agricultural soils or unique vegetation.

(2) The proposed project is in or near an area of natural aesthetics, scenic views, delineated critical area or unique natural beauty as recognized by the comprehensive plan, planning commission or city council.

(3) The proposed project significantly alters existing traffic patterns or increases the noise level on such roads or streets by more than ten percent.

(4) The proposed project is adjacent to or near a public recreation land or facility and alters or increases use, noise levels, or traffic, or degrades air quality or natural aesthetics as viewed from the facility.

(5) The proposed project is construction or opening of a facility for mining and/or processing of gravel, sand, other nonmetallic minerals and fuels involving more than 50 acres.

(6) The proposed project involves the construction of new or additional residential subdivisions that include 50 or more lots in an unsewered area.

(e) *Preparation of EAW.* The city council shall prepare, or cause to be prepared by consultants, an environmental assessment worksheet which is mandatory or optionally required. The project proposer shall provide the zoning administrator with a draft worksheet. If sufficient detailed information is not made available from the project proposer, or if the zoning administrator cannot complete the EAW because of time or interest conflicts, the zoning administrator may utilize professional consultants to gather necessary information and to complete the worksheet.

(f) *Planning commission recommendation.* The zoning administrator shall submit the environmental assessment worksheet and his recommendation finding to the planning commission at its next regular meeting or special meeting before the next regularly scheduled board meeting. After reviewing the zoning administrator's written findings, the planning commission shall recommend to the city council whether or not there are significant

environmental effects from the project to require the writing of an impact statement. The planning commission may hear appeals of the zoning administrator's recommendation at this meeting.

(g) *Environmental impact statement mooted.* Upon completion of said worksheet, the planning commission shall write a recommended finding from the worksheet on whether or not there are sufficient environmental effects or effects of more than local significance which shall require a state environmental impact statement.

(h) *Decision forwarded to state.* Within 45 days of the date the project proponent filed a planning request, the city council shall have reviewed any appeals, the zoning administrator's written finding, and the planning commission recommendation and shall have forwarded its final decision on the necessity for preparing an environmental impact statement to the state environmental quality board to be officially published in the Environmental Quality Board Monitor.

(i) *Distribution.* Copies of the zoning administrator's written findings on the worksheet and the city council's final decision shall be mailed to all points on the official environmental quality board distribution list and to adjacent counties and municipalities likely to be directly impacted by the proposed project. The zoning administrator shall also submit an affidavit certifying the date and places copies of the worksheet were submitted.

(j) *Objection period.* Thirty days after the date of the publication of the city council's decision in the Environmental Quality Board Monitor, if no objections are filed with the EQB, the decision stands.
(Ord. No. 50, §§ 512.01--512.10, 12-7-1982)

Sec. 32-214. Environmental impact statement.

(a) *EIS preparation.* If preparation of an environmental impact statement (EIS) is required, the proponent shall follow the procedure outlined in the state quality board regulations concerning environmental impact statements. A draft impact statement, as prepared by or under the direction of the zoning administrator shall be filed with the environmental quality board (EQB) within 120 days of the decision to require an environmental impact statement.

(b) *Conditional use permit applies.* Any proposed project or use on which an EIS is required shall be considered a conditional use as defined in the current zoning regulations and shall comply with the procedure for approval of a conditional use permit. Mitigating recommendations of the EIS shall be incorporated as conditions of issuance of the conditional use permit.
(Ord. No. 50, §§ 512.11, 512.12, 12-7-1982)

Sec. 32-215. Time delays in permitting process.

Time delays in the normal permit process caused by the filing and review of the EAW and/or EIS shall not be considered part of the permit approval time requirements within this division. Such delays shall be considered as additional required time for each required permit. The permit process for the proposed project may be continued from the point it was interrupted by the EAW/EIS process.
(Ord. No. 50, § 512.13, 12-7-1982)

Sec. 32-216. Halting of construction projects.

Construction begun on projects requiring an EAW shall be halted at such time as an EIS is officially required by the environmental quality board or local city council regulations.

(Ord. No. 50, § 512.14, 12-7-1982)

Sec. 32-217. Reimbursement of city expenses and deposits.

(a) *Applicant to pay costs of review.* Any applicant shall agree in writing as part of his application to reimburse the city council prior to the issuance of any permits, for all reasonable costs, including legal and consultant fees incurred by the city council in review of the applicant's project and its impact on the city.

(b) *Deposit required in advance of review.* The applicant shall deposit with the city from time to time an amount determined by the zoning administrator necessary to cover such costs prior to commencement of the review or stage of the review. The applicant shall reimburse the security fund for any deficits caused if the amount actually expended or billed to the city by the consultants exceeds the security fund balance. The city shall refund any money deposited in the security fund and not expended within 30 days after final action on the application. The city shall not pay interest on such security deposits.
(Ord. No. 50, §§ 512.15, 512.16, 12-7-1982)

Secs. 32-218--32-242. Reserved.

ARTICLE III. ZONING DISTRICTS ESTABLISHED; PERMITTED USES; DIMENSIONAL STANDARDS

DIVISION 1. GENERALLY

Sec. 32-243. Districts established.

For the purpose of this chapter, the city is hereby divided into the following basic zoning use districts:

District Symbol	*Intent and Primary Use*
C	The conservancy districts preserve, protect and manage environmentally sensitive areas having wet soils, steep slopes, exposed bedrock or unique natural and biological characteristics in accordance with compatible uses.
A-1	A-1 districts preserve land to be utilized for agriculture and commercial food production on lots smaller than those required in AP districts. A-1 districts provide areas of rural lot density housing with lots large enough for significant agricultural activity to occur.
A-2	The A-2 districts provide rural low density housing in agricultural districts on lands not capable of supporting long-term, permanent commercial food production. A-2 district lot sizes will provide for marginal agriculture and hobby farming.
R-1	R-districts provide low density residential areas in rapidly developing rural settings. R-1 districts provide lots large enough to maintain a semi-rural setting, but lots not large enough to support commercial agriculture. R-1 districts provide a buffer between agricultural districts and urban or rapidly developing districts.
GB	GB districts provide for a general mix of commercial businesses. General business districts will be located in areas where there is a demand for diversified business districts and in areas capable of supplying the utilities for such development.

(Ord. No. 50, § 601.01, 12-7-1982)

Sec. 32-244. Zoning district map.

The boundaries of the districts as established by this chapter are as shown on the map published herewith and made part of this chapter, said map is designated as the official zoning map of the city and shall be maintained as provided herein by the city zoning administrator. The district boundary lines on said map are intended to follow street right-of-way lines, street centerlines or lot lines, unless such boundary line is otherwise indicated on the map. In the case of unsubdivided property or in any case where street or lot lines are not used as boundaries, the district boundary lines shall be determined by use of dimensions or the scale appearing on the map. All of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and are hereby made a part of this chapter by reference and incorporated herein as fully as if set forth herein at length. Whenever any street or other public way is vacated, any zoning district line following the centerline of said vacated street or way shall not be affected by such vacation.
(Ord. No. 50, § 603.01, 12-7-1982)

Sec. 32-245. Table of uses.

(a) When uses in a district are listed as both permitted and as conditional uses, or when any other conflict appears in this chapter with respect to permitted uses within a district, the more restrictive portion shall be applied.

(b) Uses shall be allowed according to the use table in subsection (c) of this section. When a specific use is not listed, the closest similar listed use shall determine the restrictions and conditions which apply.

(c) Uses in conservancy, agricultural, residential and general business districts:

USE	ZONING DISTRICT				
(KEY) *P = Permitted* *C = Conditional use permit and public hearing* *I = Interim Use Permit and public hearing* *CC = Certificate of compliance* *A = Permitted accessory use* *N = Not permitted*	Conservancy	Agricultural A1	Agricultural A2	Residential R1	General Business (GB)
Agriculture. (See section 32-345.)	C	P	P	P	N
Agricultural business, seasonal.	N	C	C	N	N
Airports, airstrip, heliports. (See section 32-279.)	N	C	C	N	N
Animals, commercial training.	N	C	N	N	N
Animals, domestic farm (See section 32-337.)	N	P	P	P	N
Antennas or towers over 35 feet in height (as permitted by section 32-249.)	N	C	C	C	C
Archery range, commercial outdoors.	C	C	C	N	N
Armories, convention halls and similar uses.	N	N	N	N	N
Apartment buildings.	N	N	N	N	N
Auto/car wash.	N	N	N	N	C
Auto reduction yard; junk yard.	N	N	N	N	N
Automobile repair.	N	N	N	N	C
Automobile service station. (See section 32-340.)	N	N	N	N	C
Bed and breakfast. (See section 32-327.)	N	C	C	C	N
Blacktop or crushing equipment for highways.	N	C	N	N	N
Boarders.	N	N	N	N	N
Boat dock, noncommercial. (See county chapters 2 and 7.)	A	A	A	A	N
Boat, trailer, marine sales--enclosed.	N	N	N	N	C
Broadcasting studio.	N	N	N	N	C
Business--seasonal.	N	C	C	C	C
Campgrounds, tents and tent trailers only.	N	N	N	N	N
Care facility. (See section 32-338(c).)	N	C	C	C	N
Cemeteries.	N	C	C	C	N
Churches.	C	C	C	C	C
Clear cutting. (See sections 32-343, 32-348 and 32-246(b)(8).)	N	C	C	C	N
Clubs or lodges.	N	C	C	C	C

Cluster developments.	N	N	N	N	N
Commercial recreation.	C	C	C	C	C
Community Solar Energy System	N	N	N	N	N
Schools - commercial	N	N	N	N	C
Convents.	N	C	C	C	N
Disposal areas--liquid waste.	N	N	N	N	N
Disposal areas--solid waste.	N	C	N	N	C
Disposal areas--solid and liquid waste.	N	N	N	N	N
Domestic pets.	P	P	P	P	N
Drive-in business.	N	N	N	N	N
Essential services--government uses, buildings and storage.	C	C	C	C	C
Essential services--transmission services, buildings and storage.	C	C	C	C	C
Explosives--manufacture, storage. (See section 32-324.)	N	N	N	N	N
Explosives--utilization. (See section 32-324.)	N	C	C	N	N
Farm.	----------See "Agriculture"----------				
Farm equipment sales.	N	N	N	N	C
Feedlots, commercial. (See sections 32-337 and 32-345.)	N	C	N	N	N
Fences. (See section 32-315.)	A	A	A	A	A
Flammable gases and liquids, business/distribution.	N	N	N	N	N
Forestry Products and Processing (non-retail)	N	I	I	N	N
Forests.	P	P	P	P	C
Fuel sales.	N	N	N	N	C
Funeral homes.	N	N	N	N	N
Garage, private. (See section 32-313.)	A	A	A	A	N
Garage--Repair.	N	N	N	N	C
Garage--Storage.	N	N	N	N	C
Golf courses	N	C	C	C	N
Grading.	----------See section 32-342----------				
Guest house. (See section 32-326.)	N	N	N	N	N
Gun clubs or ranges, indoor	N	C	C	N	C
Home occupations (meeting criteria).	P	P	P	P	N
Home occupations (not meeting criteria).	N	C	C	C	N
Horse boarding and training facilities.	P/C	P/C	P/C	P/C	N
Hotel or motel.	N	N	N	N	N
Identification and nameplate signs.	----------See article IV, division 3----------				
Incidental repair.	N	A	N	N	N
Information centers.	N	CC	C	C	N
Institutional housing.	N	N	N	N	N
Interim uses. (See section 32-335.)	N	C	C	N	C
Junkyard.	N	N	N	N	N
Kennels--private.	N	C	C	C	N
Kennels--commercial.	N	C	N	N	N
Land reclamation. (See section 32-342).	N	C	C	C	C
Landscaping and decorative features. (See section 32-319.)	A	A	A	A	A
Lodging room.	N	N	N	N	N

Manufacturing--general.	N	N	N	N	C
Manufacturing--limited.	N	N	N	N	C
Medical uses.	N	C	C	C	C
Mining. (See section 32-344.)	C	C	N	N	N
Manufactured home--care facility. (See section 32-338(c).)	C	C	C	C	N
Manufactured home court/park.	N	N	N	N	N
Manufactured home—other.	----------See section 32-338(l)----------				
Manufactured home--temporary dwelling (See section 32-338(d)).	N	C	N	N	N
Motel or hotel.	N	N	N	N	N
Multiple family dwellings (with central sewer).	N	N	N	N	N
Nature centers, private or public.	C	C	C	C	C
Nursery—commercial.	CC	P	C	C	N
Nurseries--day and school.	N	C	C	C	N
Nursery and garden supplies (exterior or enclosed sales).	N	N	N	N	C
Offices.	N	N	N	N	C
Off-street loading. (See section 32-322.)	N	N	N	N	A
Off-street parking. (See article IV, division 2 of this chapter).	A	A	A	A	A
Parks.	C	C	C	C	C
Photo, art studio.	N	N	N	N	C
Planned unit developments.	N	N	N	N	N
Public enclosed rental storage or garages.	N	N	N	N	C
Racetracks.	N	N	N	N	N
Railroad operations.	N	C	C	N	N
Recreation, Commercial indoor.	N	N	N	N	N
Recreation, Commercial outdoor.	N	C	C	C	C
Recreation, private.	C	C	C	C	N
Recreation equipment storage--commercial (inside storage only).	N	C	C	N	C
Recreation equipment storage--private (side and rear yard only). (See section 32-316.)	A	A	A	A	N
Reduction or processing of refuse, trash and garbage.	N	C	N	N	N
Rental of cars, trailers, campers, trucks and similar equipment.	N	N	N	N	C
Research.	N	N	N	N	C
Residential--multiple family (with central sewer).	N	N	N	N	N
Residential--single-family detached dwellings. (See section 32-246.)	CC	P	P	P	N
Residential--townhouse.	N	N	N	N	N
Residential--two-family dwellings (duplex). (See section 32-246.)	N	N	N	N	N
Residential--waterfront uses.	A	A	A	A	N
Residential Solar Energy Systems – Building Mounted	N	P	P	P	P
Residential Solar Energy Systems – Ground Mounted	N	CC	CC	CC	CC

Resorts.		C	C	C	C	N
Rest or nursing homes.		N	N	N	N	N
Restaurants, Bars and Taverns		N	N	N	N	C
Retail business.		N	N	N	N	C
Roadside sales stand (seasonally operated).		CC	CC	CC	CC	N
Roads--private.		N	N	N	N	N
Rural Event Facility		N	C	C	N	N
Sales, auto--open lot displays with on-site display office. (See section 32-336.)		N	N	N	N	C
Sales--open lot (outdoor displays but no office).		N	N	N	N	C
Schools--public and private.		N	C	C	C	N
Signs--advertising. (See article IV, division 3 of this chapter).		N	N	N	N	C
Signs--other than permitted accessory signs.		----------See article IV, division 3----------				
Shooting preserve. (See section 32-328)						
	Commercial	N	C	N	N	N
	Personal	N	C	N	N	N
	Private	N	C	N	N	N
Shopping center.		N	N	N	N	N
Storage, highway construction equipment during construction.		N	C	C	C	N
Storage--as a principal use. (See section 32-316.)		N	C	C	C	C
Storage--normally incidental to the principal use. (See section 32-316.)		A	A	A	A	A
Storage--not accessory to a permitted principal use. (See section 32-316.)		N	C	C	C	N
Structure--historic, scenic, etc.		C	C	C	C	C
Structure--temporary or interim use. (See section 32-335.)		N	N	N	N	N
Supper club.		N	C	C	N	C
Swimming pool--commercial. (See section 32-334.)		N	N	N	N	N
Swimming pool--residential. (See section 32-334.)		CC	CC	CC	CC	N
Terminal--transportation or motor freight.		N	N	N	N	C
Theater.		N	N	N	N	C
Theater--drive-in.		N	N	N	N	N
Townhouse.		N	N	N	N	N
Trailer/recreation vehicle. (See section 32-339.)		CC	CC	CC	CC	N
Trailer/recreation vehicle parks--seasonal use.		N	N	N	N	N
Utility substations.		C	C	C	C	C
Vegetative cutting.		----------See section 32-348----------				
Vehicle sales--enclosed. (See section 32-336).		N	N	N	N	C
Veterinary clinic.		N	C	N	N	C
Warehousing.		N	N	N	N	C
Waterfront uses--residential.		A	A	A	A	N
Wholesale business.		N	N	N	N	C

Wildlife reserve--private or public.	P	P	P	P	N
Wind energy conversion systems (WECS)	N	CC	CC	N	N

(Ord. No. 50, §§ 601.01, 603.02, 604, 12-7-1982; Ord. No. 53, § 2(606.03), 7-7-1983; Ord. No. 54-B, § 1, 6-5-1984; Ord. No. 58-A, § 1, 8-5-1986; Ord. No. 54C-2003, § 3, 2-4-2003; Ord. No. 2004-109, §§ 1, 2, 8-3-2004; Ord. No. 2005-117, § 3, 11-1-2005; Ord. No. 2015-41, 12-1-2015; Ord. No. 2015-42, 12-1-2015; Ord. No. 2015-44, 1-5-2016; Ord. No. 2016-46, 6-7-2016; Ord. No. 2017-53, 12-5-2017)

Sec. 32-246. Minimum area, maximum height and other dimensional requirements.

(a) *Dimensional requirements.* The following chart sets out the minimum area, maximum height and other dimensional requirements of each zoning district.

	Zoning District					
	AP	A-1	A-2	R-1	C	GB
Density Requirements						
Maximum Density (one dwelling unit/acres)[a]	40	10	10	10	10	-
Minimum Lot Size						
Minimum Lot Area per dwelling unit (acres)[b]	5	5	5	5	5	-
Minimum Lot Area per non-residential structure (acres)	See section 32-313(b)					2.5
Minimum Lot Depth (feet)	300	300	300	300	300	150
Minimum Lot Width (feet) [c,d]	300	300	300	300	300	300
Minimum Lot Width on a cul-de-sac (feet) [c,d]	160	160	160	160	160	160
Minimum Frontage						
Frontage on an Improved Public Road	300	300	300	300	300	300
Frontage on a cul-de-sac	60	60	60	60	60	60
Minimum Setbacks (feet)						
Front Yard	80	65	65	65	65	65
Front Yard along Arterials (from centerline)(feet) [e]	150	150	150	150	150	150
Side Yard (from street in case of corner lot)	80	65	65	65	65	65
Side Yard (from interior lot line)	40	20	20	20	20	20
Rear Yard	50	50	50	50	50	30
Structural Setback from Wetland Type 3, 4 or 5	75	75	75	75	75	75
Subsurface Treatment System from Wetland Type 3, 4 or 5[8]	50	50	50	50	50	50
Maximum Height (feet)	35	35	35	35	35	35
Additional Standards						
Minimum Buildable Area (acres) [f]	1	1	1	1	1	1
Maximum Floor Ratio	30%	30%	30%	30%	30%	40%
Parking Surfaces or Structures of any type	50%	50%	50%	50%	50%	80%
Minimum Floor Area Per Dwelling (sq. ft.)	1,000	1,000	1,000	1,000	1,000	-

Note: If standards within the Code conflict with the table above, the standards within the Code apply. The table does not include all dimensional standards within the code.

[a] The maximum density in the AP District is one unit per 40 acres or according to the State Statues, Section 473H03. Additional Density Restrictions apply. See subsection (c) of this section. Subsection (c) restricts density to no more than four home sites per quarter-quarter section, if any quarter-quarter section contains less than 40 acres.
[b] Lot averaging allows the property owner to create parcels smaller than those of a conventional subdivision plan provided the density of the development does not exceed the maximum density permitted for the zoning district. Subsection (c)2 of this section requires a minimum of twenty (20) acres of contiguous land for a subdivision which creates new residential lots.

