

TITLE III: ADMINISTRATION

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CHAPTER 30: OFFICIALS AND ORGANIZATIONS

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OFFICIALS

30.01 ADMINISTRATOR-CLERK; TREASURER.

(A) *Administrator-Clerk.* The position of Administrator-Clerk is hereby established and he or she shall be the chief executive officer of the city. He or she shall be chosen by the City Council solely on the basis of his or her training and experience and administrative qualifications.

(1) The term **ADMINISTRATOR-CLERK**, as heretofore combined and herein continued, shall mean the City Clerk acting pursuant to statutory authority and the City Administrator acting pursuant to the duties and authorities granted pursuant to this section. Whenever the term "Clerk" or "Administrator" is used throughout this code, it shall mean and include the office of the Administrator-Clerk herein continued and established; except that, where law requires certain duties and functions to be performed by the City Clerk, the Administrator-Clerk, while performing the duties, shall be acting as the City Clerk.

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(2) The duties and responsibilities of the Administrator-Clerk shall be as follows.

(a) Subject to City Council regulations and applicable laws, the Administrator-Clerk shall control and direct the administration of municipal affairs.

(b) The Administrator-Clerk shall see that all laws, ordinances and resolutions of the city are enforced.

(c) The Administrator-Clerk shall supervise the activities of all municipal department heads and personnel of the city in the administration of municipal policy with authority to effectively recommend their employment or removal.

(d) The Administrator-Clerk shall attend and participate in all meetings of the City Council. He or she shall be responsible for the preparation of the City Council agenda and recommend to the City Council such measures as he or she may deem necessary for the welfare of the citizens and the efficient administration of the city. He or she may attend, at his or her discretion, or at the direction of the City Council, other committee meetings. He or she shall also be required to attend all Public Utility Commission meetings and Planning and Zoning Commission meetings.

(e) The Administrator-Clerk shall be responsible for the preparation of the Planning and Zoning Commission agendas.

(f) The Administrator-Clerk shall prepare an annual fiscal budget and capital improvement plan for the City Council. He or she shall maintain financial guidelines for the municipality within the scope of the approved budget and capital program. He or she shall submit reports to the City Council on the financial condition of municipal accounts and make sure the annual financial statement is prepared in accordance with state statutes.

(g) The Administrator-Clerk shall handle all personnel matters for the city in conjunction with policy established by the City Council. He or she shall negotiate or delegate the negotiation of terms and conditions of employee labor contracts for presentation to the City Council.

(h) The Administrator-Clerk shall represent the city at official functions as directed by the City Council and maintain good public relations with the citizens of the community.

(i) The Administrator-Clerk shall act as purchasing agent for the city and be responsible in making all purchases in accordance with the approved municipal budget. He or she shall have the authority to sign purchase orders for routine services, equipment and supplies for which the cost does not exceed amounts set forth by the Blooming Prairie Expenditure Policy. All claims resulting from orders placed by the city shall be audited for payment by the City Council. He or she shall negotiate contracts for any kind of merchandise, materials, equipment or construction work for presentation to the City Council.

(j) The Administrator-Clerk shall coordinate municipal programs and activities as directed by City Council. He or she shall monitor all consultant and contract work performed for the city. He or she shall coordinate the activities of the City Attorney.

(k) The Administrator-Clerk shall be informed regarding federal, state and county programs which affect the municipality. He or she shall consult with officials of both public and private agencies as may be required.

(l) The Administrator-Clerk shall inform the City Council on matters dealing with the administration of the city and prepare and submit to the City Council for adoption an administrative code encompassing the details of administrative procedure.

(m) The Administrator-Clerk shall be required to take an oath of office. He or she shall be bonded, at city expense, through a position bond which will indemnify the municipality.

(n) He or she shall perform other duties as may be prescribed by law or required of him or her by ordinance or resolutions adopted by the City Council.

(o) The Administrator-Clerk shall perform all the duties of a city clerk imposed pursuant to law.

(p) He or she shall analyze trends in economic development both positive and negative and present possible solutions to identified weaknesses and assist private development corporations and organizations by providing information, financial analysis and business planning. Services, at the discretion of Administrator, can be fee based.

(q) He or she shall develop agenda items for EDA meetings. The Administrator-Clerk is also a non-voting ex officio member of the EDA Board.

(3) (a) The Administrator-Clerk must have considerable knowledge of municipal government operation, proper procedures, public relations, finances, purchasing and all administrative requirements for proper municipal operation.

(b) He or she must have knowledge of, or ability to acquire full knowledge of, all laws affecting the municipality.

(c) He or she must have the ability to plan development, to collect material and analyze for reporting and to conduct and implement standards of procedure, operation and organization.

(4) In the absence of, or temporary vacancy in the position of the Administrator-Clerk, the title of Administrator and/or Administrator-Clerk, as written in all ordinances and/or resolutions adopted by the City Council, shall be replaced by the title of City Council.

(B) *City Treasurer.* The office of the City Treasurer, heretofore established and authorized to act pursuant to law, is hereby continued.

(Ord. 86-1, passed - -1986)

Editor's note:

This section was revised on 1-8-1996.

ORGANIZATIONS

30.15 AMBULANCE COMMISSION.

(A) *Establishment.* There is hereby established an Ambulance Commission, which shall be known as the Blooming Prairie Ambulance Commission, which shall be subject to the jurisdiction, authority and control of the City Council.

(B) *Composition.*

(1) The Commission shall be composed of four persons appointed by the Mayor of the city and confirmed by the majority vote of the City Council.

(2) Members of the Commission shall be selected as follows:

(a) Two citizen laymen who are not members of the Volunteer Ambulance Association;

(b) One person who is an active member of the Volunteer Ambulance Association. This person who will represent the Volunteer Ambulance Association shall be a state-licensed emergency medical technician, shall have at least one year of experience and shall be recommended by the Volunteer Ambulance Association; and

(c) One member of the City Council shall serve as a member of the Commission.

(C) *Terms of office.* The Commission shall be composed of members appointed and confirmed for the following terms: the City Council member shall be appointed for a one-year term annually; and the remaining three members shall each be appointed for a period of three years. The appointment of the remaining three members shall be staggered such that one of their three-year terms shall be expiring each year.

(1) Vacancies in the office of a Commissioner shall be filled by appointment by the Mayor subject to confirmation by majority vote of the City Council and the appointee shall serve that unexpired term of the position vacated.

(2) A Commissioner may be discharged for cause by the Mayor of the city for malfeasance or misfeasance of duties, upon notice given specifying the grounds for the discharge. The Commissioner may demand a hearing before the full Council by notice given in writing directed to the city's Administrator-Clerk, who shall set a date therefor, which shall be not less than ten days and not more than 30 days after receipt of the demand and shall give five days' notice in writing of the time, date and place of the hearing served upon the Commissioner and all members of the City Council. The Council shall hear the matter and consider the evidence including any testimony of witnesses and shall determine the matter by majority vote affirming or disaffirming the discharge at the hearing. The hearings may be adjourned and reconvened from time to time by the Council. The Mayor shall not be entitled to vote at a hearing and a tie vote shall be deemed a disaffirmance of the discharge.

(D) *Duties and function.* It shall be the duty of the Commission to organize, supervise and control a Volunteer Ambulance Association for the purpose of providing ambulance services in conformity with M.S. Ch. 144E, as it may be amended from time to time, and regulations of the state's Department of Public Health to persons within the city and the Ambulance Service District as may be developed by the Commission: to set and review rates charged for the services; to set compensation for members, officers and directors of the Volunteer Ambulance Association; to prepare and recommend to the City Council an operating budget for the next succeeding year of operation of the Volunteer Ambulance Association; to provide for regular, special and annual meetings of the Commission and to adopt rules for the transaction of business; to keep complete records of all its proceedings which shall be public and to file copies of minutes of all meetings with the Administrator-Clerk of the city within three days of the meeting and to make annual reports of its activities of the Volunteer Ambulance Association to the City Council; to make reports as the Council may from time to time require or request; to abide by and carry out all actions and resolutions as adopted and directed by the City Council.

(E) *Powers.*

(1) The Commission shall have power to supervise and approve all expenditures for the purchase of equipment and supplies for the necessary and efficient operation of an ambulance service up to and including the sum of \$5,000. All purchases or requests for purchase in excess of such sums shall first be submitted to the City Council, with the recommendations of the Commission, for approval and confirmation by the Council.

(2) The Commission shall have power to negotiate ambulance service contracts with townships or other political subdivisions and to initiate the negotiations and to recommend to the City Council their adoption; but, all such contracts shall be subject to final approval by the City Council.

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(F) *Retention of powers.* The City Council, in conformity with and compliance of the laws of the state, shall have, maintain and retain title to all property, whether real, personal or mixed, used for, in conjunction with or incident to the Ambulance Service Commission or any ambulance service association and shall retain the obligation and full power and authority to enforce, order and amend and repeal all ordinances, rules, regulations and orders establishing and governing the Ambulance Service Commission or any ambulance service herein or hereunder established.

(G) *Subject to state statutes.* This section shall be subject to the provisions of M.S. ' ' 114.801 through 144.806 and 471.476, as they may be amended from time to time, and all other applicable laws of the state.

(Ord. 2011-01, passed 1-10-2011)

' 30.16 FIRE COMMISSION.

(A) *Established.* There is established a Fire Commission, known as the ABlooming Prairie Fire Commission@, to advise the City Council on fire safety matters and to be subject to the authority of the City Council.

(B) *Composition.* The Commission shall consist of five persons, two of whom shall be members of the city=s Volunteer Fire Department, one City Council member and two residents of the city. The Fire Chief shall always be one of the members from the Fire Department.

(C) *Terms of office.* The Commission members shall be appointed by the Mayor, with the approval of the City Council, and shall have staggered three-year terms; excepting that, the City Council representative and the Fire Chief shall be appointed annually. The initial appointments with the exception of the City Council representative and Fire Chief will have one member appointed for one year, one member appointed for two years and one member appointed for three years. The initial appointments might require an additional portion of a year for each member. On an annual basis, the Commission must elect from its members a Chair, Vice-Chair and Secretary. Vacancies occurring are filled by the appointment of the Mayor approved by the City Council.

(D) *Vacancies.* In case of a vacancy during a term of the office of any member of the Commission, the Mayor shall appoint a new member to serve for the remainder of the term subject to the approval of the City Council. Vacancies shall exist if any one of the following occurs: death; disability; residence outside the city; or resignation or removal by a majority vote of the Council.

(E) *Meetings.* The Commission shall meet monthly and at other times as necessary. The Commission shall meet annually on the fourth Monday of February with township boards.

(F) *Compensation.*

(1) The Commission members are paid compensation as established by the City Council.

(2) Commission members may be reimbursed for expenses pursuant to city reimbursement policies.

(G) *Duties and functions.*

(1) The Commission must prepare and submit to the Council for approval all proposed policies, rules and regulations regarding the Fire Department and public fire safety.

(2) Duties and functions include:

(a) Assisting and advising the City Council in all policy matters relating to the Fire Department, fire safety and all fire matters;

(b) Handling periodically items referred to it by the City Council;

(c) Establish and review, on an annual basis, long-range plans for the Fire Department and fire safety;

(d) Promoting public interest in and understanding of the Fire Department and fire work;

(e) To make recommendations to the City Council concerning complaints and problems related to the Fire Department and fire safety; and

(f) Serving as a forum for citizens of the city to voice their opinions regarding any of the fire safety activities and functions.

(H) *Powers.* The Commission shall have power to supervise and approve all expenditures for the purchase of equipment and supplies for the necessary and efficient operation of a fire service up to and including the sum of \$5,000. All purchases or requests for purchases in excess of the sums shall first be submitted to the City Council, with the recommendations of the Commission, for approval and confirmation by the Council.

(Ord. 05-1, passed 7-11-2005)

30.17 ECONOMIC DEVELOPMENT COMMISSION.

(A) *Short title.* This section shall be known and may be cited as the ABlooming Prairie Economic Development Commission Ordinance@.

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

CHAIRPERSON. The Chairperson of the Economic Development Commission, as provided hereunder.

COMMISSION. The Economic Development Commission, as created by this section.

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SECRETARY. The Secretary of the Economic Development Commission, as provided hereunder.

VICE-CHAIRPERSON. The Vice-Chairperson of the Economic Development Commission, as provided hereunder.

(C) *Establishment.* An Economic Development Commission is hereby established to be advisory to the Council. The Economic Development Commission shall have the powers and duties hereinafter set forth.

(D) *Terms of office.* The Commission shall consist of five members. Of that body, three members will be appointed from the general public for staggered three-year terms (each seat will have a term of three years). The two remaining members will be appointed from year to year and will be held by Council members or the Mayor. The city shall make appointments to the Commission at its first Council meeting of the year or as soon thereafter as the Council desires. Vacancies during the term shall be filled by the City Council for the unexpired portion of the term.

(E) *Removal of members.* The Council, by a majority vote of its members, shall have the authority to remove any member of the Commission from office whenever, in its discretion, the best interest of the city shall be served thereby.

(F) *Meetings; officers.* The Commission will name its own officers to serve at its pleasure from the membership of the Commission.

(1) *Regular meetings.* The Commission shall meet publicly in regular session at least once each month at a time and place selected by a majority of its members.

(2) *Special meetings.* The Chairperson or any three members of the Commission shall have the authority to call a special meeting of the Commission. Written notice of special meetings shall be given to all members at least 24 hours prior to the time of the meeting unless the time and place for the special meetings is set at a regular meeting.

(G) *Commission staff.* The Commission shall receive the staff services of the city's Administrator-Clerk, approved by the City Council within the means provided by an appropriation made therefor by the City Council.

(H) *Rules and procedure.* The Commission shall adopt a set of rules to govern its own meetings and procedures. The rules may be amended from time to time, but only upon notice to all members that the proposed amendments shall be acted upon at a specified meeting. A majority vote of the Commission shall be required for the approval of the proposed amendment.

(I) *Absence of members.* Absence from three consecutive regular meetings without the formal consent of the Commission shall be deemed to constitute a resignation of a member; and the vacancy thus created shall be filled thereafter by appointment of the City Council for the remainder of the term of the member so deemed to have resigned.

(J) *Powers and duties.* The Commission shall have the following powers and duties:

(1) To confer with and advise the Council on all matters concerning the industrial and commercial development of the city;

(2) To publicize, with the consent of the Council, the industrial and commercial advantages and opportunities of the city;

(3) To collect data and information as to the type of industries and commerce best suited to the city;

(4) To periodically survey the overall condition of the city from the standpoint of determining whether the city has community climate for industry and to determine the general receptiveness of the city of particular types of industry;

(5) To publicize information as to the general advantages of industrial and commercial development in a community;

(6) To cooperate with all industries and businesses in the city and in the solution of any community problems which they say they have and to encourage the expansion, development and management of industries and business so as to promote the general welfare of the city;

(7) To cooperate with the Regional Development Commission in the undertaking of necessary surveys and studies in the furtherance of commercial and industrial development;

(8) To aid the Council and Planning Commission in the undertaking of necessary surveys and studies in the furtherance of commercial and industrial development;

(9) To develop, compile, coordinate and publicize information such as, but not limited to, the following:

(a) Existing industrial and commercial concerns with the city, their addresses, type of business, number of employees and whether each serves local, regional or national markets;

(b) Available industrial and commercial sites including number of acres, approximate price, existing zoning and proximity to trackage and highways;

(c) Available buildings for industrial and commercial operations, including type of building, number of square feet, existing zoning and proximity to trackage and highways (state department form);

(d) Transportation facilities, including railroads, motor carriers, water transportation, air transportation and highway facilities;

(e) Electric power available;

(f) Fuels available for industrial and commercial use;

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- (g) Sewage disposal facilities;
 - (h) Water supply facilities;
 - (i) Community facilities, such as fire, police and educational;
 - (j) Recreational facilities;
 - (k) Going wage rate in the city for the trades, skilled and semi-skilled and white collar workers;
 - (l) Availability of labor;
 - (m) General community attitude toward industrial and commercial expansion, development and attraction; and
 - (n) Experience and program of surrounding suburban communities in regards to industrial and commercial expansion, development and attraction.
- (10) To recommend to the Council policies and particular actions in regards to industrial and commercial expansion development and attraction;
- (11) To cooperate with and use the facilities of the state=s Department of Energy and Economic Development=s Star Cities Program;
- (12) To cooperate and coordinate with the Blooming Prairie Development Corporation and local lending institutions in defining available property and assembling financing packages for commercial and industrial prospects; and
- (13) The Commission shall have the power to appoint subcommittees of a size and nature it may deem necessary and may enlist the aid of persons and/or organizations who are not members of the Commission. The Commission shall have no power to make contracts, levy taxes, borrow money or condemn property, but shall have the full power and responsibility to investigate the necessity and recommend the taking of these and any other actions related to the industrial and commercial development by the City Council and all other officers of the city responsible to formulate the terms of the procedure for taking the action.

(K) *Annual report.* The Commission shall make a report to the City Council of its activities in December of each year.
(Ord. 87-3, passed 8-3-1987)

Editor=s note:

This section was revised on 2-12-1996.

30.18 VOLUNTEER FIRE DEPARTMENT.

(A) *Established.* There is hereby established in the city a Volunteer Fire Department, consisting of a

Chief, an Assistant Chief, a Fire Marshal and not less than 23, nor more than 28, firefighters.

(B) *Election (appointment)*. The Chief of the Fire Department, the Assistant Chief and the Fire Marshal shall be elected annually by the members of the Department, subject to confirmation by the Council. Each shall hold office for one year and until his or her successor has been duly elected; except that, he or she may be removed by the Council for cause after a public hearing. Firefighters and probationary firefighters shall be appointed by the members of the Department, subject to confirmation by the Council. Firefighters shall continue as members of the Department during good behavior and may be removed by the Council only for cause after a public hearing.

(C) *Duties of Fire Marshal*. The office of Fire Marshal may be held by the Chief or by the Assistant Chief, if the Council, by resolution, approves. The Fire Marshal shall be charged with the enforcement of all ordinances aimed at fire prevention. He or she shall have full authority to inspect all premises and to cause the removal or abatement of all fire hazards.

(D) *Duties of Chief*. The Chief shall have control of all the firefighting apparatus and shall be solely responsible for its care and condition. He or she shall make a report, semi-annually, to the Council at its meeting in March and September as to the condition of the equipment and needs of the Fire Department. He or she may submit additional reports and recommendations at any meeting of the Council, and he or she shall report each suspension by him or her of a member of the Fire Department at the first meeting of the Council following the suspension. He or she shall be responsible for the proper training and discipline of the members of the Fire Department and may suspend any member for refusal or neglect to obey orders pending final action by the Council on his or her discharge or retention.

(E) *Records*. The Chief shall keep, in convenient form, a complete record of all fires. Such a record shall include the time of the alarm, location of fire, cause of fire (if known), type of building, name of owner and tenant, purpose for which occupied, value of building and contents, members of the Department responding to the alarm and other information as he or she may deem advisable or as may be required from time to time by the Council or the state's Insurance Department.

(F) *Training sessions*. It shall be the duty of the Chief, when the weather permits, to hold a monthly training session of at least one hour's duration for the Fire Department and to give the firefighters instruction in approved methods of firefighting and fire prevention.

(G) *Assistant Chief*. In the absence of disability of the Chief, the Assistant Chief shall perform all the functions and exercise all of the authority of the Chief.

(H) *Firefighters*.

(1) The Assistant Chief and firefighters shall be able-bodied and not less than 21, nor more than 65, years of age.

(2) They shall become members of the Fire Department only after a six-month probationary period.

(I) *Loss of membership*. Firefighters absent from three consecutive monthly Fire Department

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meetings as established in the by-laws of the Department, unless excused by the Chief, shall forfeit membership in the Department, subject, however, to exception in the case of a leave of absence.

(J) *Compensation.* The members and officers of the Fire Department shall receive compensations, which compensation shall be determined by the Department by-laws subject to the approval of the Council.

(K) *Present members.* Persons who are members of the Fire Department at the time of the adoption of this section shall not be required to serve a probationary period before receiving firefighter ratings.

(L) *Relief association.*

(1) The members and officers of the Fire Department may organize themselves into a firefighters= relief association.

(2) Any existing relief association shall be considered official and shall continue.

(M) *Interference with Department.* It shall be unlawful for any person to give or make, or cause to be given or made, an alarm of fire without probable cause or to neglect or refuse to obey any reasonable order of a firefighter at a fire or to interfere with the Fire Department in the discharge of its duties.

(Ord. 1-73, passed 5-7-1973) Penalty, see ' 30.99

' 30.19 PLANNING COMMISSION.

(A) *Establishment.* A Planning Commission for the city is hereby established.

(B) *Composition.* The Planning Commission shall consist of four members. Three members shall be appointed by the City Council and may be removed by a four-fifths vote of the Council; the remaining shall be filled by appointment of the Council, by one of its members. Commission members shall be appointed to staggered three-year terms and the seat reserved for Council or Mayor will have a one-year term. Vacancies that occur during the term shall be filled by the Council for the expired term of that member. Every member before entering upon the discharge of his or her duties shall take an oath that he or she will faithfully discharge the duties of the office. Members compensation will be set by the Council from time to time as is seen fit by the Council.

(C) *Organization, meetings and the like.*

(1) The Commission shall elect a Chairperson and Vice Chair from among its appointed members for a term of one year and the Commission may create and fill other offices as it may determine. The City Administrator-Clerk shall act as Secretary of the Planning Commission, but he or she shall not be a member unless he or she is appointed by the Council as its member representative as provided in division (B) above.

(2) The Commission shall hold at least one regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions and findings, which

record shall be a public record. On or before January 1 of each year, the Commission shall submit to the City Council a report of its work during the preceding year. Expenditures of the Commission shall be within amounts appropriated for the purpose by the City Council.

(D) *Adoption of program of work.*

(1) Upon the appointment and organization of the Commission, it shall proceed with the preparation and adoption of resolution of a program of work, outlining activities proposed to be undertaken in the exercise of its powers and the performance of its duties. Such a program will include:

- (a) An outline of data and information to be assembled as a basis for the city plan;
- (b) An outline of subjects to be covered by the city plan; and
- (c) An outline of types of procedures necessary to make the city plan effective.

(2) The Planning Commission may, by resolution, revise its program of work from time to time.

(E) *Preparation of plan.* It shall be the function and duty of the Planning Commission to prepare and adopt a comprehensive city plan for the physical development of the city, including all proposed public buildings, street arrangements and improvements, public utility services, parks, playgrounds and other matters of similar developments, the use of property, the density of population and other matters relating to the physical development of the city. The plan may be prepared in sections, each of which shall relate to a major subject of the plan, as outlined in the Commission's program of work.

(F) *Procedure for adoption of plan.*

(1) Before adopting the city plan or any section of it or any substantial amendment thereof, the Commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given by publication in a newspaper of general circulation at least ten days before the day of hearing. The adoption of the city plan or of any section or amendment thereof shall be by resolution of the Commission, approved by the affirmative votes of not less than four-fifths of its total membership. The Commission may from time to time amend or add to the city plan or section thereof as herein provided for the adoption of the original plan whenever changed conditions or further studies by the Commission indicate that the amendment or addition is necessary.

(2) An attested copy of the plan or of any section, amendment or addition to the city plan adopted by the Planning Commission shall be certified to the City Council.

(G) *Means of executing plan.*

(1) Upon the adoption of the city plan or any section thereof, it shall be the duty of the Planning Commission to recommend to the City Council reasonable and practicable means for putting into effect the plan or section thereof in order that the same will serve as a pattern and guide for the orderly physical development of the city and as a basis for the efficient expenditure of the funds thereof relating to the

subjects of the city plan.

(2) Such means shall consist of a zoning plan, the control of subdivision plats, a plan of future streets, coordination of the normal public improvements of the city, a long-term program of capital expenditures and other matters as will accomplish the purpose of this section.

(H) *Zoning plan.* The Planning Commission, upon its own motion, may and upon instructions by the City Council shall prepare a proposed zoning plan for the city. Before recommending a plan to the City Council, the Planning Commission shall hold at least one public hearing thereon after a notice similar to that required by division (F) above. The same procedure shall apply for the preparation of any plan of proposed rights-of-way for future streets or highways, or the future widening of existing streets or highways or for the reservation of lands for other public purposes.

(I) *Official map of street extensions.*

(1) The Planning Commission with the assistance of the City Engineer may, and upon instruction by the City Council shall, prepare an official map of the platted and unplatted portions of the city and adjoining territory, or portions thereof, indicating upon the map the proposed future extension or widening of streets of the city within the existing platted and developed territory or across the unplatted territory.

(2) After the map has been prepared and a hearing on it has been held as provided in division (C) above, it shall be submitted to the Council, which shall, thereupon, consider the map and may adopt it or any part of it with amendments, as it deems advisable. Before adoption by the Council, a public hearing shall be held upon the proposal at least ten days after a notice thereof has been published in a newspaper published in the city. After the map has been adopted by the Council and filed with the Register of Deeds, whenever any existing street or highway is widened or improved, or any new street is opened or lands for other public purposes are acquired by action of the city, it shall not be required in the proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit after the filing of a map within the limits of the mapped street, or outside of any building line that may have been established upon the existing street or within any area thus reserved for public purposes.

(J) *Plats.*

(1) Every proposed plat of land within the city, or within two miles of the limits of the city and not within a town which itself requires the approval of plats, shall be submitted to the City Council before being filed and no plat of land shall be filed unless and until the same shall first have been approved by the City Council.

(2) The Planning Commission, within 40 days after any plat has been referred to it by the City Council, shall act on the same and shall make its recommendations with respect thereto. The recommendations may consist of:

(a) Recommendation that the City Council approve the plat;

(b) Recommendation that the City Council disapprove the plat; in which case, the recommendation shall include a statement of the specific reasons for the recommendation; or

(c) Recommendation that the City Council approve the plat after specified changes or revisions are made therein, which recommendations may include the condition that a revised plat, containing the changes or revisions, be submitted to the Planning Commission; in which case, the revised plat shall be so submitted to the Planning Commission for its further consideration and recommendations before action thereon by the City Council.

(K) *Procedure for changes.* No change shall be made in the zoning plan, future street and public lands plan or regulations governing the platting of land after the plans or regulations have been adopted by the City Council, until the proposed change has been referred to the Planning Commission for report thereon and an attested copy of the report has been filed with the Council; and no ordinance or resolution establishing any of the plans or specifications shall be adopted by the City Council until the ordinance or resolution has been referred to the Planning Commission for a report thereon and an attested copy of the report has been filed with the Council. Failure of the Planning Commission so to report within 40 days or a longer period as may be designated by the Council after the reference shall be deemed to be approved of the proposed change.

(L) *List of recommended public works.* Each officer, department, board or commission of or in the city whose functions include recommending, preparing plans for or constructing public works shall, at least three months before the end of each fiscal year, submit to the Planning Commission a list of the proposed public works recommended by the officer, department, board or commission for planning, initiation or constructing during the ensuing fiscal year. The Planning Commission shall request from the local school district a similar list of its proposed public works. The Planning Commission shall list and classify all proposed public works and shall prepare a coordinated program of proposed public works for the ensuing fiscal year. The program shall be recommended by the Commission to the Council and to other officers, departments, boards or public bodies as have jurisdiction over the recommending, planning or constructing of the public works. A copy of the recommended program of public works shall be included in the annual report of the Planning Commission provided for in division (C) above.

(Ord. 1-66, passed 5-2-1966) Penalty, see ' 30.99

Editor's note:

This section was revised on 2-12-1996.

' 30.99 PENALTY.

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

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(B) Any person convicted of violating ' 30.19(M) of this chapter shall be punished by a fine not exceeding \$100 or by imprisonment for a period not exceeding 90 days.

(C) Any person who violates ' 30.20(J) of this chapter or who sells land or offers land for sale or contracts for the sale of land by reference to or by other use of any plat before the plat has been approved by the Planning Commission and the City Council, in accordance with the provisions of this section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days. Before acting on the plat, the City Council shall submit the same to the Planning Commission for its recommendation.

(Ord. 1-66, passed 5-2-1966; Ord. 1-73, passed 5-7-1973)

CHAPTER 31: EMERGENCY SERVICES

Section

Emergency Protection Fire Services

- 31.01 Purpose and intent
- 31.02 Definitions
- 31.03 Parties affected
- 31.04 Rates
- 31.05 Billing and collection
- 31.06 Mutual aid agreements
- 31.07 Application of collections to budget

EMERGENCY PROTECTION FIRE SERVICES

31.01 PURPOSE AND INTENT.

This subchapter is adopted for the purpose of authorizing the city to charge for fire service, as authorized by M.S. ' ' 366.011, 366.012 and 415.01, as they may be amended from time to time. (Ord. 2011-02, passed 4-11-2011)

31.02 DEFINITIONS.

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

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

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

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

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

MUTUAL AID AGREEMENT. An agreement between the city and a town or other city for the city's Fire Department to provide assistance to the fire department of a town or other city. (Ord. 2011-02, passed 4-11-2011)

31.03 PARTIES AFFECTED.

The following parties are affected:

(A) Owners of property within the city who receive fire service; and

(B) Anyone who receives fire service as a result of a motor vehicle accident or fire within the city. Owners of property in towns, townships or cities to which the city provides fire service pursuant to a fire protection contract. (Ord. 2011-02, passed 4-11-2011)

31.04 RATES.

The base fee shall be \$500 (includes two hours on scene). After two hours, there is an additional charge of \$5 per hour per person and \$50 per truck. Carbon monoxide calls are \$75, minimum charge, with an hourly charge after one hour. All materials used at the scene will be included for reimbursement. (Ord. 2011-02, passed 4-11-2011)

31.05 BILLING AND COLLECTION.

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

(B) Parties billed for fire service will have 30 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the city will send a notice of delinquency; if the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the city will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the city including, but not limited to, reasonable attorney fees and court costs.

(C) If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before October 15 of each year, certify the unpaid fire service charge to the County Auditor in which the recipient of the services owns real property for collection with property taxes. The County Auditor is responsible for remitting to the city all charges collected on behalf of the city. The city must give the property owner notice of its intent to certify the unpaid fire service charge by September 15. False alarms won=t be billed as a fire call.
(Ord. 2011-02, passed 4-11-2011)

' 31.06 MUTUAL AID AGREEMENTS.

When the city=s Fire Department provides fire service to another fire department pursuant to a mutual aid agreement, the billing will be determined by the mutual aid agreement.
(Ord. 2011-02, passed 4-11-2011)

' 31.07 APPLICATION OF COLLECTIONS TO BUDGET.