[c] Lot width is defined as the horizontal distance between the side lot lines of a lot measured at the front setback line.\
[d] At some place on the lot, a 300-foot diameter circle must be inscribed.
[e] See section 32-248 (c) of this chapter.
[f] See subsection (b)4 of this section.
[g] See section 32-247(4) of this chapter.

[8] See Chapter 12, Section 12-260 subsections (1) and (3).

(b) *Additions and exception to the minimum area, height and other requirements.*

(1) *Existing Lot defined*. For the purpose of this article, the term "existing lot" means a lot or parcel of land which was of record as a separate lot or parcel in the Office of the County Recorder or Registrar of titles on or before the date of adoption of the ordinance from which this chapter is derived.

(2) *Existing Lot of Record exemptions..* Any such lot or parcel created in accordance with the city subdivision regulations in effect at the time that such Lot was created thatis at least 2.5 acres in size, shall be exempt from the requirements of subsection (3), pertaining to ares, lot width, lot depth and lot frontage and shall be considered buildable if the lot or parcel can comply with the remaining requirements of this section and meet the minimum setback requirements as stated within Section 32-246 (a)

(3) *Undersized lots.* If in a group of two or more contiguous lots or parcels of land owned or controlled by the same person, any individual lot or parcel does not meet the full width, depth, frontage or area requirements of this article, such individual lot or parcel cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots or parcels under the same ownership so that the combination of lots or parcels will equal one or more parcels of land each meeting the full lot width and area requirements of this article.

(4) *Subdivision of lots.* Any lot or parcel of land subdivided by any means for purposes of erecting a structure after the effective date of the ordinance from which this chapter is derived must be approved as required by the city's subdivision regulations. All new lots created must have at least one (1) acre of accessible buildable land. Buildable land is defined as land with a slope of less than twenty-five (25) percent, and outside of any required setbacks, above any floodway, drainage way, or drainage easement. Property situated within shorelands or floodplains are also subject to the requirements set forth in those respective ordinances.

(5) *Lots in the floodplain.* All lots in a designated floodplain shall be subject to the county floodplain ordinance as well as regulations provided by this chapter and chapter 14.

(6) *Heavily wooded sites.* On any lot, clear cutting shall require a conditional use permit. A certificate of compliance shall be required for all cutting on all slopes in excess of eighteen percent. On such slopes, a revegetation plan shall also be required prior to issuance of a building permit. (See sections 32-343 and 32-348.)

(7) *On-site sewage treatment*. Single family homes and commercial buildings shall demonstrate suitable soil conditions for a minimum on-site sewage treatment area sufficient to accommodate the original drainfield and replacement drainfield.

(8) Determining the front lot line. A single front lot line shall:

i. Be designated by the time the lot is platted or for unplatted lots, at the time of address designation by the Building Inspector or Zoning Administrator.

ii. Provide the driveway access to the property.

iii. Meet the frontage requirements of this chapter.

iv. Meet all other spacing or access requirements of this chapter.

(9) Determining the front lot line. A single front lot line shall:

i. Be designated at the time the lot is platted, or for unplatted lots, at the time of address designation by the Building Inspector or Zoning Administrator.

ii. Provide the driveway access to the property.

iii. Meet the frontage requirements of this chapter.

iv. Meet all other spacing or access requirements of this chapter.

(c) *Density restrictions.*

(1) The maximum density is one dwelling unit per ten acres.

(2) No subdivision, which creates new residential lots shall be allowed unless the developer has at least 20 acres of contiguous land.

(3) Notwithstanding subsection (a) of this section, if any quarter-quarter section contains less than 40 acres of land, then the city shall allow a density calculation to be used allowing no more than four residential homesites within that quarter-quarter section.

(4) For the purpose of computing the total area of any lot or parcel of land, road and railroad right-of-ways which are held either in fee title or easement which pass through any lot or parcel of land, may be included in the total area calculation or density purposes.

(d) *Denial of permit for unacceptable soils.* A building permit shall not be issued for a lot which either does not meet the minimum acres of acceptable soils for on-site sewage treatment or does not have enough acceptable soils within the lot or under legal contract to construct at least two complete septic/drainfield treatment system.

Sec. 32-247. Permitted encroachments on required yards.

The following shall be permitted encroachments into setback and height requirements, except as restricted by other sections of this chapter:

(a) In any yards: posts, off-street open parking, flues, leaders, sills, pilasters, lintels, cornices, eaves (up to three feet), gutters awnings, open terraces, steps, chimneys, flag poles, open fire escapes, sidewalks, fences, essential services, exposed ramps (wheelchair), uncovered porches, stoops or similar features provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than three feet from any lot line nor less than one foot from any existing or proposed driveway; yard lights, nameplate signs; trees, shrubs, plants; floodlights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas or yards for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent residential property.

(b) In side and rear yards: fences 30 percent open; walls and hedges six feet in height or less.

(c) On a corner lot: Nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of 2 1/2 and ten feet above the centerline grades of the intersecting streets within 100 feet of such intersection.

(d) In no event shall off-street parking, structures of any type, buildings or other improvements cover more than 75 percent of the lot area. In no event shall the landscaped portion of the lot be less than 25 percent of the

entire lot as a result of permitted encroachments.
(Ord. No. 50, § 602.03, 12-7-1982)

Sec. 32-248. Setbacks.

(a) *Front setbacks.* Where a vacant buildable lot is adjacent to structures having a substandard setback from that required by this section and existing at the time of adoption of the ordinance from which this article is derived, the zoning administrator shall determine a reasonable, average, calculated front yard setback to implement the requirements of this section, and to fulfill its purpose and intent. However, in no case shall a building be required to be set back more than 180 feet from the street centerline, except where an industrial district is adjacent to a residential district. In a residential district, the front yard setback shall conform to the established setback line, unless the zoning administrator determines that another setback is more appropriate as provided herein.

(b) *Setbacks adjacent to residential areas.* Where a commercial district is adjacent to a residential district, the minimum commercial building setback from the lot line shall be 50 feet.

(c) *Setbacks along arterials.* Along roads and streets designated as arterials in the comprehensive plan, the minimum front setback for principal buildings shall be 150 feet from the nearest planned street centerline.

(d) *Setbacks from private roads.* All setback requirements of this section shall also be applicable to private roads and easement access rights-of-way.
(Ord. No. 50, § 602.04, 12-7-1982)

Sec. 32-249. Height.

(a) No structure shall exceed 35 feet in height, including church spires, belfries, cupolas and domes, monuments, chimneys and smokestacks, flagpoles, public facilities, transmission towers of private radio broadcasting stations, and television antennas; except barns, silos, and other farm structures, utility transmission services and transmission towers of commercial broadcasting stations and government emergency management systems.

(b) Parapet walls shall not extend more than four feet above the height permitted for the buildings.
(Ord. No. 50, § 602.05, 12-7-1982)

Secs. 32-250--32-276. Reserved.

DIVISION 2. OVERLAY DISTRICTS

Sec. 32-277. Intent; list of overlay districts; regulations.

(a) At the time of adoption of the ordinance from which this division is derived, or at some future date, the city council may adopt overlay districts to promote specific orderly development or to protect some specific sensitive natural resource.

(b) The following overlay regulations are in addition to regulations imposed by the existing basic zoning use districts:

District Symbol	*Intent and Primary Use*
AP	Preserve commercial agriculture as a viable permanent land use and a significant economic activity within the city. Areas designated AP would provide land area for permanent economically viable commercial food production.
AZ	Protect life from potential aircraft catastrophe and noise by restricting development in airport zones.
FP	Protect the natural environment, homes and other structures from floodwaters by preserving the natural overflow areas of lakes, streams and rivers.

(c) The following overlay regulations are in lieu of regulations imposed by the existing basic zoning use districts:

District Symbol	*Intent and Primary Use*
LS-1	Protect the ecological and scenic views of natural, undeveloped water bodies from the harmful effects of development.
LS-2	Protect the recreational value of a water body while allowing residential development along the shoreline.

(Ord. No. 50, §§ 601.02--601.04, 12-7-1982)

Sec. 32-278. Floodplain (FP) overlay district.

(a) *Permitted uses.* As permitted and regulated in chapter 14.

(b) *Accessory uses.* As permitted and regulated under in chapter 14.

(Ord. No. 50, § 605, 12-7-1982)

Sec. 32-279. Airport overlay (AZ) district.[7]

(a) Permitted uses, accessory uses and conditional uses are as specifically provided in this section and in addition to other use regulations covering the same land. The airport zoning district applies to private or publicly owned and operated airfields and the adjacent areas. The specific regulations in this district are in addition to rather than in lieu of regulations imposed by any other zoning classifications for the same land.

(b) The purpose of these regulations is to:

(1) Limit the development and future construction to a reasonable height and use so as not to constitute a hazard for planes operating from the airfields.

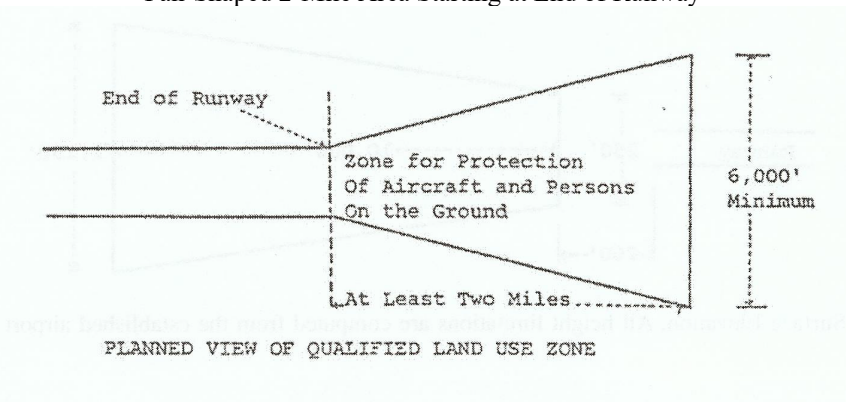
[7] **State Law References:** Airport zoning, Minn. Stats. § 360.061 et seq.

(2) Control the type and extent of land development adjacent to and near the airfields so as not to impede present or future air operations of public benefit and to protect the public from hazards, air traffic noise, and other disturbances.

(c) The following zones are hereby established:

(1) Qualified land use zone. Uses shall not be permitted within this zone which might result in an assembly of persons; manufacturing or storage of materials which explode on contact; and the storage of flammable liquid above ground. Prohibited uses shall include educational, institutional, amusement and recreational. Permitted uses shall include single-family homes. No use may be permitted in such a manner as to create electrical interference with radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport and other lights, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking off or maneuvering of aircraft.

Fan-Shaped 2-Mile Area Starting at End of Runway



PLANNED VIEW OF QUALIFIED LAND USE ZONE

(2) Airport zoning. Except as otherwise provided in this article and except as required necessary and incidental to airport operations or recommended by or in accordance with the rules of the Federal Aviation Agency, no structure shall be constructed, altered or maintained, and no trees shall be allowed to grow so as to project above the landing area or any of the airports' referenced imaginary surfaces described below:

a. Horizontal surface--a circular plane, 150 feet above the established airport elevation, with a radius from the airport reference point of 5,000 feet.

b. Conical surface--a surface extending from the periphery of the horizontal surface outward and upward at a slope of 20 vertical to one for the horizontal distance of 7,000 feet and to the elevation above the airport elevation of 500 feet.

c. Primary surface--a surface longitudinally centered on a runway and extending in length 200 feet beyond each end of a runway. The elevation of any point on the longitudinal profile of a primary surface, including the extensions, coincides with the elevation of the centerline of the runway, or the extension, as appropriate. The width of a primary surface is 250 feet.

d. Approach surface--a surface longitudinally centered on the extended centerline of the runway, beginning at the end of the primary surface, with slopes and dimensions as follows: The surface begins 250 feet wide at the end of the primary surface and extends outward and upward at a slope 20 vertical to one horizontal, expanding to a width of 2,250 feet at a horizontal distance 10,000 feet.

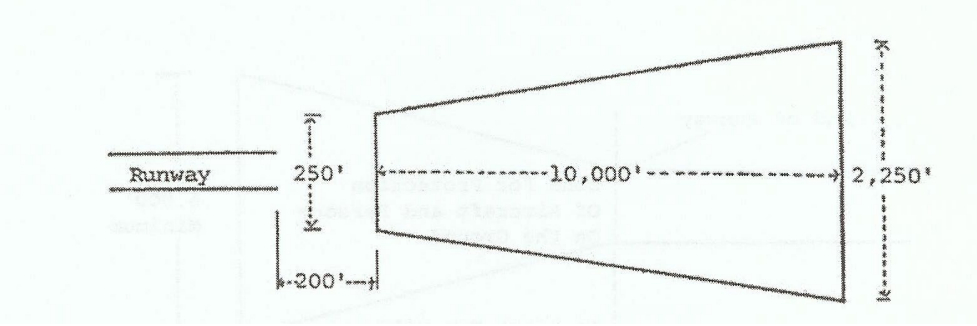
e. Transitional surfaces--these surfaces extend outward and upward at right angles to the

runway centerline at a slope of seven vertical to one horizontal from the edges of the primary and the approach surfaces until they intersect the horizontal or conical surface.

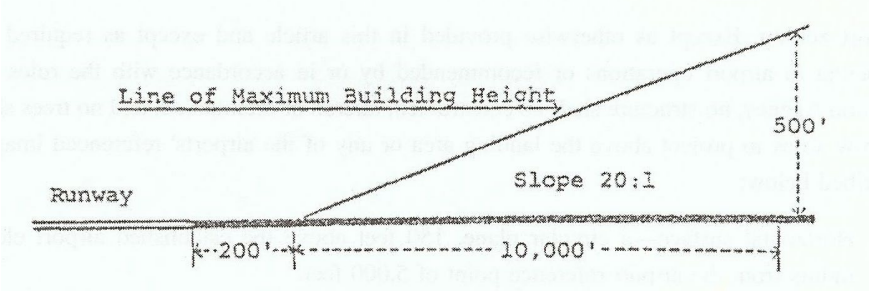
(d) The following shall apply to the airport landing area, approach area, width, slope, horizontal surface and conical surface:

Maximum Height of Buildings, Structures and Trees Below a Runway Approach Surface--

Approach Surface Plan View



Approach Surface Elevation. All height limitations are computed from the established airport elevation.



(Ord. No. 50, § 607, 12-7-1982)

Sec. 32-280. Lake and shoreland management overlay district.

(a) *Permitted uses.* As permitted and regulated under chapter 12 article VII.

(b) *Accessory uses.* As permitted and regulated under chapter 12 article VII.
(Ord. No. 50, § 609, 12-7-1982)

Sec. 32-281. Agricultural land preservation (AP) district.

(a) *Permitted uses.* As permitted and regulated under the city agricultural land preservation overlay district regulations.

(b) *Accessory uses.* As permitted and regulated under the city agricultural land preservation overlay district regulations.
(Ord. No. 50, § 610, 12-7-1982)

Secs. 32-282--32-310. Reserved.

ARTICLE IV. SUPPLEMENTAL REGULATIONS

DIVISION 1. GENERALLY

Sec. 32-311. Minimum standards; purpose.

All uses, buildings and structures permitted pursuant to this chapter shall conform to the performance and design standards set forth in this section. Said standards are determined to be the minimum standards necessary to comply with the intent and purposes of this Code as set forth in this article.
(Ord. No. 50, § 701, 12-7-1982)

Sec. 32-312. The principal building.

(a) *Quantity permitted.* Except as provided by a conditional use permit issued pursuant to this chapter, there shall be no more than one residential dwelling unit on any one parcel of land as described in section 32-246, regarding lot provisions.

(b) *Certain structures prohibited for dwelling.* No cellar, garage, recreational vehicle or trailer, basement with unfinished exterior structure above, or accessory building shall be used at anytime as a dwelling unit.

(c) *Multiple uses.* Principal buildings with more than one use, in which one of those uses is a dwelling unit, shall require a conditional use permit.

(d) *Provision for future.* All principal buildings hereafter erected on unplatted land shall be so placed as to avoid obstruction of future street or utility extensions and shall be so placed as to permit reasonably anticipated future subdivisions and land use.

(e) *Required standards.* All principal buildings shall meet or exceed the minimum standards of the state building code, the state fire code, the state department of health, the state pollution control agency, and the county individual sewage treatment system ordinance, except that manufactured homes shall meet or exceed the requirements of the state manufactured home building code in lieu of the state building code.

(f) *Keeping animals.* The keeping of animals except for domesticated pets inside of the dwelling unit shall be prohibited.

(g) *Seasonal principal buildings.* All existing principal buildings in residential districts with nonwinterized construction or inadequate nonconforming year-round on-site sewage treatment systems shall be considered a seasonal principal building.

(1) No building permit shall be issued for the improvement of a seasonal principal building to a continuous year-round (365 days) habitable dwelling unit unless the existing building conforms, or the building after such improvement (including septic systems) will conform with all the requirements of the state building code.

(2) Any alterations, modifications or enlargements of an existing seasonal principal building for the purpose of continuing the seasonal use shall require a conditional use permit.

(h) *Single-family detached dwellings.* In all districts where single-family detached dwellings are permitted, the following standards shall apply for single-family detached dwellings, including manufactured homes, except that these standards shall not apply to manufactured homes permitted by section 32-338:

(1) *Minimum width.* The minimum width of the main portion of the structure shall be not less than 20 feet, as measured across the narrowest portion.

(2) *Foundations.* All dwellings shall be placed on a permanent foundation and anchored to resist overturning, uplift and sliding, in compliance with the state building code.
(Ord. No. 50, § 702, 12-7-1982)

Sec. 32-313. Accessory buildings and other non-dwelling structures.

(a) *Types of buildings.* Accessory buildings and other non-dwelling structures include the following: storage or tool sheds; detached residential garages; detached rural storage buildings; detached domesticated farm animal buildings; agricultural farm buildings; non-accessory, non-dwelling structures. Said buildings are defined as follows:

(1) *Storage or tool shed* means an accessory building of less than 120 square feet gross area with a maximum roof height of 12 feet.

(2) *Detached residential accessory building* means an accessory building used or intended for the storage of motor driven passenger vehicles, hobby tools, garden equipment, workshop equipment, etc., with a maximum gross area regulated in subsection (b) of this section.

(3) *Detached domesticated farm animal building* means an accessory building used or intended for the shelter of domestic farm animals and/or related feed or other farm animal supportive materials. Said building shall be regulated by subsections (b), (m) and (n) of this section.

(4) *Agricultural farm building* means an accessory building used or intended for use on a rural farm as defined in section 32-1, the definition agricultural building.

(5) *Non-accessory, non-dwelling structures* means a structure intended for uses permitted by conditional use permit. (Refer to section 32-245 and subsection (b) of this section.)

(6) *Greenhouses, private* means a structural building with different types of covering materials, such as a glass or plastic, in which temperature and humidity can be controlled for the cultivation or protection of plants. Such buildings may be temporary or permanent, with a maximum gross area regulated in subsection (b) of this section. Greenhouses of a commercial nature shall be regulated by section (4) or (5) of this section.

(b) *Permitted uses and sizes of accessory buildings and other non-dwelling structures.* The limitations in this subsection (b) also govern sizes of structures granted under a conditional use permit (CUP). Abbreviations used in this subsection are: CUP=conditional use permit; CC=certificate of compliance

(1) *Storage, boat or tool shed.*

a. Permit required: None. See subsection (a)(1) of this section.

b. Maximum square footage: 120.

c. Maximum roof height: 12 feet.

d. Maximum number allowed: One.

(2) *Detached accessory building.*

a. All parcels with less than one buildable acre:

1. Permit required: Building.

2. Maximum combined total square footage: 1,000.

3. Maximum roof height: 35 feet.

4. Number of buildings allowed: 2.

b. All parcels 1.01 acre to 2.99 acre:

1. Permit required: Building and CC.

2. Maximum combined total square footage: 1,500.

3. Maximum height: 35 feet.

4. Number of buildings allowed: 2.

c. All parcels 3 acres to 4.99 acres:

1. Permit required: Building and CC.

2. Maximum combined total square footage: 2,000.

3. Maximum height 35 feet.

4. Number of buildings allowed: 2.

d. All parcels 5 to 9.59 acres:

1. Permit required: Building and CC.

2. Maximum combined total square footage: 2,500.

3. Maximum Height: 35 feet.

4. Number of buildings allowed: 3.

e. All parcels 9.6 to 14.99 acres:

1. Permit required: Building and CC.

2. Maximum combined total square footage: 3,500.

3. Maximum height: 35 feet.

4. Number of buildings allowed: 4.

f. All parcels 15 to 19.99 acres:

1. Permit required: Building and CC.

2. Maximum combined total square footage: 4,000.

3. Maximum Height: 35 feet.

4. Number of buildings allowed: 4.

g. All parcels 20 acres or more: No limit.

(3) Non-accessory, non-dwelling structures:

a. Permits required: CUP and building.

b. Maximum combined total square footage: Under 20 acres: as per permit.

c. Twenty or more acres: as per permit.

(4) A certificate of compliance is required on all buildings over 1,000 square feet in area and for all buildings housing animals. For agricultural buildings on rural farm (as defined in section 32-1, agricultural building) only a CC is required.

(5) No land shall be subdivided so as to have a larger building and/or exceed the total number of buildings as permitted by this section. The square footage of a building is calculated based upon the footprint of the foundation or main floor, whichever is larger, and includes any overhangs which are supported by posts or additional foundation support. Any accessory building may have a lower level, main level and loft area and still be considered an accessory building.

(6) No portion of an accessory building may be used for human habitation.

(c) *Tool sheds.* A tool shed as defined in this section may be placed on any lot in addition to the permitted number of accessory buildings.

(d) *Building permit for principal building a prerequisite.* No accessory building shall be constructed nor accessory use permitted on a lot until a building permit has been issued for the principal building to which it is accessory.

(e) *Garages.* A detached garage, when there is no garage attached to the principal building, which is 720 square feet or less in size shall not count as one of the accessory buildings or in calculating the square footage limitation, even if it is more than six feet from the principal building, as long as the detached garage exterior matches the exterior design and color of the principal building. If a garage meeting this provision is constructed within 6-feet of the principal building, the structure shall be constructed in compliance with all state fire and building codes.

(f) *Height restrictions.* No accessory building in a commercial district shall exceed the height of the principal building, except by conditional use permit.

(g) *Placement.* Accessory buildings in the commercial districts may be located to the rear of the principal building, subject to the building code and fire zone regulations.

(h) *Conforming lots.*

(1) A detached garage or other accessory building which is in front of the principal structure and set back 300 feet or more from the front lot line may be constructed after the issuance of a certificate of compliance without having to meet the requirements set forth in subsection (i)(2)a, b, and c of this section.

(2) A detached garage or other accessory building which is less than 300 feet from the front lot line and in front of the principal structure on the lot may be constructed after the issuance of a certificate of compliance, provided that the detached garage or accessory building meets the following requirements:

a. The detached garage or accessory building meets the setback requirements of the underlying zoning district; and

b. The exterior of the detached garage or other accessory building is consistent with the design and character of the principal structure on the lot on the effective date of the ordinance from which this article is derived; and

c. The applicant is issued a building permit for the detached garage or accessory building if one is required.

(3) Nonconforming lots. A detached garage or other accessory building may have the same setback as the principal building on a lot by issuance of a certificate of compliance, provided that the detached garage or accessory building meets the following requirements:

a. The exterior of the detached garage or other accessory building is consistent with the design and character of the principal structure; and

b. The applicant is issued a building permit for the detached garage or accessory building if one is required.

(i) *Lake frontage lots.* Accessory structures located on lake frontage lots may be located between the public road and the principal structure, provided they can meet all other setbacks of the district.

(j) *Ice fishing houses.* Licensed ice fishing houses stored on parcels of land during summer months shall not be considered an accessory storage building. Licensed ice fishing houses shall meet the size limitations of subsection (b)(1) of this section and all other provisions of this chapter, except subsection (l) of this section.

(k) *Requirements for larger accessory buildings.* Accessory buildings larger than 120 square feet shall require a building permit regardless of improvement value. Roof and wind load shall conform to requirements as

contained in the state building code. Agricultural buildings shall be exempt from the state building code and do not require a building permit.

(l) *Certificate of compliance.* An application for a certificate of compliance required for approval and construction of a detached domesticated farm animal building shall include the following:

(1) A site plan illustrating, within 500 feet of the proposed structure, all adjacent property owners' lot lines, houses, septic systems, fences, wells, animal buildings and other structures and feed storage areas; all wet marshy areas, drainageways and shorelines; all proposed grazing areas on the site; all new utility extensions and driveway accesses to the proposed building; all manure storage and disposal areas.

(2) A written soil inventory and evaluation from the county soil conservation district, if requested by the city council.

(3) Details of the building floor plan, elevations, materials and color of structure.

(m) *Placement for agricultural buildings.* The placement of detached agricultural buildings and domestic farm animal buildings shall be according to the following performance standards:

(1) Setbacks. All domestic farm animal buildings and manure storage sites shall be set back horizontally from natural or manmade features as follows:

a. Any property line: 100 feet.

b. Any existing well or residential structure on the same parcel: 50 feet.

c. Any existing well or residential structure on adjacent or nearby parcel: 200 feet.

d. Any body of seasonal or year-round surface of water: 200 feet.

(2) Slopes. Said building, feedlot or manure storage shall not be placed on slopes which exceed 13 percent.

(3) Evidence of the seasonally high groundwater level or mottled soil (as established by six foot borings) shall not be closer than four feet to the natural surface ground grade in any area within 100 feet of the proposed building and/or feedlot.

(4) No marsh or wetland (as established by the predominant wetland vegetation and/or soils) shall be utilized for placement of the proposed structure, feedlot or grazing area.

(Ord. No. 50, § 703, 12-7-1982; Ord. No. 54, § 2, 1-3-1984; Ord. No. 54-A, § 2, 1-3-1984; Ord. No. 60, § 1-3, 9-1-1987; Ord. No. 67, §§ 1, 2, 4-6-1992; Ord. No. 68, § 1, 2-1-1994; Ord. No. 2002-93, § 1, 5-7-2002; Ord. No. 2004-112, § 1, 10-5-2004; Ord. No. 2015-43, 12-1-2015)

Sec. 32-314. Public convenience structures.

No public use or convenience structure shall be located within the public right-of-way except by a certificate of compliance issued by the zoning administrator. Such structures shall include, but not be limited to, trash containers, institutional direction signs, bicycle racks, benches, planting boxes, awnings, flagpoles, bus shelters, light standards, stairs, stoops, light wells, newspaper storage containers, loading wells, signs and others. Such structures do not include utility facilities.

(Ord. No. 50, § 704, 12-7-1982)

Sec. 32-315. Fences.

(a) Fences may be permitted in all yards subject to the following:

(1) Solid walls in excess of four feet above adjacent ground grades shall be prohibited.

(2) That side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.

(3) Fences over six feet in height from the finished grade shall require a building permit in addition to any other required permits.

(4) No fences shall be permitted on public rights-of-way.

(b) Fences may be permitted along property lines subject to the following:

(1) Fences may be placed along property lines provided no physical damage of any kind results to abutting property.

(2) In residential districts, fences on or within three feet of property lines shall require a certificate of compliance.

(3) Fences in commercial districts may be erected on the lot line to a height of six feet; to a height of eight feet with a security arm for barbed wire.

(4) Fences in residential districts may be located on any side or rear lot line to a height of four feet above finished grade.

(5) Fences alongside and rear interior lot lines beginning at the rear building line of the principal structure shall be a maximum of six feet in height except as noted in subsection (b)(6) of this section.

(6) Should the rear lot line of a lot be common with the side lot line of an abutting lot, that portion of the rear lot line equal to the required front yard of the abutting lot shall not be fenced to a height of more than four feet.

(7) Where the property line is not clearly defined, a certificate of survey may be required by the zoning administrator to establish the property line.

(b) Fences may be permitted within required yards subject to the following:

(1) Fences located within the side and rear yard nonbuildable setback areas beginning at the rear building line shall not exceed six feet in height from finished grade.

(2) In residential districts, fences in excess of 36 inches in height along or within the front nonbuildable setback area and less than 20 feet from the front property line shall require a certificate of compliance.

(3) Fences located within the buildable area of a lot or eight feet or more from the rear lot line may be up to eight feet in height.

(4) Fences in commercial districts located within nonbuildable setback areas shall not exceed six feet in height from finished grade to a height of eight feet with a security arm for barbed wire.

(Ord. No. 50, § 705, 12-7-1982)

Sec. 32-316. Exterior storage.

(a) In nonresidential districts, exterior storage of personal property may be permitted by conditional use permit provided any such property is so stored for purposes relating to a use of the property permitted by this chapter and will not be contrary to the intent and purpose of this chapter.

(b) In all districts, all waste, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and weeds. Existing uses shall comply with this provision within 90 days following the effective date of the ordinance from which this article is derived.

(c) Unlicensed passenger vehicles and trucks shall not be parked in residential districts for a period exceeding seven days.

(d) All exterior storage not included as a permitted accessory use or a permitted use, or included as part of a conditional use permit or otherwise permitted by provisions of this chapter, shall be considered as refuse.
(Ord. No. 50, § 706, 12-7-1982)

Sec. 32-317. Environmental pollution issues.

(a) *Conformance to state regulations.* All uses, buildings and structures shall conform to the regulations of the state pollution control agency relating to air, water, noise and solid wastes.

(b) *Tributary pollution.* No use shall be permitted which will cause or result in the pollution of any tributary of the St. Croix River, Mississippi River, or any lake, stream or other body of water in the city.

(c) *Storage of chemicals.* Chemical insecticides or herbicides shall be stored, handled and utilized as per the standards set forth by the state pollution control agency.
(Ord. No. 50, § 707, 12-7-1982)

Sec. 32-318. Screening.

(a) Screening shall be required in residential zones where:

(1) Any off-street parking area contains more than four parking spaces and is within 30 feet of an adjoining residential zone; and

(2) The driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential use or zone.

(b) Where any business use (structure, parking or storage) is adjacent to property zoned for residential use, that business shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or parking lot is across the street from a residential zone, but not on the side of a business considered to be the front of the business. Existing uses shall comply with this provision within 12 months following enactment of the ordinance from which this article is derived.

(c) All exterior storage shall be screened. The exceptions are:

(1) Merchandise being displayed for sale;

(2) Materials and equipment currently being used for construction on the premises; and

(3) Merchandise located on service station pump islands.

(d) The screening required in this section shall consist of earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object.

(Ord. No. 50, § 708, 12-7-1982)
Sec. 32-319. Landscaping.

(a) Landscaping on a lot shall consist of a finish grade and a soil retention cover such as sod, seed and mulch, plantings or as may be required by the zoning administrator to protect the soil and aesthetic values on the lot and adjacent property.

(b) In all districts, all developed uses shall provide landscaping from the urban curb and gutter to the road right-of-way lines. This landscaped yard shall be kept clear of all structures, exterior storage and off-street

parking.

(c) Landscaping shall be provided and maintained on all required front and side yards in all developed districts except where pavement or crushed stone is used for walkways or driveways.
(Ord. No. 50, § 709, 12-7-1982)

Sec. 32-320. Reasonable maintenance required.

In all districts, all structures, landscaping and fences shall be reasonably maintained so as to avoid health and safety hazards and prevent a degradation in the value of adjacent property.
(Ord. No. 50, § 710, 12-7-1982)

Sec. 32-321. Lighting, lighting fixtures and glare.

(a) In all districts, any lighting used to illuminate an off-street parking area or other structure or area shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of light shall be hooded or controlled so as not to light adjacent property. Bare light bulbs shall not be permitted in view of adjacent property or public rights-of-way. No light or combination of lights which cast light on a public street shall exceed one footcandle meter reading as measured from the centerline of said street, nor shall any light or combination of lights which cast light on residential property exceed 0.4 footcandles.

(b) Lighting standards shall not exceed 25 feet of the height of the principal building on a lot without a conditional use permit.
(Ord. No. 50, § 711, 12-7-1982)

Sec. 32-322. Off-street loading and unloading areas.

(a) *Location.* All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least 25 feet from the intersection of two street rights-of-way and at least 50 feet from a residential district, unless within a building. Loading berths shall not occupy the required front yard space.

(b) *Size.* Unless otherwise specified in this chapter, a required loading berth shall be not less than 12 feet in width, 50 feet in length and 14 feet in height, exclusive of aisle and maneuvering space.

(c) *Access.* Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.

(d) *Surfacing.* All loading berths and accessways shall be improved with a hard surface to control the dust and drainage before occupancy of the structure.

(e) *Prohibited uses.* Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this chapter shall not be used for the storage of goods or inoperable vehicles or be included as a part of the space necessary to meet the off-street parking area requirements.

(f) *Mandatory provision.* Any structure erected or substantially altered for a use which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles shall provide off-street loading space as required for a new structure.
(Ord. No. 50, § 713, 12-7-1982)

Sec. 32-323. Traffic control.

(a) The traffic generated by any use shall be controlled so as to prevent congestion of the public

streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases be forward moving with no backing into streets.

(b) On any corner lot, nothing shall be placed or allowed to grow in such manner within 15 feet of the intersecting street right-of-way lines as to impede vision between a height of 2 1/2 and ten feet above the centerline grades of the intersecting streets. This restriction shall also apply to the planting of crops and to yard grades that result in elevations that impede vision within 15 feet of any intersecting street right-of-way lines.
(Ord. No. 50, § 714, 12-7-1982)

Sec. 32-324. Explosives permitted only by exception.

No activities involving the commercial storage, use or manufacture of materials or products which could decompose by detonation shall be permitted except as are specifically permitted by the city council. Such materials shall include but not be confined to all primary explosives such as lead-acid and mercury fulminate; all high explosives and boosters such as TNT, tetryl and nitrates; propellants and components thereof, such as nitrocellulose, black powder and nitroglycerine; blasting explosives such as dynamite; and nuclear fuel and reactor elements such as uranium 235 and plutonium.
(Ord. No. 50, § 716, 12-7-1982)

Sec. 32-325. Fallout shelters.

Fallout shelters may be permitted in any district subject to the yard regulations of the district. Such shelters may contain or be contained in other structures or be constructed separately, and in addition to shelter use, may be used for any use permitted in the district, subject to the district regulations on such use.
(Ord. No. 50, § 717, 12-7-1982)

Sec. 32-326. Guesthouses.

(a) *Definition.* The term "guesthouse," for the purpose of this section, means an accessory building detached from the principal building with temporary accommodations for sleeping, but having no kitchen facility. It is intended for the use of persons visiting the occupants of the principal structure.

(b) *Conformance requirements.* Guesthouses, where permitted, shall conform to all requirements of this Code and other regulations applicable to residential dwellings, and setback and yard requirements in relation to the principal structure.

(c) *Parking provisions.* All guesthouses shall have designated off-street parking spaces.

(d) *Certificate of compliance.* A certificate of compliance and building permit shall be required for a guesthouse.
(Ord. No. 50, § 718, 12-7-1982)

Sec. 32-327. Bed and breakfasts.

(a) *Accessory use.* A bed and breakfast facility must be accessory to the use of a property as a single-family residential home. This means that the individual or family who operates the facility must also occupy the house as their primary residence. The house must be at least five years old before a bed and breakfast facility is allowed.

(b) *Maximum size.* Bed and breakfast facilities are limited to a maximum of four bedrooms available for rent to guests. All guest rooms shall be contained within the principal structure.

(c) *Employees.* There shall be no more than one person employed by the bed and breakfast residence who is not a resident of the dwelling.

(d) *Location.* The location of another bed and breakfast use within 1,500 feet on a lot size of less than ten acres is prohibited. There is no location restriction for bed and breakfast uses located on parcels of ten acres in size or more.

(e) *Permits/licenses required.* No bed and breakfast use may be lawfully established without first obtaining a conditional use permit pursuant to the provisions of division 5 of article I of this chapter. Additionally, before issuance of a conditional use permit, an applicant must show satisfactory written proof that the property has been inspected and approved by the fire marshal, building official, and health department, and that all required licenses have been issued by the county and/or the state.

(f) *Lighting.* Lighting shall be provided and shall be kept to a contiguous, compact and well-defined area between the residential structure and parking area. Any additional exterior lighting for the bed and breakfast is prohibited.

(g) *Parking.* All parking, whether for guests, property owners, invitees, or employees, shall be on-site. No parking shall be allowed on any public streets or roads.

(h) *Signage.* Bed and breakfast establishments are allowed an identification sign not exceeding four square feet in size. The signs shall be located on site. The sign must match the architectural features of the primary residential structure.

(i) *Recreational uses.* No other recreational uses shall be allowed in conjunction with the operation of the bed and breakfast such as, but not limited to, bicycling, sailing, horseback riding, canoeing, or hiking, unless said recreational uses are specifically allowed and provided for within the conditional use permit.

(j) *Miscellaneous provisions.*

(1) *Septic system.* The septic system shall be up to code and sized for the proposed use. The property must also contain adequate space for an alternative approved septic site.

(2) *Smoke alarms.* Smoke alarms shall be installed and maintained according to the requirements of the fire inspection.

(3) *Maximum length of stay.* No guest shall stay in the facility for more than 14 days within any 30-day period.

(4) *Use restrictions.* The facility shall not be used for commercial receptions, parties, or other public gatherings, or for the serving of meals to nonresident guests for compensation. Additionally, there shall be no cooking in the guest rooms.

(5) *Liquor license.* No liquor is to be sold or served on the premises unless the operator has first obtained a liquor license from the city.

(6) *Guest logbook.* All bed and breakfast facilities must maintain a guest logbook that must include the names and home addresses of guests, guest license plate numbers if travelling by automobile, dates of stay, and the room number of each guest. The log must be available for inspection by city staff upon request.

(7) *Appearance.* Residential structures may be remodeled for the development of a bed and breakfast facility. However, structural alterations may not be made which prevent the structure from being used as a residence in the future. Internal or external changes which will make the dwelling appear less residential in nature or function are not allowed. Examples of such alterations include paving of required setbacks and commercial-type exterior lighting.

(Ord. No. 1997-78, §§ 719.012--719.032, 9-2-1997)

Sec. 32-328. Horse boarding and training.

(a) *Allowable without permit; conditions.* The boarding and training of horses shall be permitted without the necessity of a conditional use permit if the following requirements are met:

(1) The maximum number of horses allowed on a parcel used for boarding and training is ten horses. No horse shall be placed on a site with less than a minimum of five acres. The number of horses allowed on a parcel shall be limited to one horse for every two grazable acres. The definition of grazable acres is set forth in section 32-337(g) and is incorporated herein by reference. In calculating the grazable acres, the area of the foundation or footprint of the buildings on a parcel shall be deducted and not included in the calculation of grazable acres.

(2) Adequate and appropriate arrangements have been made for the proper storage and disposal of manure and compliance with section 32-337.

(3) Adequate and appropriate arrangements have been made to preclude surface or groundwater contamination, and proper drainage and all boarding and training operations must comply with sections 32-341, 32-342 and 32-343.

(4) All exterior lighting used in the boarding and training operation shall comply with section 32-321, commonly referred to as the city lighting ordinance.

(5) The boarding and training operation shall conform to section 32-332, commonly referred to as the city noise ordinance.

(b) *Criteria for conditional use permit.* In the event that a conditional use permit is applied for, the applicant must meet the standards set forth in subsection (a) of this section, except subsection (a)(1) of this section, and the following shall be considered and reviewed by the city council:

(1) Plan for the storage and removal of manure and control of odors from the operation.

(2) Traffic and parking plan for the operation of the boarding and training facility.