All collected fire charges will be city funds and used to offset the expenses of the city=s Fire Department in providing fire services.
(Ord. 2011-02, passed 4-11-2011)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMAL CONTROL**
- 91. HEALTH AND SANITATION; NUISANCES**
- 92. FIRE PREVENTION AND PROTECTION**
- 93. PARKS AND RECREATION**

CHAPTER 90: ANIMAL CONTROL

Section

- 90.01 Definitions
- 90.02 Number of animals permitted
- 90.03 Licenses required; fee; date of payment
- 90.04 Affixing tags
- 90.05 Confinement
- 90.06 Restrictions
- 90.07 Impoundment
- 90.08 Interference with officers
- 90.09 Cleaning up litter
- 90.10 Basic care
- 90.11 Running at large
- 90.12 Barking/crying/whining dogs
- 90.13 Dangerous and potentially dangerous dogs

- 90.99 Penalty

90.01 DEFINITIONS.

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

ANIMAL. A domesticated dog or cat.

AT LARGE. Off the premises of the owner and not under the immediate control of the owner or a responsible member of his or her family by either leash or command.

HABITUAL. Steady, much done, inveterate, usual or frequently.

HOUSEHOLD. A single-family residence or single unit of a town home, condominium, apartment, mobile home or twin homes.

OWNER. Any person, firm or corporation owning, harboring, maintaining or keeping an animal in the city. An animal shall be deemed to be harbored if it is fed or sheltered for seven days or more. (Ord. 08-1, passed 2-11-2008)

Blooming Prairie - General Regulations**' 90.02 NUMBER OF ANIMALS PERMITTED.**

(A) No person may keep, harbor or maintain at one household more than three dogs over five months of age.

(B) No person may own, keep, harbor or maintain at one household more than five cats over five months of age.

(C) No person may own, keep, harbor or maintain at one household any combination of dogs and cats over five months of age exceeding a total of five in number, no more than three of which may be dogs.

(D) It is the express intent of the City Council that the purpose of this section is to clarify the limitation on the number of animals permitted.

(Ord. 08-1, passed 2-11-2008) Penalty, see ' 90.99

' 90.03 LICENSES REQUIRED.

(A) No person shall keep any dog within the city limits without securing a license therefor, which shall be obtained at the City Administrator-Clerk's office. A certificate of proof that a male dog has been neutered or a female dog has been spayed shall be required with each application of license for neutered dog or spayed female dog. Proof of vaccination for rabies shall also be required with each license application. Licenses are not transferable.

(B) All licenses shall be issued for a one-year period. Any licenses in effect at the effective date of this chapter shall be effective until their termination date of 4-30-2008, whichever should occur earlier and after that, they shall expire every year on April 30.

(Ord. 08-1, passed 2-11-2008) Penalty, see ' 90.99

' 90.04 AFFIXING TAGS.

The owner shall affix the metal tags by permanent metal fastening to the collar of the dog so licensed in such a manner that the tag may be easily seen by the officers of the city. The owner shall see that the tag is constantly attached to the dog. In case the tag is lost, the owners shall secure from the city's Administrator-Clerk a duplicate tag, the cost to be paid by the owner.

(Ord. 08-1, passed 2-11-2008) Penalty, see ' 90.99

' 90.05 CONFINEMENT.

All animals must be under the immediate supervision and command of a responsible person, tied or otherwise confined.

(Ord. 08-1, passed 2-11-2008) Penalty, see ' 90.99

' 90.06 RESTRICTIONS.

(A) No person shall keep or harbor a dog that habitually barks or cries.

(B) No animal owners shall allow their animals to damage any lawn, garden or other property.

(C) No animal shall be permitted on school playgrounds or city parks at any time.

(Ord. 08-1, passed 2-11-2008) Penalty, see ' 90.99

' 90.07 IMPOUNDMENT.

(A) The police officers of the city are hereby authorized to impound any unlicensed dog running at large in the city or any licensed dog violating provisions of this chapter or cats running at large or cats violating provisions of this chapter. Immediate notice of the impounding of the animal shall be given by the city=s Police Department to the owner of the animal, personally or through the United States mail, if the owner be known to the city=s Police Department or can be ascertained with reasonable effort, but if the owner be unknown or cannot be ascertained with reasonable effort, then the city=s Police Department shall post written notice at the City Center, Public Utility Building and Post Office, all within the city, giving a description of the animal, stating where it is impounded and the conditions for its release. If, after five days, the owner does not claim the animal, the city=s Police Department shall dispose of the animal in a proper and humane manner.

(B) The owner may recover his or her animal after complying with the following:

(1) Payment of a \$15 penalty for the first offense, \$25 penalty for a second offense and \$50 penalty for a third offense, all payable in the office of the city=s Administrator-Clerk;

(2) Payment of \$10 per day for board and room, payable at the office of the city=s Administrator-Clerk and, if the animal is boarded at a veterinary clinic, then by paying such amount as charged by the clinic; and

(3) Proof that the dog has been vaccinated for rabies and is properly licensed.

(Ord. 08-1, passed 2-11-2008)

' 90.08 INTERFERENCE WITH OFFICERS.

It shall be unlawful for any person to hinder or interfere with any officer in the performance of his or her duties under provisions of this chapter.

(Ord. 08-1, passed 2-11-2008) Penalty, see ' 90.99

' 90.09 CLEANING UP LITTER.

The owner of any animal or any person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on his or her own property or property of another or on public property.

(Ord. 08-1, passed 2-11-2008) Penalty, see ' 90.99

' 90.10 BASIC CARE.

All animals shall receive from their owners or keepers kind treatment, housing in the winter and sufficient food and water for their comfort. Any person not treating his or her pet in a humane manner will be subject to the penalties provided in this chapter.

(Ord. 08-1, passed 2-11-2008) Penalty, see ' 90.99

' 90.11 RUNNING AT LARGE.

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

' 90.12 BARKING/CRYING/WHINING DOGS.

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

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

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

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

' 90.13 DANGEROUS AND POTENTIALLY DANGEROUS DOGS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support post shall be one and 1/4- inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

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

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

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

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

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

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

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

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

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

other animals.

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

(3) *Exceptions.*

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

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

1. Committing a willful trespass or other tort upon the premises occupied by the owner of the dog;
2. Provoking, tormenting, abusing or assaulting the dog, or who can be shown to have a history of repeatedly provoking, tormenting, abusing, or assaulting the dog; or
3. Committing or attempting to commit a crime.

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

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

(a) There is a proper enclosure;

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

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

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

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

(a) There is a proper enclosure;

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

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

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

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

(E) *Properly restrained in proper enclosure or outside of proper enclosure.* While on the owner=s property, an owner of a dangerous or potentially dangerous dog must keep it in a proper enclosure. Inside a residential home, there must be a secured area maintained where the dog will stay when persons other than family members are present. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash no longer than four feet and under the physical restraint of an adult. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

(F) *Notification requirements to city.*

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

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

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

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

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

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

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

(4) The dog is outside the proper enclosure and not under proper restraint, as required by ' 90.13(E);

(5) After 30 days after the owner has notice that the dog is dangerous, the dog is not sterilized, as required by ' 90.13(D)(1)(d);

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

(H) *Reclamation.* A dog seized under ' 90.13(G) may be reclaimed by the owner of the dog upon payment of maintenance costs, and presenting proof to animal control that the requirements of this section have been met. A dog not reclaimed under this division within seven days may be disposed of and the owner will be liable to the city for maintenance costs. A person claiming an interest in a seized dog may prevent disposition of the dog by posting a security in an amount sufficient to provide for the dog=s maintenance costs. The security must be posted with the city within seven days of the seizure inclusive of the date seized.

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

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notified that the dog may be reclaimed, the dog may be disposed of in manner permitted by law.

(J) *Notice, hearings.*

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

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

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

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

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

(e) A form to request a hearing; and

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

(2) *Right to hearing.*

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

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

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

practical and a copy shall be provided to the city. The decision of the hearing officer is final.

(K) *Destruction of certain dogs.* The Police Chief and/or hearing officer are authorized to order the destruction or other disposition of any dog, after proper notice is given pursuant to ' 90.13(J) and upon a finding that:

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

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

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

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

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

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

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

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

(a) The dog weighs more than 20 pounds;

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

(c) The dog=s tolerance for pain;

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

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

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

(g) The dog=s aggressiveness;

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

(L) *Concealing of dogs.* No person may harbor, hide or conceal a dog that the city has the authority

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to seize or that has been ordered into custody for destruction or other proper disposition.

(M) *Dog ownership prohibited.*

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

(a) Convicted of a third or subsequent violation of ' 90.13(D), (E) or (F) or similar section in another jurisdiction, or M.S. ' ' 347.51, 347.515 or 347.52, as amended from time to time;

(b) Convicted of 2nd degree manslaughter due to negligent or intentional use of a dog under M.S. ' 609.205 (4); or

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

(2) Any person who owns a dangerous or potentially dangerous dog and is found to be in violation of any of the provisions of this section or had owned a dangerous or potentially dangerous dog but never achieved compliance with this section may be prohibited from ownership or custody of another dog for a period of five years after the original declaration. Any dog found to be in violation, may be impounded until due process is completed, pursuant to ' 90.13(J).

(3) If any member of a household is prohibited from owning a dog in ' 90.13(M)(1) or (2), unless specifically approved with or without restrictions by the city, no person in the household is permitted to own a dog.

(N) *Dog ownership prohibition review.* Beginning three years after a conviction under ' 90.13(M)(1) that prohibits a person from owning a dog, and annually thereafter, the person may request in writing to the Police Chief that the city review the prohibition. The city may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the city deems appropriate. The city may rescind the prohibition entirely or rescind it with limitations. The city also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the city rescinds a person=s prohibition and the person subsequently fails to comply with any limitations imposed by the city or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the city may permanently prohibit the person from owning a dog in this state.

(O) *Penalties.*

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

(2) Any person who is convicted of a second or subsequent violation of any provision of ' 91.11(D), (E), or (F) is guilty of a gross misdemeanor.

(3) Any person who violates ' 90.13(M), whether an owner or household member, is guilty of

a gross misdemeanor.

' 90.99 PENALTY.

Any person, firm or corporation violating the provisions of this chapter shall be guilty of a petty misdemeanor, as defined by state law, upon conviction thereof, shall be punished by a fine of not more than an amount as is provided for petty misdemeanors by state law from time to time.

(Ord. 08-1, passed 2-11-2008)

CHAPTER 91: HEALTH AND SANITATION; NUISANCES

Section

General Provisions

91.01 Weeds and common grasses

Public Nuisances

- 91.15 Public nuisance prohibition
- 91.16 Public nuisances affecting health
- 91.17 Public nuisances affecting morals and decency
- 91.18 Public nuisances affecting peace and safety
- 91.19 Noise violations
- 91.20 Nuisance parking and storage
- 91.21 Inoperable motor vehicles
- 91.22 Duties of city officers
- 91.23 Abatement procedure
- 91.24 Recovery of cost

- 91.99 Penalty

GENERAL PROVISIONS

' 91.01 WEEDS AND COMMON GRASSES.

(A) *Weed elimination.*

(1) Any weeds or common grass, whether noxious as defined by law or not, growing upon any lot or parcel of land outside the traveled portion of any street or alley in the city to a greater height than six inches or which have gone or about to go to seed are a nuisance. The owner and the occupant shall abate or prevent the nuisance on the property and on land outside the traveled portion of the street or alley abutting on the property.

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(2) When the owner and occupant permit a weed or common grass nuisance to exist in violation of division (A) above, the Weed Inspector shall serve notice upon the owner of the property if he or she resides in the municipality and can be found or upon the occupant in other cases, by registered or certified mail or by personal service, ordering the owner or occupant to have the weeds cut and removed within ten days after receipt of the notice and also stating that, in case of non-compliance, the work will be done by the Street Commissioner at the expense of the owner and that if unpaid, the charge for the work will be made a special assessment against the property concerned. When no owner, occupant or agent of the owner or occupant can be found, the provision for notice shall not apply.

(3) If the owner or occupant fails to comply with the notice within ten days after receipt, or if no owner, occupant or agent of the owner can be found, the Street Commissioner shall cut and remove the weeds or common grass. He or she should keep a record showing the cost of the work attributable to each separate lot and parcel and shall deliver the information to the city's Administrator-Clerk.

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

(C) *Assessment.* On or before September 1 of each year, the Administrator-Clerk shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this section. The Council may then spread the charges against property benefitted as a special assessment under M.S. ' 429.101, as it may be amended from time to time, and other pertinent statutes for certification by the County Auditor and collection the following year along with current taxes.

(Ord. 74-3, passed 8-1-1988) Penalty, see ' 91.99

PUBLIC NUISANCES

' 91.15 PUBLIC NUISANCE PROHIBITION.

A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purposes of this chapter, a person that does any of the following is guilty of maintaining a public nuisance:

(A) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;

(B) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

(C) Does any other act or omission declared by law or this chapter to be a public nuisance.

Penalty, see ' 91.99

' 91.16 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

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

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

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

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

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

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

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

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

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

(K) Any offensive trade or business as defined by statute not operating under local license.

' 91.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

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

(A) All gambling devices, slot machines, and punch boards, except otherwise authorized and permitted by federal, state, or local law;

(B) Betting, bookmaking, and all apparatus used in those occupations;

(C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;

(D) All places where intoxicating or 3.2% malt liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort, for the purpose of drinking intoxicating or 3.2% malt liquor, or where intoxicating or 3.2% malt liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and

(E) Any vehicle used for the unlawful transportation of intoxicating or 3.2% malt liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

91.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

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

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

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

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

(D) Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person;

(E) All unnecessary and annoying vibrations;

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

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

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

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

(J) The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to follow across any sidewalk;

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

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

(M) Wastewater cast upon or permitted to flow upon streets or other public properties;

(N) Accumulations in the open of discarded or disused machinery, household appliances,

automobile bodies or other materials in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or other safety hazards from such accumulation;

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

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

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

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

(S) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one footcandle when abutting any commercial or industrial parcel; and

(T) All other conditions or things that are likely to cause injury to the person or property of another.

91.19 NOISE VIOLATIONS.

(A) *Prohibited noises.* The following are declared to be nuisances affecting public health, safety, peace, or welfare:

(1) Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, or precludes their enjoyment of property, or affects their property's value (this general prohibition is not limited by any specific restrictions provided in this chapter);

(2) All obnoxious noises, motor vehicle or otherwise, in violation of Minn. Rules chapter 7030, as it may be amended from time to time, are hereby incorporated into this chapter by reference;

(3) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise;

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

(5) Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle; and

(6) The use or operation, or permitting the use or operation, of any radio receiving set,

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television set, musical instrument, music device, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby.

(B) *Hourly restriction of certain operations.*

(1) *Domestic power equipment.* No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 8:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(2) *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district, except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 8:00 a.m. and 9:00 p.m. on any weekend or holiday.

(3) *Construction activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 8:00 a.m. and 9:00 p.m. on any weekend or holiday.

(4) *Radios, music devices, paging systems, and the like.* The operation of any device referred to in subsection (A)(6) between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.

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

Penalty, see ' 91.99

' 91.20 NUISANCE PARKING AND STORAGE.

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

- (1) Obstructs views on streets and private property;
- (2) Creates cluttered and otherwise unsightly areas;

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

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

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

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

(B) *Unlawful parking and storage.*

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

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

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

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

(b) Vehicles that are parked or stored outside in the front yard areas must be on a paved or graveled parking surface or driveway area; and

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

Penalty, see ' 91.99

' 91.21 INOPERABLE MOTOR VEHICLES.

(A) *Declaration of nuisance.* Any motor vehicle described in this section shall constitute a hazard to the health and welfare of the residents of the community as such vehicles can harbor noxious diseases, furnish a shelter and breeding ground for vermin, and present physical danger to the safety and well-being of children and citizens. Motor vehicles also contain various fluids which, if released into the environment, can and do cause significant health risks to the community.

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

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

Penalty, see ' 91.99

' 91.22 DUTIES OF CITY OFFICERS.

City officials may apply and enforce any provision of this chapter relating to public nuisances within this jurisdiction. Any peace officer or other designated city official shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer or designated city official will enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing entry.

' 91.23 ABATEMENT PROCEDURE.

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

(B) *Notice.* Written notice of the violation; notice of the time, date, place, and subject of any hearing before the City Council; notice of the City Council order; and notice of motion for summary enforcement hearing shall be served by a peace officer or designated official on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by positing it on the premises.

(C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in divisions (A) and (B) of this

section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the peace officer or other designated official shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement will unreasonably endanger public health, safety, or welfare. The officer or designated official shall notify in writing the occupant or owner of the premises of the nature of the nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

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

(E) *Unlawful parties or gatherings.* When law enforcement determines that a gathering is creating such a noise disturbance as prohibited under ' 91.18(D), the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered to do so by law enforcement. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

(F) *Judicial remedy.* Nothing in this section shall prevent the city from seeking a judicial remedy when no other adequate administrative remedy exists.
Penalty, see ' 91.99

' 91.24 RECOVERY OF COST.

(A) *Personal liability.* The owner of the premises on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city=s Administrator-Clerk or other city official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city=s Administrator-Clerk.

(B) *Assessment.* After notice and hearing as provided in M.S. ' 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the city clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under M.S. ' 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year

or in annual installments, not exceeding ten, as the City Council may determine in each case.
Penalty, see ' 91.99

' 91.99 PENALTY.

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

(B) Any person convicted of violating any provision of ' ' 91.15 through 91.24 is guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000 or imprisonment for not more than 90 days, or both, plus the costs of prosecution in either case.

CHAPTER 92: FIRE PREVENTION AND PROTECTION

Section

General Provisions

- 92.01 Open burning; air pollution
- 92.02 Where to burn

External Biomass Burners and Boilers

- 92.15 Purpose
- 92.16 Applicability
- 92.17 Definitions
- 92.18 Permit required
- 92.19 Other requirements
- 92.20 Fire suppression costs

- 92.99 Penalty

GENERAL PROVISIONS

' 92.01 OPEN BURNING; AIR POLLUTION.

(A) Air Pollution Control Regulation 8, adopted by the state=s Pollution Control Agency, as amended, is hereby adopted by reference pursuant to M.S. ' 116.082, as it may be amended from time to time. Pursuant thereto, one copy of Regulation 8 shall be marked "Official Copy" and kept on file in the office of the Administrator-Clerk for use and examination by the public.

(B) From and after the effective date of this section, no person shall dispose of refuse by open burning, or cause, suffer, allow or permit open burning of refuse in the city.

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(C) Between September 15 and December 1 of each year, the open burning of dry leaves is permitted within the city, subject to the restriction of law and this section, notwithstanding any other provision of this section. No open burning shall take place during an air pollution alert, warning or emergency declared by the state's Pollution Control Agency. No burning shall take place during a high wind or when a traffic hazard might be created thereby in any nearby street, nor shall any leaf burning take place without a responsible attendant.

(Ord. 72-5, passed 7-5-1972; Ord. 90-2, passed 6-4-1990; Ord. 92-2, passed 4-6-1992) Penalty, see ' 92.99

' 92.02 WHERE TO BURN.

Burning must occur on the property owner's lot and not on the street, boulevard or alley.
Penalty, see ' 92.99

EXTERNAL BIOMASS BURNERS AND BOILERS**' 92.15 PURPOSE.**

This subchapter is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the city by regulating the air pollution and fire hazards of external biomass burners/boilers.

(Ord. 2009-01, passed 3-9-2009)

' 92.16 APPLICABILITY.

(A) This subchapter applies to all outdoor fire burners and boilers within the city.

(B) This subchapter does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.

(C) This subchapter does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.

(D) This subchapter does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

(E) This subchapter does not apply to campfires, small outdoor fires intended for recreation or cooking, but not including a fire intended for disposal of waste wood or refuse.

(Ord. 2009-01, passed 3-9-2009)

' 92.17 DEFINITIONS.

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

EXTERNAL BIOMASS BURNER/BOILER. A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building, its domestic water supply, or a pool/spa, and includes solid fuel-fired stoves, solid fuel-fired cooking stoves and combination fuel furnaces or boilers which burn solid fuel. **EXTERNAL BIOMASS BURNER/BOILERS** shall include units that are placed in an accessory building. **EXTERNAL BIOMASS BURNER/BOILERS** do not include natural gas-fired fireplace logs or wood-burning fireplaces or wood stoves in the interior of a dwelling.

PERSON. An individual, partnership, corporation, company or other association.

REFUSE or GARBAGE. Any waste material, except trees, logs, brush, stumps, leaves, grass clippings and other vegetative matter. This includes, but is not limited to, food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes; asphalt and products containing asphalt; treated or painted wood including, but not limited to, plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives; any plastic material including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam and synthetic fabrics, plastic films and plastic containers; rubber including tires and synthetic rubber-like products.

STACKS or CHIMNEYS. Any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from an external biomass burner/boiler, especially the part of such a structure extending above a roof.

(Ord. 2009-01, passed 3-9-2009)

' 92.18 PERMIT REQUIRED.

(A) The city requires any person to obtain a building permit for the construction, installation and/or operation of any external biomass burner/boiler within the city limits.

(B) Installation should be made and inspected by a licensed contractor who is knowledgeable about the type of system being installed.

(Ord. 2009-01, passed 3-9-2009) Penalty, see ' 92.99

' 92.19 OTHER REQUIREMENTS.

(A) All external biomass burner/boilers constructed, installed or operated within the city limits shall meet emission standards currently required by the Environmental Protection Agency (EPA) and Underwriters Laboratories (UL) listing.

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(B) Any emissions from external biomass burner/boilers including, but not limited to, dense smoke, noxious fumes, gas, soot or cinders, or any use of an external biomass burner/boiler to burn solid fuels other than those solid fuels for which the external biomass burner/boiler is designed, is declared a public nuisance.

(C) (1) All external biomass burner/boilers must be located at least 20 feet from any structure. This set back may be reduced to ten feet; provided that, the unit is enclosed in a non-combustible building (steel or concrete). All external biomass burner/boilers shall be located at least 100 feet from any property line and shall not be located on any residentially zoned property.

(2) Persons should check with their individual insurance carriers for any required limits that do not comply with this division (C) and inform the city's Administrator-Clerk of individual policy requirements.

(D) All stacks or chimneys must be so constructed to withstand high winds or other related elements and according to the specifications of the manufacturer of the external biomass burner/boiler. The stack or chimney height shall be a minimum of 20 feet and a maximum 40 feet above ground level, but shall also extend at least as high as the height of the roofs of residents within 500 feet of the unit. All stacks or chimneys must be made of masonry or insulated metal with a minimum six-inch flue. A factory-built or masonry chimney with a spark arrester screen is also required.

(E) Only fuels designed for burning in an external biomass burner/boiler may be burned in such a unit. No garbage or refuse may be burned in an external biomass burner/boiler.

(F) Ashes removed from an external biomass burner/boiler must be placed in a metal container equipped with a lid or cover.

(G) All wood or other fuel, combustibles or wood chips, bark and debris must be kept at least ten feet away from any external biomass burner/boiler.

(Ord. 2009-01, passed 3-9-2009) Penalty, see ' 92.99

' 92.20 FIRE SUPPRESSION COSTS.

Any person utilizing or operating an external biomass burner/boiler is responsible for all fire suppression costs.

(Ord. 2009-01, passed 3-9-2009)

' 92.99 PENALTY.

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

(B) Any person, firm or corporation who violates any of the provisions of ' ' 92.01 of this chapter shall be subject to a fine not exceeding \$300 or to imprisonment for a period not to exceed 90 days, or both.

(C) (1) Any person violating ' ' 92.15 through 92.20 of this chapter, or any amendments thereto, shall be subject to a civil penalty not exceeding \$500 for each violation and for each day upon which any violation shall continue. The city=s Administrator-Clerk, or designee, shall be responsible for investigation of violations and for enforcement of the provisions of ' ' 92.15 through 92.20 of this chapter.

(2) Any person convicted of violating any provision of ' ' 92.15 through 92.20 of this chapter shall be guilty of a misdemeanor punishable by fine and/or jail as provided for by state law for misdemeanor violations.

(Ord. 72-5, passed 7-5-1992; Ord. 2009-01, passed 3-9-2009)

CHAPTER 93: PARKS AND RECREATION

Section

- 93.01 Hours of operation
- 93.02 Alcohol consumption
- 93.03 Destruction of property
- 93.04 Disorderly conduct
- 93.05 Animals
- 93.06 Motor vehicle operation
- 93.07 Park facilities; scheduling

- 93.99 Penalty

' 93.01 HOURS OF OPERATION.

All city parks shall be closed from sundown until sunup on the following day, with the exception that the following lighted facilities may be used until 10:00 p.m.: the ball diamond; the hockey rink; and tennis courts. Also picnic facilities may be used beyond normal hours with written approval from the City Administrator-Clerk=s office.

(Ord. 93-4, passed 10-4-1993) Penalty, see ' 93.99

' 93.02 ALCOHOL CONSUMPTION.

No person or persons shall display, consume or possess any intoxicating liquor, 3.2% malt beverage or intoxicating malt beverage within the park or sidewalks abutting the city parks, except as allowed by permits issued by the City Council.

(Ord. 93-4, passed 10-4-1993) Penalty, see ' 93.99

Editor=s note:

This section was revised on 4-8-1996.

' 93.03 DESTRUCTION OF PROPERTY.

(A) No person shall deface, destroy, diminish or impair the value of public property within any public park in the city, including buildings, structures or trees, shrubs or vegetation located thereon or growing thereon.

(B) No person shall litter or cast or allow to remain rubbish or trash of any kind or nature or having any glass containers in or about any city park.

(Ord. 93-4, passed 10-4-1993) Penalty, see ' 93.99

' 93.04 DISORDERLY CONDUCT.

(A) No person shall engage in any violent, loud or other disorderly conduct creating or tending to create a breach of the peace.

(B) It shall be unlawful for any person or groups of persons to conduct himself, herself or themselves in anyway that shall disturb or adversely affect any other persons peaceful enjoyment of city parks.

(Ord. 93-4, passed 10-4-1993) Penalty, see ' 93.99

' 93.05 ANIMALS.

No person shall bring a dog, cat or other pet into a city park.

(Ord. 93-4, passed 10-4-1993) Penalty, see ' 93.99

' 93.06 MOTOR VEHICLE OPERATION.

It shall be unlawful for any person to operate or park any motor vehicle within the city park, except upon roadways or other designated locations therefor.

(Ord. 93-4, passed 10-4-1993) Penalty, see ' 93.99

' 93.07 PARK FACILITIES; SCHEDULING.

The city=s Administrator-Clerk shall have authority to schedule the use of ball diamonds and picnic facilities in city parks and all groups desiring to use the facilities shall schedule their use with the city=s Administrator-Clerk.

(Ord. 93-4, passed 10-4-1993)

' 93.99 PENALTY.

Any person who violates any provision of this chapter shall be guilty of a petty misdemeanor and, upon conviction therefor, may be punished by a fine of not more than \$200 and shall be subject to removal from the park by city police.

(Ord. 93-4, passed 10-4-1993)

TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

Section

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

- 10.98 Supplemental administrative penalties
- 10.99 General penalty and enforcement

' 10.01 TITLE OF CODE.

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

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(B) (1) All references to codes, titles, chapters and sections are to the components of the code unless otherwise specified.

(2) Any component code may be referred to and cited by its name, such as the Traffic code.

(3) Sections may be referred to and cited by the designation A ' ' followed by the number, such as A ' 10.01.

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

' 10.02 RULES OF INTERPRETATION.

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

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

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

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

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

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

' 10.03 APPLICATION TO FUTURE ORDINANCES.

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

' **10.04 CAPTIONS.**

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

' **10.05 DEFINITIONS.**

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

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

CITY. The City of Blooming Prairie, Minnesota.

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

COUNTY. The County of Steele, Minnesota.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

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

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

SHALL. The act referred to is mandatory.

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

STATE. The State of Minnesota.

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

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

YEAR. A calendar year, unless otherwise expressed.

' **10.06 SEVERABILITY.**

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

' **10.07 REFERENCE TO OTHER SECTIONS.**

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

' **10.08 REFERENCE TO OFFICES.**

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

' **10.09 ERRORS AND OMISSIONS.**

(A) If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published.

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

‘ **10.10 OFFICIAL TIME.**

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

‘ **10.11 REASONABLE TIME.**

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

(B) (1) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last.

(2) If the last day is a legal holiday or a Sunday, it shall be excluded.

‘ **10.12 ORDINANCES REPEALED.**

(A) This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced.

(B) All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

‘ **10.13 ORDINANCES UNAFFECTED.**

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

‘ **10.14 EFFECTIVE DATE OF ORDINANCES.**

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

' 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

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

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

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

' 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

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

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

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

(C) The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted.

(D) In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

' 10.18 COPIES OF CODE.

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

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

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

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

' 10.20 ENFORCEMENT.

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

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

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

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

(E) Every licensee, owner, resident or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the city=s Administrator-Clerk or any other authorized city officer or employee only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses or city service to the property. Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the city=s Administrator-Clerk to object to the termination before it occurs, subject to appeal of the Administrator-Clerk=s decision to the City Council at a regularly scheduled or special meeting.

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

' 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.

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

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

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

administrative penalty for a particular violation must be established before the violation occurred.

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

(E) (1) At any time before the payment of the administrative penalty is due, the person who has been given notice of an alleged violation may request to appear before the City Council to contest the request for payment of the penalty.

(2) After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment.

(3) Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

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

' 10.99 GENERAL PENALTY AND ENFORCEMENT.

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

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

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

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

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

TITLE V: PUBLIC WORKS

Chapter

50. GARBAGE AND REFUSE

51. STORM DRAINAGE

52. SEWERS

CHAPTER 50: GARBAGE AND REFUSE

Section

Dumpsters

- 50.01 Definition
- 50.02 Application requirements
- 50.03 Rules
- 50.04 Dumpsters in the public right-of-way
- 50.05 Denial of use
- 50.06 Violations

- 50.99 Penalty

DUMPSTERS

' 50.01 DEFINITIONS.

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

REFUSE DUMPSTER* or *DUMPSTER*.** Any portable container used or designated for collection of, transporting of or disposal of refuse, waste, construction/demolition materials or the like. ***REFUSE DUMPSTER shall include, but is not limited to, roll off boxes or containers, collection bins, tubs and portable storage containers.

(Ord. 2009-02, passed 11-9-2009)

' 50.02 APPLICATION REQUIREMENTS.

(A) The company owning and emptying the dumpster within city limits or the user of the dumpster must complete a dumpster application before placing the dumpster within the city.

(B) Applications shall be required to be completed each time a dumpster is placed at a location within the city.

(C) Commercial and residential dumpsters placed within the city for daily use must complete a

dumpster application annually.

(D) Dumpsters placed in the city by non-profit organizations for special events or a city recognized disaster are exempt from the application requirement; however, the responsible organization or property owner are still subject to the rules of this subchapter.

(Ord. 2009-02, passed 11-9-2009) Penalty, see ' 50.99

' 50.03 RULES.

(A) Dumpsters must be well maintained and in good working condition, displaying the name or logo and telephone number of the owner of the dumpster, and be suitably supported at each contact point to prevent damage to paved surfaces.