(3) Lighting plan.

(4) Schedule of plans for equestrian events (sorting, rodeo, shows) to be held on site.

(5) Hours of operation.

(6) Noise issues and plan to dissipate the noise by screening or otherwise.

(7) Fencing and building plans with appropriate setbacks from adjoining properties, roads and buildings on and off the site.

(c) *Revocation.* A violation of this section could result in revocation of the permit, imposition of a fine under chapter 2, article V and/or criminal charges for a misdemeanor violation which is punishable by a fine and/or jail.

(d) *Other requirements.* These requirements are in addition to those set forth in division 5, article II of this chapter governing the issuance of a conditional use permit.
(Ord. No. 2004-109, § 3(720), 8-3-2004)

Sec. 32-329. Radiation and electrical interference prohibited.

No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation of ordinary business or household equipment and appliances. Any such emissions are hereby declared to be a nuisance.
(Ord. No. 50, § 721, 12-7-1982)

Sec. 32-330. Environmental nuisances.

(a) *Local standards.* Excluding normal farming activities, no odors, vibration, noise, smoke, air pollution, liquid or solid wastes, heat, glare, dust or other such sensory irritations or health hazards shall be permitted in any district in excess of the minimum standards as set forth in this section. Any violation of said standards is hereby declared a nuisance. The minimum standards shall be as follows:

(1) *Odors.* Any use shall be so operated as to prevent the emission of odorous or solid matter of such quality or quantity as to be reasonably objectionable at any point beyond the lot line of the site on which the use is located.

(2) *Vibration.* The following vibrations are prohibited:

a. Any vibration discernible (beyond the property line) to the human sense of feeling for three minutes or more duration in any one hour.

b. Any vibration resulting in any combination of amplitudes and frequencies beyond the safe range of the standards of the United States Bureau of Mines, or comparable standards, on any structure.

(3) *Noise.* Any use shall be so operated as to prevent the emission of noise of such volume or duration as to be reasonably objectionable at any point beyond the lot line of the site on which the use is located.

(4) *Toxic or noxious matter.* Any use shall be so operated as not to discharge across the boundaries of the lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein such use is located toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business.

(5) *Air pollution.* Any use shall be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental to or a danger the public health, safety, comfort or general welfare.

(6) *Animals.* Any building in which domestic farm animals are kept shall be a minimum distance of 100 feet from all lot lines. (See section 32-313(n).)

(b) *State standards.* Notwithstanding anything contained herein to the contrary, the minimum standards of the state pollution control agency as to noise, air and water pollution, and glare, shall be the minimum standards for purpose of this section.
(Ord. No. 50, § 722, 12-7-1982)

Sec. 32-331. Other nuisances.

(a) *Unlicensed vehicles.* It shall be a nuisance for any person to store or keep any vehicle of a type requiring a license to operate on the public highway, but without a current license attached thereto, whether such vehicle be dismantled or not, outside of an enclosed building in residential or agricultural districts.

(b) *Junkyards.* It shall be a nuisance to create or maintain a junkyard or vehicle dismantling yard except as provided in this Code.

(c) *Dangers to public health.* The following are declared to be nuisances endangering public health:

(1) Causing or suffering the effluent from any cesspool, septic tank, drainfield or human sewage disposal system to discharge upon the surface of the ground, or dumping the contents thereof at any place except as authorized by the state pollution control agency.

(2) Causing or suffering the pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.

(3) Causing or suffering carcasses of animals not buried or destroyed or otherwise disposed of within 24 hours after death.

(d) *Dangers to public peace and safety.* The following are declared to be nuisances affecting public peace and safety:

(1) The placing or throwing on any street, alley, road, highway, sidewalk or other public property of any glass, tacks, nails, bottles or other nuisances which may injure any person or animal or may cause damage to any pneumatic tire when passing over the same.

(2) The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person, and which is exposed and accessible to the public, without removing the doors, lids, hinges or latches, or providing locks to prevent access by the public.

(Ord. No. 50, § 723, 12-7-1982)

Sec. 32-332. Noise control.

(a) *Noise prohibited.* It shall be unlawful to make, continue or cause to be made or continued, any noise in excess of the noise levels set forth unless such noise be reasonably necessary to the continuation of normal farming practices or preservation of life, health, safety, or property.

(b) *Noise limits.* Any activity not expressly exempted by this section which creates or produces sound, regardless of frequency, exceeding the ambient noise levels at the property line of any property by more than six decibels, as designated at the time and place in the following table and for the duration there mentioned, shall be deemed to be a violation of this section, but any enumeration herein shall not be deemed to be exclusive.

Duration of Sound	*7:00 a.m.--6:00 p.m. (all districts)*	*6:00 p.m.--10:00 p.m. (R-1 districts), and 6:00 p.m.--7:00 a.m. (all other districts)*	*10:00 p.m.--7:00 a.m. (Residential districts)*
Less than 10 minutes	75 dB	70 dB	60 dB
Between 10 minutes and 2 hours	70 dB	60 dB	50 dB
In excess of 2 hours	60 dB	50 dB	40 dB

(c) *Measurement of noise.* In determining whether a particular sound exceeds the maximum permissible sound level are as set forth in column III in the table in subsection (b) of this section:

(1) Sounds in excess of the residential district limitations as measured in a residential district or other district;

(2) During all hours of Sundays and state and federal holidays, the maximum allowable decibel levels for residential districts.

(d) *Exemptions.* Sounds emanating from operation of the following are exempt from the provisions of this section:

(1) Motor vehicles on public highways;

(2) Aircraft;

(3) Outdoor implements such as power lawn mowers, snowblowers, power hedge clippers and power saws; and

(4) Pile drivers or jackhammers and other construction equipment from lawful and proper activities at

school grounds, playgrounds, parks or places wherein athletic contests take place.

(e) *Construction equipment.* Except as hereinafter provided, no pile driver, jackhammer or other construction equipment shall be operated between the hours of 6:00 p.m. to 7:00 a.m. on weekdays and during any hours on Saturdays, Sundays and state and federal holidays, except under conditional use permit provided below, and no such equipment shall be operated at any time if the sound level from such operation exceeds 100 decibels measured along any property line; provided however, that said decibel maximum sound limit is reduced to 95 decibels effective the second anniversary of the enactment of the ordinance from which this section is derived, and 90 decibels effective the fourth anniversary; provided further, however, that such equipment, the operation of which conforms to the maximum allowable sound levels as prescribed herein may be operated during the above prohibited hours and days. When any of the above-named equipment is used for any purpose other than construction, the ambient noise levels apply.

(1) No internal combustion engine or any other power unit when operated in connection with construction or demolition equipment shall be operated at any time other than at the times set forth in this section, and any sound emitted from any such engine or power unit shall not exceed 83 decibels measured along the property line.

(2) If an emergency situation exists, or if substantial economic loss would result to any person unless allowed additional hours of equipment operation, a conditional use permit may be granted for extended hours of operation of such construction equipment and internal combustion engine or power unit as follows:

a. In the event of an emergency situation a permit may be granted for such operation during any hour of any day for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues.

b. In the event of a determination of substantial economic loss to a person, a conditional use permit may be granted for such operation throughout the hours of 7:00 a.m. to 9:30 p.m. on weekdays and throughout the hours of 1:00 p.m. to 5:00 p.m. on Saturdays, Sundays and state and federal holidays, upon the condition that while any construction equipment, internal combustion engine or power unit is in operation, its location shall not be less than 600 feet in any direction from any dwellings, except that if, while any such construction equipment, internal combustion engine or power unit is in operation, its location shall be no less than 1,200 feet in any direction from any dwelling, a permit may be granted for operation during any hour of any day.

(f) *Outdoor implements.* Except as hereinafter provided, any power lawn mower, snowblower, power hedgeclipper, power saw or such other implement designed primarily for outdoor use, shall be operated only between the hours of 7:30 a.m. to 9:00 p.m. on weekdays, or between the hours of 9:00 a.m. to 9:30 p.m. on Saturdays, Sundays and state and federal holidays; provided, however, that such equipment, the operation of which conforms to the maximum allowable sound levels as prescribed herein, may be operated during the above prohibited hours.
(Ord. No. 50, § 724, 12-7-1982)

Sec. 32-333. Coin-operated machines.

Coin-operated automatic machines dispensing food, soft drinks and other food and materials shall not be permitted outside of a building.
(Ord. No. 50, § 725, 12-7-1982)

Sec. 32-334. Swimming pools.

(a) *Standards.* In all districts where single-family dwelling units are permitted uses, the following standards apply:

(1) A building permit shall be required for any swimming pool with a capacity of over 5,000 gallons and/or with a depth of over 24 inches of water.

(2) An application for a building permit shall include a site plan showing:

a. The type and size of pool.

b. Location of pool, house, garage, fencing and other improvements on the lot.

c. Location of structures on all adjacent lots.

d. Location of filter unit, pump and information indicating the type of such units.

e. Location of back-flush and drainage outlets, grading plan, finished elevations and final treatment (decking, landscaping, etc.) around the pool.

f. Location of existing overhead and underground wiring, utility easements, trees and similar features, and location of any water-heating unit.

(3) Pools shall not be located within 20 feet of any septic tank/drainfield nor within six feet of any principal structure or frost footing. Pools shall not be located within any required front or side yard setbacks.

(4) Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.

(5) Pools shall not be located within any private or public utility, walkway, drainage or other easement.

(6) In the case of below-ground pools, the necessary precautions shall be taken during the construction, to:

a. Avoid damage, hazards or inconvenience to adjacent or nearby property.

b. Ensure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust or other infringements upon adjacent property.

(7) All access for construction shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.

(8) To the extent feasible, back-flush water or water from pool drainage shall be directed onto the owner's property or into approved public drainageways. Water shall not drain onto adjacent or nearby private land.

(9) The filter unit, pump, heating unit and any other noise-making mechanical equipment shall be located at least 50 feet from any adjacent or nearby residential structure and not closer than ten feet to any lot line.

(10) Lighting for the pool shall be directed toward the pool and not toward adjacent property.

(11) Swimming pool enclosures and protective devices.

a. Enclosures. Every person owning land within the city upon which there is presently situated an above- or below-ground swimming pool or who constructs such a swimming pool after the effective date of the ordinance from which this section is derived, either of which has a capacity of 3,000 gallons and/or a depth of 42 inches or more of water, shall erect and maintain thereon an adequate enclosure surrounding the property or pool area, sufficient to make such body of water inaccessible to children. Such enclosure, including gates therein, shall be not less than five feet above the underlying ground. All gates shall be self-closing and self-latching with latches placed four feet above the underlying ground and otherwise made inaccessible from the outside to children. Said fence shall be constructed in conformance with and subject to the state building code and approved and inspected by the city building inspector.

b. Protective devices. A pool cover or other protective device approved by the city building

inspector shall be an acceptable enclosure so long as the degree of protection afforded by the substituted devices or structures is not less than the protection afforded by the enclosure, gate and latch described above and is in compliance with the American Society for Testing and Materials (ASTM) standard F1346. The substitution with such a pool cover or other protective device shall be done by the issuance of a certificate of compliance and shall be considered a variance (not a zoning-type variance) from the provision of subsection (a)(11)a of this section and a written request for the certificate of compliance and variance shall be submitted to the city clerk.

(12) Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type. Such water shall be subject to periodic inspection by the local health officer.

(13) All wiring, installation of heating units, grading, installation of pipes and all other installations and construction shall be subject to inspection.

(14) Any proposed deviation from these standards and requirements shall require a variance in accordance with normal zoning procedures.

(b) *Fencing and drainage.* In all zoning districts:

(1) Required structure or safety fencing shall be completely installed within three weeks following the installation of the pool and before any water is allowed in the pool.

(2) Drainage of pools into public streets or other public drainageways shall require written permission of the appropriate local public officials.

(Ord. No. 50, § 726, 12-7-1982; Ord. No. 2005-116, § 1, 6-7-2005)

Sec. 32-335. Interim uses and structures.

(a) *Conditional use permit required.* Interim uses and structures may be placed in agricultural or business districts after obtaining a conditional use permit. These interim uses may be utilized in a temporary manner as specified by the city council, during which the development planned for the area in the city plan has not yet occurred.

(b) *Limitations on duration and activities.* Interim uses and structures utilized for interim storage of wholesale or retail products or shelter of farm crops and animals shall be limited to a maximum of five years or as stipulated by the city council. No wholesale or retail sales or sales office activities shall occur on the site or in the structure.

(c) *Exemption from additional roadway requirement.* Interim uses and structures shall not require additional public roadways.

(d) *Length of time specified by city council.* The city council may specify the length of time which may be utilized for said interim use or structure. The specific length of time may be a condition of approval of the conditional use permit.

(e) *Valuation of structure.* The planning commission and city council shall review the interim use or structure and shall limit the new structural investment on the site to a specific dollar amount, which through a graduated timetable of depreciation of the structure should reach zero book value at a specific year or length of time, after which the interim use or structure shall be removed.

(f) *Alteration of site prohibited.* Grading or alteration of the site, except for driveway access and building construction shall not be permitted for interim uses or structures.

(g) *Recordation.* Conditional use permits issued by the city council for an interim use or structure shall be recorded with the register of deeds by the applicant prior to the issuance of building permits or certificates of occupancy.

(Ord. No. 50, § 728, 12-7-1982)

Sec. 32-336. Automobile sales and showrooms.

The building and premises for automobile sales and showrooms shall meet the following requirements:

(1) *Setbacks and lot requirements.*

a. *Parking.* A minimum of 25-foot-wide landscaped yard shall be required and maintained between any public street right-of-way and parking lots or buildings.

b. *Contiguous site.* Motor vehicle sales shall be on one lot or contiguous lots not separated by a public street, alley or other use.

c. *Lot width.* The minimum lot width shall be 150 feet at the minimum required front yard setback.

d. *Lot area.* A minimum lot area of two acres shall be required.

(2) *Access driveways.*

a. Distance of driveway from street intersection. The distance of the driveway from the street intersection shall not be less than 50 feet; provided, however, greater distances may be required to avoid reasonably anticipated traffic hazards.

b. Minimum distance between driveways. Minimum distance between driveways shall be 25 feet.

c. Minimum driveway angle to street. Minimum driveway angle to street shall be 60 degrees, unless otherwise approved by the city engineer.

d. Minimum distance between driveway and adjacent property shall be five feet.

e. No driveway shall exceed 25 feet in width.

(3) *Screening.* A screen shall be erected and maintained along all property lines separating institutional, residential dwelling or business and professional office districts or uses. The screening required in this section shall be not less than five feet in height.

(4) *Landscaping.* A landscaped yard shall be constructed and maintained on all areas of the site not devoted to the building or parking areas.

(5) *Surfacing.* The entire site on which motor vehicle sales is located, other than that devoted to buildings and structures or landscaped areas, shall be hard surfaced and maintained to control dust, erosion and drainage, before operation of the business begins.

(6) *Parking for customers and employees.* The following required parking spaces shall be shown and designated on the site plan:

a. *Customer parking.* A minimum of 16 customer parking spaces shall be provided for every acre of total site area in a commercial or business district, and in addition, three spaces for each 1,000 square feet of gross sales floor area.

b. *Employee parking.* A minimum of two employee parking spaces shall be provided for every three employees.

(7) *Parking for outside sales and storage.* The maximum area permitted for outside storage of automobiles, new and used, shall not exceed five square feet of outside storage area to each one square foot of enclosed ground floor area. No more than one automobile shall be stored on each 300 square feet of outside paved storage area. No rooftop parking shall be permitted.

(8) *Surface drainage plan and improvements.* A drainage plan shall illustrate all paved area surface drainage flows. Catchbasins and/or settling ponds shall be required to dispose of interior parking or display area drainage.

(Ord. No. 50, § 729, 12-7-1982)

Sec. 32-337. Livestock.

(a) *Prohibition of depositing manure without safeguards.* No manure or livestock waste shall be deposited, stored, kept or allowed to remain in or upon any storage site or feedlot without reasonable safeguards adequate to prevent the escape or movement of such manure or waste or a solution thereof from the site which may result in pollution of any public waters or any health hazard.

(b) *Pollution control agency standard minimum requirements.* All regulations imposed by the state pollution control agency relating to keeping of livestock shall be adhered to, and such regulations shall be considered the minimum safeguard necessary to prevent pollution of public waters or creation of a health hazard. New livestock feedlots, poultry lots and other animal lots are prohibited within the following areas:

(1) Within 1,000 feet of the normal high-water mark of any lake, pond or flowage, or within 300 feet of a river or stream.

(2) Within a floodway.

(3) Within 1,000 feet to the boundary of a public park.

(c) *Permit required.* No feedlot or manure storage site shall be maintained unless a permit therefor has first been issued by the state pollution control agency and by the zoning administrator as provided herein. The application for a permit by the owner or other person responsible for a feedlot or manure storage site shall be accompanied by plans showing the features and method of operation and construction and existing or proposed safeguards or disposal systems. The city council may thereafter issue a permit therefor upon such conditions as it shall prescribe to prevent pollution of any public water or creation of a health hazard.

(d) *Abatement.* In case the zoning administrator shall find that any manure is stored or kept on any feedlot or storage site without a safeguard, or that any existing safeguard is inadequate, he may order the owner or other responsible person to immediately remove the manure from the feedlot or storage site and refrain from further storage or keeping of any manure thereat unless and until an adequate safeguard is provided as herein prescribed.

(e) *Notification required for loss.* It shall be the duty of the owner of a feedlot or manure storage site or other responsible person in charge thereof to notify immediately the zoning administrator of any loss of stored manure either by accident or otherwise when such loss involves a substantial amount which would be likely to enter any waters of the state. Said notice shall be by telephone or other comparable means and shall be made without delay after discovery of the loss. The notification shall include the location and nature of the loss and such other pertinent information as may be available at the time.

(f) *Minimum site size for keeping domestic farm animals.* The keeping of horsesor cattle on a site with less than two acres of existing grazable land per animal unit is hereby declared to be a nuisance. No horses or cattle shall be permitted on any site of less than five acres.

(g) *Grazable acres.* Grazable acres shall be defined as the area of the parcel or site that excludes 1.) wetlands other than Types 1 and 2, 2.) any wetland greater than ¼ acre, and 3.) the Homesite. For the purposes of determining the number of animals permitted per two Grazable acres, the following animal equivalents apply:

	Animal Units
1 slaughter steer or heifer	1
1 horse	1
1 mature dairy cow	1.4
1 swine over 55 pounds	0.4
1 sheep	0.1
1 turkey	0.018
1chicken	0.01
1 duck	0.02

(h) *Conditional use permit for greater density.* The keeping of domestic farm animals in greater density than allowed by subsection (f) of this section shall require a conditional use permit. To obtain such permit, the applicant must demonstrate that facilities are present and appropriate practices are being employed to preclude surface water or groundwater contamination, excessive manure accumulation, odor, noise or other nuisances. The applicant must have a state pollution control agency feedlot permit for the proposed use.
(Ord. No. 50, § 730, 12-7-1982; Ord. No. 53, §§ 3, 4, 7-7-1983; Ord. No. 2000-89, § 2, 7-5-2000; Ord. No. 2014-34, 7-1-2014)

Sec. 32-338. Manufactured homes.

(a) *Restrictions on parking and occupying.* No person shall park or occupy a manufactured home (see definition for manufactured home, section 32-1) on the premises of a lot with any occupied dwelling or on any land which is situated outside of an approved manufactured home park, except as listed below.

(b) *Manufactured home parks.* A manufactured home may be placed within an existing approved manufactured home park.

(c) *Use as accessory dwelling unit.* A manufactured home may be permitted by conditional use permit in an agricultural district, R-1 residential district, or conservancy district, if the zoning administrator finds the following conditions are satisfied:

(1) The manufactured home will be an accessory dwelling unit to be occupied if:

a. Persons are infirm to the extent that they require extraordinary care;

b. Such care can only be provided, without great economic hardship, by family members residing in the principal dwelling house on the premises; and

c. The infirmity and the need for care required by subsections (c)(1)(a) and (b) of this section shall be shown by written statement of a physician.