(B) Dumpsters must be covered when materials inside are easily airborne, pose a hazard, emit an odor or are otherwise offensive.

(C) Debris must be placed inside the dumpster, not alongside or on top of it.

(D) All dumpsters are required to be emptied when full. For the purpose of this section, *FULL* is defined as when the contents of the dumpster reach an average level of one foot below the top edge of the dumpster sides. Any dumpster which has reached the full status and is not emptied within seven calendar days shall be considered in violation of this subchapter.

(E) Cleaning dumpsters on the street or sidewalk is not permitted.

(Ord. 2009-02, passed 11-9-2009) Penalty, see ' 50.99

' 50.04 DUMPSTERS IN THE PUBLIC RIGHT-OF-WAY.

(A) A dumpster placed in the public right-of-way must have a flasher or reflector on the outside corner facing traffic at all times. Where traffic may approach from either side, the dumpster must have a flasher or reflector on the outside corner on both sides. Type I or Type II barricades can be used as an alternate to flashers or reflectors.

(B) Dumpsters shall not block a public sidewalk or be placed in a location that restricts the sight lines of an intersection. Sight lines will be determined by the Public Works Director.

(C) Dumpsters placed in the public right-of-way for construction, remodeling or demolition projects shall be removed immediately upon the completion of the project. No dumpster shall be placed in the public right-of-way for more than 30 days. An extension of the 30-day rule may be allowed with written permission from the city.

(D) No dumpster shall be placed on streets, sides of streets or areas designated as ANo Parking@. Dumpsters shall not be placed in public parking lots or parks without prior written permission from the city.

(E) The owner and/or the user of a dumpster on a public right-of-way is/are responsible for any public property, street, curb and gutter or public infrastructure damage.

(F) No dumpster shall be placed in the public right-of-way during the **WINTER SNOW SEASON**, defined for the purpose of this subchapter, as the period from November 1 to the next following April 1. (Ord. 2009-02, passed 11-9-2009) Penalty, see ' 50.99

' 50.05 DENIAL OF USE.

(A) The city may deny the use of dumpsters in the public right-of-way if the dumpster is too wide to allow public safety vehicles through or due to any other traffic concerns.

(B) The city may also deny the use of dumpsters to protect public health or safety concerns. (Ord. 2009-02, passed 11-9-2009)

' 50.06 VIOLATIONS.

(A) The city may remove or have a container removed from the public right-of-way or private property, if the container is in violation of this subchapter.

(B) (1) The owner of the container or, if the owner cannot be determined, the person placing it in the public right-of-way shall pay all costs, fees, penalties or other expenses incurred by the city in removal, storage fees and disposal of any container and its contents.

(2) If payment is not received by the city, the unreimbursed cost may be assessed against the property.

(C) If the container is not claimed within 30 days by its owner or person responsible for placing it in the public right-of-way, it may be disposed of as abandoned property, but disposal shall not diminish the responsibility of the owner or the person responsible for placing the container in the public right-of-way to pay all amounts due.

(D) The city shall not release a container from storage until all amounts due under this section have been paid. (Ord. 2009-02, passed 11-9-2009)

' 50.99 PENALTY.

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

(B) Any violation of ' ' 50.01 through 50.06 of this chapter is a misdemeanor.
(Ord. 2009-02, passed 11-9-2009)

CHAPTER 51: STORM DRAINAGE

Section

- 51.01 Storm Drainage Utility
- 51.02 Findings and determinations
- 51.03 Storm Drainage Utility Fund
- 51.04 Storm sewer utility fee
- 51.05 Exemptions
- 51.06 Payment of charges
- 51.07 Tax lien established

' 51.01 STORM DRAINAGE UTILITY.

Pursuant to M.S. ' 444.075, as it may be amended from time to time, the city establishes a Storm Drainage Utility and authorizes the imposition of just and reasonable charges for use and availability of storm drainage facilities. The Storm Drainage Utility operation shall be a part of the Street Department and under the administration of the city=s Administrator-Clerk.
(Ord. 2003-2, passed 8-11-2003)

' 51.02 FINDINGS AND DETERMINATIONS.

(A) In the exercise of its governmental authority and in order to promote the public health, safety, convenience and general welfare, the city has constructed, operated and maintained a storm drainage system. This chapter is adopted in the further exercise of the authority and for the same purposes.

(B) The system, as constructed heretofore, has been financed and paid through the imposition of special assessments and ad valorem taxes. It is now necessary and desirable to provide an additional method of recovering some or all of the future costs of improving, establishing, enlarging, replacing repairing, maintaining and operating the system through the imposition of charges as provided in this chapter.

(C) In imposing charges, it is necessary to establish a methodology that undertakes to make them just and equitable. Taking into account the status of completion of the system, past methods of recovering system costs, the topography of the city and other relevant factors, it is determined that it would be just and equitable to assign responsibility for some or all of the future costs of improving, establishing, enlarging, replacing, repairing, maintaining and operating the system to the property owners of the city.

(Ord. 2003-2, passed 8-11-2003)

‘ 51.03 STORM DRAINAGE UTILITY FUND.

There is hereby created a Storm Drainage Utility Fund into which all charges, when collected, and all moneys received from the sale of any related facilities or equipment or any by products shall be placed. The moneys shall be used first to pay the normal, reasonable and current costs of operating and maintaining the facilities.

(Ord. 2003-2, passed 8-11-2003)

‘ 51.04 STORM SEWER UTILITY FEE.

A storm sewer utility fee for the connection and availability of the storm sewer facilities shall be charged by resolution of the City Council and shall be just and equitable. The charge for the availability of the storm sewer service may be imposed for all premises abutting on streets or other places where municipal storm sewers are located.

(Ord. 2003-2, passed 8-11-2003)

‘ 51.05 EXEMPTIONS.

Public rights-of-way, unimproved land and city-owned land are exempt from storm drainage charges.

(Ord. 2003-2, passed 8-11-2003)

‘ 51.06 PAYMENT OF CHARGES.

Storm water utility charges shall be made a part of the present building system invoiced through the city's Public Utilities office on a monthly basis.

(Ord. 2003-2, passed 8-11-2003)

‘ 51.07 TAX LIEN ESTABLISHED.

Any past due storm water drainage charges will be certified to the County Auditor for collection with the real estate taxes against the property served by the utility established in this chapter for collection, as other taxes are collected in the following year pursuant to M.S. ' 444.075 subd. 3, as it may be amended from time to time. In addition, the city shall have the right to bring a civil action or take other legal remedies to collect unpaid charges.

(Ord. 2003-2, passed 8-11-2003)

CHAPTER 52: SEWERS

Section

- 52.01 Definitions
- 52.02 Public sewers required
- 52.03 Private wastewater disposal
- 52.04 Building sewers and connections
- 52.05 Use of public sewers
- 52.06 Protection from damage
- 52.07 Inspectors; powers and authorities
- 52.08 Sewer service charges; taxes
- 52.09 Sewer Service Fund

- 52.99 Penalty

52.01 DEFINITIONS.

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

APPROVING AUTHORITY. The City Council of the City of Blooming Prairie or its duly authorized board, agent or representative.

BOD or BIOCHEMICAL OXYGEN DEMAND. The quantity of oxygen expressed in parts per million by weight, utilized in the biochemical oxidation of organic matter under standard laboratory conditions in five days at 20°C. The laboratory determinations shall be made in accordance with procedures set forth in *Standard Methods*.

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

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal. (Also called **HOUSE CONNECTION**.)

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CITY. The area within the corporate boundaries of the City of Blooming Prairie, as presently established or as amended by legal actions at a future time. The term **CITY** may also be used to refer to the City of Blooming Prairie, Minnesota, or any authorized person acting in its behalf.

COD or **CHEMICAL OXYGEN DEMAND.** The oxygen equivalent of that portion of the organic and inorganic matter in a sample of wastewater, expressed in parts per million by weight, that can be oxidized by a strong chemical oxidizing agent. The laboratory determinations shall be made in accordance with procedures set forth in *Standard Methods*.

COLLECTION SYSTEM. The system of sewers and appurtenances for the collection, transportation and pumping of domestic wastewater and industrial wastes.

COMBINED SEWER. A sewer intended to receive both wastewater and storm or surface water. The city has no **COMBINED SEWERS**.

COMPATIBLE POLLUTANT. Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the city NPDES permit, if the city treatment works is capable of removing the pollutants and, in fact, does remove such pollutants to a substantial degree. Examples of such additional pollutions may include: chemical oxygen demand; total organic carbon; phosphorus; phosphorus compounds; nitrogen; and/or nitrogen compounds.

CONNECTION. Each connection to the collection system.

CONSTRUCTION COST. The total cost incurred in the construction of sewerage works, consisting of, but not limited to, the sums spent for the following purposes:

(1) Actual sums paid for construction of wastewater treatment facilities and for land acquisition;

(2) Actual engineering fees paid for preliminary engineering studies, plans and specifications, services during construction, construction staking, operation and maintenance manuals and initial operator training;

(3) Actual sums paid for soils investigations, wastewater sampling and materials testing required for the construction;

(4) Actual fees and wages paid for legal, administrative and fiscal services required by construction of wastewater treatment facilities; and

(5) Actual interest paid on the total amount financed by debt obligation for construction of wastewater treatment facilities.

DEBT SERVICE CHARGE. The total charge levied on users for purposes of paying construction costs (principal and associated interest) of obligations incurred to finance acquisition and/or construction of sewerage works.

DOMESTIC WASTEWATER. Water-borne wastes normally discharged into the sanitary conveniences of dwellings (including apartment houses and hotel), office buildings, factories and institutions, free of storm and surface water and industrial wastes.

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

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

GARBAGE. The animal and vegetable waste resulting from handling, preparation, cooking and services of foods.

INCOMPATIBLE POLLUTANT. Any pollutant which is not a compatible pollutant.

INDUSTRIAL WASTES. As distinct from domestic or sanitary wastes, shall mean the wastewater from industrial processes, trade or business.

INFILTRATION. The water entering the sanitary sewer system and service connections from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. **INFILTRATION** does not include, and is distinguished from, inflow.

INFILTRATION/INFLOW. The total quantity of water from both infiltration and inflow without distinguishing the source.

INFLOW. The water discharged into the sanitary sewer system from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross-connections to storm sewers, catch basins, storm waters, surface run-off, street wash waters or drainage. **INFLOW** does not include, and is distinguished from, infiltration.

MAJOR CONTRIBUTING INDUSTRY. An industrial user of the city treatment works that: has an equivalent wastewater flow of 50,000 gallons or more per average work day; has a wastewater flow greater than 5% of the flow carried by the city system receiving the wastewater; has in its wastewater a toxic pollutant in toxic amounts as defined in standards issued under ' 307(a) of Pub. Law No. 92-500; or is found by the permit issuance authority, in connection with the issuance of an NPDES permit to the city treatment works receiving the wastewater, to have significant impact, either singly or in combination with other contributing industries, on the city treatment works or upon the quality of effluent from the city treatment works.

MAY. The act referred to is permissive.

NATURAL OUTLET. Any storm sewer or surface water which overflows into a watercourse, pond, ditch, lake or other body of surface or ground water.

NORMAL DOMESTIC STRENGTH WASTEWATER or **NDSW.** Wastewater that is primarily produced by residential users, with BOD5 and suspended solids concentrations up to 250 mg/l.

NPDES PERMIT. The National Pollutant Discharge Elimination System permit held by the city. This permit, which establishes limits on quality and quantity of discharges from the city treatment works, was issued by the state and federal governments in accordance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. ' ' 1251 et seq.; the Act, ' ' 402 and 405).

OPERATION AND MAINTENANCE COST. Annual expenditures made by the city in the operation and maintenance of its sewerage works, consisting of, but not limited to, the sums spent for each of the following purposes:

(1) Wages and salaries of all operating, maintenance, administrative and supervisory personnel, together with all premiums paid on the wages and salaries (state worker=s compensation coverage, for example);

(2) Actual sums paid for electricity for light and power used for wastewater collection and treatment facilities;

(3) Actual sums paid for chemicals, fuel and other operating supplies;

(4) Actual sums paid for repairs to and maintenance of wastewater collection and treatment facilities and the equipment associated therewith;

(5) Actual sums paid as premiums for hazard insurance carried on sewerage works;

(6) Actual sums paid as premiums for insurance providing coverage against liability imposed by law for the injury to persons and/or property (including death) of any person or persons resulting from the use and maintenance of the sewerage works;

(7) Actual sums paid for replacement of equipment within the useful life of the wastewater treatment facilities, for example the cost to replace an electric motor or pump that fails, or a broken part in a pump; and

(8) Actual sums set aside in a sinking fund established to provide a future capital amount for replacement of sewerage works equipment.

PARTS PER MILLION. A weight-to-weight ratio; the parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water. **PARTS PER MILLION** and **MILLIGRAMS PER LITER (mg/l)** shall be synonymous terms.

PERSON. Any individual, firm, company, association, society, corporation, municipal corporation, governmental unit or group.

pH. The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 0.000,000, one gram/liter or 10^{-7} grams per liter.

PRETREATMENT. The process of reducing the amount of pollutants, eliminating pollutants or altering the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the (city=s) wastewater disposal system.

PRETREATMENT ORDINANCE. A municipal ordinance containing rules and regulations relating to pretreatment.

PRETREATMENT PROGRAM. A formulated plan for the implementation of pretreatment within the city.

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

PUBLIC SEWER. A common sewer controlled by a governmental agency or public utility.

REPLACEMENT. Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the design life, or useful life, whichever is longer of the sewerage works to maintain the capacity and performance for which the facilities were designed and constructed. As noted herein, the term "Operation and maintenance cost" includes **REPLACEMENT** costs.

SANITARY SEWER. A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters (infiltration/inflow) that are not admitted intentionally.

SEWAGE. The spent water of a community. The preferred term is **WASTEWATER**. Sometimes referred to as **SANITARY WASTE**.

SEWER. A pipe or conduit that carries wastewater or drainage water.

SEWER SERVICE CHARGE. The total charge levied on users for sewer service. **SEWER SERVICE CHARGE** is the sum of "user charge" and "debt service charge".

SEWER SERVICE FUND. A fund comprised of revenues generated by the sewer service charges.

SEWERAGE WORKS. All facilities for collecting, pumping, treating and disposing of wastewater and industrial wastes.

SHALL. The act referred to is mandatory.

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

STANDARD METHODS. The examination and analytical procedures set forth in the latest edition at the time of the analysis of *Standard Methods for the Examination of Water and Wastewater*, as prepared, approved and published jointly by the American Public Health Association, the Water Pollution Control Federation and the American Water Works Association. The **STANDARD METHODS** shall also conform to Federal Register Reprint 40 C.F.R. part 136, A Guidelines Establishing Test Procedures for Analysis of Pollutants@ (10-16-1973).

STORM DRAIN. (Sometimes termed **STORM SEWER.**) A drain or sewer for conveying water, ground water, subsurface water or unpolluted water from any source.

STORM WATER RUNOFF. The portion of the rainfall that it drained into the storm sewers or storm drains.

SUMP PUMP. A pump for disposing of storm drainage.

SUPERINTENDENT. The superintendent of wastewater facilities of the city or his or her authorized deputy, agent or representative.

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

UNIT. A unit of water is 1,000 gallons.

UNPOLLUTED WATER. Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

USER. Any person who discharges, causes or permits the discharge of wastewater into the city=s sanitary sewer system.

USER CHARGE. A charge levied on users to recover each user=s proportionate share of operation, maintenance and replacement of sewerage works, pursuant to ' 204(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. ' ' 1251 et seq).

USER CLASS. The division of the users by wastewater characteristic or discharge similarities (example: residential; commercial; industrial; institutional; and governmental).

(1) **COMMERCIAL USER.** Any establishment listed in the Office of Management and Budget *Standard Industrial Classification Manual* (1972 edition) involved in a commercial enterprise, business or service which, based on a determination by the city, discharges primarily segregated domestic wastewater or wastewater from sanitary conveniences.

(2) **GOVERNMENTAL USER.** Any federal, state or local government user of the wastewater treatment facilities.

(3) **INDUSTRIAL USER.**

(a) Any non-governmental user of the publicly owned treatment facilities identified in the 1972 *Standard Industrial Classification Manual (SICM)*, Office of Management and Budget, as amended and supplemented under the following divisions:

1. Division A: Agriculture, Forestry and Fishing;
 2. Division B: Mining;
 3. Division D: Manufacturing;
 4. Division E: Transportation, Communication, Electric, Gas and Sanitary Services;
- and
5. Division I: Services.

(b) An **INDUSTRIAL USER** is also defined as a user who discharges to the city sanitary sewer system any liquid wastes resulting from the processes employed in industry or manufacturing or in the development of any natural resource.

(c) **INDUSTRIAL USER** shall also mean any non-governmental user of a publicly-owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

(4) **INSTITUTIONAL USER** shall mean any establishment listed in the *SICM* involved in a social, charitable, religious or education function which, base on a determination by the city, discharges primarily segregated domestic wastewater or wastewater from sanitary conveniences.

(5) **RESIDENTIAL USER.** A user of the treatment facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached, semi-detached and rowhouses, mobile homes, garden and standard apartments or permanent multi-family dwellings. (Transit lodging, considered commercial in nature, is not included.)

WASTEWATER. The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any ground water, surface water and storm water that may be present.

WASTEWATER FACILITIES. The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

WASTEWATER TREATMENT FACILITIES. An arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with **WASTE TREATMENT PLANT** or **WASTEWATER TREATMENT PLANT** or **WATER POLLUTION CONTROL PLANT**.

WATERCOURSE. A natural or artificial channel for the passage of water either continuously or intermittently.
(Ord. 89-1, passed 5-1-1989)

' 52.02 PUBLIC SEWERS REQUIRED.

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

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

(C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(D) The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on that part of any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at the owner(s)= expense to install suitable toilet facilities and service connection to the public sewer in accordance with the provisions of this chapter, within 90 days after date of mailing or delivery of official notice to do so. The notice shall be so given to the owner or occupant in writing by the Administrator-Clerk on order of the City Council.

(E) (1) In the event an owner or occupant shall fail to comply with written notice given under ' 52.02 of this chapter, the city shall, by resolution, direct that toilet facilities and service connection be

made with the water and sewer system and shall assess the cost thereof against the benefitted property. After the installation and connection have been completed pursuant to Council resolution, the city=s Administrator-Clerk shall serve a written notice of the assessment upon the owner directing him or her to pay the assessment to the city=s Administrator-Clerk within ten days after the service of notice. If the assessment is not paid within ten days, the city=s Administrator-Clerk shall certify the amount to the County Auditor for collection in the same manner as other special assessments. The City Council may, by resolution, spread the assessment over a three-year period. The assessment shall be a lien against the property. The assessment, when levied, shall bear interest at the rate determined by the City Council.

(2) The rights of the city shall be in addition to any remedial or enforcement provisions of this chapter.

(Ord. 89-1, passed 5-1-1989) Penalty, see ' 52.99

' 52.03 PRIVATE WASTEWATER DISPOSAL.

(A) Where a public sanitary sewer is not available under the provisions of ' 52.02 of this chapter, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of the state=s on-site sewer ordinance.

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

(C) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the city or the state.

(D) (1) At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within 90 days in compliance with this chapter and within 120 days any septic tanks, cesspools and similar private wastewater disposal systems shall be cleaned of sludge.

(2) The bottom shall be broken to permit drainage and the tank or pit filled with suitable material.

(Ord. 89-1, passed 5-1-1989) Penalty, see ' 52.99

' 52.04 BUILDING SEWERS AND CONNECTIONS.

(A) No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance without first obtaining a written permit from the City Council and otherwise complying with the provisions of this chapter.

(B) A permit for construction of the building sewer, and for connecting it to the public sewer, shall be obtained from the City Council; a bond in an amount appropriate to secure compliance with the provisions of this section may be required by the Council.

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(C) Before undertaking the construction work authorized by the permit, the plumber shall secure and maintain a policy of insurance against damages to property or injury or death to persons. The policy shall indemnify and save harmless the city and its personnel against any claim, damages or cause of action arising out of the work and from any expense defending the same. The property damage insurance coverage shall be in the amount of at least \$50,000 and the public liability damage for injury or death shall be in the amount of at least \$250,000. Proof of insurance shall be filed with the city prior to construction work. If the insurance coverage be inadequate in amount, the contractor shall himself or herself indemnify and save harmless the city and its personnel in like manner.

(D) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(E) A separate and independent building sewer shall be provided for every building, unless written permission for an alternative is obtained from the city. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any single connection aforementioned.

(F) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the approving authority, to meet all requirements of this chapter.

(G) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the city. Cast iron pipe shall be used for a building sewer laid within 50 feet of any well per Public Health Department requirements.

(H) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary wastewater carried by the building drain shall be lifted by an approved means and discharged to the building sewer.

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

(J) The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the city. All such connections shall be made gas-tight and water-tight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the approving authority before installation.

(K) The applicant for the building sewer permit shall notify the approving authority when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the approving authority. No backfill shall be placed until the work has been inspected and approved.

(L) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the approving authority. (Ord. 89-1, passed 5-1-1989) Penalty, see ' 52.99

' 52.05 USE OF PUBLIC SEWERS.

(A) No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, ground water, roof runoff, subsurface drainage or cooling water to any sanitary sewer. Storm water runoff from limited areas, which may be polluted at times, may be discharged to the sanitary sewer by permission of the approving authority.

(B) Storm water, other than that exempted under division (A) above, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated storm sewers or to a natural outlet approved by the approving authority and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the approving authority and in accordance with the provisions of state and federal regulations, to a storm sewer or natural outlet.

(C) No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive (liquid, solid or gas);

(2) Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, result in a violation of state or federal water quality standards, or create any hazard in the wastewater treatment plant or the receiving waters. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to ' 307(a) of the Clean Water Act;

(3) Any waters or wastes having a pH lower than 5.5, or higher than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater facilities. Exceptions may be granted (by the approving authority) for short duration flows where it has been, or can be shown that high or low pH would not cause any significant wastewater facilities problems;

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers and the like, either whole or after passage through garbage grinders; and

(5) Any wastewaters or matter that would directly or indirectly result in a violation of the

city=s NPDES permit.

(D) (1) The following described substances, materials, waters or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not violate design criteria or harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property or constitute a nuisance. The approving authority may set limitations lower than the limitations established in the regulations below if, in its opinion, more severe limitations are necessary to meet the above objectives. In forming the opinion as to the acceptability, the approving authority will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors.

(2) The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the approving authority are as follows:

- (a) Wastewater having a temperature higher than 150°F (65°C);
- (b) Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils or product of mineral oil origin or containing substances that may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65.6°C);
- (c) Wastewater from industrial plants containing floatable oil, fat or grease, in excess of concentrations permitted by the approving authority;
- (d) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or consumption elsewhere when served by caterers;
- (e) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to a degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for the materials;
- (f) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the approving authority;
- (g) Any radioactive materials of a half-life or concentration as may exceed limits established by the approving authority or applicable state and federal regulations;
- (h) Quantities of flow, concentrations or both which constitute a slug, as defined herein;
- (i) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system

or create a condition deleterious to structures and treatment processes;

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

(k) Wastewater containing inert suspended solids (such as, but not limited to, Fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in quantities that would cause disruption with the wastewater disposal system; and

(l) Any waters or wastes containing BOD or suspended solids of a character and quantity that unusual attention or expense is required to handle the materials at the wastewater treatment works, except as may be permitted by specific written agreement subject to the provisions hereof.

(3) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in division (D)(1) above and which, in the judgment of the approving authority, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the approving authority may:

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewer, pursuant to ' 307(b) of the Clean Water Act, as amended 33 U.S.C. ' ' 1251 et seq., and in compliance with the city=s Municipal Pretreatment Ordinance;

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

(d) Require payment to cover added cost of handling and treating the wastes not covered by existing taxes or service changes.

(4) If the approving authority permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the approving authority and costs shall be borne at the user=s expense.

(E) Grease, oil and sand interceptors shall be provided when, in the opinion of the approving authority, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified herein, or any flammable wastes, sand or other harmful ingredients; except that, the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the approving authority, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the approving authority. Any removal and hauling of the collected materials not performed by the owner(s)= personnel must be performed by currently licensed waste disposal firms.

(F) Where pretreatment or flow-equalizing facilities are provided or required for any waters or

wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his or her expense.

(G) When required by the approving authority, the owner of any property serviced by a building sewer carrying industrial or domestic wastewater shall install a suitable structure together with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The structure, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the approving authority. The structure shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

(H) An industrial user may, at the discretion of the city, be required to provide laboratory measurements, tests or analyses of waters or wastes to illustrate compliance with this chapter and any special condition for discharge established by the city or regulatory agencies having jurisdiction over the discharge. The number, type and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the city. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with federal, state and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the city at the times and in a manner as prescribed by the city. The owner shall bear the expense of all measurements, analyses and reporting required by the city. At such times as deemed necessary, the city reserves the right to take measurements and samples for analysis by an independent laboratory.

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

(J) New connections to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities, including, but not limited to, capacity for flow, BOD and suspended solids.

(K) No person, unless authorized, shall uncover, make any connection with or opening into, use, alter or disturb any sanitary or storm sewer within the city or any part of the city wastewater facilities.

(L) No sanitary or storm sewers shall be constructed in the city (except house or building service sewers), except by the city or by others in accordance with plans and specifications approved by a professional engineer. No sewers shall be constructed or considered to be part of the public sewer system unless accepted by the city.

(M) The size, slope, alignment, material of construction, methods to be used in excavation, placing of pipe, jointing, testing, backfilling and other work connected with the construction of sewers shall conform to the requirements of the city.

(N) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby all industrial waste of unusual strength

or character may be accepted by the city for treatment, when the city treatment can be provided in compliance with the requirements of the NPDES permit and subject to payment therefor by the industrial concern and providing that national categorical pretreatment standards are not violated.

(O) A separate and independent building sewer shall be provided for every building unless written permission for an alternative is obtained from the city. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any single connection aforementioned.

(Ord. 89-1, passed 5-1-1989) Penalty, see ' 52.99

' 52.06 PROTECTION FROM DAMAGE.

No person(s) shall maliciously, willfully or negligently enter, break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Ord. 89-1, passed 5-1-1989) Penalty, see ' 52.99

' 52.07 INSPECTORS; POWERS AND AUTHORITIES.

(A) (1) Duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to any public sewer or natural outlet in accordance with the provisions of this chapter.

(2) Sampling pertaining to industry will reflect the number of days an industry is not operating as well as the days in operation and discharging waste to a public sewer.

(B) The approving authority or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

(C) While performing the necessary work on private properties referred to in division (A) above, duly authorized employees of the city shall observe safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in ' 52.05 of this chapter.

(D) Duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the

purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. 89-1, passed 5-1-1989) Penalty, see ' 52.99

' 52.08 SEWER SERVICE CHARGES; TAXES.

(A) (1) The billable volume or normal strength domestic waste will be calculated from the volume of metered water usage. For residential users, the per quarter billable flow shall be equal to quarterly metered water usage in the first quarter of the calendar year. For non-residential users discharging normal strength domestic wastewater, billable flow shall be equal to quarterly water usage measured throughout the year. The quarterly service charge will include a user charge component (to meet all costs associated with operation, maintenance and replacement of the wastewater collection and treatment facilities) and a debt retirement component (to meet facility construction costs).

(2) Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and restoration of the receiving waters and environs, and sludge disposal, shall be borne by the discharger(s) of the wastes.

(3) As an equitable share of the expenses incurred by the city in the construction, administration, operation, maintenance and replacement of the sewerage works, each user will pay to the city a quarterly amount based upon the following formulae:

(a) *Normal domestic strength waste (NDSW).*

$$A = V(F) + Q$$

Where:

A = Sewer service charge to user, with units of \$/quarter.

Y = Unit cost of wastewater collection and treatment, with units of \$/1,000 gallons of normal strength domestic wastewater

F = Volume of wastewater from user with units of 1,000 gallons per quarter (according to the method set forth herein)

Q = Quarterly infiltration/inflow and administrative cost

(b) *Industrial waste.* Industrial users shall be billed quarterly, at either the rate of NDSW or a rate based upon the volume of wastewater, pounds of BOD and pounds of suspended solids discharged, whichever is greater. Quarterly sewer service charges based on volume, BOD and suspended solids data from the industry shall be computed as follows:

$$\text{Sewer service charge} = f (\text{quarterly flow}) + b (\text{lb BOD/quarter}) + \text{SS} (\text{lb SS/quarter}) + Q$$

Where:

f = Unit cost of wastewater collection and treatment chargeable to flow, with units of \$/1,000 gallons

b = Unit cost of wastewater collection and treatment chargeable to BOD, with units of \$/lb of BOD

SS = Unit cost of wastewater collection and treatment chargeable to suspended solids, with units of \$/lb suspended solids

Q = Quarterly infiltration/inflow and administrative cost

(4) (a) Unit costs shall be computed annually and shall include a user charge rate attributed to operation, maintenance and replacement costs and debt service charge rate attributed to retirement of debt costs for construction. Costs shall be distributed in the manner demonstrated in the *Sewer Service Charge System, for Blooming Prairie, Minnesota*, dated 1988. Cost data will be maintained at the City Hall.

(b) Initial unit cost figures for the service charge will be established by City Council resolution. Computations supporting unit cost figures (f, b, and SS) and sewer service charges shall be revised annually as necessary. All users discharging normal strength domestic wastewater shall be billed a fixed rate per 1,000 gallons of metered water used.

(c) Each user of the city sewer system that does not have a metered source of water must install an accurate water or wastewater flow metering device (at user=s expense) that will serve as a basis for estimating the volume of wastewater discharged and determining the sewer service charge.

(d) All users of city water that is not discharged to the city sanitary sewer system may install a separate water system and meter (one only in the same building as the main meter) to isolate and meter non-sewered water for which no sewer charge is required. If at any time after this independent system is installed, water from this system enters the sanitary sewer system, the user will be subject to the penalties of ' 52.99 of this chapter and shall be ordered to eliminate the independent system if this violation is continued.

(5) To ensure the required financial surveillance, the city shall annually review the cash flows associated with providing wastewater treatment service for the city. Any inequities and/or shortages of revenue caused by unforeseen changes in the cost revenue pattern of the wastewater treatment facilities shall be remedied by a City Council resolution adjusting the unit cost figures. Adjusted unit figures shall be computed in accordance with the principals of this division (A)(5).

(6) Sewer service charges provided for in this chapter shall be included as a separate item on the regular bill for water. Charges shall be paid at the same time that the water charges of the person become due. The city shall annually notify all users what portion of the service charge is necessary to meet the operation, maintenance and replacement costs (user charge) and what portion is necessary to meet long-term debt (debt service charge).

(7) Accounts that are not paid in full within 30 days will be charged a late payment penalty as established by the City Council and will be subject to interest charges at a rate established by the City Council. In the event a user does not pay his or her account in full within 90 days after billing, the city may undertake to have the water service to the property disconnected and may file a lien against the

property.

(8) Delinquent sewer, water and electric accounts shall be certified to the city's Administrator-Clerk who shall prepare an assessment role each year providing for assessment of the delinquent amounts against the respective properties served. The assessment role shall be delivered to the City Council for adoption at the regularly scheduled November City Council meeting each year. Upon the adoption, the Administrator-Clerk shall certify the assessment role to the County Auditor for collection along with taxes.

(B) (1) The City Council intends to establish a sewer access charge on new connections to the sanitary sewer system of the city in order to help pay for the additional usage of the sewer treatment facilities, lift stations, force mains and trunk sewers created by these new connections.

(a) *New connections.* New connections shall be any new lateral connection to the sanitary sewer main. Rehabilitation of an old connection or the reconnection of an old connection will not be considered a new connection. Any net increase in sewer connections from any one parcel of property will be considered new connections, whether directly to the main or the existing lateral.

(b) *Unit.* A unit shall be each dwelling unit, each tenant in a commercial building or each industrial customer making use of sewer services and separate structures on the same property was the primary unit.

(2) This division (B) establishes a sewer access charge of \$300 per unit, subject to periodic review by the City Council.

(3) This fee shall be collected by the City Administrator before the property owner is given access to the sanitary sewer system. The property owner must also have the connection inspected and approved by city personnel. If the property owner makes connection to the sanitary sewer system prior to paying the sewer access charge and/or without the proper inspections, the property owner shall pay double the sewer access charge.

(Ord. 89-1, passed 5-1-1989; Ord. 93-3, passed 10-4-1993; Ord. 99-1, passed 3-8-1999; Ord. 2006-1, passed 10-9-2006)

' 52.09 SEWER SERVICE FUND.

(A) The city hereby establishes a Sewer Service Fund as an income fund to receive all revenues generated by the sewer service charge system, and all other income dedicated to the operation, maintenance, replacement and construction of the wastewater treatment work, including taxes, special charges, fees and assessments intended to retire construction debt.

(B) The city also establishes the following accounts as income and expenditure accounts within the Sewer Service Fund:

(1) Operation and Maintenance Account;

(2) Equipment Replacement Account; and

(3) Debt Retirement Account.

(C) All revenue generated by the sewer service charge system, and all other income pertinent to the treatment system, includes taxes and special assessments dedicated to retire construction debt, shall be separate and apart from all other funds of the city. Funds received by the Sewer Service Fund shall be transferred to the Operation and Maintenance Account, the Equipment Replacement Account and the Debt Retirement Account in accordance with state and federal regulations and the provisions of this chapter.

(D) Revenue generated by the sewer service charge system sufficient to ensure adequate replacement throughout the design or useful life, whichever is longer, of the wastewater facility shall be held separate and apart in the Equipment Replacement Account and dedicated to affecting replacement costs. Interest income generated by the Equipment Replacement Account shall remain in the Equipment Replacement Account.

(E) Revenue generated by the sewer service charge system sufficient for operation and maintenance shall be held separate and apart in the Operation and Maintenance Account.
(Ord. 89-1, passed 5-1-1989)

52.99 PENALTY.

(A) The city will notify property owners of its intent to inspect their premises for violations of this chapter and requiring that the property owners make arrangements with the city within 30 days for the inspection to be scheduled and requiring that the inspection be conducted within 90 days. In the event the inspection discloses a violation of this chapter, the property owner will be notified to correct the violation and have the property reinspected within 180 days. Any property owner failing to timely comply with the provisions of this chapter will be assessed \$50 per month surcharge to be collected with monthly utility charges until the property owner comes into compliance with this chapter.

(B) Any person who shall continue any violation beyond the time limit provided for in division (A) above shall be guilty of a misdemeanor. Each day in which any violation shall continue shall be deemed a separate offense.

(C) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of the violation.

(D) Any person desiring to transfer ownership of property within the city by deed, contract for deed or in any other manner shall, prior to making the transfer of ownership, have an inspection conducted of the property to determine if the property is in violation of this chapter by having a connection of roof downspouts, foundation drains, areaway drains, sump pumps or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any person desiring to transfer ownership shall have an inspection conducted by use of

dye, smoke or camera, or other method acceptable to the city to establish that the property is not in violation of this chapter.

(Ord. 89-1, passed 5-1-1989; Ord. 99-4, passed 9-13-1999; Ord. 01-2, passed 9-10-2001; Ord. 05-2, passed 12-12-2005)

TITLE VII: TRAFFIC CODE

Chapter

70. TRAFFIC AND PARKING

71. RECREATIONAL AND TOY VEHICLES

CHAPTER 70: TRAFFIC AND PARKING

Section

General Provisions

- 70.01 State law adopted
- 70.02 Unclassified violations

Vehicle Operation

- 70.15 Dynamic brakes
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Parking Vehicles and Trailers

- 70.30 Definitions
 - 70.31 Time limit parking
 - 70.32 Double parking
 - 70.33 No parking zones
 - 70.34 Parking in specific areas
 - 70.35 School bus zones
 - 70.36 Snow emergency
 - 70.37 Unlawful parking and storage
-
- 70.99 Penalty

GENERAL PROVISIONS

' 70.01 STATE LAW ADOPTED.

The regulatory provisions of M.S. Ch. 169, as it may be amended from time to time, are hereby adopted as a traffic ordinance regulating the use of highways, streets and alleys within the city and are hereby incorporated in and made a part of this traffic code as completely as if set out here in full.
(Ord. 72-3, passed - -1972) Penalty, see ' 70.99

' 70.02 UNCLASSIFIED VIOLATIONS.

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(A) No person shall operate a vehicle on a public highway, street, parking lot, alley or other public property in a manner as to cause the tires to squeal, the gears to grind or the motor to backfire, except when an emergency creates the necessity for operation.

(B) No person shall drive a vehicle on a public highway, street, parking lot, alley or other public property at irregular or erratic and changing speeds or in a manner as to cause the motor vehicle to skid or slide upon acceleration or stopping or in a manner that simulates a temporary race or that causes the vehicle to turn abruptly or sway, except when an emergency creates the necessity for operation.

(Ord. 74-1, passed - -1974) Penalty, see ' 70.99

VEHICLE OPERATION**' 70.15 DYNAMIC BRAKES.**

It shall be unlawful for any vehicle to intentionally dynamic brake (AJake Brake®) on any public highway, street, parking lot or alley within the city, except in an emergency.

(Ord. 99-3, passed 8-9-1999) Penalty, see ' 70.99

' 70.16 DRIVING REGULATION.

Each and every person driving an automobile in any public street of the city shall, at all times, keep the cut-out of the automobile closed and shall keep the automobile to the right of the center of the street between street intersections and shall, at no time, turn the automobile around at any place in any street between street intersections.

(Ord. 105, passed 8-5-1918) Penalty, see ' 70.99

PARKING VEHICLES AND TRAILERS**' 70.30 DEFINITIONS.**

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

MOTOR VEHICLE. Every vehicle which is self-propelled and not deriving its power from overhead wires.

STREET or **HIGHWAY.** The entire width between boundary lines of any way or place when part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular traffic. (Ord. 2000-1, passed 3-13-2000)

' 70.31 TIME LIMIT PARKING.

(A) No person shall park or cause to be parked a motor vehicle or trailer in any area zoned as a business district within the city for more than six consecutive hours during the hours of 7:00 a.m. until 6:00 p.m., nor for a period in excess of 36 consecutive hours on any other street or highway anywhere else within the city.

(B) The City Council may designate no parking or limited time parking zones by resolution, setting forth the location of the zone and, in the case of limited time parking space, the time limit imposed.

(C) The Chief of Police shall post signs at locations so designated which shall either indicate, in accordance with the resolution, no parking zone or the specified time limit for parking and, if there is any concrete curb, the curb shall be painted yellow at the designated parking zone.

(Ord. 2000-1, passed 3-13-2000) Penalty, see ' 70.99

' 70.32 DOUBLE PARKING.

No person shall park or cause to be parked a motor vehicle or trailer in any place where signs have been erected to prohibit it or where it causes a delay or blocking of moving traffic.

(Ord. 2000-1, passed 3-13-2000) Penalty, see ' 70.99

' 70.33 NO PARKING ZONES.

No person shall park or cause to be parked a motor vehicle or trailer in any place where a yellow zone or no parking sign has been erected to prohibit parking.

(Ord. 2000-1, passed 3-13-2000) Penalty, see ' 70.99

' 70.34 PARKING IN SPECIFIC AREAS.

(A) No person shall park or cause to be parked any motor vehicle or trailer in front of the entrance to the ambulance garage.

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(B) No person shall park or cause to be parked a motor vehicle or trailer in the emergency zone located in front of the doctor=s office unless it is there for an emergency at doctor=s office and, then, the motor vehicle or trailer shall be moved as soon as possible.

(C) No person shall park or cause to be parked any motor vehicle or trailer on the wrong side of the street.

(D) Semi-trailers or tractor and trailer units as defined under the state=s Traffic Code shall not be parked on city streets without the written consent of the City Council.

(E) No person shall park or cause to be parked any motor vehicle or trailer in a manner that it causes a private driveway to be blocked fully or partially.

(Ord. 2000-1, passed 3-13-2000) Penalty, see ' 70.99

' 70.35 SCHOOL BUS ZONES.

No person shall park or cause to be parked any motor vehicle or trailer in the school bus zone located at the schools unless an emergency has arisen. Then, the vehicle shall be moved as soon as possible.

(Ord. 2000-1, passed 3-13-2000) Penalty, see ' 70.99

' 70.36 SNOW EMERGENCY.

(A) (1) A snow emergency is hereby declared to exist in the city by reason of heavy snowfall whenever snow falls during any 24 hours or less to a depth of three inches or more, in that the snowfall constitutes a serious public hazard, impairing transportation, the movement of food and fuel supplies, medical care, fire, health and police protection and vital municipal facilities. The emergency is declared to continue for a period of 36 hours from the time it is announced or until such earlier time as snow plowing operations have been declared to be completed. An emergency is hereby declared to commence when the city=s Administrator-Clerk causes the announcement thereof to be made at least one time on a radio station whose normal operating range covers the area within the corporate limits of the city.

(2) No person shall park or cause to be parked any motor vehicle or trailer during a snow emergency in the ***DOWNTOWN BUSINESS AREA***, which area shall be defined to include the following streets: Second Avenue, from First Street southeast to First Street northeast; and Main Street, from Second Avenue to Highway #218.

(3) No person shall park or cause to be parked any motor vehicle or trailer during a snow emergency on any street within the city and outside of the downtown business area described above at any time commencing 24 hours from the declaration of the snow emergency for the balance of the snow emergency.

(B) (1) Any police officer may remove any motor vehicle or trailer from a street to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal.

(2) The motor vehicle or trailer shall not be released until the fees for towing and storage are paid in addition to any fine imposed for this violation.

(Ord. 2000-1, passed 3-13-2000) Penalty, see ' 70.99

' 70.37 UNLAWFUL PARKING AND STORAGE.

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

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

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

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

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

(D) A person owning, driving or in charge of a vehicle with a weight classification G through T inclusive, as specified in M.S. ' 168.013, subd. 1(e), as it may be amended from time to time, must not cause or permit that vehicle to be parked outside or to stand continuously for more than two hours on any property or public street within a residential zone in the city.

(E) The prohibitions of this section do not apply to the following:

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(1) A motor truck, pickup truck or similar vehicle being used by a public utility, moving company or similar company that is actually being used to service a residence not belonging to or occupied by the operator of the vehicle;

(2) A vehicle that is actually making a pickup or delivery at the location where it is parked. Parking for any period of time beyond the period of time reasonably necessary to make the pickup or delivery is unlawful; and

(3) Lawful non-conforming and permitted uses.
(Ord. 2000-1, passed 3-13-2000) Penalty, see ' 70.99

' 70.99 PENALTY.

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

(B) Any violation of the statutes adopted by reference in ' 70.01 of this chapter is a violation of ' 70.01 of this chapter when it occurs within the city. Any person thus violating any provision of ' 70.01 of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed \$300 or by imprisonment in the city or county jail for a period of not to exceed 90 days; but, if a minimum fine or imprisonment is prescribed by the state=s Highway Traffic Act, being M.S. Ch. 169, as it may be amended from time to time, for an offense, the penalty shall apply to a person convicted of the same offense under ' 70.01 of this chapter.

(C) It is a petty misdemeanor for any person to do any act forbidden or fail to perform any act required by ' 70.02 of this chapter. A person charged with a petty misdemeanor shall not be entitled to a jury trial, but shall be tried by a judge without a jury. If convicted, he or she shall be punished by a fine of not more than \$100.

(D) Each and every person violating any provisions of ' 70.16 of this chapter, for each offense, shall be punished by a fine of not more than \$30 or by imprisonment for not more than 20 days.

(E) A violation of ' 70.37 of this chapter shall constitute a misdemeanor, as defined under the laws of the state. A violation of ' ' 70.30 through 70.36 of this chapter shall constitute a petty misdemeanor, for which a person shall be subject to a fine of \$10 if paid within seven days, a fine of \$20 if paid within eight and 30 days, or otherwise, shall be punishable by a fine of not to exceed the maximum amount established for petty misdemeanors under the laws of the state.
(Ord. 105, passed 8-5-1918; Ord. 72-3, passed - -1972; Ord. 74-1, passed - -1974; Ord. 2000-1, passed 3-13-2000)

CHAPTER 71: RECREATIONAL AND TOY VEHICLES

Section

General Provisions

71.01 Skateboards, roller skates and the like

Motorized Golf Carts and Other Vehicles

71.15 Purpose
71.16 Definitions
71.17 Required permit; revocation or denial
71.18 Conditions
71.19 Operation requirements
71.20 Exceptions
71.21 Limitation of liability

Snowmobiles

71.35 Definitions
71.36 Operation requirements
71.37 Adoption of state law

71.99 Penalty

GENERAL PROVISIONS

71.01 SKATEBOARDS, ROLLER SKATES AND THE LIKE.

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

OPERATE. To ride on or upon or control the operation of a skateboard or roller skate/blade.

OPERATOR. Every person who operates or is in actual physical control of a skateboard or roller skate/blade.

PERSON. Includes an individual, partnership, corporation, the state and its agencies and

subdivision, and any body of persons, whether incorporated or not.

ROLLER SKATE/BLADES. A form of skate with small wheels or rollers instead of a runner.

SKATEBOARD. A device for riding upon, usually standing consisting of an oblong piece of wood or other composition mounted on skate wheels.

(B) *Regulation of the use of skateboards and roller skate/blades.* It shall be unlawful for any person to operate a skateboard or roller skate/blade under circumstances set forth below:

(1) On private property of another without the expressed permission to do so by the owner or occupant of the property;

(2) In any careless, reckless or negligent manner so as to endanger, or be likely to endanger, the safety of any person or the property of any other person;

(3) The operator of a skateboard or roller skates/blades emerging from an alley, driveway or building upon approaching a sidewalk or the sidewalk area extending across any alleyway shall yield the right-of-way to all pedestrians approaching the sidewalk or sidewalk area and upon entering the roadway shall yield right-of-way to all vehicles approaching the roadway;

(4) No person operating a skateboard or roller skate/blade shall attach the same or the person or the operator to any vehicle upon the roadway; and/or

(5) Every person operating a skateboard or roller skate/blade upon a roadway shall ride as close as possible to the right-hand curb or edge of the roadway.

(C) *Right-of-way; sidewalks.* Whenever a person is skateboarding or roller skating/blading upon a sidewalk, the person shall yield the right-of-way to any pedestrian and shall give a signal before overtaking and passing the pedestrian.

(Ord. 96-4, passed 8-12-1996) Penalty, see ' 71.99

MOTORIZED GOLF CARTS AND OTHER VEHICLES

' 71.15 PURPOSE.

The purpose of this subchapter is to authorize the operation of motorized golf carts, mini trucks and all-terrain vehicles on designated roadways in the city, pursuant to the authority given to the city by M.S.

' 169.045, as it may be amended from time to time.

(Ord. 2014-01, passed 8-11-2014)

' 71.16 DEFINITIONS.

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

DESIGNATED ROADWAYS. City streets and avenues not specifically excluded in this subchapter. It does not mean state or county highways such as: Highway Avenue (MN Hwy 218), 3rd Street NE (MN Hwy 30), East Main Street and 5th Avenue NE (Steele County 42), Center Avenue north and south (Steele County 41), Third Street south (Steele County 15) and County Road 46 along the west side of the city.

MOTORIZED GOLF CART. A vehicle commonly known as a golf cart, mini truck or all-terrain vehicle having at least four wheels, and either an electric or a gas motor.
(Ord. 2014-01, passed 8-11-2014)

' 71.17 REQUIRED PERMIT; REVOCATION OR DENIAL.

(A) (1) No person may operate a motorized golf cart pursuant to this subchapter without a valid permit from the city.

(2) Permit applications shall be available at city offices and shall be in a form provided by the city=s Administrator-Clerk.

(3) Only persons at least 18 years of age will be issued a permit. Permit holders may add additional drivers under their permits that are 16 years or older. It is unlawful for owner of any motorized golf cart to permit the motorized golf cart to be operated contrary to the provisions of this subchapter.

(4) At the time of application, the applicant shall provide proof of insurance complying with the requirements of M.S. ' 65B.48, subd. 5, as it may be amended from time to time.

(5) All permits granted pursuant to this subchapter shall be issued for a period not to exceed one year and may be renewed annually by complying with the requirements of this subchapter.

(6) The City Council shall set fees for permits, by resolution.

(B) A permit may be revoked by the city=s Chief of Police at any time or denied if it is shown that the permittee cannot safely or legally operate, or has not safely or legally operated, the motorized golf cart within the city or if the permittee=s driver=s license is no longer recognized as valid in the state. A permittee may appeal any revocation or denial to the city=s Administrator-Clerk within 14 days after the revocation or denial.

(Ord. 2014-01, passed 8-11-2014) Penalty, see ' 71.99

' 71.18 CONDITIONS.

(A) No person shall operate a motorized golf cart under this subchapter:

(1) Except on designated roadways and from sunrise to sunset;

(2) In inclement weather or when visibility is impaired by weather, smoke, fog or other conditions, or at any time when there is insufficient light to clearly see persons in vehicles on the roadway at a distance of 500 feet;

(3) Without displaying the slow-moving vehicle emblem provided for in M.S. ' 169.522, as it may be amended from time to time;

(4) Unless the vehicle is equipped with a rear view mirror as provided in M.S. ' 169.70, as it may be amended from time to time;

(5) With a passenger or passengers unless each passenger is seated on a seat specifically designed for the transport of passengers;

(6) By a person under the age 16;

(7) Without liability insurance coverage;

(8) Without having a copy of the permit in possession while using the golf cart; and/or

(9) By a person without a Minnesota or state-issued driver=s license.

(B) The operator of a motorized golf cart under permit on designated routes shall have all the rights and duties applicable to the driver of any other vehicle under the provisions of M.S. Ch. 169, as it may be amended from time to time, or other applicable statute or ordinance, except when those provisions cannot reasonably be applied to motorized golf carts and except as otherwise specifically provided in M.S. ' 169.045, subd. 7, as it may be amended from time to time.

(Ord. 2014-01, passed 8-11-2014) Penalty, see ' 71.99

 ' 71.19 OPERATION REQUIREMENTS.

(A) Motorized golf carts shall be operated at all times as close to the right-hand curb as possible, except when the driver is making a left turn.

(B) No person shall operate a motorized golf cart on a public sidewalk.

(Ord. 2014-01, passed 8-11-2014) Penalty, see ' 71.99

‘ **71.20 EXCEPTIONS.**

The City Council grants a special exemption to the city=s Police Department, the July 4 Parade Committee and the physically disabled to operate motorized golf carts during the July 4 celebration. (Ord. 2014-01, passed 8-11-2014)

‘ **71.21 LIMITATION OF LIABILITY.**

Nothing in this subchapter shall be construed as an assumption of liability by the city for any injuries to persons or property which may result from the operation of a motorized golf cart by a permit holder, the grant of the permit or the failure by the city or the Police Chief to revoke the permit. (Ord. 2014-01, passed 8-11-2014)

SNOWMOBILES

‘ **71.35 DEFINITIONS.**

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

OPERATE. To ride in or on and control the operation of a snowmobile.

OPERATORS. Every person who operates or is in actual physical control of a snowmobile.

OWNER. A person, other than the lien holder, having an interest in or title to a snowmobile entitling that person to the use or possession thereof.

SNOWMOBILE. A vehicle self-propelled, designed for travel on snow and ice on a natural terrain, steered by wheels, skis or runners. (Ord. 04-1, passed 1-12-2004)

‘ **71.36 OPERATION REQUIREMENTS.**

(A) *Operation on streets and roadways.*

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(1) No person shall operate a snowmobile upon any public street, roadway or alley within the territorial limits of the city between the hours of 10:00 p.m. and 7:00 a.m.; the foregoing prohibition shall apply not only to the improved or traveled portion of the public street, roadway or alley, but also to all boulevards, sidewalks, driveways, shoulders, stores and areas within the dedicated or established public rights-of-way.

(2) No person shall operate a snowmobile on any street in the downtown business district within the following boundaries: First Street northeast on the north to First Street southeast on the south to Second Avenue northeast and southeast on the west and Hwy #218 on the east, subject to the provision that the restrictions shall not apply to any part of the designated area which lies on an approved snowmobile trail as provided for herein.

(3) While returning home after hours, it shall be unlawful to follow a route other than the most direct available and in a manner other than quiet and subdued.

(4) Snowmobiles shall at all times yield the right-of-way to all other forms of traffic and pedestrians movement within the city limits.

(5) The City Council may, from time to time, by resolution approve snowmobile trails for the city as recommended by the County Trail Association, which trail shall then be excepted from the hour restrictions of this subchapter.

(B) Operation in parks and other public grounds.

(1) No persons shall operate a snowmobile in any public park owned by the city within the territorial boundaries of the city. The City Council and the Board shall have direct supervision and control of any public parks or public grounds and may, by written resolution duly adopted, authorize the operation of snowmobiles in any specific area or areas of any public park or public grounds in accordance with rules and regulations set forth in the written resolution; no authorization to operate snowmobiles in any public park or public grounds shall be effective until posted in the area authorized for the operation.

(2) No person shall operate a snowmobile within 100 feet of any rest home and of any school during school hours within the territorial limits of the city.

(C) Operation on private property. No person shall operate at any time a snowmobile upon the private property of another without the authorization or consent of the party in possession and the owner thereof. Included herein shall be operation in public or private cemeteries.

(D) Operation generally. It is unlawful for any person to drive or operate any snowmobile in the city in the following unsafe or harassing way:

(1) At a rate of speed more than reasonable or proper under all surrounding circumstances which rate shall at no time exceed 15 mph;

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

(3) While under the influence of intoxicating liquor or habituating drugs;

(4) Without a lighted head and tail light when required for safety;

(5) In any tree nursery or planting in a manner which damages or destroys growing stock;

(6) Causing excessive noise or other public nuisance;

(7) All snowmobiles while operating on the streets or alleys must run single file and maintain a safe and reasonable distance between each other;

(8) No snowmobile shall have a trailing sled or other object with a hitch length of more than 48 inches, including a rope;

(9) All snowmobiles shall stop at every intersection before proceeding therein;

(10) No person from 14 years to 16 years of age shall operate a snowmobile on the streets within the corporate limits of the city, unless he or she has a valid DNR safety certificate and are accompanied by an adult. No person under 14 years of age shall operate a snowmobile on the streets within the corporate limits of the city;

(11) No person shall operate a snowmobile upon any sidewalk, pedestrian pathway or boulevard; and/or

(12) Streets allowed by the city for travel by snowmobiles are to be used only for entrance to the city and exit from the city and are not intended for intra-city travel.

(Ord. 04-1, passed 1-12-2004) Penalty, see ' 71.99

' 71.37 ADOPTION OF STATE LAW.

The city does hereby adopt by reference, as part of this subchapter, all the laws of the state pertaining to the ownership and operation of snowmobiles.

(Ord. 04-1, passed 1-12-2004)

' 71.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 70.99 of this code of ordinances.

(B) Any person who violates any provision of ' 71.01 of this chapter shall be guilty of a petty

misdemeanor.

(C) Any person violating any provision of ' ' 71.15 through 71.21 of this chapter shall be guilty of a petty misdemeanor and is subject to having his or her permit under ' ' 71.15 through 71.21 of this chapter revoked.

(D) Violation of ' ' 71.35 through 71.37 of this chapter shall be a misdemeanor.
(Ord. 96-4, passed 8-12-1996; Ord. 04-1, passed 1-12-2004; Ord. 2014-01, passed 8-11-2014)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. ADULT-ORIENTED BUSINESSES

111. TOBACCO

112. ALCOHOLIC BEVERAGES

113. PEDDLERS AND SOLICITORS

CHAPTER 110: ADULT-ORIENTED BUSINESSES

Section

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GENERAL PROVISIONS

' 110.01 PURPOSE AND INTENT.

(A) It is the purpose of this chapter to regulate adult-oriented businesses to promote the health, safety, morals and general welfare of the citizens of the city and to establish reasonable and uniform regulations to:

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- (1) Prevent additional criminal activity within the city;
- (2) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
- (3) To locate adult-oriented businesses away from residential areas, schools, churches, parks and playgrounds; and
- (4) Prevent concentration of adult-oriented businesses within certain areas of the city.

(B) The provisions of this chapter have neither the purpose, nor effect, of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent, nor effect, of this chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult-oriented entertainment to their intended market.

(Ord. 98-1, passed 1-12-1998)

110.02 DEFINITIONS.

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

ADULT USE. Any of the activities and businesses described below constitute **ADULT-ORIENTED BUSINESSES**, which are subject to the regulation of this chapter.

(1) **ADULT BOOK** and/or **MEDIA STORE.** An establishment which excludes minors and which has a substantial portion of its stock in trade or stock on display books, magazines, films, videotape or other media which are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(2) **ADULT CABARET.** An establishment which provides dancing or other live entertainment, if the establishment excludes minors by virtue of age from all or part of the establishment and if the 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.

(3) **ADULT ESTABLISHMENT.** Any business which offers its patrons services, entertainment or the sale of merchandise 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 book and media stores, adult cabarets, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses and other adult establishments.

(4) ***ADULT HOTEL OR MOTEL.*** 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.

(5) ***ADULT MINI-MOTION PICTURE THEATER.***

(a) A theater in an enclosed building from which minors are excluded from all or part of the establishment with a capacity for less than 50 persons used for presenting motion pictures including, but not limited to, film and videotape having, as a dominant theme, material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; and

(b) Any business which presents motion pictures from which minors are excluded from all or part of the establishment including films and videotapes having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for viewing on the premises including, but not limited to, private booths, viewing by means of coin-operated or other mechanical devices and the viewing of excerpts of motion pictures offered for sale or rent.

(6) ***ADULT MODELING STUDIO.*** An establishment which excludes minors from all or part of the establishment whose major business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation to 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 the customers.

(7) ***ADULT MOTION PICTURE ARCADE.*** Any place which excludes minors from all or part of the establishment wherein coin or token operated or electronically, electrically or mechanically controlled or operated still or motor 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 are so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

(8) ***ADULT MOTION PICTURE THEATER.*** A theater in an enclosed building from which minors are excluded from all or part of the establishment with a capacity of 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures including, but not limited to, film and videotapes having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons herein.

(9) ***ADULT NOVELTY BUSINESS.*** A business from which minors are excluded from all or part of the establishment which sells, offers to sell or displays devices which stimulate human genitals or devices which are designed for sexual stimulation.

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SPECIFIED ANATOMICAL AREAS. Any of the following conditions:

- (a) Less than completely and opaquely covered:
 - 1. Human genitals, pubic region or pubic hair;
 - 2. Buttock; and
 - 3. Female breast below a point immediately above the top of the areola.
- (b) Human male genitals in a discernible turgid state, even if opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Any of the following conditions:

- (1) An act of sexual intercourse, normal or perverted, actual or simulated including genital-genital, anal-genital or oral-genital intercourse whether between human beings or between a human being and an animal;
- (2) Sadomasochistic abuse meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound or otherwise physically restricted on the part of one so clothed;
- (3) Masturbation or lewd exhibitions of the genitals including any explicit close-up representation of a human genital organ clothed or unclothed; and
- (4) Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(Ord. 98-1, passed 1-12-1998)

' 110.03 APPLICATION.

(A) Except as in this chapter specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose, nor in any manner, which is not in conformity with this chapter.

(B) No adult-oriented business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the city, the laws of the state or the United States of America. Nothing in this chapter 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.

(Ord. 98-1, passed 1-12-1998) Penalty, see ' 10.99

' 110.04 LOCATION.

During the term of this chapter, no adult-oriented businesses shall be located less than 1,000 feet from any residential zoning district boundary or site used for residential purposes, and less than 1,000 feet from any church site, from any school site, from any day care facility or from any park which is adjacent to property zoned residential. In addition, no adult-oriented business may be located within 1,000 feet of another adult-oriented business. For purposes of this chapter, this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, day care site, park site or another adult-oriented business site to the nearest boundary of the proposed adult-oriented business site.

(Ord. 98-1, passed 1-12-1998) Penalty, see ' 10.99

' 110.05 HOURS OF OPERATION.

No adult-oriented business site shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m. (Ord. 98-1, passed 1-12-1998) Penalty, see ' 10.99

' 110.06 CONDITIONS OF OPERATION.

(A) *Off-site viewing.* An establishment operating as an adult-oriented business shall prevent off-site viewing of its merchandise, which, if viewed by a minor, would be in violation of M.S. Ch. 617, as it may be amended from time to time, or other applicable federal or state statutes or local ordinances.

(B) *Entrances.* All entrances to the business, with the exception of emergency fire exits which are not useable by patrons to enter the business, shall be visible from a public right-of-way.

(C) *Layout.* The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including, but not limited to, books, magazines, photographs, video tapes or other material.

(D) *Illumination.* Illumination of the premises= exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

(E) *Signs.* Signs for adult-oriented businesses shall be generic in nature and shall only identify the type of business which is being conducted and shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.

(Ord. 98-1, passed 1-12-1998) Penalty, see ' 10.99

LICENSES AND INSPECTIONS

' 110.20 LICENSE REQUIRED.

All establishments, including any business operating at the time this chapter becomes effective, operating or intending to operate an adult-oriented business shall apply for and obtain a license from the city. A person is in violation of the city code if he or she operates an adult-oriented business without a valid license issued by the city.

(Ord. 98-1, passed 1-12-1998) Penalty, see ' 10.99

' 110.21 APPLICATIONS.

(A) An application for a license must be made on a form provided by the city.

(B) The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus minus six inches.

(C) The applicant must be qualified according to the provisions of this section, and the premises must be inspected and found to be in compliance with the appropriate state, county and local law and codes by the Health Official, Fire Marshal and Building Official.