(2) The conditional use permit is so conditioned that it will expire and terminate at such time as the care facility is no longer the residence of the person suffering from the infirmity which requires such care, or at such time as such care is no longer required.

(3) At the time of termination of the conditional use permit, the mobile home care facility shall be removed from the premises within 30 days when practical.

(4) The conditional use permit is so conditioned so as to be reviewed annually by the zoning administrator.

(d) *Temporary farm dwelling.* A manufactured home may be permitted by conditional use permit in an agricultural district if the zoning administrator finds the following conditions are satisfied:

(1) The manufactured home will be an accessory dwelling unit located on a farm of at least 75 acres in size.

(2) The manufactured home will be occupied by persons who are:

a. Members of the family of the persons occupying the principal dwelling house on the premises.

b. Engaged in the occupation of farming on the premises as partners or other business associates of the persons living in the principal dwelling house on the premises; and who earn 50 percent or more of their annual gross income for federal income tax purposes from such farming on the premises.

(3) The conditional use permit is so conditioned that it will expire and terminate at such time as the persons occupying the manufactured home are no longer engaged in farming on the premises as required by subsection(d)(2)b of this section.

(4) At the time of termination of the conditional use permit, the manufactured home temporary farm dwelling shall be removed from the premises within 30 days when practical.

(5) The conditional use permit is conditioned so as to be reviewed annually by the zoning administrator.

(e) *Temporary construction office.* A manufactured home may be permitted by certificate of compliance in any district if the zoning administrator finds the following conditions are satisfied:

(1) The manufactured home will be utilized as a field headquarters for directing the ongoing construction of a project.

(2) Only one manufactured home shall be permitted on each project.

(3) The manufactured home have adequate sanitary facilities or the site shall have temporary sanitary facilities installed.

(4) The manufactured home and parking spaces shall adhere to all setbacks for the zoning district and shall only utilize the permitted access driveway.

(5) The manufactured home shall not be used as a dwelling unit.

(6) The certificate of compliance is issued only after the building permit has been issued. The manufactured home shall not be placed on the construction site until both a certificate of compliance and a building permit have been issued.

(7) Such a permit shall expire when construction is completed or within 180 days from the date of issuance, whichever is less. Renewal of such a permit may be approved by the zoning administrator.

(8) The manufactured home shall be removed within 30 days of the permit termination.

(f) *Temporary dwelling unit during construction.* A manufactured home may be permitted by a certificate of compliance in any residential or agricultural district if the zoning administrator finds the following conditions are satisfied:

(1) The manufactured home will be utilized as a temporary dwelling unit by the present or potential occupant of a single-family residence during the construction, reconstruction or alteration of said residence by the present or potential occupant.

(2) The manufactured home shall have adequate sanitary facilities as prescribed by the state building code.

(3) The certificate of compliance is issued only after the building permit has been obtained for the proposed construction.

(4) The manufactured home and parking spaces shall adhere to all setbacks for the zoning district and shall only utilize the permitted access driveways.

(5) Such permit shall expire when construction is completed or within 180 days from the date of issuance, whichever is less. Renewal of such permit may be approved by the zoning administrator.

(g) *Required standards.* All manufactured homes permitted under this section shall meet or exceed the current federal manufactured home construction and safety standards. The manufactured home shall have a sanitary sewer treatment and disposal system in compliance with this Code and the state pollution control agency and the health department.

(h) *Application of setback regulations.* When the manufactured home is utilized as an accessory dwelling unit to the principal dwelling unit, the placement of the manufactured home is subject to the same zoning district dimensional setbacks as the principal dwelling unit.

(i) *Use of existing access required.* Manufactured homes utilized as accessory dwelling units shall use the existing road access driveway of the principal dwelling unit.

(j) *Distance from other structures.* Manufactured homes utilized as accessory dwelling units shall be separated by a minimum horizontal distance of 40 feet from any other structure.

(k) *Anchoring/tie-down requirements.* Manufactured homes utilized as accessory dwelling units shall have ground anchors or tie-downs as approved by the state manufactured home code.

(l) *Installation requirements.* Manufactured homes used for purposes other than those listed above must be installed per manufacturer's standards and all applicable requirements of the state building code.
(Ord. No. 50, § 731, 12-7-1982)

Sec. 32-339. Recreation vehicle or trailer regulations.

(a) *Temporary parking; restrictions.* A camper or travel trailer of the type generally used temporarily as living quarters during the hunting, fishing or vacation season and duly licensed and registered under the laws of the state may be parked on residential property in the city; provided however, that such camper or travel trailer shall not, while so parked, be used as a permanent human dwelling place, living abode or living quarters.

(b) *Compliance with zone regulations.* A camper, travel trailer or other recreational vehicle parked on a lot within an agricultural or residential district shall comply with all parking and building setbacks for the zoning district and shall utilize only the existing permitted access driveway into the site.

(c) *Parking; restrictions.* A camper, travel trailer or other recreational vehicle may not be parked on any land outside of an approved trailer park or an approved sales lot, except that the parking of one unoccupied trailer, less than 25 feet in length, in any accessory private garage, building or in the rear yard of a residential district is permitted, provided that no living quarters shall be maintained or any business practices conducted in said trailer while it is so parked or stored.

(d) *Temporary parking and use as dwelling by guest.* A camper or travel trailer of the type described in subsection (a) of this section and owned by a nonresident guest or visitor may be parked or occupied by said guest or visitor on property on which a permanent dwelling unit is located for a period not to exceed 30 days while visiting the resident of said property. The recreational vehicle or trailer shall have self-contained sanitary facilities or standard on-site facilities as required by county ordinance.

(e) *Temporary use as dwelling during construction; certificate of compliance required.* The zoning administrator may, upon application, grant a certificate of compliance for the use of a residential trailer or similar portable unit for temporary residential purposes within the city in conjunction with a home construction project that is underway; provided however, that a duly authorized and valid building permit shall have been approved by the city building official prior to the application for a certificate of compliance.

(f) *Procedure to obtain certificate of compliance.* The applicant for said certificate of compliance shall file an application with the zoning administrator setting forth the area in which said trailer is to be located, together with a copy of the building permit for the home to be constructed on said property.

(g) *Time limit of certificate.* The term of said certificate of compliance shall not exceed 120 days or the completion of construction of the residential home in question, whichever comes first.

(h) *Conditions attached.* The zoning administrator may attach such conditions and obligations to the issuance of said certificate of compliance as it deems necessary to protect the health, safety and general welfare of the citizens of the city.
(Ord. No. 50, § 733, 12-7-1982)

Sec. 32-340. Service stations.

(a) *Compliance with zone standards required.* Before a conditional use permit for a service station is granted, the minimum requirements of the zoning district in which the service station is to be located shall be met.

(b) *Design and construction standards and approvals.* A drainage system, subject to approval by the city engineer, shall be installed. The entire site other than that taken up by a structure or planting, shall be surfaced with concrete or other material approved by the city council. Pump islands shall not be placed in the required yards. The area around the pump island to a distance of eight feet on each side shall be concrete. A box curb not less than six inches above grade shall separate the public right-of-way from the motor vehicle service areas, except at approved entrances and exits. No driveways at a property line shall be less than 50 feet from the intersection of two street right-of-way lines. Each service station shall have at least two driveways with a minimum distance of 170 feet between centerlines when located on the same street.

(c) *Parking restricted.* No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be awaiting service longer than 15 days. Existing service stations shall comply with this requirement within 45 days of the effective date of the ordinance from which this section is derived.

(d) *Storage limitations.* Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump islands; exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as racks, metal trays and similar structures designed to display merchandise. Existing service stations shall comply with this requirement within three months of the effective date of the ordinance from which this section is derived.

(e) *Screening.* All areas utilized for storage, disposal or burning of trash, debris, discarded parts and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean and safe manner. Existing service stations shall comply with this requirement within nine months of the effective date of the ordinance from which this section is derived.

(f) *Restriction of activities.* Business activities not listed in the definition of service stations in this chapter are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include but are not limited to the following: automatic car and truck wash; rental of vehicles, equipment or trailers; and general retail sales.

(g) *Conditional use permit; records.* Service stations shall be subject to all of the requirements necessary for the review and issuance of a conditional use permit as per division 5 of article II of this chapter. In addition, service stations shall be required to keep accurate records of bulk fuels and liquids.

(h) *Tank materials and installation.* New below-ground storage tanks shall be of a noncorrosive type and installed according to all other state pollution control agency standards.
(Ord. No. 50, § 735, 12-7-1982)

Sec. 32-341. Drainage.

(a) No land shall be developed or altered and no use shall be permitted that results in surface water run-off causing unreasonable flooding, erosion or deposit of minerals on adjacent properties or waterbodies. Such run-off shall be properly channeled into a natural water course or drainageway and/or ponding area.

(b) The zoning administrator, upon inspection of any site which has created drainage problems or could create drainage problems with proposed new development, may require the owner of said site or contractor to complete a grading plan and apply for a grading permit.

(c) The owner or contractor of any natural drainage improvement or alteration may be required by the zoning administrator to obtain recommendations from the state department of natural resources, the soil conservation agent, the affected watershed district and/or the city engineer, as well as obtaining a local grading permit.

(d) On any slope in excess of 13 percent where, in the opinion of the zoning administrator, the natural

drainage pattern may be disturbed or altered, the zoning administrator may require the applicant to submit both a grading plan and a soil conservation plan prior to applying for a building permit.
(Ord. No. 50, § 740, 12-7-1982)

(e) Land disturbing activities that alter drainage of any site shall implement erosion and sedimentation control and stormwater management standards that comply with the City's Engineering Design Guidelines, as well as chapter 30, Sections 30-103, 30-172 and 30-173.
(Ord. No. 2015-39, 4-7-2015)

Sec. 32-342. Permits for land reclamation; use of public waters.

(a) *Land reclamation.* Within this section, the term "land reclamation" means the reclaiming of land by depositing or moving material so as to alter the grade. Land reclamation of more than 50 cubic yards up to 5,000 cubic yards requires a grading permit. Land reclamation of 5,000 cubic yards or greater requires a conditional use permit. Land reclamation in floodplains shall be in accordance with chapter 14. The permit shall include as a condition thereof a finished grade plan which will not adversely affect the adjacent land and as conditions thereof shall regulate the type of material permitted, a program for rodent control, a plan for fire control, general maintenance of the site, controls of vehicular ingress and egress, and drainage and control of material disbursed from wind or hauling of material to or from the site.

(b) *Public waters.* No person, partnership or association, private or public corporation, county, municipality, or other political subdivision shall appropriate or use any public water, surface or underground, without first securing a use of public waters permit and written permission of the commissioner of the division of waters, soils and minerals of the state department of natural resources. For purposes of these regulations, public waters shall be as by law, and as follows:

(1) Public waters shall include all lakes, ponds, swamps, streams, drainageways, floodplains, floodways, natural watercourses, underground water resources and similar features involving directly or indirectly the use of water within the city.

(2) No public water area shall be filled, partially filled, dredged, altered by grading, mining or otherwise utilized or disturbed in any manner without first securing a public waters use permit from the state department of natural resources and the U.S. Army Corps of Engineers, and a grading permit from the city zoning administrator. Such grading permits shall be reviewed and approved by the department of natural resources, the city engineer, the watershed district, the planning commission and the city council.

(Ord. No. 50, § 741, 12-7-1982; Ord. No. 2004-110, § 2, 6-1-2004; Ord. No. 2007-02, § 1, 6-5-2007)

Sec. 32-343. Soil conservation plans.

(a) *Projects affecting more than one acre.* On any development or land reclamation project with more than one acre of soil, drainage patterns or vegetation cover that would be either destroyed or disturbed by the construction process, the city zoning administrator may require the owner or contractor on said project to request the soil conservation district to prepare a soil conservation plan to protect the soil from erosion or sheet run-off for the duration of the construction project and/or over the long term occupancy of the site.

(b) *Projects affecting less than one acre.* The zoning administrator may require a soil conservation plan on projects which disturb less than one acre of soil, drainage patterns or vegetation cover if, in the judgment of the zoning administrator, significant soil erosion, vegetation destruction or drainage damage may occur during the construction process.

(c) *Contents of plan.* A soil conservation plan shall consist of specific written recommendations on how to protect the soil, vegetation and drainage patterns during the construction process. The zoning administrator may require construction fencing along the edges of the construction area.

(d) *Slopes of 13 to 18 percent.* Where construction of a structure is proposed on slopes of 13 percent to 18 percent, the zoning administrator may require the applicant to provide a grading and erosion control plan and may require a certificate of compliance.

(e) *Slopes of 18 to 25 percent.* Where construction of a structure is proposed on slopes of 18 percent to 25 percent, the zoning administrator shall require the applicant to provide a grading and erosion control plan and a certificate of compliance prior to issuance of a building permit.

(f) *Bond.* The city council may require the applicant to post a bond to ensure the orderly completion of the grading and erosion control plan by a specific date.
(Ord. No. 50, § 742, 12-7-1982)

Sec. 32-344. Mining.

All mining and related uses of land, including but not limited to the excavation, removal or storage of sand, gravel, rock, clay and other natural deposits, are subject to the adopted standards, codes, ordinances and regulations of the planning commission and/or city council related to such activities and all regulations in chapter 12, article V.
(Ord. No. 50, § 743, 12-7-1982)

Sec. 32-345. Agricultural operations.

(a) *Applicability.* All agricultural operations in existence upon the effective date of the ordinance from which this section is derived shall be a permitted use. However, all regulations contained herein and other city ordinances in effect shall apply to all changes of the agricultural operation which will cause all or part of the area to become more intensively used or more urban in character. Setback and other regulations shall apply to agricultural operations just as they do to residential developments. Any agricultural building exceeding $1,000.00 in value erected on a farm shall require a certificate of compliance and shall meet the provisions of this Code.

(b) *Right to farm--Intent of laws.* The city began, and continues to this day, as a city with a farming history. Its citizens prize and cherish the rural atmosphere that has been maintained. They also recognize that this rural atmosphere cannot be protected unless the family farm is also protected. Right-to-farm laws are designed to discourage persons from suing farmers on the basis that a farm operation, even when conducted according to generally accepted agricultural standards, is a nuisance. These laws help established farmers who use good management practices to prevail in private nuisance lawsuits. Right-to-farm laws also document the importance of farming to the state, or locality (such as the city), where they exist. They also help to put nonfarm residents on notice that generally accepted agricultural practices are reasonable activities to expect in designated areas. Finally, right-to-farm laws provide farm families, and others who prize the fanning atmosphere, with a psychological sense of security that farming is a valued and accepted activity in the city.

(c) *Same--Application within city.* For all of these reasons, all of the city is hereby designated a "right-to-farm" area. Farming operations are hereby afforded the following property rights in the city:

(1) Farmers shall have the right to farm without unreasonable restrictions, regulations, or harassment. Complaints against the operations of farms shall be considered to be unwarranted and frivolous as long as the farming activities are being conducted according to generally accepted agricultural standards. These farming activities shall include but not be limited to:

a. The right to operate equipment in the fields, on the roads, or on any farm or homestead property, at any time and on any day of the week.

b. Farming activities that generate noise and dust. This can be caused in a variety of ways including fieldwork, caring for livestock, harvest, or care and maintenance of the farm.

c. The generation of odor from livestock, manure, fertilizer, feed, and farm-related other sources.

(2) Farmers have a right to farm even if development is taking place around them. If the farm was in

operation before the complaining person moved to the area, the complaining person shall be deemed to have "come to the nuisance."

(3) All farming operations that lawfully exist in the city shall be protected by this section.

(d) *Agricultural operations.* Agricultural operations may occur on parcels of five or more contiguous acres in agricultural and residential districts. Agricultural operations may include the production of farm crops, such as vegetables, fruit trees, grain and other crops and their storage on the area, as well as for the raising thereon of farm poultry, domestic pets and domestic farm animals.

(e) *Accessory uses.* Agricultural operations may include necessary accessory uses for treating, storing or producing retail farm market products; provided however, that the operation of any such accessory uses shall be secondary to that of the primary agricultural activity.

(f) *Feedlots require permit.* Agricultural operations may not include commercial livestock pen feeding (feedlots) without first receiving a conditional use permit from the city council and a state pollution control agency feedlot permit.

(g) *Garbage prohibited as food.* Commercial feeding operations shall not include the feeding of garbage to swine or other animals.

(h) *Permit for farm operation required under certain conditions.* The city council may require any farm operation not located in an agricultural district to secure a conditional use permit to continue said operations in the event of the following:

(1) A nuisance on a farm is adjacent to or within 100 feet of any property line and may be detrimental to living conditions by emitting noise, odor, vibrations, hazards to safety and the like.

(2) The farm operations are so intensive as to constitute an industrial type use consisting of the compounding, processing and packaging of products for wholesale or retail trade and, further, that such operations may tend to become a permanent industrial-type operation. Excessive trucking operations, more than are generally associated with a family farm, shall be considered an intensive use.

(Ord. No. 50, § 744, 12-7-1982; Ord. No. 2000-88, §§ A, B, 5-20-2000)

Sec. 32-346. Access drives and access.

(a) *Proximity to lot lines.* Access drives may not be placed closer than five feet to any side or rear lot line. No access drive shall be closer than five feet to any single family residence, or no closer than five feet to any commercial building. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow. If the parcel with the access drive abuts a public road, the access must be onto the public road.

(b) *Permit required for access to county roads.* Access drives onto county roads shall require an access permit from the county engineer. This permit shall be acquired prior to the issuance of any building permits. The county engineer shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow. The county engineer may refer the request for an access drive permit onto a county road to the planning commission for its comment.

(c) *Review by engineer.* Access drives to principal structures which traverse wooded, steep or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The city engineer or building official shall review all access drives (driveways) for compliance with accepted city access drive standards.

(d) *Driveway/accessway standards.* The following table presents the standards for single-family detached and general business locations:

	Single-Family Detached	*General Business*
Slopes	10-foot vertical rise in 100 horizontal feet	8-foot vertical rise in 100 horizontal feet
Width	10-foot driveway base, vegetation cleared to 8 feet on each side of driveway centerline	10-foot driveway base or as approved by the city engineer
Pavement strength	Capable of supporting emergency fire or other heavy vehicles.	

(e) *Access for emergency vehicles.* All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from an existing dedicated public roadway.

(f) *Additional access.* In addition to the required direct physical access along the frontage of the lot or parcel to the approved existing public roadway, a lot or parcel may have private easement access drives to the lot over adjacent lots or parcels.

(g) *Shared access.* Shared access is permitted for two contiguous parcels. Shared access is a single access onto a public street, within the road right-of-way, for the use of more than one property owner to gain access to a private driveway. The shared access must be within road right-of-way and terminate outside the lot line of an individual parcel.

(h) *Shared access to contiguous properties.* Shared access may provide access to not more than two (2) contiguous properties. Owners of properties that propose shared access shall provide the City a copy of a developer's agreement or other agreement that identifies the owner's responsibilities for maintenance of the shared access.

(i) *Shared driveways.* Shared driveways are not permitted. Shared driveways are an access way, standing partly on one owner's land and partly on an adjacent owner's land, over which both owners hold a right-of-way. A shared driveway is generally jointly owned by the owners of the properties it gives access to.
(Ord. No. 50, § 745, 12-7-1982)

Sec. 32-347. Tennis courts.

(a) *Standards.* In all districts, the following standards shall apply:

(1) A certificate of compliance shall be required for all private tennis courts on residential lots.

(2) A conditional use permit shall be required for all public, semipublic and commercial tennis courts.