(D) Application for license shall contain the address and legal description of the property to be used; the names, addresses, phone numbers and dates of birth of the owner, lessee, if any, the operator or manager and all employees; the names, addresses and phone numbers of two persons who shall be residents of the state and who may be called upon to attest to the applicant=s, manager=s or operator=s character; whether the applicant, manager or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information of the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee or manager insofar as regarding the credit which has been extended for the purposes of constructing, equipping, maintaining, operating, furnishing or acquiring the premises, personal effects, equipment or anything incident to the establishment, maintenance and operation of the business.

(E) If the application is made on behalf of a corporation, joint business venture, partnership or any legally constituted business association, it shall submit, along with its application, accurate and complete business records showing the names, addresses and dates of birth of all individuals having an interest in the business, including partners, officers, owners and creditors furnishing credit for the establishment, acquisition, maintenance and furnishings of the businesses and, in the case of a corporation, the names, addresses and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation or furnishing of the establishment, including the purchase or acquisition of any items of personal property for use in the operation.

(F) All applicants shall furnish to the city, along with their applications, complete and accurate

documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise. Also:

(1) A statement detailing any gross misdemeanor or felony conviction relating to sex offenses, obscenity or the operation of an adult-oriented business by the applicant, operator or manager and whether or not the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in other communities. In the case of a corporation, a statement detailing any felony convictions by the owners of more than 5% of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in other communities;

(2) The activities and types of business to be conducted;

(3) The hours of operation; and

(4) The provisions made to restrict access by minors.

(G) Each application for a license shall be submitted to the city's Administrator-Clerk. Each application for a license shall be accompanied by payment in full of the required fee for the license. Upon rejection of any application for a license, the city shall refund the license fee.

(H) All licenses shall expire on December 31 in each year. Each license shall be issued for a period of one year; except that, if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a prorated fee. In computing the fee, any unexpired fraction of a month shall be counted as one month.

(I) The annual fee for an adult-oriented business license shall be \$1,000.
(Ord. 98-1, passed 1-12-1998)

110.22 PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to or held by any person:

(A) Under 21 years of age;

(B) Who is overdue or whose spouse is overdue in payments to the city, county, state or federal government of taxes, fees, fines, penalties, charges or liens for municipal services and utilities assessed against them or imposed upon them;

(C) An applicant who has been convicted of a crime involving any of the following offenses:

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(1) Any sex crimes, as defined by M.S. ' ' 609.293 through 609.352, as they may be amended from time to time, inclusive, or as defined by any ordinance or statute in conformity therewith;

(2) Any obscenity crime, as defined by M.S. ' ' 617.23 through 617.299, as they may be amended from time to time, inclusive, or as defined by any ordinance or statute in conformity therewith; for which:

(a) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(b) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

(c) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the conviction is of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(3) The fact that a conviction is being appealed shall have no affect on disqualification of the applicant or applicant=s spouse.

(D) Who is not the proprietor of the establishment for which the license is issued;

(E) Who is residing with a person who has been denied a license by the city or any other Minnesota municipal corporation to operate an adult-oriented business or residing with a person whose license to operate an adult-oriented business has been suspended or revoked within the preceding 12 months; or

(F) Who has not paid the license fee required by this chapter.
(Ord. 98-1, passed 1-12-1998)

' 110.23 POSTING.

The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult-oriented business. The license shall be posted in a conspicuous place at or near the entrance to the adult-oriented business so that it may be easily read at any time.

(Ord. 98-1, passed 1-12-1998)

' 110.24 COUNCIL ACTION.

The City Council shall act to approve or disapprove the license application within 120 days from the date the application was submitted; provided that, the application contains all of the information required

by this chapter. If the application is deficient, the Council shall act on the application within 120 days from the date that the deficiency has been corrected.

(Ord. 98-1, passed 1-12-1998)

' 110.25 APPEALS.

Within 90 days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the Mayor or Administrator-Clerk of the municipality.

(Ord. 98-1, passed 1-12-1998)

' 110.26 INSPECTIONS.

(A) *Access.* An applicant or licensee shall permit health officials, representatives of the Police Department, Fire Department and Building Inspection Division to inspect the premises of an adult-oriented business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

(B) *Refusal to permit inspections.*

(1) A person who operates an adult-oriented business or his or her agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the Police Department, Fire Department and Building Inspection Division at any time it is occupied or open for business.

(2) Refusal to permit inspections may result in the suspension of the license as provided in ' 110.28 of this chapter.

(Ord. 98-1, passed 1-12-1998)

' 110.27 EXPIRATION AND RENEWAL.

(A) *Expiration.*

(1) Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in ' ' 110.20 through 110.25 of this chapter.

(2) Application for renewal must be made at least 60 days before the expiration date and, when made less than 60 days before the expiration date, the expiration of the license will not be affected.

(B) *Denial of renewal.*

(1) When the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial.

(2) If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days has elapsed since the date of denial became final.
(Ord. 98-1, passed 1-12-1998)

' 110.28 SUSPENSION.

(A) *Causes of suspension.* The city may suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

- (1) Violated or is not in compliance with any provision of this chapter;
- (2) Engaged in the use of alcoholic beverages while on the adult-oriented business premises other than at an adult hotel or motel;
- (3) Refused to allow an inspection of the adult-oriented business premises as authorized by this chapter;
- (4) Knowingly permitted gambling by any person on the adult-oriented business premises;
and/or
- (5) Demonstrated inability to operate or manage an adult-oriented business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(B) *Notice.* A suspension by the city shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten days= notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally or by leaving the same at the licensed business premises with the person in charge thereof.
(Ord. 98-1, passed 1-12-1998)

' 110.29 REVOCATION.

(A) *Suspended licenses.* The city may revoke a license if a cause of suspension in ' 110.28 of this chapter occurs and the license has been suspended within the preceding 12 months.

(B) *Causes of revocation.* The city shall revoke a license if it determines that:

- (1) A licensee gave false or misleading information in the material submitted to the city during the application process;
- (2) A licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises;
- (3) A licensee or an employee has knowingly allowed prostitution on the premises;

(4) A licensee or an employee knowingly operated the adult-oriented business during a period of time when the licensee's license was suspended;

(5) A licensee has been convicted of an offense listed in ' 110.22 of this chapter for which the time period required in ' 110.22 of this chapter has not elapsed;

(6) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in ' 110.22 of this chapter, for which a conviction has been obtained, and the person or persons were employees of the adult-oriented business at the time the offenses were committed; or

(7) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

(C) *Appeals.* The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(D) *Granting a license after revocation.* When the city revokes a license, the revocation shall continue for one year and the licensee shall not be issued an adult-oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days has elapsed since the date the revocation became effective. If the license was revoked under division (B)(5) above, the applicant may not be granted another license until the appropriate number of years required under ' 110.22 of this chapter has elapsed.

(E) *Notice.* A revocation by the city shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof.

(Ord. 98-1, passed 1-12-1998)

' 110.30 TRANSFER OF LICENSE.

A licensee shall not transfer this license to another, nor shall a licensee operate an adult-oriented business under the authority of a license at any place other than the address designated in the application.

(Ord. 98-1, passed 1-12-1998)

CHAPTER 111: TOBACCO

Section

- 111.01 License
- 111.02 Sales to minors prohibited
- 111.03 Self-service sales
- 111.04 Vending machine sales
- 111.05 Compliance checks

- 111.99 Penalty

' **111.01 LICENSE.**

(A) (1) No person shall keep for retail sale, sell at retail or otherwise dispose of any tobacco product at any place in the city without first obtaining a license from the city.

(2) **TOBACCO** is defined as and includes: cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts, refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices.

(B) The annual license fee for a retail tobacco license shall be \$50 per year. All retail tobacco licenses shall be valid for one calendar year from the date that the license is issued.

(C) Every license shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request.

(Ord. 97-1, passed 12-2-1997) Penalty, see ' 111.99

' **111.02 SALES TO MINORS PROHIBITED.**

No person shall sell or offer to sell any tobacco or tobacco product to any person under 18 years of age.

(Ord. 97-1, passed 12-2-1997) Penalty, see ' 111.99

' 111.03 SELF-SERVICE SALES.

(A) No licensee shall offer for sale single packages of cigarettes or smokeless tobacco in open displays which are accessible to the public without the intervention of a store employee.

(B) Cartons and other multi-pack units may be offered and sold through open displays accessible to the public.

(C) Division (B) above will expire upon the effective date and implementation of 21 C.F.R. ' 897.36c.

(D) The self-service restrictions described in this section shall not apply to retail stores which derive at least 90% of their revenue from tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 18 years of age.

(Ord. 97-1, passed 12-2-1997) Penalty, see ' 111.99

' 111.04 VENDING MACHINE SALES.

No person shall sell tobacco products from vending machines. This section does not apply to vending machines in facilities that cannot be entered at any time by a person younger than 18 years of age.

(Ord. 97-1, passed 12-2-1997) Penalty, see ' 111.99

' 111.05 COMPLIANCE CHECKS.

The city shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco is sold to test compliance with M.S. ' 609.685, as it may be amended from time to time. Compliance checks shall utilize minors over the age of 15, but under the age of 18, who, with the prior written consent of a parent or guardian, attempt to purchase tobacco under the direct supervision of a law enforcement officer or an employee of the licensing authority.

(Ord. 97-1, passed 12-2-1997)

' 111.99 PENALTY.

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(A) If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$75. An administrative penalty of \$200 must be imposed for a second violation at the same location within 24 months after the initial violation. For a third violation at the same location within 24 months after the initial violation, an administrative penalty of \$250 must be imposed, and the licensee's authority to sell tobacco at that location must be suspended for not less than seven days. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the city to conduct the hearing, which person shall be the city's Administrator-Clerk.

(B) An individual who sells tobacco to a person under the age of 18 years must be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the city to conduct the hearing which person shall be the city's Administrator-Clerk.

(C) It is an affirmative defense to the charge of selling tobacco to a person under the age of 18 years in violation of this chapter that the licensee or individual making the sale relied in good faith upon proof of age as follows:

(1) A valid driver's license or identification card issued by the State of Minnesota, another state or a province of Canada, and including the photograph and date of birth of the licensed person;

(2) A valid military identification card issued by the United States Department of Defense; or

(3) In the case of a foreign national, from a nation other than Canada, by a valid passport.

(Ord. 97-1, passed 12-2-1997)

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

- 112.01 Adoption of state law by reference
- 112.02 City may be more restrictive than state law
- 112.03 Definitions
- 112.04 Nudity on the premises of licensed establishments prohibited
- 112.05 Consumption in public places
- 112.06 Raffles, silent auctions and fund raising events for charitable purposes of wine, beer or intoxicating liquors
- 112.07 Number of licenses which may be issued
- 112.08 Term and expiration of licenses
- 112.09 Kinds of liquor licenses
- 112.10 License fees; pro rata
- 112.11 Council discretion to grant or deny a license
- 112.12 Application for license
- 112.13 Description of premises
- 112.14 Applications for renewal
- 112.15 Transfer of license
- 112.16 Investigation
- 112.17 Hearing and issuance
- 112.18 Restrictions on issuance
- 112.19 Conditions of license
- 112.20 Hours and days of sale
- 112.21 Minors on premises
- 112.22 Restrictions on purchase and consumption
- 112.23 Suspension and revocation

- 112.99 Penalty

' 112.01 ADOPTION OF STATE LAW BY REFERENCE.

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

(Ord. passed - -)

' 112.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

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

(Ord. passed - -)

' 112.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. In addition to the definitions contained in M.S. ' 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter.

LIQUOR. As used in this chapter, without modification by the words Aintoxicating@ or a A3.2% malt@ includes both intoxicating liquor and 3.2% malt liquor.

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

(Ord. passed - -)

' 112.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

(A) The City Council finds that it is in the best interests of the public health, safety, and general

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

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

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2% malt liquor license or any other license issued under this chapter or the imposition of a civil penalty under the provisions of ' 112.99(B) of this chapter. (Ord. passed - -) Penalty, see ' 112.99

' 112.05 CONSUMPTION IN PUBLIC PLACES.

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

(Ord. passed - -) Penalty, see ' 112.99

' 112.06 RAFFLES, SILENT AUCTIONS AND FUND RAISING EVENTS FOR CHARITABLE PURPOSES OF WINE, BEER OR INTOXICATING LIQUORS.

No person shall conduct a silent auction, raffle or other fund raising event pursuant to M.S. ' 340A.707, as it may be amended from time to time, with prizes or awards of wine, beer or intoxicating liquors without notifying the city's Administrator-Clerk of the event at least ten days prior to the occurrence of the event. The event holder shall provide the city with the following information: the person or organization holding the event, the day, time and location of the event, type of fund raising event (silent auction, raffle or otherwise), type and amount of wine, beer, intoxicating liquor to be awarded as prizes, and the charitable purposes to which the event proceeds will be donated.

(Ord. passed - -)

' 112.07 NUMBER OF LICENSES WHICH MAY BE ISSUED.

State law establishes the number of liquor licenses that a city may issue. However, the number of

licenses which may be granted under this chapter is limited to the number of license which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The City Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Ch. 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. ' 340A.413, subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the City Council by ordinance determines that any or all of the licenses may be issued. The City Council is not required to issue the full number of licenses that it has available.

(Ord. passed - -)

' 112.08 TERM AND EXPIRATION OF LICENSES.

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on June 30 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

(Ord. passed - -)

' 112.09 KINDS OF LIQUOR LICENSES.

The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in ' 112.07 of this chapter.

(A) 3.2% malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks.

(B) 3.2% malt liquor off-sale license.

(C) Temporary 3.2% malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the City Council under ' 112.10 of this chapter shall not exceed \$240 or a greater amount which may be permitted by M.S. ' 340A.408, subd. 3, as it may be amended from time to time.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. ' 340A.101, as it may be amended from time to time, and this section: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, theaters

and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the City Council under ' 112.10 of this chapter shall not exceed the amounts provided for in M.S. ' 340A.408, subd. 2(b) as it may be amended from time to time. The City Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. ' 340A.404, subd. 4(b) as it may be amended from time to time. The City Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. ' 340 A.404, subd. 4(a), as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. ' 340A.504, subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in ' 112.03 of this chapter, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the City Council under the provisions of ' 112.10 of this chapter, shall not exceed \$200, or the maximum amount provided by M.S. ' 340A.504, subd. 3(c) as it may be amended from time to time.

(G) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000.

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years; a political committee registered under state law; or a state university. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days= worth of temporary licenses to any one organization in one calendar year.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. ' 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in section 3; to licensed bed and breakfast facilities which meet the criteria in M.S. ' 340A.4011, subd. 1, as it may be amended from time to time and to theaters that meet the criteria of M.S. ' 340A.404, subd. 1(b) as it may be amended from time to time. The fee for an on-sale wine license established by the City Council under the provisions of ' 112.10 of this chapter, shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2% malt liquor license is authorized to sell malt liquor with a content over 3.2% (strong beer) without an additional license.

(J) One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the

organization.

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of ' 112.10 of this chapter shall not exceed \$300, or the maximum amount permitted by M.S. ' 340A.414, subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

(L) Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

(M) Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by ' 112.10 of this chapter.

(N) Brew pub on-sale intoxicating liquor or on-sale 3.2% malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. ' 340A.24, as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under ' 112.09(O) below, the brew pub=s total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(O) Brewer off-sale malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under ' 112.09(N) above and otherwise meets the criteria established at M.S. ' 340A.24, as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by M.S. ' 340A.285, as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under ' 112.09(N) above, the brewer=s total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 750 barrels.

(P) Brewer off-sale malt liquor licenses may also be issued, with approval of the Commissioner, to a holder of a brewer=s license under M.S. ' 340A.301, subd. 6(c), (I) or (j), as it may be amended from time to time, and meeting the criteria established by M.S. ' 340A.28, as it may be amended from time to time. The amount of malt liquor sold at off-sale may not exceed 750 barrels annually. Off-sale of malt

liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. Packaging of malt liquor for off-sale under this license must comply with M.S. ' 340A.285, as it may be amended from time to time.

(Q) Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

(R) A brewer taproom license, may be issued to the holder of a brewer=s license under M.S. ' 340A.301, subd. 6(c), (I) or (j), as it may amended from time to time. A brewer=s taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A brewer may have only one taproom license and may not have an ownership interest in a brewer licensed under M.S. ' 340A.301, subd. 6(d), as it may be amended from time to time. A brewer taproom license may not be issued to a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually. Within ten days of issuing a brewer taproom license the Administrator-Clerk will inform the Commissioner of Public Safety of the licensee=s name, address, trade name and the effective date and expiration date of the license. The Administrator- Clerk will inform the Commissioner of Public Safety of a license transfer, cancellation, suspension, or revocation during the license period.

(S) A cocktail room license may be issued to the holder of a state microdistillery license if at least 50% of the annual production of the licensee is processed and distilled on premises. A microdistillery cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. The holder of a microdistillery cocktail room license may also hold a license to operate a restaurant at the distillery. No more than one cocktail room license may be issued to any distiller and a microdistillery cocktail room license may not be issued to any person having an ownership interest in a distillery licensed under M.S. ' 340A.301, subd. 6(a), as it may be amended from time to time. No single entity may hold both a microdistillery cocktail room and taproom license and a microdistillery cocktail room and taproom license may not be co-located. Within ten days of the issuance of a microdistillery cocktail room license, the city shall inform the commissioner of public safety of the licensee=s name and address and trade name, and the effective date and expiration date of the license. The city shall also inform the commissioner of public safety of a microdistillery cocktail room license transfer, cancellation, suspension, or revocation during the license period.

(T) A microdistiller off-sale license may be issued to the holder of a state microdistillery license if at least 50% of the annual production of the licensee is processed and distilled on premises. A microdistiller off-sale license authorizes off-sale of one 375 milliliter bottle per customer per day of product manufactured on-site provided the product is also available for distribution to wholesalers.

(U) A microdistiller temporary on-sale intoxicating liquor license may be issued to the holder of a state microdistillery license. A microdistillery temporary on-sale intoxicating liquor license authorizes on-sale of intoxicating liquor in connection with a social event within the city sponsored by the microdistillery.

(Ord. passed - -)

' 112.10 LICENSE FEES; PRO RATA.

(A) No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The City Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. ' 340A.408, subd. 5, as it may be amended from time to time.

(F) Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in M.S. ' 340A.408, as it may be amended from time to time, if at the time of initial application or renewal they:

(1) Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;

(2) Post a policy requiring identification checks for all persons appearing to be 30 years old or less;

(3) Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check; or

(4) Failure to abide by the provisions of this paragraph may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to ' 112.23 of this chapter.

(Ord. passed - -)

' 112.11 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

The City Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.
(Ord. passed - -)

' 112.12 APPLICATIONS FOR LICENSE.

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the City Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the City Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(B) *Financial responsibility.* Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. ' 340A.409, as it may be amended from time to time, with regard to liability under M.S. ' 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. ' 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.
(Ord. passed - -)

' 112.13 DESCRIPTION OF PREMISES.

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.
(Ord. passed - -)

' 112.14 APPLICATIONS FOR RENEWAL.

At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.
(Ord. passed - -)

' 112.15 TRANSFER OF LICENSE.

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

(Ord. passed - -)

' 112.16 INVESTIGATION.

(A) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the City Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the City Council, a comprehensive background and financial investigation, the City Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(Ord. passed - -)

' 112.17 HEARING AND ISSUANCE.

The City Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the City Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

(Ord. passed - -)

' 112.18 RESTRICTIONS ON ISSUANCE.

Bloomington - Business Regulations

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than one license shall be directly or indirectly issued within the city to any one person.

(C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

(D) No license shall be issued for any place or any business ineligible for a license under state law.

(E) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.

(Ord. passed - -)

' 112.19 CONDITIONS OF LICENSE.

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the City Council. Proof of training shall be provided by the licensee, or upon request.

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the City Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(D) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

(F) Failure by on off-sale intoxicating liquor license who has received a fee reduction pursuant to ' 112.10(F) of this chapter to abide with the provisions of ' 112.10(F) of this chapter.

(Ord. passed - -) Penalty, see ' 112.99

' 112.20 HOURS AND DAYS OF SALE.

(A) The hours of operation and days of sale shall be those set by M.S. ' 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2% malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur,

(C) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2% malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

(Ord. passed - -) Penalty, see ' 112.99

' 112.21 MINORS ON PREMISES.

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person, host or dishwashing services in places defined as a restaurant, hotel, motel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale.

(B) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

(Ord. passed - -) Penalty, see ' 112.99

' 112.22 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. ' 340A.414, as it may be amended from time to time, which has been approved by the City Council, and no person shall consume liquor in any such place.

(Ord. passed - -) Penalty, see ' 112.99

' 112.23 SUSPENSION AND REVOCATION.

(A) The City Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. ' ' 14.57 to 14.70, as it may be amended from time to time. The City Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the City Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2% malt liquor, or violation of ' 112.04 of this chapter, the license shall be revoked.

(2) The license shall be suspended by the City Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:

(a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed;

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed;

(c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed; or

(d) For a fourth violation within any three-year period, the license shall be revoked.

(3) The City Council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the City Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Administrator-Clerk, a hearing before the City Council shall be granted within ten days. Any suspension under this division (B) shall continue until the City Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of ' 112.99 of this chapter pertaining to administrative penalty may be imposed

in addition to or in lieu of any suspension or revocation under this chapter.
(Ord. passed - -) Penalty, see ' 112.99

' 112.99 PENALTY.

(A) Any person violating the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time, is guilty of a misdemeanor and upon conviction shall be punished as provided by law

(B) The City Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the City Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. ' ' 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the City Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

- (1) For the first violation within any three-year period, \$500;
- (2) For the second violation within any three-year period, \$ 1,000; or
- (3) For the third and subsequent violations within any three-year period, \$2,000.

(C) The term A violation@ as used in ' 112.23 includes any and all violations of the provisions in this section, or of M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

(Ord. passed - -)

CHAPTER 113: PEDDLERS AND SOLICITORS

Section

- 113.01 Definitions
- 113.02 Exceptions to definitions
- 113.03 Licensing; exemptions
- 113.04 License ineligibility
- 113.05 License suspension and revocation
- 113.06 License transferability
- 113.07 Prohibited activities
- 113.08 Exclusion by placard

- 113.99 Penalty
- Appendix: Application for peddlers and solicitation permit

' 113.01 DEFINITIONS.

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

NON-COMMERCIAL DOOR-TO-DOOR ADVOCATE. A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For the purpose of this chapter, the term **DOOR-TO-DOOR ADVOCATE** shall fall under the term **SOLICITOR** and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. For purpose of this section, the term **PEDDLER** shall have the same common meaning as the term Ahawker@.

PERSON. Any natural individual, group, organization, corporation, partnership, or similar association.

REGULAR BUSINESS DAY. Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be considered regular business days.

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business,

street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. For purposes of this section, the term **SOLICITOR** shall have the same meaning as the term canvasser.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than 14 consecutive days.
(Ord. passed 12-17-2018)

' 113.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of this chapter, the terms **PEDDLER**, **SOLICITOR**, and **TRANSIENT MERCHANT** shall not apply to:

(1) Non-commercial door-to-door advocates. Nothing within this section shall be interpreted to prohibit or restrict non-commercial door-to-door advocates;

(2) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler;

(3) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk;

(4) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route;

(5) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large;

(6) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales;

(7) Any person participating in an organized multi-person bazaar or flea market;

(8) Any person conducting an auction as a properly licensed auctioneer; or

(9) Any officer of the court conducting a court-ordered sale.

(B) Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

(Ord. passed 12-17-2018) Penalty, see ' 113.99

' 113.03 LICENSING; EXEMPTIONS.

(A) *City license required.* Except as otherwise provided for by this section, no person shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a city license.

(B) *Application.* An application for a city license to conduct business as a peddler, solicitor or transient merchant shall be made at least two regular business days before the applicant desires to begin conducting a business operation within the city. Application for a license shall be made on a form approved by the City Council and available from the office of the Administrator-Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) The applicant=s full legal name;
- (2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to;
- (3) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like);
- (4) Full address of applicant=s permanent residence;
- (5) Telephone number of applicant=s permanent residence;
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent;
- (7) Full address of applicant=s regular place of business, if any exists;
- (8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines;
- (9) The type of business for which the applicant is applying for a license;
- (10) The dates during which the applicant intends to conduct business. If the applicant is applying for a daily license, the number of days he or she will be conducting business within the city, with a maximum of 14 consecutive days;
- (11) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business;

(12) A statement as to whether or not the applicant has been convicted with the last five years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses;

(13) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant;

(14) Written permission of the property owner or the property owner=s agent for any location to be used by a transient merchant;

(15) A general description of the items to be sold or services to be provided;

(16) Any and all additional information as may be deemed necessary by the City Council;

(17) The applicant=s driver=s license number or other acceptable form of identification; and

(18) The license plate number, registration information, and physical description for any vehicle to be used in conjunction with the licensed business operation;

(C) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in the city licensing fee schedule as it may be amended from time to time.

(D) *Procedure.* Upon receipt of the application and payment of the license fee, the city=s Administrator-Clerk will, within two regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the city=s Administrator-Clerk determines that the application is incomplete, the Administrator-Clerk must inform the applicant of the required, necessary information that is missing. If the application is complete, the city=s Administrator-Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application the city=s Administrator-Clerk must issue the license unless grounds exist for denying the license application under ' 113.04 of this chapter, in which case the Administrator-Clerk must deny the request for a city peddler or transient merchant license. If the city=s Administrator-Clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant=s right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal with 20 days of the date of the request for a hearing. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(E) *Duration.* All licenses granted to peddlers and transient merchants under this section shall be valid only during the time period indicated on the license.

(F) *License exemptions.*

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to

take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person=s state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person=s exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

(Ord. passed 12-17-2018)

' 113.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a peddler or transient merchant license:

(A) The failure of an applicant to truthfully provide any information requested by the city as part of the application process;

(B) The failure of an applicant to sign the license application;

(C) The failure of an applicant to pay the required fee at the time of application;

(D) A conviction with the past five years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person=s ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

(E) The revocation with the past five years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant; or

(F) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general=s office, or other similar business or consumer rights office or agency, with the preceding 12 months, or three complaints filed with the city against an applicant within the preceding five years.

(Ord. passed 12-17-2018) Penalty, see ' 113.99

' 113.05 LICENSE SUSPENSION AND REVOCATION

(A) *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

(1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements

provided by an applicant on the application form;

(2) Fraud, misrepresentation or false statements made during the course of the licensed activity;

(3) Subsequent conviction of any offense to which the granting of the license could have been denied under ' 113.04 of this chapter;

(4) Engaging in any prohibited activity as provided under ' 113.08 of this chapter; or

(5) Violation of any other provision of this section.

(B) *Multiple persons under one license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

(C) *Notice.* Prior to revoking or suspending any license issued under this chapter, the city shall provide a license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

(D) *Public hearing.* Upon receiving the notice provided in division (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the city administrator within ten days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request for the public hearing. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) *Emergency.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) of this section.

(F) *Appeal.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

(Ord. passed 12-17-2018)

' 113.06 LICENSE TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

(Ord. passed 12-17-2018)

' 113.07 PROHIBITED ACTIVITIES.

No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manner:

(A) Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure;

(B) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way;

(C) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public;

(D) Conducting business before 8:00 a.m. or after 9:00 p.m.;

(E) Failing to provide proof of license, or registration, and identification when requested;

(F) Using the license or registration of another person;

(G) Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person;

(H) Remaining on the property of another when requested to leave; or

(I) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

(Ord. passed 12-17-2018) Penalty, see ' 113.99

' 113.08 EXCLUSION BY PLACARD.

(A) Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or similar activity when the property is marked with a sign or placard:

(1) At least four inches long;

(2) At least four inches wide;

(3) With print of at least 48 point in size; and

(4) Stating ANo Peddlers, Solicitors or Transient Merchants,@ APeddlers, Solicitors, and Transient Merchants Prohibited,@ or other comparable statement.

(B) No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

(Ord. passed 12-17-2018) Penalty, see ' 113.99

' 113.99 PENALTY.

Any individual found in violation of any provision of this chapter, shall be a guilty of a misdemeanor.

(Ord. passed 12-17-2018)

Bloomington Prairie - Business Regulations

APPENDIX: APPLICATION FOR PEDDLERS AND SOLICITATION PERMIT

CITY OF BLOOMING PRAIRIE
APPLICATION FOR PEDDLERS AND SOLICITATION
PERMIT

(Must Provide Company Picture I.D. and/or Driver=s License)

Starting Date: _____

End Date: _____
(Not to exceed 14 days)

ORGANIZATION NAME: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: (Business) _____ (Home/Cell) _____

Full Legal Name of Applicant: _____

Home Address: _____

Telephone Number: _____

DOB: _____ DL# _____

The following items **MUST** be completed:

1. Date of Birth: _____
 Sex: Male _____ Female _____
 Color of Hair: _____
 Color of Eyes: _____
 Height: _____ Weight: _____
 Race: _____

2. A brief description of the nature of the business and/or goods to be sold:

3. If the goods are food items, the Steele County Health Department or the Minnesota Department of Agriculture must issue a permit. The number of the permit and the date issued must be listed below before the City of Bloomington Prairie can issue the Peddler=s Permit.

Permit Number: _____

Date Issued: _____

4. Has the applicant or the business ever been convicted of a violation of any ordinance of the City of Blooming Prairie or any other municipality?

Yes: _____ No: _____

5. Has the applicant or the business ever been convicted of a violation of any statute of the United States, State of Minnesota or any other state?

Yes: _____ No: _____

6. License number and description of vehicle used in connection with the regulated activity:

Drivers License Number

Make Model Year

License Plate Number

7. Current Drivers License or ID card displaying a picture must be provided in person.

Have you been convicted within the last five (5) years of any felony, gross misdemeanor or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses?

Yes: _____ No: _____

If yes, explain: _____

List the three (3) most recent locations where you have conducted business as a peddler or transient merchant: _____

Will you be selling door to door or from only one location?

Door to Door: _____ One Location: _____

Blooming Prairie - Business Regulations

If one location, give address or location: _____

(signature of owner of the location)

List any other names under which you conduct business or to which you officially answer to: _____

As authorized representative of the organization listed above, I assume full responsibility for the actions of the solicitor(s) listed above. I understand and have explained to each solicitor, the provisions of the City of Blooming Prairie Solicitation Ordinance, and hereby agree to abide in good faith with all provisions included therein.

Signature of Authorized Representative: _____

**Permit Fee \$100.00 Per Application
(Non-Refundable)**

Make check or money order payable to the City of Blooming Prairie and return it to the City Administration Office located at 138 Highway Avenue South, Blooming Prairie, Minnesota 55917. (If using check, it must clear before permit is issued).

APPLICATION # _____

DATE RECEIVED _____

DATE APPROVED _____

RECEIPT NUMBER _____

AMOUNT PAID _____

CHECK NO. _____ CASH _____

(Signature of City Administrator)

(Signature of Deputy City Clerk)

**FAILURE TO COMPLY WITH THIS APPLICATION
PROCESS WILL RESULT IN CRIMINAL PROSECUTION**

(Ord. passed 12-17-2018)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

131. PREDATORY OFFENDERS

132. SOCIAL HOSTING

CHAPTER 130: GENERAL OFFENSES

Section

- 130.01 Damage to property; graffiti
- 130.02 Weapons
- 130.03 Discharging firearms
- 130.04 Curfew for minors
- 130.05 Fireworks
- 130.06 Trespass
- 130.07 Adoption of state=s Criminal Code

- 130.99 Penalty

' 130.01 DAMAGE TO PROPERTY; GRAFFITI.

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

GRAFFITI. In addition to its usual and customary meaning of defacing walls or structures with messages or slogans, **GRAFFITI** shall also mean any letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, announcement, word, phrase, diagram, symbol, sketch, inscription or representation, wherein the contents thereof are visible to any member of the general public and which contains references to sexual activity, diagrams relating to sexual activity or sexual organs, references to criminal activities or groups which promote or are involved in criminal activity, swearing or fighting words, defamatory materials about any person, references to relationships, or any marking of any kind whatsoever which results in damage to, defacing of, marring of, or discoloring of any sidewalk, street, or other public surface, any vehicle, any equipment, lamp, lamp post or other city property, or of the exterior surface of a wall, fence, door, building or other structure, whether publicly or privately owned.

OWNER. Means and includes the owner of record of the subject property, whether public or private, at the time of the placement or discovery of the graffiti or at a subsequent time, the beneficial owner under a land trust, the contract purchaser, or that person or persons or trust in whose name the general taxes for the last preceding year were paid, except that **OWNER** shall not include the city.

Blooming Prairie - General Offenses**(B) *Conduct prohibited.***

(1) It is unlawful for any person to inscribe, draw, or otherwise place or cause to be placed any graffiti upon the surface of any building, structure, wall or surface of other property that is publicly or privately owned.

(2) It shall be unlawful for any parent or legal guardian to knowingly permit any minor child in his or her custody or control to violate division (B)(1) of this section.

(3) The parent or legal guardian of a minor defendant who resides with the parent or legal guardian at the time of the offense may be held liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this section; provided, that minor has not paid the fine or made restitution or reparation within the time ordered by the court; and further provided that the parent or legal guardian has been served with summons or notice to appear whether in the original cause or in any subsequent proceedings arising therefrom, including sentencing or collection actions, as provided by law.

(C) *Removal by owner.*

(1) *Owner=s responsibility.* It shall be the duty of the owner of the structure or wall or other private property upon which any graffiti is placed or made to remove, eradicate, or eliminate the inscription or representation within 30 days of the occurrence unless granted additional time by the City Council.

(2) *Notice to remove graffiti.* In the event the owner has failed to eliminate the graffiti, the owner shall be notified by certified mail or personal notice that he or she has 30 days from the date of the notice in which to remove the graffiti. In the event that charges have been filed against the person believed responsible for placement of the graffiti and the owner can show to the city that there is a reasonable likelihood that the person will be required to make restitution or restore the premises to its previous condition, the owner may be given additional time to meet the removal requirements. In no event shall the owner be granted more than a total of six months= time to remove graffiti, but any extensions shall be based solely upon a reasonable likelihood of apprehension and conviction of the person responsible. In the absence of the reasonable likelihood, the owner is responsible for removal within the time allowed in divisions (C)(1) and (2) of this section.

(3) *List of contractors and cleaning materials.* The city may make available a list of contractors in the business of removing graffiti and list of cleaning materials generally recognized in the industry as effective in the removal of graffiti. By providing lists of contractors and cleaning materials, the city does not guarantee the quality or adequacy of work performed by anyone selected by owner or the effectiveness or safety of the materials listed, and the city expressly disclaims responsibility or liability for the quality or adequacy of the work or materials or any claims for damage or injury arising therefrom.

(D) *Removal by the city.*

(1) The city shall have the right but not the duty to remove graffiti from the exterior of private property if the owner informs the city of the presence of the graffiti and of the owner's inability to remove it. Prior to the city entering any private property to remove graffiti, the owner must sign a statement authorizing removal by the city and agreeing to pay the reasonable costs of the removal and to allow the recording of a lien against the real estate upon which the work was performed if the cost is not paid to the city within 30 days of the date of the invoice sent to the owner. The owner must also sign a release holding the city harmless from any claims or suits brought for damages pursuant to any adverse or injurious effects of such chemicals or from the actions taken by the city or its employees to remove the graffiti prior to the city commencing work on the property. If the property owner does not remove the graffiti within the time specified or extended time requested and granted by the city or if the city is unable to perform the work at the request of the owner, the owner shall be subject to the penalties listed in division (E) of this section.

(2) If the city performs the graffiti removal pursuant to division (D)(1) of this section, it shall be entitled to a lien and to file a notice of lien against the property upon which the work was performed for the cost of the removal.

(E) *Penalty.*

(1) Upon a finding of guilty for violation of division (B) of this section, an offender shall be punished as provided in ' 130.99. Additionally, the court may, as a condition of probation, supervision, or conditional discharge, require that the party guilty of violating the provisions of division (B) of this section make full and complete restitution to the owner of the property for expenses incurred in the removal of the graffiti or, with the consent of the owner, restore the structure, wall, building or surface to its previous condition. In addition, the court may order as a further penalty community service in the form of time to be spent in cleaning property that has been defaced by graffiti in any location in the city.

(2) Upon a finding of guilty for violation of division (C)(1) of this section, an offender shall be punished as provided in ' 130.99. Each and every day that graffiti is permitted to remain beyond the time specified in division (C)(2) of this section shall constitute a separate violation.

(F) *Compliance by the city.*

(1) It is the intention of the city that graffiti discovered upon city property or public property under the jurisdiction and control of the city will be removed within the time periods for graffiti removal imposed upon other governmental bodies and owners of private property under this section. The City Council shall have the authority to order and direct the removal of graffiti.

(2) A designated city officer, or his or her designee, shall provide, no less than semi-annually, a written report to the City Council of graffiti incidents involving city property and removal efforts by the city. The report shall include at a minimum the location of the graffiti, charges filed against or

convictions of offenders where relevant, the date and methods of graffiti removal undertaken by the city and the cost of the removal.

Penalty, see ' 130.99

' 130.02 WEAPONS.

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

CROSSBOWS and **BOWS**. Any instrumentality designed to fire a missile, dart, projectile, arrow or a similar device by the use of tension upon a string, spring, wire, cable or tether, and shall include handbows, footbows, crossbows gun bows or any other similar device whether or not the same were designed and manufactured for such a purpose or designed for some other purpose, but put to such a use.

DANGEROUS INSTRUMENTALITIES. Any instrument or device designed to throw, hurl, shoot, project or toss any stone, missile, projectile, marble or other object including, but not limited to: sling shots; sling bows; spear throwers; or other devices that are manufactured and designed for that purpose or designed for some other purpose, but put to such a use.

FIREARMS. Any form of shotgun, rifle, pistol or combination thereof designed to shoot a bullet, pellet, slug or projectile by an explosion of gunpowder in any form, and whether the instrument be specifically designed or manufactured for such purposes, or designed for some other purpose, but put to such a use.

PELLET GUNS and **BB GUNS**. Any form of gun or similar device designed to shoot a pellet, BB, buckshot or other projectile by the use of compressed gas, tension or springs whether the device was designed and manufactured for such purpose or designed for some other purpose, but put to such use. This definition shall be understood to include splat ball guns.

SWORDS, KNIVES AND SIMILAR DEVICES. Any instrument, including swords, knives, daggers, hunting knives, spears, cleavers, hatchets, stilettos, razor blades, razors and other devices designed for stabbing, cutting, cleaving or chipping, whether or not designed or manufactured for that purpose or designed for some other purpose, but put to such a use.

(B) It shall be unlawful for any person within the city limits to discharge, fire or shoot any firearm, BB gun, pellet gun, crossbow or bow. Discharge or use of any of the above prohibited instruments shall also be prohibited notwithstanding that the discharge or use occurred outside the city limits, if the items are shot into the city, causing any object discharged or used to pass through or into the city whether or not they actually strike or alight there.

(C) All firearms whatsoever shall be unloaded at all times within the city. In addition to being unloaded, all such firearms shall be encased in a gun case, holster, gun box, gun bag or other completely enclosed container. Any firearms in a holster shall be strapped or fastened to the holster and not available for immediate removal without the loosening or unfastening or a securing strap or clip.

(D) All bows or crossbows shall be unloaded and unstrung at all times within the city. It shall not be deemed a violation of this section to target shoot handbows within the city; provided, the target shooting is under conditions and circumstances as not to endanger any person or property and conducted in a safe and reasonable manner.

(E) It shall be unlawful for any person to shoot or discharge any pellet gun or BB gun within the city. All pellet guns and BB guns shall be unloaded and uncocked at all times. In the case of pellet guns, the guns shall not contain any compressed gas, gas cylinders or devices used as a propellant while in the city.

(F) All swords and knives and other described items of this category shall be used in the city only for lawful and reasonable purposes for which type were intended. At all other times, the items shall be sheathed, stored in a safe place and not exposed to public view.

(G) (1) It shall be unlawful to discharge, use or set off in any fashion any dangerous instrumentality within the city, including the use or discharges that cause any projectile to be thrown, hurled or passed into the city whether or not the same lands there.

(2) Any dangerous instrumentality to be transported in public, or in any motor vehicle, shall be encased as to prevent its use.

(3) Any dangerous instrumentality which is strung or capable of use, not stored or contained in a form of container to prevent its immediate use, shall be considered a violation of this section.

(H) Any item described in division (A) above shall, at all times and places, be stored in a safe and reasonable manner so as to not be available to children, incompetents or other persons not of the sufficient mental capacity to handle the items.

(I) This section shall not be construed to authorize or permit the ownership and possession of any otherwise unlawful items including, but not limited to: switch blade knives; spring bladed stiletos; zip guns; machine guns; or other fully automatic firearms, sawed-off shotguns or other illegal devices prohibited by federal law, state statutes or local ordinance.

(Ord. 94-1, passed 1-3-1994) Penalty, see ' 130.99

' 130.03 DISCHARGING FIREARMS.

(A) *Shooting upon, over or near a cemetery.* Except as provided by M.S. ' 97A.137, as it may be amended from time to time, for wildlife management areas that are 40 acres or greater, no person shall, without permission from the proper officials, discharge a firearm upon or over a cemetery or within 100 yards thereof, unless the person is upon his or her own land.

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(B) *Hunting near a city park.* Except as provided by M.S. ' 97A.137, as it may be amended from time to time, for wildlife management areas that are 40 acres or greater, no person shall hunt, shoot, or kill game within one-half mile of a city park unless the City Council has granted permission to kill game not desired within the limits prohibited by this division.

(C) *Discharge of firearms prohibited in certain places.* No person shall discharge a firearm on a lawn, park, playground, orchard, or other ground appurtenant to a school, church, or an inhabited dwelling, the property of another, or a charitable institution. This section does not prevent or prohibit the owner thereof from discharging firearms upon his or her own land.

(D) *Discharging firearms on highways prohibited.* No person shall discharge a firearm upon or over a public road or highway.

(E) *Exceptions.* This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a firearm in a manner contrary to the provisions of this section.

(F) If any of the above provisions are found to be in conflict with M.S. ' 624.717, as it may be amended from time to time, the provisions of that statute shall prevail.

Penalty, see ' 130.99

' 130.04 CURFEW FOR MINORS.

(A) *Purpose.* The curfew for minors established by this section is maintained for four primary reasons:

- (1) To protect the public from illegal acts of minors committed during the curfew hours;
- (2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;
- (3) To protect minors from criminal activity that occurs during the curfew hours; and
- (4) To help parents control their minor children.

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

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor=s household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or fire department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or PRIMARY CUSTODY. The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

(C) *Hours.*

(1) *Minors under the age of 16 years.* No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 10:30 p.m. and 5:00 a.m. the following day, official city time.

(2) *Minors ages 16 years to 18 years.* No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 12:00 midnight and 5:00 a.m. the following day, official city time.

(D) *Effect on control by adult responsible for minor.* Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions.* The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

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(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession or occupation and the minor=s residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor=s presence at work;

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor=s parent, guardian, or other adult person having the primary care and custody of the minor;

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion;

(7) To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city=s designated law enforcement provider about the minor=s presence; or

(8) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor.* No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons.* No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section applies.

(H) *Defense.* It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city=s designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.
Penalty, see ' 130.99

' 130.05 FIREWORKS.

(A) The use, display, possession, discharge or sale of any fireworks not expressly permitted by M.S. ' 624.20, subd. 1(b), (c), as it may be amended from time to time, is strictly prohibited.

(B) All use, display or discharge of those non-explosive, non-aerial pyrotechnic entertainment devices only containing the limited amounts of pyrotechnic chemical compositions described in and permitted by M.S. ' 624.20, subd. 1(b), (c), as it may be amended from time to time, hereinafter referred to as permitted consumer fireworks, is strictly prohibited in:

(1) The area on, below, above or within or in close proximity to: recreational areas, roadways, streets, highways, bicycle lanes, pedestrian paths, sidewalks, rights-of-way, lakes, rivers, waterways and all other property owned or leased by the city, the county in which the city is located, the State of Minnesota or the federal government and located in whole or in part within the city limits;

(2) Private property within the city limits that has conspicuously posted a written sign or notice that no fireworks discharge is allowed;

(3) Within 300 feet of any consumer fireworks retail sales facility or storage area that has posted a written sign or notice that no fireworks discharge is allowed; and

(4) Any property, area, or structure that, by its physical condition or the physical conditions in which it is set, would constitute a fire or personal safety hazard.

(C) All other use, display or discharge of permitted consumer fireworks must be conducted in a manner that minimizes the risk of fire or injury to other persons or property.

' 130.06 TRESPASS.

(A) It shall be unlawful and an act of trespass to enter upon the premises of swimming pool property within the fenced area thereof in the city without prior authorization during hours in which the pool is not open for public use.

(B) Whoever intentionally does any of the following may be sentenced in accordance with the provisions of ' 130.99(D)(2) of this chapter:

(1) Enters upon the premises of any public school building within the city at any time other than during school hours and/or other than for authorized purposes;

(2) Enters upon the premises of any public school property at any time without claim of right and loiters thereupon or refuses to depart therefrom upon demand of the administrator thereof or his or her authorized agent; or

(3) Without authorized permission, drives any motorized vehicle upon any public school property for non-school purposes.

(Ord. 71-1-A, passed - -1971; Ord. 72-6, passed 7-5-1972) Penalty, see ' 130.99

' 130.07 ADOPTION OF STATE=S CRIMINAL CODE.

The regulatory provisions of M.S. Ch. 609, as it may be amended from time to time, to the extent of those provisions therein which relate to misdemeanors are hereby adopted as a criminal ordinance regulating the city and are hereby incorporated in and made a part of this section as completely as if set out here in full.

(Ord. 72-4, passed - -1972) Penalty, see ' 130.99

' 130.99 PENALTY.

(A) *Generally.* Whoever violates any provision of this chapter for which no other penalty has been established shall be punished as provided in ' 10.99.

(B) *Curfew penalties.*

(1) *Minors.* Any minor found to be in violation of ' 130.03 may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. ' 260B.198, as it may be amended from time to time.

(2) *Adults.* Any adult person found to be in violation of ' 130.03 shall be guilty of a misdemeanor.

(C) Any violation of ' 130.02 of this chapter shall constitute a misdemeanor and be punishable accordingly.

(D) (1) Any person who shall commit an act of trespass, as defined in ' 130.06(A) of this chapter, shall be guilty of a misdemeanor and, upon conviction therefor, shall be punished by a fine of not to exceed \$300 or by imprisonment for not to exceed 90 days.

(2) Any person who shall commit an act of trespass, as defined in ' 130.06(B) of this chapter, shall be guilty of a misdemeanor and, upon conviction therefor, shall be punished by a fine of not to exceed \$300 or by imprisonment for not to exceed 90 days or both.

(E) Any violation of the statutes adopted by reference in ' 130.07 of this chapter is a violation of ' 130.07 of this chapter when it occurs within the city. Any person thus violating any provision of ' 130.07 of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed \$300 or by imprisonment in the city or county jail for a period of 90 days; but, if a minimum fine or imprisonment is prescribed by the state=s Criminal Code of 1963 for an offense, the penalty shall apply to a person convicted of the same offense under ' 130.07 of this chapter.

(Ord. 71-1-A, passed - -1971; Ord. 72-4, passed - -1972; Ord. 72-6, passed 7-5-1972; Ord. 94-1, passed 1-3-1994)

CHAPTER 131: PREDATORY OFFENDERS

Section

- 131.01 Purpose
- 131.02 Findings
- 131.03 Definitions
- 131.04 Prohibited acts
- 131.05 Exceptions
- 131.06 Renting in exclusion zones prohibited

- 131.99 Penalty

' 131.01 PURPOSE.

The City Council intends to serve the city=s compelling interest to promote, protect and improve the health, safety and welfare of its citizens under this chapter. It is the express intent of the City Council to further that interest by creating areas around locations where children regularly congregate in concentrated numbers within which certain predatory offenders are prohibited from establishing temporary or permanent residence; and, by mitigating the concentration of certain predatory offenders, as recommended by M.S. ' 244.052, subd. 4(a), as it may be amended from time to time, by prohibiting certain predatory offenders from establishing temporary or permanent residence within close proximity to one another.

(Ord. 17-01, passed 3-13-2017)

' 131.02 FINDINGS.

The City Council finds that repeat predatory offenders present a real threat to the public safety and especially to that of children. Certain predatory offenders are likely to use physical violence and present a high risk to repeat their offenses and most predatory offenders have committed many more offenses and have many more victims than are ever reported and prosecuted. This makes dealing with the danger posed to the public safety and especially that of children by those certain predatory offenders extremely important.

(Ord. 17-01, passed 3-13-2017)

' 131.03 DEFINITIONS.

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

DESIGNATED PREDATORY OFFENDER. Any person who is required to register as a predatory offender under M.S. ' 243.166, as it may be amended from time to time, and who has been categorized as a Level III predatory offender under M.S. ' 244.052, subd. 3, as it may be amended from time to time, a successor statute or a similar statute from another state.

LICENSED CHILD CARE CENTER. A child care center currently licensed by the county's Health and Human Services or its representatives.

PERMANENT RESIDENCE. A place where a person abides, lodges or resides for 14 or more consecutive days.

PUBLIC PARK/PLAYGROUND. Any city-owned, or privately-owned but open to the public, area, designed, equipped and set aside for children's play and includes in that area such facilities as play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation and related structures.

SCHOOL. A public or non-public school, elementary or secondary school.

TEMPORARY RESIDENCE. A place where a person abides, lodges or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address or a place where the person routinely abides, lodges or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.
(Ord. 17-01, passed 3-13-2017)

' 131.04 PROHIBITED ACTS.

(A) *Prohibited location of residence.* It is unlawful for any designated predatory offender to establish permanent residence or temporary residence within 1,000 feet of any of the following:

- (1) Public or private school;
- (2) Licensed child care provider, including, but not limited to, in home care providers which are licensed by the state and/or county;
- (3) Public park/playground;
- (4) Place of worship which provides regular educational programs;

- (5) Designated public trails;
- (6) Public or private gymnasiums;
- (7) Libraries;
- (8) Public beaches;
- (9) Sporting facilities (baseball fields, football fields, hockey rinks, soccer fields and the like) where children are known to congregate; and
- (10) The permanent or temporary residence of any other designated predatory offender.

(B) *Measurement of distance.* For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of the properties listed in division (A) above.

(Ord. 17-01, passed 3-13-2017) Penalty, see ' 131.99

' 131.05 EXCEPTIONS.

This section does not apply under the following circumstances:

(A) The designated predatory offender established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. ' ' 243.166 and 243.167, as they may be amended from time to time, or a successor statute, prior to enactment of this chapter;

(B) The designated predatory offender was a minor when he or she committed the offense and was not convicted as an adult;

(C) The designated predatory offender is a minor;

(D) The designated predatory offender has been granted a risk reduction level by the End of Confinement Review Committee, pursuant to M.S. ' 244.052, subd. 3(i), as it may be amended from time to time;

(E) The school, licensed child care center or public playground within 1,000 feet of the person=s permanent residence was opened after the designated predatory offender established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. ' ' 243.166 and 243.167, as they may be amended from time to time, or a successor statute;

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(F) The residence is also the primary residence of the designated predatory offender=s parents, grandparents, siblings or spouse, and was the predatory offender=s parents, grandparents, siblings or spouse established this residence prior to enactment of this chapter; or

(G) The residence is a property purchased, leased or contracted with and licensed by the state=s Department of Corrections prior to enactment of this chapter.
(Ord. 17-01, passed 3-13-2017)

' 131.06 RENTING IN EXCLUSION ZONES PROHIBITED.

(A) It shall be unlawful for any property owner to knowingly rent or lease real estate to any designated predatory offender if the property is in the prohibited zone established in ' 131.04 of this chapter. If a property owner discovers or is informed that a tenant is a designated offender after a rental agreement is entered into, the property owner shall commence eviction proceedings against the designated offender and take action to ensure that the designated offender is not residing in the exclusion zone.

(B) A property owner violation of this prohibition shall be punishable as set forth in ' 131.99 of this chapter.
(Ord. 17-01, passed 3-13-2017) Penalty, see ' 131.99

' 131.99 PENALTY.

Any person who violates this chapter shall be punished according to the laws of the state. A violation of this chapter shall constitute a misdemeanor. Each day a person maintains a temporary or permanent residence in violation of this chapter constitutes a separate violation.
(Ord. 17-01, passed 3-13-2017)

CHAPTER 132: SOCIAL HOSTING

Section

- 132.01 Purpose and findings
- 132.02 Authority
- 132.03 Definitions
- 132.04 Prohibited acts
- 132.05 Exceptions
- 132.06 Enforcement

- 132.99 Penalty

132.01 PURPOSE AND FINDINGS.

(A) The City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gathering where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol.

(B) The City Council finds the following.

(1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.

(2) Prohibiting underage consumption serves to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

(3) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

(4) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity and in some circumstances provide the alcohol.

(5) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.

(6) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.
(Ord. 2010-02, passed 8-9-2010)

' 132.02 AUTHORITY.

This chapter is enacted pursuant to M.S. ' 145A.05, as it may be amended from time to time.
(Ord. 2010-02, passed 8-9-2010)

' 132.03 DEFINITIONS.

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

ALCOHOL. Ethyl alcohol, hydrated oxide of ethyl or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

ALCOHOLIC BEVERAGE. Alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains 0.5% or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

EVENT or GATHERING. Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

HOST. To aid, conduct, allow, entertain, organize, supervise, control or permit a gathering or event.

PARENT. Any person having legal or physical custody of a juvenile or parenting time:

- (1) As natural, adoptive parent or step-parent;
- (2) As a legal guardian; or
- (3) As a person to whom legal custody has been given by order of the court.

PERSON. Any individual, partnership, co-partnership, corporation or any association of one or more individuals.

RESIDENCE or PREMISES. Any home, yard, farm, field, land, apartment, manufactured home, condominium, hotel or motel room, recreational vehicle or camper, or other dwelling unit, or a hall or meeting room, park or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.

UNDERAGE PERSON. Any individual under 21 years of age.
(Ord. 2010-02, passed 8-9-2010)

' 132.04 PROHIBITED ACTS.

(A) It is unlawful for any person(s) to:

- (1) Host or allow an event or gathering;
- (2) At any residence, premises or on any other private or public property;
- (3) Where alcohol or alcoholic beverages are present;
- (4) When the person know or reasonably should know that an underage person will or does:
 - (a) Consume any alcohol or alcoholic beverage; or
 - (b) Possess any alcohol or alcoholic beverage with the intent to consume it.

(5) The person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(B) A person is criminally responsible for violating division (A) above if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.

(C) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

(Ord. 2010-02, passed 8-9-2010) Penalty, see ' 132.99

' 132.05 EXCEPTIONS.

(A) This chapter does not apply to conduct solely between an underage person and his or her parents or guardian while present at the parent or guardian=s household.

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(B) This chapter does not apply to legally protected religious observances.

(C) This chapter does not apply to retail intoxicating liquor licenses or 3.2% malt liquor licensees, municipal liquor stores or bottle club permit holders who are regulated by M.S. ' 340A.503, subd. 1(a)(1), as it may be amended from time to time.

(D) This chapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.
(Ord. 2010-02, passed 8-9-2010)

' 132.06 ENFORCEMENT.

This chapter shall be enforced by any law enforcement officer.
(Ord. 2010-02, passed 8-9-2010)

' 132.99 PENALTY.

A violation of this chapter is a misdemeanor, as defined by the laws of the state.
(Ord. 2010-02, passed 8-9-2010)

CHAPTER 31: EMERGENCY SERVICES

Section

Emergency Protection Services

- 31.01 Purpose and Intent
- 31.02 Definitions
- 31.03 Parties Affected
- 31.04 Rates
- 31.05 Billing and Collection
- 31.06 Mutual Aid Agreements
- 31.07 Application of Collections to Budget

EMERGENCY PROTECTION SERVICES

' 31.01 PURPOSE AND INTENT.

This subchapter is adopted for the purpose of authorizing the City of Blooming Prairie to charge for emergency service, as authorized by M.S. " 366.011, 366.012 and 415.01, as they may be amended from time to time.

(Ord. 2011-02, passed 4-11-2011, amended 4-12-2021)

' 31.02 DEFINITIONS.

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

EMERGENCY PROTECTION CONTRACT. A contract between the city and a town or other city for the city to provide emergency services, including fire, rescue, medical, and related services.

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

EMERGENCY SERVICE CHARGE. The charge imposed by the city for receiving fire, medical, rescue, or related services.

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

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

(Ord. 2011-02, passed 4-11-2011, amended 4-12-2021)

' 31.03 PARTIES AFFECTED.

The following parties are affected:

(A) Owners of property within the city who receive emergency service; and

(B) Anyone who receives emergency service as a result of a motor vehicle accident or fire, or medical or related emergency within the city. Owners of property in towns, townships or cities to which the city provides emergency service pursuant to an emergency protection contract.

(Ord. 2011-02, passed 4-11-2011, amended 4-12-2021)

' 31.04 RATES.

Rates, charges, and fees are approved annually by the Blooming Prairie City Council. All materials used at the scene will be included for reimbursement.

(Ord. 2011-02, passed 4-11-2011, amended 4-12-2021)

Emergency Services

' 31.05 BILLING AND COLLECTION.

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

(B) Parties billed for emergency service will have 30 days to pay. If the emergency service charge is not paid by that time, it will be considered delinquent and the city will send a notice of delinquency; if the emergency service charge remains unpaid for 30 days after the notice of delinquency is sent, the city will use all practical and reasonable legal means to collect the emergency service charge. The party receiving emergency services shall be liable for all collection costs incurred by the city including, but not limited to, reasonable attorney fees and court costs.

(C) If the emergency service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before October 15 of each year, certify the unpaid emergency service charge to the County Auditor in which the recipient of the services owns real property for collection with property taxes, or the property owner for where an emergency service was performed. The County Auditor is responsible for remitting to the city all charges collected on behalf of the city. The city must give the property owner notice of its intent to certify the unpaid emergency service charge by September 15. False alarms won't be billed as a fire call, if the property receives two or less per year.

(Ord. 2011-02, passed 4-11-2011, amended 4-12-2021)

' 31.06 MUTUAL AID AGREEMENTS.

When the city's Fire Department or Ambulance Service provides emergency service to another department pursuant to a mutual aid agreement, the billing will be determined by the mutual aid agreement.

(Ord. 2011-02, passed 4-11-2011, amended 4-12-2021)

' 31.07 APPLICATION OF COLLECTIONS TO BUDGET.

All collected emergency charges will be city funds and used to offset the expenses of the city's Fire Department or Ambulance Service for providing emergency services.

(Ord. 2011-02, passed 4-11-2011, amended 4-12-2021)

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Passed by the City Council of Blooming Prairie, Minnesota this 12th day of April, 2021.

Mayor

Attested:

City Administrator

CHAPTER 50: GARBAGE AND REFUSE; DUMPSTERS

Section

- 50.01 Purpose and Intent
- 50.02 Definitions
- 50.03 Garbage and Refuse Regulations
- 50.04 Dumpster Regulations
- 50.05 Dumpster Permitting
- 50.06 Dumpsters in the Public Right-of-Way
- 50.07 Denial of Use
- 50.08 Violations
- 50.09 Penalty
- 50.99 Severability and Savings Clause

50.01 PURPOSE AND INTENT.

The ordinance is adopted for the purpose of authorizing the City of Blooming Prairie to regulate waste collection throughout the city. This is to ensure that the disposal of waste is accomplished in a sanitary manner, ensuring healthy and sanitary conditions for residents and property owners.

50.02 DEFINITIONS.

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

- (A) **Refuse Container.** A container constructed of metal or plastic having a volume not exceeding ninety-six (96) gallons, shall be watertight, insect proof, and rodent proof, shall be of a material not easily corrodible, equipped with suitable handles and tight-fitting covers and shall be kept tightly covered when there is garbage therein. A refuse container is designed and used to contain or store solid waste or recyclables, this can include bags and totes.
- (B) **Dumpster.** A metal solid waste receptacle designed to be lifted and emptied mechanically for use primarily used for commercial and industrial businesses and construction sites.
- (C) **Solid Waste.** Any nonrecyclable material produced by any residential, commercial, institutional, or industrial use.

Garbage and Refuse; Dumpsters

50.03 GARBAGE AND REFUSE REGULATIONS.

- (A) All properties that generate solid waste are required to have a contracted hauler.
- (B) All refuse containers must be well maintained and in good working condition, displaying the name or logo and telephone number of the owner of the refuse container.
- (C) Refuse containers must be emptied at a minimum of once per week by a contracted hauler.
- (D) If one refuse container is not large enough to contain all of your garbage, contact your hauler for a larger or additional container.
- (E) The maximum size of an individual refuse container is ninety-six (96) gallons.
- (F) Refuse containers kept outside shall be maintained in such a manner as not to permit the entry of or harborage of animals, insects or other vermin and so maintained as not to be tipped over.
- (G) Refuse containers shall not be moved or placed for collection sooner than the day prior to scheduled collection, nor shall the containers be permitted to remain in the collection area for more than one day after collection.
- (H) Refuse containers must be pulled back to a structure on the property.
- (I) Refuse containers must be placed behind the curb line for collection. Containers must not be placed in the street.