(3) An application for a certificate of compliance or a conditional use permit shall include a site plan showing:

a. The size, shape, pavement and subpavement materials;

b. The location of the court, the location of the house, garage, fencing, septic systems and any other structural improvements on the lot;

c. The location of structures on all adjacent lots;

d. A grading plan showing all revised drainage patterns and finished elevations at the four corners of the court;

e. Landscaping and turf protection around the court; and

f. Location of existing and proposed wiring and lighting facilities.

(b) *Location relative to lot lines and yards.* Tennis courts shall not be located closer than ten feet to any side or rear lot line. Tennis courts shall not be located within any required front yard.

(c) *Location relative to utilities and easements.* Tennis courts shall not be located over underground utility lines of any type, nor shall any court be placed within any private or public utility, walkway, drainage or other easement.

(d) *Practice walls.* Solid tennis court practice walls shall not exceed ten feet in height. A building permit shall be required for said walls. Said walls shall be setback a minimum of 30 feet from any lot line.

(e) *Fencing.* Chainlink fencing surrounding the tennis court may extend up to 12 feet in height above the tennis court surface elevation.
(Ord. No. 50, § 747, 12-7-1982)

Sec. 32-348. Vegetative cutting.

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

Clearcutting means removal of all live vegetation in excess of six inches in diameter at breast height on any area of 20,000 square feet or more in size.

Selective cutting means the removal of single scattered live trees or shrubs in excess of six inches in diameter at breast height.

(b) *Prohibited locations.* Clearcutting of vegetation shall not be permitted within any required yard of any lot or parcel within any zoning use district.

(c) *Conditional use permit required commercially.* Clearcutting for commercial tree production purposes shall require a conditional use permit in any district. (See section 32-245.)

(d) *Tree-cutting on slopes.* Selective tree cutting may occur on any lot provided any cutting on slopes of greater than 18 percent shall require a soil conservation district re-vegetation plan and a certificate of compliance prior to issuance of a building permit.
(Ord. No. 50, § 748, 12-7-1982)

Sec. 32-349. Solid waste landfill facilities.

(a) *Access.* All solid waste landfill facilities shall be located so that all forms of vehicular access to it are only from a paved, all-weather public road of at least nine tons per axle capacity.

(b) *Boundary distances from certain zones.* The boundaries of any solid waste landfill facility shall be at least 500 yards from any parcel of land located in a region zoned single-family residential R-1 or limited agricultural A-2 and at least 100 yards from the boundaries of the parcel of land on which the landfill facility is located.

(c) *Required distances from certain facilities.* No portion of any parcel of land on which any solid waste landfill facility is sited may be closer to the following, as indicated; provided that such protected facility is in existence at the time application has been made for city approval of the solid waste landfill facility:

(1) One thousand five hundred yards to any public or private school or hospital;

(2) Five hundred yards to any church, public library, public park or trail, or any other public facility; and

(3) One thousand yards to any water well which is used for human or animal consumption.

(d) *Surface water limitations.* No parcel of any land on which any solid waste landfill facility is sited may contain any permanent or seasonal standing or flowing surface water and no portion of the said parcel may be closer than 500 yards to any permanent or seasonal standing or flowing surface water provided that such standing or flowing water is in existence within ten years prior to the time application has been made for city approval of the solid waste landfill facility.

(e) *Compliance to requirements.* The approval, licensing, and operation of any solid waste landfill facility within the city shall meet all applicable requirements and provisions of ordinance.
(Ord. No. 58-A, § 2(749.04)--(749.08), 8-5-1986)

Sec. 32-350. Planned unit developments.

(a) A planned unit development (PUD), as defined in the Chapter 32, pertaining to zoning, is prohibited.

(b) Agricultural uses as defined and permitted in Chapter 32, are not prohibited by Section 32-350(a) of the City's Code of Ordinances.

Sec. 32-351. Wind energy conversions systems.

(a) *Purpose and intent.* The purpose is to establish regulations for wind energy conversion systems. A wind energy conversion system is defined as one (1) tower with rotors and motors with one conversion generator.

(b) *Permitted use.* The use of residential Wind Energy Conversion Systems (40 kilowatts or less) for the purpose of providing renewable energy for homes and businesses is a permitted use within the A-1 and A-2 zoning districts with the issuance of a certificate of compliance.

(c) *Performance standards.* The installation of WECS must comply with all rules and regulations of Federal, State, County, and local agencies and the following performance standards:

(1) One wind energy conversion system is permitted per parcel.

(2) For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

(3) The maximum height of a wind energy conversion system shall be based on the height of the Tower, and the Tower shall be a maximum of 35 feet. The Tower height shall be measured from the base of the tower placed on a natural topography to the center of the gearbox.

(4) Rotor blades or airfoils must maintain a minimum of 12 feet of clearance between the lowest point of the blade and the ground.

(5) Rotors shall not exceed 26 feet in diameter.

(6) The tower shall be set back a minimum of 1 ½ times the height to be measured to the maximum height of the rotor tip, or the required setbacks as defined in the underlying zoning district, whichever is greater.

(7) All efforts should be made to site the WECS behind the principal structure. If the location is proposed anywhere else on the property, the Applicant shall be required to provide explanation as to why the proposed location was chosen.

(8) The color of the structure shall be a non-reflective, non-obtrusive color – either gray or off-white.

(9) No lights, flashers, reflectors, or any other illuminated devices shall be affixed to the wind energy conversion system. The wind energy conversion system shall not be used for displaying any advertising.

(10) All State, County, and local noise standards must be met.

(11) Wind energy conversion systems shall not encroach on public drainage, utility, roadway or trail easements.

(12) Applicable electrical permits, building permit, and inspections must be obtained prior to installation of the wind energy conversion systems.

(13) The wind energy conversion system must be installed to meet the manufacturer's specifications.

(14) To prevent unauthorized climbing, wind energy conversion system towers must comply with one of the following provisions:

a. Tower climbing apparatus shall not be located within 12 feet of the ground.
b. A locked anti-climb device shall be installed on the tower.
c. A protective fence at least six fee it height.

(15) Each wind energy conversion system shall be equipped with both a manual and automatic breaking device capable of stopping the wind energy conversion system in high winds (40 MPH or greater).

(16) The WECS shall be grounded to protect against natural lightning strikes.

(17) The appearance of the turbine, tower and any other related components shall be maintained throughout the life of the wind energy system pursuant to industry standards.

(18) If the City's Zoning Administrator or Building Inspector determines that the wind energy conversion system is unsafe, the owner shall remove the system at their expense. Removal includes the entire structure, including foundations to below natural grade, and transmission equipment.

Sec. 32-352. Rural Event Facility.

(a) *Purpose and intent.* The purpose is to establish regulations and performance standards related to Rural Event Facilities that allow for reuse and adaption of historically important structures within the city, while ensuring protection of adjacent properties and rural residential neighborhoods. For example, the reuse of an historic barn on a site which can be protected and reused as a rural event facility will ensure such structure is retained as a part of the rural character of the community.

(b) *Permitted use.* The reuse and adaption of an accessory structure for purposes of a rural event facility, as previously defined, is a permitted use within the A-1 and A-2 zoning districts with the issuance of a Conditional Use Permit.

(c) *Performance standards.* The rural event facility must comply with all rules and regulations of Federal, State, County, and local agencies and the following performance standards:

(1) A rural event facility may only be located on a site where such facility is accessory to a principal residential use.

(2) Events shall be limited to a maximum of 300 persons.

(3) Adequate utilities, including sewage disposal, must be available on the site. The applicable portion of the building code shall determine the appropriate type of bathroom facilities required on a site, and any on-site sewage treatment facilities needed shall be installed under a permit issued by Washington County.

(4) The rural event facility shall have its primary frontage on a County or State road, and such road shall be used for the exclusive and only access to the facility.

(5) The rural event facility shall be 20 acres or greater, where lot size is defined consistently with Section 32-246 (c) 4 of this zoning ordinance.

(6) The rural event facility shall provide on-site parking sufficient to handle all guests, staff, vendor and owner vehicles. All parking standards shall be consistent with those stated within the City's Code of Ordinance.

(7) Sound amplification is permitted for ceremonies whether located within the rural event facility or on the grounds. All other sound amplification is permitted only within the facility's building, and must adhere to all local and County sound ordinances. Events shall not generate noise that unreasonable annoys, disturbs, or endangers the comfort or peace of any persons, or precludes their enjoyment of property or affects their property's value.

(8) The rural event site shall be located at least 100 feet from any side lot line, and additional screening may be required for any outdoor event areas. All potential event areas shall be designated on the site plan submitted for review.

(9) The rural event facility shall be architecturally designed to be consistent with the principal structure; with particular interest in re-use and adaption of historically significant structures within the City.

(10) The rural event facility must comply with all rules and regulations of Federal, State, County and Local agencies.

(11) The City may impose conditions related to landscaping, access, security, sanitary sewer, liability or other insurance requirements, and other conditions as necessary.

(Ord. No. 2014-31, 1-7-2014)

Sec. 32-353. Supper Clubs.

(a) *Purpose and intent.* The purpose is to establish regulations and performance standards related to Supper Clubs to ensure compatibility of land uses within the City, and to protect existing rural residential neighborhoods and uses from incompatible and more intense uses.

(b) *Permitted use.* The principal use of a property for a Supper Club is a permitted use within the A-1, A-2, and GB zoning districts with the issuance of a Conditional Use Permit.

(c) *Performance standards.* A Supper Club must comply with all rules and regulations of the City's ordinances, Federal, State, County, and local agencies and the following additional performance standards:

(1) Proposed Supper Clubs in the GB, A1 and A2 zoning districts must adhere to the following standards:

a. Adequate utilities, including sewage disposal, must be available on the site. The applicable portion of the building code shall determine the appropriate number of bathroom facilities required on a site, and any on-site sewage treatment facilities needed shall be installed under a permit issued by Washington County.

b. The Supper Club shall have its primary frontage on a County or State road, and such road shall be used for the exclusive and only access to the facility.

c. The Supper Club shall provide on-site parking sufficient to handle all patrons, deliveries, and employees. All standards for parking areas and sizing shall be consistent with those stated within the City's Code of Ordinance.

d. The Supper Club must comply with all rules and regulations of Federal, State, County and Local agencies.

e. The City may impose conditions related to landscaping, access, security, sanitary sewer, liability or other insurance requirements, and other conditions as necessary.

(2) Properties located within the A1 and A2 zoning districts must meet the following standards:

a. The Supper Club shall be 20 acres or greater, where lot size is defined consistently with Section 32-246 (c) 4 of this zoning ordinance.

b. The Supper Club shall be located at least 100 feet from any side lot line, and additional screening may be required as determined by the Council.

(Ord. No. 2014-32, 2-3-2014)

Sec. 32-354 Forestry Products and Processing (non-retail).

(a) *Purpose and intent.* The purpose is to establish regulations and performance standards related to small-scale Forestry Products and Processing non-retail operations in the City.

(b) *Permitted Use.* Forestry Products and Processing (non-retail) is a permitted use within the A1 and A2 zoning districts with the issuance of an Interim Use Permit.

(c) *Performance Standards*. The forestry products and processing (non-retail) operations must comply with all rules and regulations of Federal, State, County and local agencies and the following performance standards:

(1) The operation must be located on a site/lot with a minimum of 40-acres.

(2) The operation must have direct access to a paved state or county-owned road and must obtain all necessary driveway permits from the applicable agency.

(3) The operation, including structures, parking, storage area, and any operation related uses may not exceed 15,000 square feet in area.

(4) No chemicals may be used for the processing of the products on site.

(5) No manufacturing of products that require fasteners or assembly is permitted. Examples of such products include roof trusses.

(6) The operation must be setback a minimum of 200-feet from any adjacent property lines.

(7) The operation must be fully screened from any public right-of-way or adjacent residential use.

(8) No retail of public sales may be conducted from the site.

(9) All appropriate permits and/or permission from the applicable local, state or federal agency must be obtained regarding the wood products brought to the site. All species and wood products processed on site must comply with the applicable agency's rules and regulations.

(Ord. No. 2022-67, 9-6-2022)

Secs. 32-355--32-371. Reserved.

DIVISION 2. OFF-STREET PARKING

Sec. 32-372. General provisions.

(a) *Permanency of designated spaces.* Off-street parking spaces and loading spaces existing upon the effective date of the ordinance from which this division is derived shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar use.

(b) *Benches as basis for parking requirements.* In park areas, churches, and other places of public assembly, in which patrons or spectators occupy benches, pews or other similar seating facilities, each 22 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this division.

(c) *Parking space dimensions.* Each parking space shall not be less than ten feet wide and 20 feet in length exclusive of an adequately designed system of access drives. Parking lots that separate vehicles based on size may be designed with parking spaces less than or greater than ten feet wide and 20 feet in length, depending upon the size of vehicle, as long as adequate space is provided for easy and safe ingress and egress for the vehicle. Proposed reductions in or additions to the parking space size must be submitted in a dimensioned site plan, with size of vehicle to use parking spaces indicated, to the zoning administrator for review and approval. Signs specifying the vehicle size for use of the parking space may be required by the zoning administrator. Parking spaces for the handicapped shall not be less than 12 feet wide and 20 feet in length.

(d) *Limitations on use of residential parking facilities.* Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles and/or one truck not to exceed 12,000 pounds gross capacity. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business or manufacturing establishments.

(e) *Restrictions on use of parking areas.* Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for sale or for rent.

(f) *Limitation on size in residential districts.* In residential districts, no more than 25 percent of the required yard area shall be surfaced or utilized for driveway or vehicle storage space.
(Ord. No. 50, § 712.03, 12-7-1982)

Sec. 32-373. Surfacing and drainage.

Off-street parking areas shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area. Durable and dustless surface may include crushed rock and similar treatment for parking accessory to one unit residential structures; all other uses shall utilize asphalt, concrete or a reasonable substitute surface as approved by the city engineer. All surfacing must be completed prior to occupancy of the structure unless other arrangements have been made with the city.
(Ord. No. 50, § 712.01, 12-7-1982)

Sec. 32-374. Required spaces.

Off-street parking spaces (one space equals 300 square feet) shall be as follows for:

Facility	*Spaces required*
Church and other places of assembly.	One space for each three seats or for each five feet of pew length. Based upon maximum design capacity.
Office.	One space for each 200 square feet of gross floor space.
School, elementary and junior high.	Three spaces for each classroom.
School, high school through college.	One space for each four students based on design capacity plus three additional spaces for each classroom.
Hospital.	One space for each three hospital beds, plus one space for each three employees other than doctors, plus one space for each resident and regular staff doctor. Bassinets shall not be counted as beds.
Sanitarium, convalescent home, rest home, nursing home or institution.	One space for each six beds, for which accommodations are offered, plus one space for each two employees one maximum shift.
Motor fuel station.	Two spaces plus three spaces for each service stall.
Retail store.	One space for each 150 square feet of gross floor area.
Medical or dental clinic.	Six spaces per doctor or dentist.
Restaurants, cafes, bars, taverns or nightclubs.	One space for each 2 1/2 seats, based on capacity design.
Furniture store, wholesale, auto sales, repair shops.	Three spaces for each 1,000 square feet of gross floor area. Open sales lots shall provide two spaces for each 5,000 square feet of lot area, but not less than three spaces.
Warehouse, storage, handling of bulk goods.	One space for each two employees on maximum shift or one for each 2,000 square feet of gross floor area, whichever is the larger.
Uses not specifically noted.	As determined by the planning commission and city council.

(Ord. No. 50, § 712.06, 12-7-1982)

Sec. 32-375. Location.

All accessory off-street parking facilities required herein shall be located as follows:

(a) Spaces accessory to single-family dwellings shall be on the same lot as the principal use served.

(b) Spaces accessory to uses located in a business district shall be within 800 feet of a main entrance to the principal building served. Parking as required by the state building code for persons with disabilities shall be provided.

(c) There shall be no off-street parking space within ten feet of any street right-of-way.

(d) No off-street parking area shall be located closer than five feet from an adjacent lot zoned or used for residential purposes, except when adjoining an existing parking area on the adjacent lot.

(Ord. No. 50, § 712.02, 12-7-1982)

Sec. 32-376. Design and maintenance of off-street parking areas.

(a) *Design.* Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access widths shall be in accordance with the state highway department standards, but in no case shall they exceed 32 feet in width unless a conditional use permit has been obtained approving the larger width. Driveway access shall be so located as to cause the least interference with traffic movement.

(b) *Calculating space.* When the calculation of the number of off-street parking spaces required results in a fraction, such fraction shall require a full space.

(c) *Signs.* No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and such signs shall not be a part of the permitted advertising space.

(d) *Surfacing.* All of the area intended to be utilized for parking space and driveways shall be surfaced with a material to control dust and drainage. Parking areas for less than three vehicle spaces shall be exempt.

(e) *Lighting.* Any lighting used to illuminate an off-street parking area shall be so arranged so it is not directly visible from the adjoining property and in a downward vertical direction.

(f) *Curbing and landscaping.* All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than five feet from the side property line or a guard of normal bumper height no less than three feet from the side property line. When said area is for six spaces or more, a curb or screening not over four feet in height shall be erected along the front yard setback line and grass or planting shall occupy the space between the sidewalk and curb or screening.

(g) *Parking space for six or more cars.* When a required off-street parking space for six or more cars is located adjacent to a residential district, a fence or screen not less than four feet in height shall be erected along the residential district property line.

(h) *Maintenance of off-street parking space.* It shall be the joint responsibility of the operator and owner of the principal use or building to reasonably maintain the parking space, accessways, landscaping and required fences.

(i) *Access.* All off-street parking spaces shall have access from driveways and not directly from the public street.

(j) *Determination of areas.* The parking space per vehicle shall not be less than 300 square feet, or an area equal to the width of the parking space multiplied by the length of the parking space, plus 11 feet.

(k) *Fire access lanes.* Fire access lanes shall be provided as required by the building or fire code.

(Ord. No. 50, § 712.04, 12-7-1982)

Sec. 32-377. Truck parking in residential areas.

No motor vehicle over one ton capacity bearing a commercial license and no commercially licensed trailer shall be parked or stored in a residential district except when loading, unloading or rendering a service.
(Ord. No. 50, § 712.05, 12-7-1982)

Secs. 32-378--32-397. Reserved.

DIVISION 3. SIGNS[8]

Sec. 32-398. Definitions.

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

Sign means a display, illustration, structure or device which directs attention to an object, product, place, activity, person, institution, organization or business.

Advertising sign means a sign that directs attention to a business or profession or to a commodity, service or entertainment not sold or offered upon the premises where such sign is located or to which it is attached.

Business sign means a sign that directs attention to a business or profession or to the commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is attached.

Flashing sign means an illuminated sign which has a light source not constant in intensity or color at all times while such sign is in use.

Ground sign means a sign which is supported by one or more uprights, poles or braces in or upon the ground.

Identification sign means a sign which identifies the inhabitant of the dwelling, not to exceed two square feet in size.

Illuminated sign means a sign which is lighted with an artificial light source.

Motion sign means a sign that has revolving parts or signs which produce moving effects through the use of illumination.

Nameplate sign means a sign which states the name and/or address of the business or occupant of the site and is attached to said building or site.

Pedestal sign means a ground sign usually erected on one central shaft or post which is solidly affixed to the ground.

Real estate sign means a sign offering property (land and/or buildings) for sale, lease or rent.

Roof sign means a sign erected upon or above a roof or parapet of a building.

[8] **State Law References:** Restrictions on noncommercial signs, Minn. Stats. § 211B.045.

Temporary or seasonal sign means a sign placed on a lot or parcel of land for a period not to exceed 90 days out of any 12-month period. No sign permit fee is required.

Wall sign means a sign attached to or erected against the wall of a building with the exposed face of the sign a plane parallel to the plane of said wall.

Warning sign means a sign which warns the public of a danger or hazard in the immediate vicinity and is obviously not intended for advertising purposes.