50.04 DUMPSTER REGULATIONS.

- (A) Dumpsters must be well maintained and in good working condition, displaying the name or logo and telephone number of the owner of the dumpster, and be suitably supported at each contact point to prevent damage to paved surfaces.
- (B) Dumpsters must be covered when materials inside are easily airborne, pose a hazard, emit an odor, or are otherwise offensive.
- (C) Debris must be placed inside the dumpster, not alongside or on top of it.
- (D) All dumpsters are required to be emptied when **full**, or if a complaint pertaining to other sections of this ordinance have been identified, such as an offensive odor or vermin harborage.
 - a. For the purpose of this section, "**full**" is defined as when the contents of the dumpster reach an average level of one foot below the top edge of the dumpster sides. Any dumpster which has reached the full status and is not emptied within seven calendar days shall be considered in violation of this ordinance.
- (E) Cleaning of dumpsters on the street or sidewalk is not permitted.
- (F) Residential properties are prohibited from maintaining a dumpster on their property with the following two exceptions;
 - a. A residential property may have a dumpster for the purpose of home renovation or spring cleaning. A permit is required, may be renewed for up to three (3) months.
 - b. Multiple dwellings having three (3) or more family units shall be equipped with a sufficient amount of refuse containers to accommodate and securely keep all refuse and recyclables, or a dumpster that is sufficiently sized to accommodate and securely keep all refuse and recyclables that accumulate between collections. No permit required.
 - i. Dumpsters for multiple dwellings must be emptied weekly.

Garbage and Refuse; Dumpsters

50.05 DUMPSTER PERMITTING.

Dumpster permits are valid for one month in duration. A permit may be extended up to three (3) months with written permission by the city. One dumpster permit allowed per property annually.

- (A) Dumpsters for commercial and industrial businesses and construction sites are not required to obtain a permit.
- (B) Dumpsters placed in the city by non-profit organizations for special events or a city recognized disaster are exempt from obtaining a permit. However, the responsible organization and/or property owner are still subject to the rules and regulations of this ordinance.
- (C) The company owning and emptying the dumpster within city limits or the user of the dumpster must complete a dumpster permit application before placing the dumpster within the city.
- (D) A permit application is required to be completed each time a dumpster is placed at a location within a residentially zoned district, whether the dumpster is located on private property or in the right-of-way.

50.06 DUMPSTERS IN THE PUBLIC RIGHT-OF-WAY.

- (A) A dumpster placed in the public right-of-way must have a flasher or reflector on the outside corner facing traffic at all times. Where traffic may approach from either side, the dumpster must have a flasher or reflector on the outside corner of both sides. Type I or Type II barricades can be used as an alternate to flasher or reflectors.
- (B) Dumpsters shall not block a public sidewalk or be placed in a location that restricts the sight lines of an intersection. Sight lines will be determined by the Public Works Director or City Administrator.
- (C) Dumpsters placed in the public right-of-way for construction, remodeling, or demolition projects shall be removed immediately upon the completion of the project. No dumpster shall be placed in the public right-of-way for more than 30 days. An extension of the 30-day rule may be allowed with written permission from the city.
- (D) No dumpster shall be placed on streets, side of streets, or areas designated as "No Parking." Dumpsters shall not be placed in public parking lots or parks without prior written permission from the city.
- (E) The owner and/or the user of a dumpster on a public right-of-way is/are responsible for any public property, street, curb and gutter or public infrastructure damage.
- (F) No dumpster shall be placed in the public right-of-way during the "**winter snow season.**"
 - a. For the purpose of this section, "**winter snow season**" is defined as period between November 1st to April 1st.

50.07 DENIAL OF USE.

- (A) The city may deny the use of dumpsters in the public right-of-way if the dumpster is too wide to allow public safety vehicles through or due to any other traffic concerns.
- (B) The city may also deny the use of dumpsters to protect public health or safety concerns.

Garbage and Refuse; Dumpsters

50.08 VIOLATIONS.

- (A) The city may remove or have a refuse container or dumpster removed from the public right-of-way or private property, if the container is in violation of this ordinance.
 - a. The owner of the container or, if the owner cannot be determined, the person placing it in the public right-of-way shall pay all costs, fees, penalties, or other expenses incurred by the city in removal, storage fees, and disposal of any container and its contents.
 - b. If payment is not received by the city, the unreimbursed cost may be assessed against the property.
- (B) If the container is not claimed within 30 days by its owner or person responsible for placing it in the public right-of-way, it may be disposed of as abandoned property, but disposal shall not diminish the responsibility of the owner or the person responsible for placing the container in the public right-of-way to pay all amounts due.
- (C) The city shall not release a container from storage until all amounts due under this section have been paid.

50.98 PENALTY

- (A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to section 10.99 of this code of ordinances.
- (B) Any violation of this ordinance is a misdemeanor.

50.99 SEVERABILITY AND SAVINGS CLAUSE

If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

Passed by the City Council of Blooming Prairie, Minnesota this 17th day of May, 2021.

Mayor

Attested:

City Administrator

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS; CONSTRUCTION

151. STREETS AND SIDEWALKS

152. TREES

153. SUBDIVISIONS

154. ZONING

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

General Provisions

150.01 Building permits

Building Code

150.15 Building Code adopted
150.16 Organization and enforcement
150.17 Permits, inspections and fees

Fire Code

150.30 Uniform Fire Code adopted
150.31 Definitions
150.32 Appeals
150.33 Violations

House and Structure Numbering

150.50 Affixing number plates
150.51 Assignment of numbers
150.52 Baselines; use of numbers
150.53 Map; amendments

150.99 Penalty

Cross-reference:

Public Works, see Title V
Streets and Sidewalks, see Ch. 151
Subdivisions, see Ch. 153
Zoning, see Ch. 154

GENERAL PROVISIONS**' 150.01 BUILDING PERMITS.**

(A) Site plans shall be submitted to the city's Building Inspector and shall include all building setbacks clearly indicated, the legal description of the lot, all lot dimensions, driveways and driveway accesses.

(B) The parcel must be a legal, buildable lot. An existing lot of record or a lot within a plat that has been given final approval and has been recorded.

(C) All utilities (gas, electric, water and sanitary sewer) are constructed and available to the property. Location of service lines will be shown on site plans.

(D) City streets providing access to the property shall at a minimum be graded and graveled to city standards. Private drives and streets, such as those in planned unit developments, shall be constructed with a minimum 12-inch base of Class 5 aggregate. In the event that a property owner wishes to have street access prior to city construction of that street, a minimum grade gravel street will be provided by the city at the property owner's expense. No credit to any future assessments will be given for this gravel access.

(E) The curb grade shall be obtained from the city and indicated on the site plan. Surface drainage of the lot based on final grade shall be indicated on the site plan. Foundation elevation shall be indicated on the site plan. The elevation shall be between 12 inches and 24 inches above curb grade as measured at the center of the lot. The contractor shall be responsible for ensuring that the foundation elevation complies with this standard. Deviation from this standard is permissible upon approval by Planning and Zoning Board of a drainage plan for the property prepared by a registered land surveyor or engineer.

(F) The site plan shall also include a drainage plan that indicates grading which avoids conditions that result in an increase in the amount of water being drained onto neighboring properties or interferes with drainage of water away from neighboring properties.

(G) Any and all requirements of the state's Building Code need to be followed as well as payment of all required fees.

(H) (1) The Zoning Administrator or designee, except as specifically stated in the policy, shall conduct review of the site plan and make the determination that these conditions are met.

(2) Appeals of the determinations by the Zoning Administrator can be appealed to the Planning and Zoning Board.

(Ord. 2000-6, passed 7-10-2000)

BUILDING CODE

' 150.15 BUILDING CODE ADOPTED.

The state=s Building Code, as adopted by the Commissioner of Administration, pursuant to M.S. " 326B.101 to 326B.94, as they may be amended from time to time, including all the amendments, rules and regulations established, adopted and published from time to time by the state=s Commissioner of Administration, through the Building Codes and Standards Division is hereby adopted in this subchapter. The state=s Building Code is hereby incorporated in this subchapter as if fully set out herein. (Ord. 91-2, passed 8-5-1991; Ord. 91-4, passed 12-2-1991; Ord. 03-03, passed 10-13-2003)

' 150.16 ORGANIZATION AND ENFORCEMENT.

(A) The organization of the Building Department and enforcement of the code shall be as established by Ch. 2 of the Uniform Building Code, 2012 Edition. The code shall be enforced within the incorporated limits of the city and extraterritorial limits permitted by state statutes.

(B) The City Administrator-Clerk=s office shall be the Building Code Department of the city. The administrative authority shall be a state-certified Building Official.

(C) The appointing authority (City Council) shall designate the Building Official for the jurisdiction of the city. (Ord. 91-2, passed 8-5-1991)

' 150.17 PERMITS, INSPECTIONS AND FEES.

(A) (1) Permits, inspections and collection of fees shall be as provided in Ch. 3 of the Uniform Building Code, 2012 Edition.

(2) The method of establishing permit fees and the amounts of the permit fees for activities encompassed by the code are a local option.

(3) Local fee schedules should include fees for the installation of prefabricated structures and manufactured homes.

(B) In addition to the permit fee required by division (A) above, the applicant shall pay a surcharge to be remitted to the state=s Department of Administration as prescribed by M.S. ' 326B.148, as it may be amended from time to time. (Ord. 91-2, passed 8-5-1991)

FIRE CODE

' 150.30 UNIFORM FIRE CODE ADOPTED.

There is hereby adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Minnesota Uniform Fire Code@ 2012 edition, including amendments, save and except such portion as hereinafter are deleted, modified or amended of which code not less than two copies have been and now are filed in the office of the city=s Administrator-Clerk and the same are hereby adapted and incorporated as fully as if set out at length herein, and from the date on which this subchapter shall take effect, the provisions thereof shall be controlling within the limits of the city.

(Ord. 77-3, passed 7-7-1977)

' 150.31 DEFINITIONS.

(A) Whenever the word Ajurisdiction@ is used in the Minnesota Uniform Fire Code, it shall be held to mean the ACity of Blooming Prairie@.

(B) Whenever the term Acorporation counsel@ is used in the Minnesota Uniform Fire Code, it shall be held to mean the AAttorney for the City of Blooming Prairie@.

(C) Whenever the word Aperson@ is used in the Minnesota Uniform Fire Code, it shall be held to mean Aa natural person, his or her heirs, executors, administrators or assigns and also include a firm, partnership or a corporation, its or their successors or assigns or the agent of the aforesaid@.

(Ord. 77-3, passed 7-7-1977)

' 150.32 APPEALS.

Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Minnesota Uniform Fire Code do not apply, or the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the City Council within 30 days from the date of the decision.

(Ord. 77-3, passed 7-7-1977)

' 150.33 VIOLATIONS.

Any violation of any provision of the Fire Code or failure to comply therewith, or violation or failure to comply with any order made thereunder of any building in violation of any specifications or plans submitted and approved thereunder or in violation of any certificate or permit issued thereunder, and

from which no appeal has been taken, or failure to comply with such order as affirmed or modified by the City Council or by a court of competent jurisdiction, within the time fixed herein, shall be a separate violation. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and any person responsible for the violation shall correct or remedy such violation or defect within a reasonable time. When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense. The application of any penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. 77-3, passed 7-7-1977)

HOUSE AND STRUCTURE NUMBERING

' 150.50 AFFIXING NUMBER PLATES.

(A) It shall be the duty of the owner, lessor or occupant of every house, industrial, commercial or other building to have a proper street number either by affixing the number in metal, glass, plastic or other durable material, the numbers shall be three inches in height in contrasting colors to the base and so placed as to be easily seen from the street.

(B) The number plates shall be so placed within 60 days from the date of the publication of this subchapter.

(C) All auxiliary buildings within a unit having an assigned number, such as garages, barns and buildings of a like nature are not affected by this subchapter.

(Ord. 4-63, passed 11-4-1963)

' 150.51 ASSIGNMENT OF NUMBERS.

Numbers shall be so assigned by the City Council, such that all buildings, not excepted, as stated in ' 150.50 of this chapter, abutting on any street or avenue shall be numbered under a uniform grid system.

(Ord. 4-63, passed 11-4-1963)

' 150.52 BASELINES; USE OF NUMBERS.

(A) Central Avenue shall be the baseline for all numbering east and west and Main Street shall constitute the base line for all numbering running north and south.

(B) All streets running north and south shall be designated as AAvenues@ and all streets running east and west shall be designated as AStreets@.

(C) All buildings so numbered, situated within each block, contiguous to the two baselines, shall be numbered 100 to 199, inclusive, and the next block shall be numbered from 200 to 299, inclusive, and continued in this sequence for all additional contiguous blocks in each quadrant.

(D) Odd numbers shall be used on the west and north sides of the streets and avenues and even numbers on the east and south sides of the streets and avenues, and sufficient numbers shall be allowed for later assignment to any and all unimproved and vacant lots.

(Ord. 4-63, passed 11-4-1963)

' 150.53 MAP; AMENDMENTS.

It shall be the duty of the engineer appointed by the City Council to submit a map of the city indicating the number assigned to each unit at the next regular meeting of the City Council and, after due consideration to approve the same as the official map, with revisions and amendments as it may deem necessary, the map shall be open for public inspection in the Council Chambers of the Community Building in the city. In the event of new construction, a number shall be assigned by the City Council in accordance with this subchapter and added to the map.

(Ord. 4-63, passed 11-4-1963)

' 150.99 PENALTY.

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

(B) The penalty described in the Uniform Building Code, 2012 edition, ' 205, as amended, shall be in keeping with M.S. " 609.033 to 609.034, as they may be amended from time to time, which provides for a maximum fine of \$700.

(C) Any person convicted of a violation of any provision of " 150.30 through 150.35 of this chapter shall be guilty of a misdemeanor.

(D) Whosoever shall fail to comply with the provisions of " 150.50 through 150.53 of this chapter or whosoever shall affix or display upon any house, industrial or commercial or other building any numbers pertaining to the grid system, other than those assigned to it, shall be guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than \$5 and not more than \$50.

(Ord. 4-63, passed 11-4-1963; Ord. 77-3, passed 7-7-1977; Ord. 91-2, passed 8-5-1991)

CHAPTER 151: STREETS AND SIDEWALKS

Section

General Provisions

151.01 Curb replacement or alteration

Sidewalks

151.15 Appropriation
151.16 Requirements
151.17 Repair; manner of payment
151.18 Removal of public sidewalks
151.19 Parking prohibited

Street Excavations and Backfill

151.30 Openings in streets
151.31 Permit fees
151.32 Backfill
151.33 Winter excavations
151.34 Safety precautions
151.35 Blocking streets

151.99 Penalty

GENERAL PROVISIONS

' 151.01 CURB REPLACEMENT OR ALTERATION.

(A) No person shall cut or excavate underneath a curb along any side of any property in the city without first paying the required fee as duly set by the City Council from time to time and obtaining the required permit.

Bloomington Prairie - Land Usage

(B) (1) Any person so desiring to construct a curb cut shall submit an application form to the city for approval. Whenever permission is granted by either the city's Administrator-Clerk or the City Council, for the cutting of curbs, a concrete driveway approach, conforming to city specifications, shall be constructed between the street curb and the lot line. The curb that is being cut to provide the driveway approach shall be removed and replaced according to city specifications.

(2) The expense of the curb cut and the driveway approach construction shall be paid by the person applying for the permit.

(C) No person shall excavate under any curb without replacing the existing curb with a new curb section in order to prevent settling which disrupts the flow line of the curb and gutter.
(Ord. 2000-5, passed 7-10-2000) Penalty, see ' 151.99

SIDEWALKS**' 151.15 APPROPRIATION.**

The city finds that a continuing program for the repair and maintenance of sidewalks is necessary and the best interest of the city and, for that reason thereof, the City Council may appropriate funds for such purposes.

(Ord. 89-2, passed 11-6-1989)

' 151.16 REQUIREMENTS.

(A) Sidewalks may be required by the City Council in such areas as are necessary to adequately provide for the safety and welfare of pedestrians.

(B) All sidewalks shall be maintained in the same width as the sidewalk being repaired or replaced or as the City Council may designate from time to time.

(C) All sidewalks shall slope one-fourth inch per foot away from the property line and the profile grade shall not exceed 6%.

(D) Sidewalks shall be placed in the public right-of-way one foot from the property line.

(E) Required sidewalks shall be concrete of four-inch thickness and placed on a four-inch gravel base.

(F) All sidewalks at intersections shall be handicapped accessible.

(G) All sidewalks shall be approved by the head of the city's Street Department or such other person as the City Council shall designate.

(Ord. 89-2, passed 11-6-1989) Penalty, see ' 151.99

' 151.17 REPAIR; MANNER OF PAYMENT.

(A) The owner of any property within the city abutting a public sidewalk shall keep the sidewalk in repair and safe for pedestrians, and this shall be understood to include the obligation of replacing sidewalk previously removed. It shall be the duty of the owner and occupant of any such property to use diligence so as to remove snow, dirt or rubbish from the sidewalk.

(B) In the event the city determines that public sidewalks within the city are unsafe, it shall cause a notice to be served by certified mail or personal service upon the owner of the abutting property and the occupant, if the owner does not reside within the city or cannot be found therein, ordering the owner to have the sidewalk repaired and made safe within 30 days and stating that, if the owner fails to do so, the city shall do so, and that the expenses will be made a special assessment against the property concerned. If the sidewalk is not repaired within 30 days after receipt of the notice, the head of the city's Street Department shall report the facts to the City Council and the City Council shall, by resolution, order to repair the sidewalk and make it safe.

(C) (1) The cost of all sidewalk repair made under the provisions of this subchapter shall be shared in the following manner: all sidewalk repair abutting upon residential, commercial or industrial property shall be paid one-half by the city and the owner of the property abutting thereon shall pay the remaining one-half of the cost thereof.

(2) (a) The cost assessed against each of the owners shall be required to be fully paid within 30 days after the date of the mailing of the notice setting forth his or her share of the cost thereof.

(b) If any owner fails to make full payment within that time, the City Council may spread the charges so unpaid against the real property of the owner as a special assessment under M.S. ' 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor for collection along with current real estate taxes.

(c) At the time of the certification, the City Council shall direct that the special assessment shall be payable in five equal annual installments.

(D) No repair of sidewalks in the city shall be conducted without order of the City Council and without prior written approval of the head of the city's Street Department or other person as the City Council shall designate based upon his or her review of the proposed work to be done and the cost estimate.

(Ord. 89-2, passed 11-6-1989) Penalty, see ' 151.99

' 151.18 REMOVAL OF PUBLIC SIDEWALKS.

No person or persons, firm or corporation shall remove a public sidewalk, or any section thereof, within the corporate limits of the municipality without the written consent of the City Council.
(Ord. 89-2, passed 11-6-1989) Penalty, see ' 151.99

' 151.19 PARKING PROHIBITED.

No persons shall park motor vehicles on sidewalks or any portion thereof.
(Ord. 89-2, passed 11-6-1989) Penalty, see ' 151.99

STREET EXCAVATIONS AND BACKFILL**' 151.30 OPENINGS IN STREETS.**

(A) Any privately-owned public utility, person, firm or corporation desirous of excavation in the public streets or alleys for the purpose of laying or installing pipe, gas mains and services, hot water and steam mains and services, telephone or telegraph conduit, cables, wires or works of any kind, shall conform with the following requirements:

- (1) Must post a street occupancy bond with the city in the sum of \$10,000;
- (2) Must secure a permit from the City Engineer, or his or her representative, listing time, place and purpose of permit; and
- (3) Must conform with all the requirements as to opening, backfilling and surface repair.

(B) Permits to make openings in any public street, lane or alley shall be issued only to licensed plumbers, public utility companies or recognized public service agencies.

(C) Permit application requirements shall not be applicable to contractors employed on city contracts or to any departments of the city.
(Ord. 78-3, passed 10-2-1978)

' 151.31 PERMIT FEES.

(A) The application for permission to open any street for repairing or installation of customer service lines shall be accompanied by the minimum fees in the amount duly established by the City Council from time to time. Applicants for permits to open any street, lane or alley in the city for purpose of constructing or repairing service mains and distribution lines of any kind shall be charged the required permit fee as duly set by the City Council from time to time.

(1) For opening any hole in bituminous surfaced street: minimum fee of \$140;

(2) For opening any hole in gravel or crushed rock street: minimum fee of \$75; and

(3) For opening any hole in any other type of street four feet by six feet opening (except concrete): minimum fee of \$40.

(B) For all other openings where square yard basis exceed the minimum fee or where there is no minimum fee established: shall all be on a square yard basis as follows:

(1) For openings in concrete surfaced or concrete base streets: \$12 per square yard;

(2) For openings in bituminous surfaced streets: \$6 per square yard; and

(3) For openings in gravel or crushed rock streets: \$4 per square yard.

(Ord. 78-3, passed 10-2-1978)

' 151.32 BACKFILL.

Backfilling of all street openings shall be thoroughly compacted. All excess material resulting from the excavation, if any, shall be removed by the party obtaining the opening permit. The Engineer or his or her representative shall be notified immediately in writing upon completion of the backfilling, and the city shall replace the street surfacing. The applicant for the street opening permit shall be responsible to the city for any subsequent settling of streets for openings which have not been adequately backfilled and compacted, and any and all expenses incurred by the city as a result thereof to remedy the settling shall be charged against the applicant.

(Ord. 78-3, passed 10-2-1978) Penalty, see ' 151.99

' 151.33 WINTER EXCAVATIONS.

(A) During the winter months, permits for excavation in any street, lane or alley will be granted subject to the following conditions.

(B) All material resulting from the excavation shall be removed and backfilling shall be done with gravel or other material approved by the Engineer, which is entirely free of frozen material.

(Ord. 78-3, passed 10-2-1978)

' 151.34 SAFETY PRECAUTIONS.

It shall be unlawful for any person to excavate, dig or do any work whatsoever in any street, alley or other public way in the corporate limits of the city, which might or could interfere with the lawful use of the street, alley or public way, without providing the following minimum safety precautions:

(A) Place adequate barricades at least 27 inches high and not less than eight feet long at each end of the street, alley or public way, together with ARoad Closed@ signs at each barricade;

(B) Protect each ditch and excavation on each side in the street, alley or public way with a similar type of barricade and by providing adequate lanterns or signal lights during all periods of darkness; and

(C) Prior to digging or excavation in any street, alley or public way, notify the Municipal Public Utilities and Gopher State One Call of the location of the proposed digging or excavation, the nature of the work contemplated and the anticipated duration thereof.

(Ord. 78-3, passed 10-2-1978) Penalty, see ' 151.99

' 151.35 BLOCKING STREETS.

It shall be unlawful for any person to block or cause to be blocked one-half or more of the useable width of any street, alley or public way in the city by reason of any digging, excavation or work in the street, alley or public way without a validated permit. A validated permit shall require an accurate statement by the applicant thereof, of the times date and hours the street, alley or public way will be blocked and shall be countersigned by the Fire Chief or his or her authorized representative. The holder of each validated permit shall notify the Fire Chief or his or her representative immediately upon the street being opened for travel in each case.

(Ord. 78-3, passed 10-2-1978) Penalty, see ' 151.99

' 151.99 PENALTY.

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

(B) Any person, firm or corporation violating the provisions of " 151.30 through 151.35 of this chapter shall be guilty of a petty misdemeanor and, upon conviction, shall be subject to a fine of not more than \$100 for every offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. 78-3, passed 10-2-1978)

CHAPTER 152: TREES

Section

Shade Tree Management

- 152.01 Program established
- 152.02 Nuisances declared
- 152.03 Removal of infected, dead trees and wood
- 152.04 Interference prohibited

- 152.99 Penalty

SHADE TREE MANAGEMENT

' 152.01 PROGRAM ESTABLISHED.

It is the intention of the City Council to conduct a program of shade tree management and plant pest control pursuant to the authority granted by M.S. ' 18G.13, as it may be amended from time to time, Ch. 4, 3 MCAR 1.0109 through 1.0113; and locally adopted ordinances as deemed necessary. This program is directed specifically at the control of Dutch elm disease, oak wilt and other typical diseases of trees that are contagious by nature. Trees of all species that are dead, damaged or constitute a problem to the general public are also covered by this subchapter.
(Ord. 81-1, passed 4-6-1981)

' 152.02 NUISANCES DECLARED.

The following things are public nuisances whenever they may be found within the city limits:

(A) Any living or standing tree found to be infected with disease and which harbors elm bark beetles, Dutch elm disease fungus and varying diseases which, in the estimation of the Forester, are contagious;

(B) Any dead tree or part thereof, including branches, stumps and firewood, from which the bark has not been removed, that could provide a means for the continuation of the spread of the disease that caused the death of that tree; and

(C) Any tree or shrub, living or dead, or portion thereof, that is of a hazardous or obstructive nature

to the general public.

(Ord. 81-1, passed 4-6-1981) Penalty, see ' 152.99

' 152.03 REMOVAL OF INFECTED, DEAD TREES AND WOOD.

(A) If the Forester finds any tree, or portion thereof, that falls into the classification mentioned in ' 152.02 of this chapter, he or she shall notify the property owner, in person, or by certified mail, that the problem exists and that it will be abated within a specified time period, not less than five days from the date of the notice. Failure to comply shall result in the City Forester abating the nuisance. The City Forester may then charge all costs of the abatement to the property owner and bill him or her directly or have the moneys due assessed to his or her taxes.

(B) The payment of moneys owed to the city for the abatement of nuisances from private property shall be handled in the following manner: all expenses shall be kept by the City Forester or the City Accountant. All moneys will be presented in the form of individual bills to the individual property owner stating the work done and the amount owed. Payment shall be due on the entire amount owed within 30 calendar days from the date of the bill. If the property owner fails to pay the entire amount owed, the city may charge interest on the remainder due in the form of 10% per annum. After the passage of the original 30 days, the city may assess the remaining amount due (including all interest and penalties) to the owner=s property of may present claims in small claims court for payment against the individual property owners.

(1) After determining that trees have a contagious disease, the Forester may cause trees abutting the diseased tree to be sprayed or mechanically treated with appropriate materials to contain the disease if, in his or her judgment, it is economically feasible. Determination shall be in conjunction with the state=s Department of Agriculture suggestions, where practicable.

(2) The Forester shall inspect all premises and places within the city as often as practicable to determine if any condition in ' 152.03 of this chapter exists thereon. He or she shall be able to enter upon private premises at any reasonable time for the purpose of carrying out the duties assigned him or her under this subchapter. Wood stored for private use shall also come under his or her jurisdiction and the owner shall comply with the wood storage rules as spelled out in this subchapter.

(C) It is the intent of the City Council to cause the elimination of all diseased trees and parts thereof, all dead trees or parts thereof, from all property in the city, both private and public, so as not to constitute a hazard.

(Ord. 81-1, passed 4-6-1981)

' 152.04 INTERFERENCE PROHIBITED.

It is unlawful for any person to prevent, delay or interfere with the Forester, or his or her agents, while they are engaged in the performance of duties imposed by this subchapter.

(Ord. 81-1, passed 4-6-1981) Penalty, see ' 152.99

' 152.99 PENALTY.

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

(B) Any person, firm or corporation who violates " 152.01 through 152.04 of this chapter is guilty of a misdemeanor.

(Ord. 81-1, passed 4-6-1981)

CHAPTER 153: SUBDIVISIONS

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GENERAL PROVISIONS**' 153.001 SHORT TITLE.**

This chapter shall be known, cited and referred to as the ABlooming Prairie Subdivision Ordinance@, except as referred to herein, where it shall be known as Athis chapter@.
(Ord. 79-2, passed 6-15-1979)

' 153.002 PURPOSE.

This chapter is enacted for the purpose of safeguarding the best interests of the public, the homeowner, the subdivider and the investor; encouraging well planned subdivisions by the establishment of adequate standards for design and construction and in order that new subdivisions will be integrated in the general plans of the community, thereby contributing toward an attractive, orderly, stable and wholesome community environment with adequate municipal services and safe streets.
(Ord. 79-2, passed 6-15-1979)

' 153.003 RULES AND DEFINITIONS.*(A) Rules.*

(1) All subdivisions, as defined and under the jurisdiction of this chapter, are subject to the provisions of this chapter and to the state statutes which regulate subdivisions.

(2) No building permit shall be issued for construction until all requirements of this chapter have been fully complied with.

(3) Unless approved as a final plat as provided herein, no subdivision shall be entitled to be recorded by the County Registrar or have any validity.

(4) No public improvements are to be installed unless the preliminary plat is approved and service shall not be provided until approval of the final plat is granted and same has been duly recorded.

(5) (a) Where the division of a parcel of land into two or more parcels for the purpose of transfer of ownership or building development does not come within the definition of a subdivision as defined by this subchapter, a legal description of the land and a description shall be filed with the Administrator-Clerk, who shall submit copies of the description to the Planning Commission, Engineer and Assessor.

(b) No building permit shall be issued until the copies have been received by the aforementioned persons.

(B) Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When inconsistent with the context, words used in the present tense shall include the future tenses; words in the singular number shall include the plural and words in the plural shall include the singular. The masculine gender includes the feminine and neuter genders.

ADMINISTRATOR. The duly appointed person charged with enforcement of this chapter.

ALLEY. A public right-of-way which affords a secondary means of access to abutting property.

ATTORNEY. The person licensed by the state to practice law who has been engaged by the City Council.

BLOCK. An area of land within a subdivision that is entirely bounded by streets or a combination of streets, exterior boundary lines of the subdivision and/or bodies of water.

BOULEVARD. The portion of street right-of-way between the curb or curb line and the property line.

BUILDING. To include all structures of every kind regardless of similarity to buildings.

BUILDING SETBACK. The minimum horizontal distance from the street right-of-way, as prescribed in Ch. 154 of this code of ordinances.

COMPREHENSIVE PLAN. A comprehensive development plan, prepared by the Planning Commission which indicates the general locations recommended for various functional classes of land uses, places and structures and for general physical development of the city and includes any unit or part of the plan separately prepared and any amendment to the plan or parts therein.

EASEMENT. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his or her property.

ENGINEER. The professional engineer engaged by the City Council.

FINAL PLAT. A drawing, in final form, showing a proposed subdivision containing all information and detail required by state statutes and by this chapter to be presented to the Planning Commission for approval, and which if approved, may be duly filed with the county's Register of Deeds.

LICENSED ENGINEER. A person licensed as a professional engineer by the state.

LOT. A parcel, piece or portion of land designated by metes and bounds, registered land survey, auditor's plat or other means and separated from other parcels or portions by the description for the purpose of sale, lease or separation thereof.

LOT, BUTT. A lot located on the end of a block excluding the two corner lots.

LOT, CORNER. A lot located, by the intersection of two streets, having two adjacent sides abutting streets; the interior angle of the intersection does not exceed one hundred and thirty-five (135) degrees.

LOT, THROUGH. Any lot other than a corner lot which abuts more than one street.

LOT DEPTH. The mean horizontal distance between the front lot line and the rear lot line.

LOT LINE. The property line bounding a lot; except that, where any portion of a lot extends into the right-of-way or a proposed public right-of-way, the line of the right-of-way shall be the **LOT LINE**.