Sign area means the entire area within a continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural elements lying outside of such sign and not forming an integral part or border of the sign. The maximum square footage of multi-faced signs shall not exceed two times the allowed square footage of a single-faced sign.

Sign structure means the supports, uprights, braces and framework of the sign.
(Ord. No. 50, § 727.03, 12-7-1982)

Sec. 32-399. Purpose.

The purpose of this division is to protect and retain the natural and scenic beauty of the roadsides throughout city. By the construction of public roads, the public has created views to which the public retains a right-of-way view and it is the intent of these standards to prevent the taking of that right.
(Ord. No. 50, § 727.01, 12-7-1982)

Sec. 32-400. Exemption for inside signs.

The regulations contained herein do not apply to signs painted, attached by adhesive or otherwise attached directly to or visible through windows and glass portions of doors.
(Ord. No. 50, § 727.19, 12-7-1982)

Sec. 32-401. Substitution clause.

The owner of any sign that is otherwise allowed by this division may substitute noncommercial speech in lieu of any other commercial speech or noncommercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this section is to prevent any inadvertent favoring of commercial speech over noncommercial speech or favoring of any particular noncommercial speech over any other noncommercial speech. This section prevails over any more specific provision to the contrary.

Sec. 32-402. Permit required, exemptions.

(a) No sign shall be erected, constructed, altered, rebuilt or relocated until a sign permit or conditional use permit for the sign has been issued according to this division.

(b) No permit will be required under this division for the following signs:

(1) All signs under ten square feet in area, except those that require a conditional use permit.

(2) Real estate sale signs under nine square feet in area.

(3) Political signs under nine square feet in area.

(4) Warning signs which do not exceed nine square feet in area.
(Ord. No. 50, §§ 727.02, 727.17, 12-7-1982)

Sec. 32-403. Prohibited signs.

(a) *Obstructions to egress.* No sign shall be allowed that prevents egress from any door, window or fire escape; that tends to accumulate debris as a fire hazard; or that is attached to a standpipe or fire escape or in any other way constitutes a hazard of health, safety or general welfare of the public.

(b) *Traffic hazards.* No sign may be erected that, by reason of position, shape, movement, color or any other characteristic, interferes with the proper functioning of a traffic sign or signal or otherwise constitutes a traffic hazard; nor shall signs be permitted which would otherwise interfere with traffic control.

(c) *Painting on walls, fences, trees, etc.* Signs shall not be painted directly on the outside wall of a building. Signs shall not be painted on a fence, tree, stone or other similar objects in any district.

(d) *Roof signs.* Roof signs are prohibited in all districts.
(Ord. No. 50, §§ 727.04, 727.05, 727.15, 727.16, 12-7-1982)

Sec. 32-404. Offensive signs.

No signs shall contain any indecent or offensive picture or written matter.
(Ord. No. 50, § 727.20, 12-7-1982)

Sec. 32-405. Required signs.

In all zoning districts one identification sign shall be required per building, except accessory structures and residential buildings which shall be required only to display the street address or property number.
(Ord. No. 50, § 727.21, 12-7-1982)

Sec. 32-406. Private traffic signs.

Private traffic circulation signs and traffic warning signs in alleys, parking lots or in other hazardous situations may be allowed on private property provided that such signs do not exceed three square feet and are used exclusively for traffic control purposes.
(Ord. No. 50, § 727.06, 12-7-1982)

Sec. 32-407. Private signs in right-of-way.

Private signs, other than public utility warning signs, are prohibited within the public right-of-way of any street or way or other public property.
(Ord. No. 50, § 727.07, 12-7-1982)

Sec. 32-408. Illuminated signs.

(a) *Prohibitions.* Illuminated signs may be permitted, but flashing signs, except ones giving time, date, temperature, weather or similar public service information, shall be prohibited. Signs giving off intermittent, rotating or directional light which may be confused with traffic, aviation or emergency signaling are prohibited.

(b) *Direction of light rays.* Illuminated signs shall be diffused or indirect so as not to direct rays of light into adjacent property or onto any public street or way.

(c) *Distance from rights-of-way, etc.* No illuminated signs or their support structures shall be located closer than 25 feet to a roadway surface or closer than ten feet to a road right-of-way line or property line, notwithstanding more restrictive portions of this section.
(Ord. No. 50, §§ 727.08, 727.11, 12-7-1982)

Sec. 32-409. Political signs.

Political signs are allowed in any district on private property with the consent of the owner of the property.

Such signs must be removed within ten days following the date of the election or elections to which they apply.
(Ord. No. 50, § 727.09, 12-7-1982)

Sec. 32-410. Displays.

In any district, animal displays, lights directed skyward, pieces of sculpture, fountains or other displays or features which do not clearly fall within the definition of a sign, but which direct attention to an object, product, place, activity, person, institution, organization or business, shall require a conditional use permit. Mobile signs on wheels or otherwise capable of being moved from place to place shall conform to the provisions of this division just as permanently affixed signs.
(Ord. No. 50, § 727.10, 12-7-1982)

Sec. 32-411. Real estate signs.

(a) *Placement.* Real estate sales signs may be placed in any yard providing such signs are not closer than ten feet to any property line.

(b) *Development projects.* Real estate development project sales signs may be erected for the purpose of selling or promoting a single-family residential project of ten or more dwelling units, provided:

(1) Such signs shall not exceed 100 square feet in area.

(2) Only one such sign shall be erected on each road frontage with a maximum of three such signs per project.

(3) Such signs shall be removed when the project is 80 percent completed, sold or leased.

(4) Such signs shall not be located closer than 100 feet to any existing residence.

(5) Such signs over 32 square feet shall only be permitted by a sign permit.

(Ord. No. 50, §§ 727.12, 727.13, 12-7-1982)

Sec. 32-412. Construction signs.

Construction signs not exceeding 32 square feet in area shall be allowed in all zoning districts during construction. Such signs shall be removed when the project is substantially completed.
(Ord. No. 50, § 727.14, 12-7-1982)

Sec. 32-413. Electrical signs.

All signs and displays using electric power shall have a cutoff switch on the outside of the sign and on the outside of the building or structure to which the sign is attached. No electrically illuminated signs shall be permitted in a residential or agricultural district.
(Ord. No. 50, § 727.18, 12-7-1982)

Sec. 32-414. Multi-faced signs.

Multi-faced signs shall not exceed two times the allowed square footage of a single-faced sign.
(Ord. No. 50, § 727.22, 12-7-1982)

Sec. 32-415. Restrictions at certain locations.

Except for more restrictive provisions of this division, no sign that exceeds 100 square feet in area shall be erected or maintained which would:

(1) Prevent any traveler on any street from obtaining a clear view of approaching vehicles on the same street for a distance of 500 feet.

(2) Be closer than 1,350 feet to a national, state or local park, historic site, picnic or rest area, church or school.

(3) Be closer than 100 feet to residential structures.

(4) Partly or totally obstruct the view of a lake, river, rocks, wooded area, stream or other point of natural and scenic beauty.

(Ord. No. 50, § 727.23, 12-7-1982)

Sec. 32-416. Conditional use permit.

Where a use is permitted in a zoning district by conditional use permit, the sign for that use shall require a conditional use permit unless the sign is otherwise provided for in this division.
(Ord. No. 50, § 727.24, 12-7-1982)

Sec. 32-417. Restrictions in agricultural districts.

(a) *Types of signs allowed.* No signs shall be permitted in an agricultural district except the following enumerated signs, if authorized by a sign permit or other permit as provided in this division: nameplates, real estate sales, ground, political, temporary, wall, identification and business signs.

(b) *Maximum surfaces allowed.* No sign shall be so constructed as to have more than two surfaces.

(c) *Number of each type of sign allowed per lot frontage.* One of each of the permitted type of signs, except temporary signs where two will be permitted and political signs where one for each candidate will be permitted.

(d) *Size restrictions.* Not more than a total of 32 square feet with an eight-foot maximum for any dimension, except as otherwise restricted in this section. Total square feet of permitted signs per lot or parcel shall not exceed 100 square feet.

(e) *Height restrictions.* The top of the display shall not exceed ten feet above grade.

(f) *Setback.* Any sign over two square feet shall be setback at least ten feet from any lot line.
(Ord. No. 50, § 727.25, 12-7-1982)

Sec. 32-418. Permitted signs--Residential districts.

(a) *Types of signs allowed.* Nameplate, real estate sales, political, ground, temporary, wall and identification are allowed in residential districts.

(b) *Maximum surfaces allowed.* No sign shall be so constructed as to have more than two surfaces.

(c) *Number of each type of sign allowed per lot frontage.* One of each of the permitted type signs, except temporary signs where two will be permitted and political signs where one for each candidate will be permitted. No more than 32 square feet of total display area will be permitted at any one time in developed areas.

(d) *Size restrictions.* Not more than a total of 16 square feet with a four foot maximum for any dimension except as otherwise restricted in this section. Total square feet of all signs shall not exceed 32 square feet per lot.

(e) *Height restrictions.* The top of the display shall not exceed eight feet above grade.

(f) *Setback.* Any sign over 1 1/2 square feet shall be set back at least ten feet from any lot line.

(Ord. No. 50, § 727.26, 12-7-1982)

Sec. 32-419. Same--Commercial districts.

(a) *Types of signs allowed.* Business, nameplate, identification, illuminated, ground, pedestal, motion, political, real estate sales, temporary and wall signs are allowed in commercial districts. Advertising signs are allowed by conditional use permit only.

(b) *Number of each type of sign allowed per lot frontage.* One advertising sign on any lot having a frontage of 150 feet or more, one real estate sales sign, two temporary signs, one nameplate sign, one political sign for each candidate and one business sign will be permitted.

(c) *Size restrictions.*

(1) Except as provided herein, the total square footage of sign area for each lot shall not exceed two square feet of sign area for each lineal foot of lot frontage, except where a location is a corner lot the amount may be increased by one square foot of sign area per front foot of public right-of-way along a side lot line.

(2) No sign shall exceed 200 square feet in area.

(3) Each real estate sales sign, temporary sign and political sign shall not exceed 35 square feet in area.

(4) Each nameplate sign shall not exceed 100 square feet in area.

(d) *Height restrictions.* The top of the display shall not exceed 35 feet above the average grade.

(e) *Setback.* Any sign over six square feet shall be set back at least ten feet from any lot line. In no case shall any part of a sign be closer than two feet to a vertical line drawn at the property line. All signs over 100 square feet shall be setback at least 50 feet from any residential or agricultural district.
(Ord. No. 50, § 727.27, 12-7-1982)

Sec. 32-420. Permitted signs for uses requiring a conditional use permit.

(a) Type, number, size, height, and setback shall be as specifically authorized by terms of the issued permit.

(b) To the extent feasible and practicable, signs shall be regulated in a manner similar to that in the use district most appropriate to the principal use involved.
(Ord. No. 50, § 727.28, 12-7-1982)

Sec. 32-421. Obsolete signs.

Any sign for which no permit has been issued 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 30 days after written notice from the zoning administrator.
(Ord. No. 50, § 727.29, 12-7-1982)

Sec. 32-422. 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 or structurally improved by the owner, agent or person having beneficial use of the building, structure or land upon which the sign is located within ten days after written notice from the city council.
(Ord. No. 50, § 727.30, 12-7-1982)

Secs. 32-423--32-442. Reserved.

DIVISION 4. ANTENNA REGULATIONS

Sec. 32-443. Definitions.

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

Amateur radio antenna means any equipment or device used to transmit, receive or transmit/receive electromagnetic signals for amateur radio service communications as defined in 47 CFR 97.3(4), and as used in 47 CFR 97.15(a).

Antenna means any device which, by use of any means, is designed to transmit or receive any electromagnetic, microwave, radio, television, or other frequency energy waves, of any type, for any purpose.

Antenna support structure means any building, pole, telescoping mast, tower, tripod, or any other structure which supports an antenna.

Height means height above grade at a given location.

Registered engineer means an engineer that is registered in accordance with the laws of the state.

Satellite dish means any device incorporating a reflective surface that is solid, open mesh, or bar-configured that is shallow, dish-, cone-, horn-, or cornucopia-shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROS, and satellite microwave antennas.

Structure, public, means an edifice or building of any kind, or any piece of work artificially built up or comprised of parts joined together in some definite manner which is owned, or rented and operated by a federal, state, or local government agency.
(Ord. No. 1997-75, § 2, 4-1-1997)

Sec. 32-444. Purpose.

In order to accommodate the communication needs of residents and businesses (while protecting the public health, safety, and general welfare of the community), the council finds that these regulations are necessary in order to:

(1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;

(2) Minimize adverse visual effects of towers through artful design and siting standards;

(3) Avoid potential damage to adjacent properties from tower failure, falling ice, high winds, adverse weather and other safety hazards through location, size, heights, development standards and setback requirements;

(4) Maximize the use of existing and approved towers and buildings to accommodate multiple antennas in order to reduce the number of towers needed to serve the community;

(5) Protect the inhabitants of the city from possible adverse health effects associated with exposure to levels of NIER (nonionizing electromagnetic radiation) in excess of recognized national standards;

(6) Preserve the quality of living in residential areas which are in close proximity to radio and

television broadcast facilities;

(7) Ensure that a competitive and broad range of telecommunications services and high quality telecommunications infrastructure are provided to serve the community, as well as serve an important and effective part of the city's emergency response network; and

(8) Place telecommunication facilities in suitable locations, with residential locations being a last resort.

(Ord. No. 1997-75, § 1, 4-1-1997)

Sec. 32-445. Exemptions and modifications.

An exemption or modification to any requirement of this division shall be heard by the city council. An exemption or modification shall be granted only if it can be shown by the presentation of appropriate engineering data that personal wireless services cannot be provided to a specific area without the granting of an exemption or modification.

(Ord. No. 1997-75, § 10, 4-1-1997)

Sec. 32-446. Permit requirements.

(a) *Conditional use permits required; exceptions.* Except as indicated below, conditional use permits are required before any new antenna support structure and its antenna are installed or constructed. Applications for conditional use permits shall be made on forms available from the city and shall be processed in accordance with Article II. Division 5 of this Chapter.

(b) *Administrative permits.*

(1) An administrative permit may be issued by the Zoning Administrator, or assigns, to any applicant that has complied with all of the terms, requirements, regulations and conditions of this ordinance for the following:

a. Antennas to be constructed on a public structure.

b. Satellite dish antennas larger than two meters but smaller than six meters in size.

c. Antennas or antenna support structures erected temporarily for test purposes or for emergency communications. The term "temporary" means that the antenna or support structure is removed within 72 hours following the termination of testing or emergency communication needs.

(2) Any person aggrieved by the Zoning Administrator’s decision shall be entitled to appeal that decision to the city council.

(c) *No permits required.* No permits are required for the following:

(1) Household television antennas extending less than 15 feet above the highest point of a residential structure.

(2) Satellite dish receiving antennas two meters or less in diameter.

(3) Adjustment, repair or replacement of the elements of an antenna, provided that such work does not constitute a clear safety hazard.

(4) Antennas and antenna support structures used by the city for city purposes.

(5) Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components or previously approved facilities which do not create a significant change in visual impact or an increase in radio frequency emission levels, and provided that such work does not constitute a clear safety hazard.

(6) Two-way communication transmitters used on a temporary basis by 9-1-1 emergency services,

including fire, police and emergency aid or ambulance service.

(7) Radio transceivers normally hand-held or installed in moving vehicles, such as automobiles, watercraft, or aircraft. This provision includes cellular phones.

(Ord. No. 1997-75, § 5, 4-1-1997; Ord. No. 2021-65, 11-1-2021)

Sec. 32-447. Letter of intent.

A letter of intent committing the tower owner, property owner, and their successors to allow the shared use of the tower shall be submitted to the city at the time of application. Pursuant to the terms of the letter of intent, the tower owner, property owner, and his successors shall, in good faith, lease space on an antenna support structure to other users. In the case of a dispute regarding the lease of space to other users, the existing permit holder and the current applicant shall submit their dispute to binding arbitration. Said binding arbitration shall be completed within 60 days of notification that a dispute exists. The costs of arbitration shall be borne equally by the applicant and the permit holder. Failure to abide by the arbitrator's decision shall result in termination of the permit for the tower and said tower shall be removed within 60 days. All permits shall be subject to review and termination if it is determined by the city that a permitted tower owner, property owner or successor is not in good faith offering antenna space to other users.
(Ord. No. 1997-75, § 11, 4-1-1997)

Sec. 32-448. Fees and escrows.

(a) Any person applying for any permit or site plan under this chapter shall pay to the city at the time of application all fees and escrows which are required.

(b) The fees and escrows shall be set by ordinance on the official Fee Schedule, which shall be adopted annually.

(c) All applicants must reimburse the city for any costs which the city incurs because of the presence of the applicant's antennas or towers, including costs for review of the application materials and review of required periodic submissions.
(Ord. No. 1997-75, § 8, 4-1-1997)

Sec. 32-449. Periodic submissions.

(a) *Submissions at time of initial application.* In addition to the information required elsewhere in this ordinance, applications for conditional use permits or administrative permits shall include the following information, which shall be supplied by a qualified licensed and registered professional engineer:

(1) Description of the tower height and design, including a cross-section and elevation and site elevation.

(2) Documentation of the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas.

(3) Description of the tower's capacity, including the number and type of antennas that it can accommodate.

(4) Documentation of what steps the applicant will take to avoid interference with established public safety telecommunications.

(5) Inclusion of the engineer's stamp and registration number.

(6) Submission of a picture drawing looking down at the energy lobe patterns (or projected patterns) of the site.

(7) A letter of intent as required by section 32-447.

(8) A written statement from the city fire department stating that the design of the facility, including

its access roads, are in compliance with applicable fire codes and reasonable fire department regulations for access to the site in case of an emergency.

(9) The city, at its reasonable discretion, may require visual impact demonstrations including mock-ups and/or photo montages to be submitted by the applicant to provide a more accurate visual depiction of the applicant's proposal.

(10) Applications shall accurately describe and depict the actual antenna support structure/ antennas that the applicant wishes to have reviewed. Applications may be rejected by the city if the applications contain disclaimers which state or imply that the actual antenna support structure and/or antennas may not be constructed as is represented within the application materials.

(11) Each initial application must also include the information required under subsection (c) of this section, regarding five-year submissions.

(12) All maps submitted must clearly delineate the city boundaries and all state and county highways within the city.

(13) Every application must include a map that identifies all properties and their lot lines within a 1,000-foot radius of the proposed tower site. The map must be places on an aerial that clearly shows principal and accessory structures within a 1,000-foot radius and the location of the proposed tower which must be clearly marked.

(b) *Yearly submission of proof of insurance and compliance of operations.* No later than January 10 of each year, each holder of a conditional use permit or administrative permit issued under this article shall submit to the city clerk a photocopy of a certificate of insurance showing that the tower and/or antenna is insured for that calendar year and shall also submit to the city clerk a copy of a report showing that the tower and antennas are being operated in compliance with all federal and/or state regulations.

(c) *Report required every five years.* Every five years and not later than January 10 on the year of submission, each holder of a conditional use permit or administrative permit under the terms of this article shall provide the following information to the city:

(1) A written description of the type of technology each company/carrier will provide to its customers over the next five years (i.e. cellular, PCS, ESMR).

(2) A description of the radio frequencies to be used for each technology.

(3) A description of the type of consumer services (voice, video, data transmission) and consumer products (mobile phones, laptop PCs, modems) to be offered.

(4) A listing of all existing, existing to be upgraded or replaced, and proposed communication sites within the city and within five miles of the city for these services.

(5) An electronic, to-scale copy of a map of the city showing the five-year plan for communication sites, or if individual properties are not known, the geographic service areas of the communication sites. This shall be submitted in PDF, or similar, and must be to-scale with the scale, and existing tower location clearly identified.

(6) A written list of communication sites (in use or projected to be used within the next five years) in an electronic form, PDF or similar shall be submitted. The list should include at least the following information:

a. The communication sites by address and then by county PID number;

b. The zoning districts;

c. The types of building (i.e., commercial, residential, etc.) and the height of the buildings;

d. The name of the carrier, its business address, and a local contact person (with phone number);

e. The number of antenna and base transceiver stations (BTS) per site by your carrier and if

there are other installations and the number by each carrier;

f. The height from grade to the top of the antenna installations; location and type of antenna and location of BTS;

g. The radio frequency range in megahertz and list the wattage output of the equipment and effective radiated power;

h. A current and up-to-date information submission including the name, address and telephone number (one local and one national) to be contacted in case of an emergency occurring at the site of the antenna support structure.

(Ord. No. 1997-75, § 9, 4-1-1997; Ord. No. 1998-81, § 1, 2-16-1998; Ord. No. 2021-65, 11-1-2021)

Sec. 32-450. Preferences for antenna and support structure locations.

When selecting sites for the construction of new antenna support structures and/or for the placement of new antennas, the following preferences shall be followed:

(1) *Preferred land use areas.*

a. Property in the general business district.

b. Public land or structures.

c. Athletic complexes, public parks, and golf courses.

d. Parking lots, if the monopole replicates, incorporates or substantially blends with the overall lighting standards of the lot.

e. Within the easement of a high power overhead transmission line, or within 50 feet of the transmission line easement on the same side of a road. The term "high power" means 69,000 volts or more.

(2) *Preferred support structures.*

a. Water towers.

b. Co-location on existing antenna support structures.

c. Church steeples.

d. Sides of buildings over two stories high.

e. Existing power, lighting or phone poles.

(3) *Prohibitions.*

a. No new support structures shall be approved at any location other than a preferred land use area, unless the applicant shows to the reasonable satisfaction of the city that such locations are not feasible from an engineering standpoint.

b. No new support structures shall be approved for construction, unless the applicant shows to the reasonable satisfaction of the city that a preferred support structure is not feasibly available for use from an engineering standpoint.

(Ord. No. 1997-75, § 3, 4-1-1997; Ord. No. 1998-81, § 1, 2-16-1998)

Sec. 32-451. Location, use, lot size and dimensional requirements.

(a) *Primary and accessory uses.* The use of antennas/antenna support structures may be either a principal or accessory use of land. If the use is considered a principal use, then the minimum vacant lot size requirements of subsection (b) of this section apply. An antenna/support structure may also be considered an accessory use on a parcel of land on which a principal use already exists, thus a smaller parcel of land may be used provided all other standards contained in this article are met.

(b) *Maximum antenna support structure height and vacant lot size requirements.*

Zoning District	*Maximum Height (in feet)*	*Minimum Vacant Lot Size (acres)*
A-1	195	10
A-2	195	10
R-1	165	10
Conservancy	195	10
General business	195	2.5

(c) *Exceptions to maximum height restrictions.* The maximum height restrictions in subsection (a) of this section shall not apply to public structures used as an antenna support structure. Additionally, no antenna may extend more than 15 feet above its antenna support structure.

(d) *Setback requirements.* In all districts, all antenna support structures shall be set back from the nearest property line at least a distance equal to the height of the antenna support structure. This provision does not apply to existing antenna support structures unless said structure is enlarged or structurally modified.

(e) *Distance from residences.*

(1) Antenna support structures of up to 150 feet in height shall not be constructed within 300 feet of any residential structure.

(2) Antenna support structures of over 150 feet in height shall not be constructed within 500 feet of any residential structure.

(3) Notwithstanding subsections (e)(1) and (2) of this section, if an antenna support structure is located on the same parcel of land as a residential structure, the setback to that residential structure may be equal to the height of the antenna support structure plus 15 feet.

(f) *Multiple towers.* Generally, only one antenna support structure is permitted on a parcel of land. If, in the opinion of the city, a particular parcel is well suited for more than one support structure, then up to three antenna support structures may be located on a parcel of land if each antenna support structure is located within 100 feet of another antenna support structure, and if all other standards contained in this article are met. Additionally, a second or third antenna support structure will not be allowed on a parcel of land unless the existing antenna support structures on that parcel already hold the maximum number of co-located antennas possible or unless the existing antenna support structures are not feasibly available for use from an engineering standpoint for additional co-located antenna facilities.

(g) *Location limitations.* The location of any antenna support structure on a particular parcel of land shall be located so as to have the least impact possible on adjoining properties, and so that any negative impacts of the antenna support structure shall be confined as much as possible to the property on which the antenna support structure is located.
(Ord. No. 1997-75, § 4, 4-1-1997)

Sec. 32-452. Antenna regulations in all districts.

(a) *Standards.* The following standards shall apply to all antennas and antenna support structures:

(1) All obsolete and unused antennas and antenna support structures shall be removed within 90 days of cessation of operation at the site, unless an exemption is granted by the city. After the facilities are removed, the site shall be restored to its original or an improved condition. Failure to comply with this provision will result in the city completing the removal and site restoration, and the city's costs shall be assessed against the property and collected as a real estate tax.

(2) All antenna shall be constructed in compliance with city building and electrical codes.

(3) Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications. The plans shall be approved and certified by a registered professional engineer at the owner's expense.

(4) When applicable, written authorization for antenna erection shall be provided by the property owner.

(5) No advertising message shall be affixed to the antenna structure.

(6) The height of the antenna shall be the minimum necessary to function satisfactorily, as verified by a registered professional engineer.

(7) Antennas shall not be artificially illuminated and must not display strobe lights. When incorporated into the approved design, the tower may support light fixtures used to illuminate ball fields, parking lots, or other similar areas.

(8) When applicable, proposals to erect new antenna shall be accompanied by any required federal, state, or local agency licenses.

(9) No new antenna support structures shall be constructed if it is feasible to locate the proposed new antenna on existing support structures. Feasibility shall be determined according to generally accepted engineering principles. If a new antenna support structure is to be constructed, it shall be designed structurally and electrically to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the antenna support structure is 100 feet in height or more. Any antenna support structure must also be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at different heights. Other users shall include, but not be limited to, other cellular communication companies, personal communication systems companies, local police, fire and ambulance companies.

(10) Antenna support structures shall be constructed and finished to reduce visual impact and to meet all applicable FAA requirements.

(11) The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams or other means. The design should utilize a monopole design. The city may grant variances to this requirement in cases where structural, RF design considerations, and/or the number of tenants required by the city prevent the feasible use of a monopole. Permanent platforms or structures, exclusive of antennas, are prohibited.

(12) The base of any tower shall occupy no more than 500 square feet and the top of the tower shall be no larger than the base.

(13) Antennas and antenna support structures must be designed to blend into the surrounding environment through use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities. All locations should provide the maximum amount of screening from off-site views as is feasible. Existing on-site vegetation shall be preserved to the maximum extent practicable.

(14) The base of all antenna support structures shall be landscaped according to a plan approved by the city engineer. Buildings which are constructed or used in conjunction with the antenna support structure shall be designed to be architecturally compatible with other existing structures on the site.

(15) Antennas shall be subject to state and federal regulations pertaining to nonionizing radiation and other health hazards related to such facilities. If new, more restrictive standards are adopted, antennas shall be brought into compliance with the new standards by the owner and operator. The cost of verification of compliance shall be borne by the owner and operator of the antenna.

(16) Except as approved by the city as to public utilities, no part of any antenna or support structure, nor any lines, cables, equipment, wires, or braces shall at any time extend across or over any part of any right-of-way, public street, highway, sidewalk, or property line.

(17) All metal towers and all necessary components shall be constructed of or treated with corrosion

resistant material.

(18) All antennas and support structures shall be adequately insured for injury and property damage.

(19) All new antenna support structures shall be constructed to provide space for the installation of a city emergency/fire siren in such a fashion that it will not interfere with any antennas. Said space shall be available for said use by the city at no cost to the city.

(20) No temporary mobile communication sites are permitted except in the case of equipment failure, equipment testing, or in the case of an emergency situation as authorized by the police. Use of temporary mobile communication sites for testing purposes shall be limited to 24 hours; use of temporary mobile communication sites for equipment failure, or in the case of emergency situations, shall be limited to a term of 30 days. These limits can be extended by the city council.

(21) All equipment and construction regulated by this division shall comply with recognized applicable standards or regulations, such as, but not limited to, those standards and regulations established by the following (or their successors):

American National Standards Institute (ANSI)

Electronic Industries Association (EIA)

Federal Communications Commission (FCC)

Federal Aviation Administration (FAA)

Institute of Electrical and Electronic Engineers (IEEE)

State Building Code (SBC) and other state standards.

National Electrical Code (NEC)

National Fire Protection Association (NFPA)

Occupational Safety and Health Administration (OSHA)

(22) All applications under this division and all approved uses must at all times also comply with all other applicable city ordinances.

(b) *Structures requiring permits.* The following regulations shall apply to all antennas and antenna support structures for which a conditional use permit, administrative permit or site plan is required under this article:

(1) The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis prepared by a registered professional engineer that the location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs and to provide adequate coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district. Said analysis shall also demonstrate to the reasonable satisfaction of the city that the proposed use will not interfere with the radio, television, telephone, computer, and other similar services enjoyed by the properties in the area.

(2) Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping.

(3) Unless the antenna is mounted on an existing structure, at the discretion of the city, a security fence not greater than eight feet in height with a maximum opacity of 50 percent shall be provided around the support structure.

(4) All antenna support structures shall be reasonably protected against climbing.

(5) At least annually, and at each time a new user is added to an antenna support structure, the owner or operator shall provide to the city a report from a registered engineer that the antenna comply with all applicable regulations regarding emission of radiation and electromagnetic waves.

(6) The base of all antenna support structures shall be posted with signs stating "Keep Off" on all

sides. Additionally, all telecommunications facilities shall be clearly identified as to location and operator so as to facilitate emergency response. Specifically, an address sign shall be installed in conformance with fire department requirements at the entrance of the public way to provide direction along the access road to the facility itself. Additionally, a permanent, weatherproof, approximately 16 inch by 32 inch facility identification sign shall be placed on the gate in the fence around the equipment building, or if there is no fence, next to the door to the equipment shed itself. Said sign shall identify the facility operator, provide his address, and specify a 24-hour telephone number at which he can be reached.

(Ord. No. 1997-75, § 6, 4-1-1997; Ord. No. 1998-81, § 1, 2-16-1998)

Sec. 32-453. Amateur radio antennas and towers.

(a) *Exemptions.* Antennas and antenna support structures for federally licensed amateur radio operators are hereby exempted from the following provisions of this division:

(1) Section 32-450(1).

(2) Section 32-450(3).

(3) Section 32-451(a).

(4) Section 32-451(a).

(5) Section 32-446.

(6) Sections 32-452(a)(3), (a)(6), (a)(9), (a)(11) and (a)(19).

(7) Sections 32-452(b)(1), (b)(3), (b)(5) and (b)(6).

(b) *Site plan.* No amateur antenna support structures shall be constructed unless site plan approval has been given by the city engineer. Any person aggrieved by the city engineer's decision shall be entitled to appeal that decision to the city council.

(c) *Support structure construction.* Amateur radio support structures (towers) must be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.
(Ord. No. 1997-75, § 7, 4-1-1997)

Sec. 32-454. Noise and traffic.

All telecommunications facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused the residents of nearby homes and the users of nearby recreational areas such as public parks and trails. To that end, all of the following measures shall be implemented:

(1) Outdoor noise producing construction activities shall take place only on weekdays (Monday through Friday) between the hours of 7:30 a.m. and sunset, unless allowed at other times by the city.

(2) Back-up generators shall be operated only during power outages and for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 7:30 a.m. and sunset.

(3) Traffic shall at all times be kept to an absolute minimum, but in no case more than one round trip per day on an average annualized basis once construction is complete.

(Ord. No. 1997-75, § 12, 4-1-1997)

Division 5. Solar Energy Systems

Sec. 32-455. Definitions.

Community Solar Energy System means a ground-mounted solar energy production facility that generates up to 1 MWac of electricity and that supplies multiple off-site community members of businesses under the provisions of Minnesota statutes 216B.1641 or successor statute.

Residential Solar Energy Systems – Building Mounted means a solar energy system that is affixed to a principal or accessory structure.

Residential Solar Energy Systems – Ground-mounted means a freestanding solar system mounted directly to the ground using a rack or pole rather than being mounted on a building.

Solar Energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System means a device or a structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for heating or cooling, electricity generation, or water heating.

Solar Equipment means a device, structure or a part of a device or structure for which the primary purpose is to capture sunlight and transform it into thermal, mechanical, chemical or electrical energy.

Sec. 32-456. Purpose.

The purpose of this division is to establish standards and procedures to allow property owners the reasonable capture and use of sunlight, while ensuring protection of adjacent properties and rural residential neighborhoods from potential adverse impacts of such installations.

Sec 32-457. Residential Solar Energy Systems.

(a) *Permitted Use.* Residential Solar Energy Systems, building mounted or ground mounted, are a permitted use or permitted use upon issuance of a Certificate of Compliance as shown on the Table os Uses contained in this ordinance.
(b) *Building Mounted – Solar equipment* if affixed to a structure shall be permitted provided the following standards are met:
    (1) The equipment or device must be affixed to a structure, principal or accessory, and must meet all setback requirements for principal or accessory structures in the zoning district where the device is to be located.
    (2) The equipment or device may not extend beyond the height of the building by more than five (5) feet, and may not exceed the maximum building height as permitted within the zoning district.
    (3) The equipment or device shall cover no more than 80 percent of the roof to which it is affixed.
    (4) The equipment or device must be designed and constructed in compliance with all applicable building and electrical codes.
    (5) The equipment or device must comply with all state and federal regulations regarding co-generation of energy.
    (6) All solar arrays or panels shall be installed or positioned so as not to cause any glare or reflective sunlight onto neighboring properties or structures, or obstruct views of adjacent property owners.
    (7) Solar equipment which is mounted to a roof that is not flat, and which is visible from the nearest right-of-way, shall not have a finished pitch more than five (5) percent steeper than the roof on which it is affixed.
    (8) The zoning administrator may require compliance with any other conditions, restrictions or limitations deemed reasonably necessary to protect the residential character of the neighborhood, if applicable.
(c) *Ground Mounted – solar equipment* not affixed to a structure shall be permitted after issuance of a certificate of compliance provided the following standards are met:

(1) Solar energy systems shall only be allowed as an accessory use on a parcel with an existing principal structure.
(2) Solar energy systems shall be set back a minimum of 100 feet from a property line with an adjacent residential home, and shall be sited to meet all other applicable structural setback standards within the zoning district for the remaining lot lines.
(3) The ground equipment shall be constructed outside of all wetland and shoreland setbacks as adopted within the City's ordinances.
(4) The footprint occupied by a solar energy system shall not exceed 1,000 square feet.
(5) The equipment or device may not exceed a height of 15 feet.
(6) The zoning administrator may require landscaping or other means of screening to limit visual impacts of the Solar Energy System.
(7) The equipment or device must be designed and constructed in compliance with all applicable building and electrical codes.
(8) The equipment or device must comply with all state and federal regulations regarding co-generation of energy.
(9) All solar arrays or panels shall be installed or positioned to not cause any glare or reflective sunlight onto neighboring properties, structures, or obstruct adjacent views.
(10) The city may require compliance with any other conditions, restrictions or limitations deemed reasonably necessary to protect the public health, safety, and welfare and to promote harmony with neighboring uses.

(Ord. No. 2017-53, 12-5-2017)

AMENDMENT HISTORY OF THIS CHAPTER SINCE CODIFICATION

Amended October 6, 2009 (Ordinance 2009-13). *Added subsections (g), (h) and (i) to 32-346 Access drives and access to address shared access.*

Amended October 6, 2009 (Ordinance 2009-14). *Added definition to Section 32-1 Definitions for Double Frontage Lot.*

Amended October 6, 2009 (Ordinance 2009-15). *Added section 32-350 Planned Unit Developments.*

Amended December 1, 2009 (Ordinance 2009-16). *Added definition to Section 32-1 Definitions for Arterials and amended Section 32-246 to include setbacks from arterials and roadways.*

Amended March 10, 2010 (Ordinance 2009-18). *Added definition to Section 32-1 for Grazable Acres and Homesite. Amended Section 32-337 (g) regarding definition of Grazable acres.*

Amended August 3, 2010 (Ordinance 2010-23). *Amended Section 32-330 Environmental Nuisance to include noise standards.*

Amended October 4, 2010 (Ordinance 2009-17). *Added Section 32-351 Wind Energy Conversion Systems.*

Amended May 1, 2012 (Ordinance 2012-27). *Amended Section 32-249 to add government emergency management systems to height restrictions.*

Amended July 1, 2014 (Ordinance 2014-34). *Amended Section 32-337 (f) and (g) to address grazable acres and domestic farm animals.*

Amended January 7, 2014 (Ordinance 2014-31). *Added Section 32-352 Rural Event Facilities; added Rural Event Facility to Section 32-245 Table of Uses; and added definition of Rural Event Facility to Section 32-1 Definitions.*

Amended February 3, 2014 (Ordinance 2014-32). *Added Section 32-353 Supper Clubs to include performance standards, and amended Table 32-245 Table of Uses to conditionally permit Supper Clubs in the A-2 Zoning District.*

Amended April 1, 2015 (Ordinance 2015-39). *Amended Sections 32-32 Violations; 32-35 Certificate of compliance; 32-143 Application (for Conditional Use Permit); 32-181 Building permit and compliance with building code requirements; 32+185 Grading permit required, exceptions; and 32-341 Drainage. Added Section 32-7 Incorporation by Reference. Additions and amendments were made to comply with the Minnesota Pollution Control Agency's standards for municipal separate storm sewer systems.*

Amended November 3, 2015 (Ordinance 2015-42). *Added definition of Business, Seasonal to Section 32-1, amended Section 32-245 Table of Uses, and Amended Section 32-313 to define Greenhouse, Private as accessory building type.*

Amended November 3, 2015 (Ordinance 2015-43). *Amended Section 32-313 Accessory buildings and other non-dwelling structures to remove subsection (f) and modify subsection (e).*

Amended December 1, 2015 (Ordinance 2015-41). *Added definition of Golf Course; Recreation, commercial outdoor; Recreation, private and amended definition of Home Occupation is Section 32-1 Definitions. Amended Section 32-245 Table of Uses.*

Amended December 1, 2015 (Ordinance 2015-44). *Amended definition of Tavern or Bar to include restaurants in*

Section 32-1 Definitions. Amended Section 32-245 Table of Uses.

Amended June 7, 2016 (Ordinance 2016-46). *Added definition of Archery Range, Armory, or convention halls, Broadcasting Studio, Gun Range or Gun Club, indoor, Hotel or Motel, Schools – commercial, Schools – public and private, Structure, historic, scenic, and Theater. Amended Section 32-245 Table of Uses.*

Amended August 2, 2016 (Ordinance 2016-47). *Added Section 32-8.Opt-Out of Minnesota Statues, Section 462.3593.*

Amended December 5, 2017 (Ordinance 2017-53). *Added Division 5 Solar Energy Systems. Amended Section 32-245 Table of Uses.*

Amended January 2, 2018 (Ordinance 2017-56). *Amending Section 32-246 (b) "Additions and exception to the minimum area, heights and other requirements."*

Amended May 5, 2020 (Ordinance 2020-61). *Amending Section 32-182 Septic Permits and Section 32-246 Dimensional Requirements.*

Amended November 1, 2021 (Ordinance 2021-65). *Amended Division 4 Antenna Regulations Sections 32-446 Permit requirement; 32-449 Periodic submissions.*

Amended September 6, 2022 (Ordinance 2022-67). *Amended Sections 32-1 Definitions and 32-245 Table of Uses and adding Section 32354 Forestry Products and Processing (non-retail).*