LOT WIDTH. The horizontal distance between the side lot lines of the lot measured parallel to the front line of the lot as the setback line.

MAY. The act referred to is permitted.

OFFICIAL MAP. The map established by the City Council in accordance with state statutes, showing streets, highways and parks and drainage, both existing and proposed.

OWNER. Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

PEDESTRIAN WAY. The right-of-way across or within a block, for use by pedestrian traffic whether designated as a pedestrian way, crosswalk or however otherwise designated.

PERSON. An individual, to include both male and female and shall also extend and be applied to bodies political and corporate and to partnership and other unincorporated associations.

PLANNED UNIT DEVELOPMENT. A development which consists of two or more principal structures or uses on a single parcel of land.

PLANNING COMMISSION or COMMISSION. The duly appointed commission of the City Council.

PRELIMINARY PLAT. A drawing clearly marked Preliminary plat@ showing the salient features of a proposed subdivision, as a specified in ' 153.038 of this chapter.

PROTECTIVE COVENANT. A contract entered into between private parties and constitutes a restriction on the use of all private property within a subdivision for the benefit of the property owners, and to provide protection against undesirable aspects of development which would impair values.

PUBLIC LAND. Land owned and/or operated by a governmental unit, including school districts.

PUBLICATION. An official notice as prescribed by state statutes.

SHALL. The act referred to is mandatory.

SKETCH PLAN. A sketch of a proposed subdivision showing the information specified in ' 153.036 of this chapter.

STREET or ROAD. A public right-of-way which affords the primary means of access to abutting property.

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

(b) **CUL-DE-SAC.** A street or a portion of a street with only one vehicular traffic outlet and a turnaround at the other end.

(c) **DEAD-END STREET.** A street or a portion of a street with only one vehicular traffic outlet.

(d) **HALF STREET.** A street designed to provide access to only one side of the

right-of-way.

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

(f) **MINOR STREET.** A street intended to serve primarily as an access to abutting properties.

(g) **PRIVATE STREET.** A street which is not dedicated for public use.

(h) **SERVICE STREET.** A marginal access street which is generally parallel and adjacent to a major street and provides secondary access to abutting property.

STREET PAVEMENT. The wearing of exposed surface of the roadway used by vehicular traffic.

STREET WIDTH. The width of the right-of-way, measured at right angles to the centerline of the street.

SUBDIVIDER. Any person, firm, corporation, partnership or association, who shall lay out any subdivision or part thereof, as defined herein, either for himself, herself or others.

SUBDIVISION. The division or consolidation of any parcel of land for any use into two or more lots, blocks and/or sites, with or without streets or highways and includes resubdivision.

SURVEYOR. A person duly registered as a land surveyor by the state.

USED FOR. To include the phrases: Aarranged for@, Aesigned for@, Aintended for@, Amaintained for@ and Aoccupied for@.

ZONING DISTRICT. An area as prescribed by Ch. 154 of this code of ordinances. (Ord. 79-2, passed 6-15-1979)

PLATTING PROCEDURES

' 153.015 GENERAL PROCEDURES.

Whenever any subdivision of land is proposed to be made, and before any contract for the sale of, or any offer to sell any lots in the subdivision or any part thereof is made and, before any permit for the erection of a structure in the proposed subdivision shall be granted, the subdivider or his or her duly authorized agent shall apply in writing for approval of the proposed subdivision in accordance with the following procedures.

(Ord. 79-2, passed 6-15-1979)

' 153.016 SKETCH PLAN.

(A) Prior to subdividing or resubdividing land, the owner of the land shall prepare and submit to the Administrator-Clerk at least two weeks prior to the regularly scheduled meeting of the Planning Commission six copies of a sketch plan of the proposed subdivision or resubdivision, which shall comply with requirements of ' 153.015 of this chapter and file an application for Planning Consideration form.

(B) (1) The sketch plan will be considered as the basis for discussion between the subdivider and Planning Commission.

(2) Submission of the sketch plan shall not constitute formal filing of a preliminary plat.

(C) (1) The subdivider, or a duly authorized representative; shall attend the Planning Commission meeting at which his or her proposal is scheduled for consideration to discuss the requirements which pertain to his or her proposed subdivision or resubdivision.

(2) The Planning Commission will review, discuss and advise the subdivider of the extent to which the proposed subdivision conform to this chapter and other ordinances, as well as its conformity to the Comprehensive Plan.

(3) (a) The Planning Commission shall make specific recommendations and comments about the sketch plan to be incorporated by the applicant in the next submission to the Planning Commission.

(b) See ' 153.036 of this chapter.

(4) No fee shall be required of the subdivider for the submission of a sketch plan.
(Ord. 79-2, passed 6-15-1979)

' 153.017 PRELIMINARY PLAT.

(A) Within six months of the Planning Commission's consideration of a sketch plan, the subdivider shall file with the Administrator-Clerk, an application for consideration and six copies of the preliminary plat which has been prepared in accordance with the regulations set forth in this chapter. Failure to act within the above time limit shall invalidate an approved sketch plan and require that it be resubmitted. At the time of submission of the preliminary plat, the required fees shall be paid by the subdivider. The filing shall be at least two weeks prior to the next regularly scheduled Planning Commission meeting.

(B) The Administrator-Clerk shall refer copies of the preliminary plat to the Planning Commission, the Engineer and other agencies as the City Council desires to have an opinion on the proposal.

(C) A public hearing date shall be set to be held within 45 days of the filing date, the required legal publication shall be made and notices shall be sent to all property owners of record within 300 feet of the exterior boundary of the proposed plat.

(D) The Planning Commission meeting may serve as the public hearing provided the legal requirements pertaining to same are met.

(E) The subdivider or a duly authorized representative shall attend the Planning Commission meeting at which his or her proposal is scheduled for consideration.

(F) The Planning Commission shall study the practicability of the preliminary plat taking into consideration the requirements of the city and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided and the requirements of the Comprehensive Plan, the Official Map and Ch. 154 of this code of ordinances.

(G) At the public hearing, all persons interested in the proposed plat shall be heard and the Planning Commission shall, within five days of the hearing, approve, modify and approve or disapprove the preliminary plat, and submit to the City Council, the applicant and Administrator-Clerk their findings and recommendations.

(H) The City Council shall act upon the preliminary plat and send written notification of their action to the Planning Commission, Administrator-Clerk and the applicant. Failure of the City Council to act within 30 days of the public hearing is deemed approval.

(I) Should the subdivider desire to amend the preliminary plat as approved, he or she shall submit the amended plat following the original procedures set forth, except for the public hearing and fees unless the Planning Commission considers the scope of the revisions to constitute a new plat, then the hearing and fees shall be required.

(J) If the subdivider requests or the City Council requires that any existing special assessments which have been levied against the premises described in the subdivision to be divided and allocated to the respective lots in the subdivision plat, the Assessor shall estimate the clerical cost of preparing the revised assessment roll, filing the same with the County Auditor, and making the division and allocation, and upon approval by the City Council of the estimated cost the same shall be paid to the Treasurer in addition to the other fees mentioned to cover the cost of preparing and filing the revised assessments. (Ord. 79-2, passed 6-15-1979)

' 153.018 FINAL PLAT.

The final plat shall be prepared by a land surveyor duly registered by the state and the plat shall conform to all state requirements.

(A) (1) The subdivider shall, within six months after the approval of the preliminary plat, file with the Planning Commission an application for consideration and six copies of the final plat; the preliminary plat and final plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the Planning Commission and City Council. Also to be filed is an

up-to-date certification of title or registered property report establishing title and control.

(2) Endorsements and approval by the appropriate Department of Health and the County Soil Conservation Service shall be required when on-site sewer and water facilities are to be utilized.

(3) The required construction plan shall be submitted and forwarded to the Engineer for his or her cost estimate and a copy of the Engineer's report be submitted to the Attorney for the preparation of the contract required in ' 153.019(C) of this chapter.

(B) (1) Upon receipt of the final plat, the Administrator shall refer two copies to the Planning Commission, one copy to the Engineer, one copy to the School Board and one copy each to the telephone and utility companies. Each will then submit a report to the Administrator within 15 days.

(2) The certification of title or registered property report and abstract of title shall be referred to the Attorney for examination and report, which shall be returned within 15 days.

(3) The reports required in this section shall be forwarded to the Planning Commission for its consideration.

(C) (1) The procedure and timing for the reports of the Planning Commission, Engineer and action by the City Council are the same as for those of the preliminary plat.

(2) Prior to the final approval of the final plat, the financial arrangements required by this chapter shall be met.

(D) (1) Upon completion of the requirements above and notation to the effect upon the final plat, it shall be deemed to have final approval and shall be properly signed by the Chairperson of the Planning Commission and the appropriate official of the City Council and may be filed by the applicant in the County Recorder's office. Any final plat not so filed and recorded within 90 days of the date upon which the plat is approved or considered approved by reasons of the failure of the City Council to act, shall become null and void, unless the particular circumstances of the applicant warrant the City Council to grant an extension which shall not exceed 90 additional days.

(2) The subdivider shall furnish the Administrator a tracing and three copies of the final plat showing evidence of the costs accrued during the verification of the final plat materials.

(E) No changes, erasures, modifications or revisions shall be made in any final plat after approval has been given by the City Council and endorsed in writing on the plat unless the plat is first resubmitted to the City Council and the body approves any modifications. In the event that any final plat is recorded without complying with this requirement, the same shall be considered null and void and the City Council shall institute proceedings to have the plat stricken from the records of the county and city.

(Ord. 79-2, passed 6-15-1979)

' 153.019 REQUIRED IMPROVEMENT.

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Prior to approval of the final plat, the subdivider shall agree in the manner set forth in this section, to install or pay for the installation in conformity with construction plans approved by the Engineer and in conformity with the requirements of this chapter.

(A) *Payment for improvements.* The required improvements which are listed and described in this chapter are to be furnished and installed at the sole expense of the subdivider and at no expense to the city unless otherwise stated. In the case of an improvement, the cost of which would, by general policy be assessed only in part to the improved property and the remaining cost paid out of the general tax levy, provision for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the city; and, provided further that, if any improvement installed within the subdivision will be of substantial benefit to lands beyond its boundaries, the City Council may make provision for causing a portion of the cost of the improvement, representing the benefit of the lands to be assessed against the same and, in that case, the subdivider will be required only to pay for the portion of the whole cost of the improvement as will represent the benefit to the property within his or her subdivision.

(B) *Construction plans.*

(1) Construction plans for the required improvements conforming with adopted standards of this chapter shall be prepared at the subdivider's expense by a professional engineer with his or her seal affixed. The plans, together with the quantities of construction materials, shall be submitted to the Engineer for his or her estimate of the total cost of the improvements; upon approval, the plans shall be the basis of the cost portion of contract required by division (C) below. The tracings of the plans approved by the Engineer, plus two prints shall be submitted and placed on file with the Engineering Department.

(2) Plans for the installation of gas and electric facilities shall be submitted to the Engineer upon their submission and approval by the appropriate agencies. The appropriate agencies shall have approved of the plans prior to the approval of the final plat. Financial arrangements for these facilities shall be in accord with the policies of the City Council.

(C) *Agreement for installation of improvements.* Prior to installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a contract in writing with the city which shall require the subdivider to furnish and construct the improvements at his or her sole expense in accordance with plans, specifications and normal contract conditions approved by the City Council. The contract shall include provisions for supervision of construction details by the Engineer and grant to the Engineer authority to coordinate the work to be done under the contract by the subdivider and/or any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the city in the vicinity. This agreement shall require the subdivider to make an escrow deposit or to furnish a performance bond as specified in division (D) below.

(D) *Financial guarantee; escrow deposit.* An amount equal to 125% of the Engineer's cost estimate and the costs of inspection of the improvements to be furnished and/or installed by the subdivider per his or her contract shall be deposited with the Treasurer by the subdivider. The city shall be entitled to reimbursement from the deposit for cost and expense incurred by the city for the inspection of the construction and for the completion of work not approved by the Engineer and for any damages sustained by the breach of the contract. Upon completion of the work and termination of any liability, the

remaining balance of the escrow deposit shall be refunded to the subdivider.

(E) *Performance bond.*

(1) The subdivider may furnish a public contractor=s performance bond as prescribed by state statutes with corporate surety in a penal sum equal to 125% of the Engineer=s cost estimate for the required improvements to be furnished and/or installed by the subdivider. The performance bond shall be approved by the Attorney prior to its acceptance.

(2) A certified check shall be submitted by the subdivider for the estimated inspection costs of the required improvements to be furnished and/or installed by the subdivider. The check is to be submitted at the time of the submission of the performance bond.

(F) *Optional construction permitted.* In lieu of doing the construction work on required improvements, the subdivider may petition the city to do the construction work. The petition shall include a request that the benefitted property be assessed for the cost of the improvements. The petition shall be presented to the City Council prior to September 1, for construction during the following year. This option may be applied to streets, alleys, curbs, gutters, water and sanitary sewer facilities. In no event shall the construction costs be borne by the general taxpayers, the assessment shall be against the benefitted properties. The provisions of division (D) above may be waived as deemed appropriate by the City Council on those improvements which the city agrees to install.

(G) *Completed improvements.* Improvements within a subdivision which have been completed prior to the application for approval of the final plat or execution of the contract for installment of the required improvements shall be accepted as equivalent improvements in compliance with the requirements of this chapter, only if the Engineer shall certify that he is satisfied that the existing improvements conform to the applicable standards.

(H) *Inspection of improvements.* At least ten days prior to commencing construction of required improvements, the subdivider shall pay the required inspection fee and shall notify the Administrator-Clerk and the Engineer in writing of the time when he or she proposed to commence construction of the improvements so that they may cause inspection to be made to assure that all specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required.

(I) *Modification of the design of improvements.* If, at any time before or during the construction of the required improvements, it is demonstrated to the satisfaction of the Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of the required improvements, the Engineer may, upon approval by a previously delegated member of the Planning Commission, authorize modifications; provided, these modifications are within the spirit and intent of the original approval and do not extend to the waiver or substantial alternation of the function of any improvements required. The Engineer shall issue any authorization under this section in writing and shall transmit a copy of the authorization to the Planning Commission and City Council.

(J) *Proper installation of improvements.* If the Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required

improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he or she shall so report to the City Council, Administrator-Clerk, Building Inspector and Planning Commission. The Administrator-Clerk then shall notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the rights of the city under the bond. No plat shall be approved by the Planning Commission so long as the subdivider is in default on a previously approved plat.

(Ord. 79-2, passed 6-15-1979)

' 153.020 PUBLIC ACCEPTANCE OF RECREATION AREAS.

Where a park, playground or other recreation area shall have been shown on a final plat, the approval of the plat shall not constitute an acceptance by any municipality, town, county or the state of the area. The Planning Commission shall require that the final plat be endorsed with appropriate notes to this effect. The Planning Commission may also require the filing of a written agreement between the applicant and the City Council covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation area.

(Ord. 79-2, passed 6-15-1979)

' 153.021 PUBLIC ACCEPTANCE OF STREETS.

The approval by the Planning Commission of a final plat shall not be deemed to constitute or be evidence of any acceptance by any municipality, town, county or the state of any street, easement or other right-of-way shown on the final plat.

(Ord. 79-2, passed 6-15-1979)

CONSIDERATIONS

' 153.035 APPLICATION FOR CONSIDERATION.

The application for consideration shall be designed by the Planning Commission, made available by the Administrator and shall contain the following information: date of application; name and signature of applicant; property location and owner; type, description and reasons for request; fee information; case number; date for consideration; and chronology of application.

(Ord. 79-2, passed 6-15-1979)

' 153.036 SKETCH PLAN.

(A) The sketch plan to be submitted, shall be based upon tax map information or some other similarly accurate base map at a scale of not less than 200 feet to the inch and which enables the entire tract to be shown on one sheet.

(B) The sketch plan shall show the following information:

(1) The location of that portion which is to be subdivided in relation to the entire tract and the existing street;

(2) All existing structures, wooded areas, streams and other significant physical features, within the portion to be subdivided and within 500 feet thereof. Topographic data shall also be indicated at intervals of not more than two feet and be based on the datum of the 5th General Adjustment of 1929;

(3) The name of the owner and all of adjoining property owners as disclosed by the most recent tax records;

(4) The tax map sheet, block and lot numbers, if available;

(5) All utilities available, and all streets which are either proposed, mapped or built;

(6) The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage and water supply within the subdivided area; and

(7) All existing restrictions on the use of land including easements, covenants or zoning lines. (Ord. 79-2, passed 6-15-1979)

' 153.037 PLANNING COMMISSION RECOMMENDATION.

The following information shall be contained on all recommendations submitted by the Planning Commission: case number; date of consideration; name of petitioner; requested action; planning considerations; and recommendations of the Planning Commission.

(Ord. 79-2, passed 6-15-1979)

' 153.038 PRELIMINARY PLAT.

The following information shall be submitted for the consideration of a preliminary plat, and shall be either placed directly on the plat or be attached to the plat. The preliminary plat shall be on a sheet 20 inches wide and 30 inches long and shall be drawn to a scale of one-inch equaling 100 feet. Where necessary, the preliminary plat may be on several sheets provided they are numbered and a key map is presented on the sheets showing the entire subdivision.

(A) *Identification.* The date; north point; map scale; name and address of: owner, subdivider, surveyor, engineer and designer, including their license numbers and seals; the name of the subdivision and all subdivisions immediately adjacent; an abstractors certificate indicating the names and addresses of property owners within 300 feet of the exterior boundary lines of the proposed plat.

(B) *Descriptions.*

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(1) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by substantial monuments of a size and type as approved by the Engineer, and be referred and tied to the nearest quarter-section corner and shall be shown on the preliminary plat, descriptions, reference ties and elevations of all benchmarks. The total acreage of the subdivision and the proposed subdivision name, which shall not duplicate or be alike in pronunciation of any plat heretofore recorded.

(2) The state's coordinate system shall be used.

(C) *Existing conditions.*

(1) A zoning district, including exact boundary lines of the district, if more than one district, any proposed changes in the zoning district lines including dimensions and/or the zoning ordinance text applicable to the area to be subdivided;

(2) Topographic data with a contour interval of not more than two feet and supplementals of one foot in extremely flat areas; the datum shall be of the 5th General Adjustment of 1929. Watercourses, lakes, marshes, wooded areas, rock outcrops, power transportation poles and line, gas lines, single trees with a diameter of three inches or more as measured three feet above the base of the trunk and other significant existing features for the proposed subdivision and adjacent property;

(3) The location, right-of-way width and names of existing or platted streets or other public ways. Parks and other public lands, permanent buildings and structures, easements, section and corporate lines within the subdivision and to a distance 100 feet beyond;

(4) The location, size, grade and direction of flow of existing sewers, water mains, culverts, drains and underground facilities on the property and to a distance of 100 feet beyond. The elevations and locations of catch basins, inverts, manholes, hydrants and street pavement widths and type; and

(5) When on-site sewer and water facilities are to be utilized, soil tests shall be required.

(D) *Design features.* Layout of proposed streets, alleys, pedestrian-ways and easements showing right-of-way widths, gradients and proposed street names; preliminary dimensions of lots and blocks with their layout numbers using consecutive numbering of all lots and blocks beginning with number A1@ within the subdivision; out-lots shall be designated by alphabetical order beginning with AA@; areas intended to be dedicated or reserved for public use, including their size in acres; number of residential lots, typical lot sizes, plus information about all proposed uses within the subdivision; minimum front and side building setback lines; location, size and gradients of proposed sanitary sewers, storm sewers, water mains and plans for surface drainage and flood control.

(E) *Development proposals.*

(1) Plans and cross-sections showing the proposed location and type of street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type

thereof, the character, width and depth of pavements and sub-base, the location of manholes, basins and underground conduits;

(2) The approximate location and size of all proposed water lines, valves, hydrants and sewer lines and fire alarm boxes; connection to existing lines or alternate means of water supply or sewer disposal and treatment as provided in public health standards; profiles of all proposed water and sewer lines; storm drainage plan indicating the approximate location and size of proposed lines and their profiles; connection to existing lines or alternate means of disposal; preliminary designs of any bridges or culverts which may be required;

(3) The width, location, grades and street profiles of all streets or public ways proposed by the developer in the subdivision;

(4) All on-site sanitation and water supply facilities shall be designed to meet the minimum specification of the state's Department of Health, and a note to this effect, including an estimate of the costs for the facilities shall be stated on the plat and signed by a licensed engineer;

(5) All parcels of land proposed to be dedicated to public use and the conditions of the dedication. A copy of all proposed private restrictions;

(6) An approximate grading plan if the natural contours are to be changed more than two feet;

(7) If the application covers only a part of the subdivider's entire holdings a map of the entire tract, drawn at a scale of not less than 400 feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract shall be submitted. The part of the subdivider's entire holding submitted shall be considered in the light of the entire holdings; and

(8) A plan for potential resubdivision when large lots are utilized (in excess of one acre, 200 feet of width or over 200 feet of lot depth).

(F) *Supplemental information.*

(1) A notarized certification by the owner and by any mortgage hold of the property, of the adoption of the plat and the dedications required by this chapter; and

(2) A letter from concerned parties as requested by the Planning Commission may be required. (Ord. 79-2, passed 6-15-1979)

' **153.039 FINAL PLAT.**

(A) (1) The final plat shall be on a sheet 20 inches wide and 30 inches long and shall be drawn to scale of one inch equaling 100 feet.

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(2) The final plat shall comply with the requirements of M.S. Ch. 505, as it may be amended from time to time.

(3) Where necessary, the final plat may be on several sheets; provided, they are numbered and a key map is presented on the sheets showing the entire subdivision.

(B) The final plat will have incorporated all changes or modifications required and in all other respects conform to the approved preliminary plat. It may constitute only that portion of the approved preliminary plat which the subdivider proposed to record and develop; provided that, the portion conforms with all the requirements of this chapter.

(Ord. 79-2, passed 6-15-1979)

' 153.040 SUPPLEMENTAL DOCUMENTS REQUIRED.

(A) Certifications showing that all taxes and assessments due on the property to be subdivided have been paid in full;

(B) An attorney's opinion of title showing title or control of the property to be subdivided; and

(C) A photo negative of the final plat at one inch equals 200 feet and six prints of same.

(Ord. 79-2, passed 6-15-1979)

REQUIREMENTS AND CONDITIONS**' 153.055 GENERAL.**

The following general requirements shall be met by the subdivider, unless the City Council grants a variance upon recommendation of the Planning Commission in accord with the provisions of this chapter.

(Ord. 79-2, passed 6-15-1979)

' 153.056 CONFORMITY TO COMPREHENSIVE PLAN.

All subdivisions shall conform to the Comprehensive Plan.

(Ord. 79-2, passed 6-15-1979)

' 153.057 DELAYED APPROVAL OF SUBDIVISIONS.

Where a proposed park, playground, school site or other public site as shown in the Comprehensive Plan is embraced in part or in whole by the boundaries of a proposed subdivision the public land shall be reserved and no action shall be taken towards approval of a preliminary plat for a period not to exceed six months to allow the opportunity to consider and take action towards acquisition of the land by the appropriate jurisdiction.

(Ord. 79-2, passed 6-15-1979)

' 153.058 CONFORMITY TO ZONING ORDINANCE.

All subdivisions shall conform to Ch. 154 of this code of ordinances and the zoning map.

(Ord. 79-2, passed 6-15-1979)

' 153.059 CHARACTER OF THE LAND.

The land to be subdivided shall be of a character that it can be used safely for the building proposed without danger to health or peril from fire, flood or other menaces.

(Ord. 79-2, passed 6-15-1979)

' 153.060 CONVEYANCE BY METES AND BOUNDS.

The conveyance of land by metes and bounds shall be prohibited, unless the conveyance is permissible under M.S. ' 462.353, subd. 4, as it may be amended from time to time, except in industrial zones.

(Ord. 79-2, passed 6-15-1979)

' 153.061 REGISTERED LAND SURVEYS.

(A) All registered land surveys shall be filed and are subject to the same procedures as required by this chapter for preliminary plats.

(B) Until approval is granted by the City Council, building permits shall be withheld, dedications shall not be accepted and no public money shall be spent towards installing utilities and improvements.

(Ord. 79-2, passed 6-15-1979)

' 153.062 ESTABLISHED MONUMENTS.

(A) All international, federal, state, county and other official monuments, benchmarks, triangulation points and stations shall be preserved in their precise locations; and it shall be the responsibility of the subdivider to ensure that these markers are maintained in good condition during and following construction and development.

(B) All section, quarter section and sixteenth section corners shall be duly described and tied.
(Ord. 79-2, passed 6-15-1979)

' 153.063 PRESERVATION OF NATURAL FEATURES.

The Planning Commission shall establish the natural features which add value to all developments and to the community, such as trees, or groves, watercourses and falls, beaches, historic spots, vistas and similar irreplaceable assets. No tree with a diameter of eight inches or more as measured three feet above the base of the trunk shall be removed unless the tree is within the right-of-way of a street as shown on the final plat. Removal of trees shall be subject to the approval of the Planning Commission.
(Ord. 79-2, passed 6-15-1979)

' 153.064 WIND AND WATER EROSION.

The subdivider shall be required to institute measures as determined and directed by the Engineer to ensure the prevention of wind and water erosion during and upon the completion of construction.
(Ord. 79-2, passed 6-15-1979)

STREET PLAN

' 153.075 GENERAL.

Streets shall be of sufficient width, suitably located and adequately constructed: to conform with the Comprehensive Plan; to accommodate the prospective traffic; afford access for firefighting, snow removal and other road maintenance equipment; and shall be considered in their relationship to topographic conditions, to drainage and in their relationship to the proposed land uses to be served by the streets. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to comprise a convenient system.
(Ord. 79-2, passed 6-15-1979)

' 153.076 STREET ARRANGEMENT.

(A) *General.*

(1) The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivision and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewer, water and drainage.

(2) Minor streets shall be arranged so that their use by through traffic will be discouraged.

(B) *Blocks.*

(1) The acreage within bounding streets shall be such as to accommodate the size of lots required in that area by Ch. 154 of this code of ordinances and to provide for convenient access, circulation control and safety of street traffic.

(2) Blocks shall not be less than 500 feet, nor more than 1,320 feet, in length. No block width shall be less than twice the normal lot depth, unless it abuts a railroad right-of-way, a limited access highway, a major or arterial street, a river or park.

(3) In blocks exceeding 900 feet in length, the Planning Commission may require a 20-foot wide fenced easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a five-foot wide paved path be included.

(C) *Street alignments.*

(1) Street jogs shall have a centerline offset of 150 feet or more when applied to minor streets or service streets; in all other cases, they shall be prohibited.

(2) All streets shall join each other so that for a distance of at least 100 feet the street is approximately at right angles to the street it joins.

(3) When connecting street centerlines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius of not less than 150 feet.

(D) *Dead-end streets.* The creation of dead-end or loop residential streets will be encouraged whenever the Planning Commission finds that the type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets, where needed or desirable, the Planning Commission may require the reservation of a 20-foot wide easement to provide for continuation of pedestrian traffic and utilities to the next street. Subdivisions containing 20 lots or more shall have at least two street connections with existing public streets, or streets shown on the Official Map, if such exists, or streets on an approved final plan for which a bond has been filed.

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(E) *Service streets.* Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, existing or planned, the Planning Commission may require a street approximately parallel to and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts). The distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

(F) *Relation to topography.* The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.

(G) *Treatment along major streets.* When a subdivision abuts or contains an existing or proposed arterial or major street, the Planning Commission may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys or other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(H) *Prohibited plans.* The following are prohibited and shall not be approved:

(1) Half streets;

(2) Private streets unless part of an approved planned unit development, in which case the streets shall conform to the approved design criteria of the city;

(3) Reserve strips controlling access to streets; and

(4) Intersections with more than four corners.

(Ord. 79-2, passed 6-15-1979)

' 153.077 STREET DESIGN.

(A) *Street improvements.* All streets shall be graded. The grading and improvements shall be approved as to design and specifications by the Engineer. Streets shall be of a suitable compacted gravel surface as approved by the Engineer.

(B) *Street widths.*

(1) Streets shall have the following minimum dimensions:

<i>Classification</i>	<i>Right-of-Way</i>
Access	50 feet
Collector	80 feet

Minor	66 feet
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(2) Greater widths may be required depending upon anticipated traffic volumes, planned function of the street and character of planned abutting land use;

(3) Street grades shall be established by the City Engineer; and

(4) Street radii.

(C) *Curves.* Street lines within a block, deflecting from each other at any one point by more than ten degrees, shall be connected with a curve, the radius of which for the centerline of street shall not be less than 400 feet on arterial and major streets, 200 feet on minor streets, and in no case shall the connecting tangent of two curves be less than 100 feet.

(D) *Corners.* All roadways at intersections shall be rounded by curves of at least a 20-foot radius. Roadways of alley-street intersections shall be rounded by a radius of not less than six feet. The centerlines of the intersecting streets shall be as near to 90 degrees as possible and in no case shall the intersection be less than 75 degrees.

(E) *Dead-end streets (cul-de-sacs).* Where dead-end streets are designed they shall not exceed 500 feet in length, and shall terminate in a circular turn-around having a minimum right-of-way radius of 60 feet and a pavement radius of 50 feet. Corners at the entrances to the turn-around portions of cul-de-sacs shall have a radius of not less than 15 feet.

(F) *Watercourses.* Where a watercourse separates a proposed street from abutting property, provisions shall be made for access to all lots by means of culverts or other structures of design approved by the Engineer and installed by the developer.

(G) *Commercial areas.*

(1) In front of areas designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Commission to assure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking space for the commercial or business districts.

(2) Paved rear service streets of not less than 30 feet in width, or in lieu thereof, adequate loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use. (Ord. 79-2, passed 6-15-1979)

' 153.078 STREET NAMES.

(A) All street names shall be approved by the Planning Commission and shall conform to an established numbering and naming system if such a system exists.

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(B) Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names; except that, streets that join or are in alignment with streets of an abutting or neighboring subdivision shall bear the same name.

(C) Any street changing direction by more than 90 degrees shall have a change in the street name.

(D) The subdivider shall install street signs as required and approved by the Engineer.
(Ord. 79-2, passed 6-15-1979)

' 153.079 UTILITIES.*(A) Water utilities.*

(1) Where connection with a public water system is feasible, that system shall be utilized and service shall be provided to each lot.

(2) House service for water shall be of a type approved by the Engineer in conformance with adopted engineering practices.

(3) All water mains shall be of a material and design approved by the Engineer and be located in the street right-of-way. Oversized mains may be required with the additional costs to be borne by the benefitted properties.

(4) When a public water system is not available, individual wells are permitted when in accordance with division (H) below and an adopted well drilling ordinance.

(5) Fire hydrants of a type approved by the Engineer shall be installed in accordance with adopted standards.

(B) Sanitary sewer.

(1) Where connection with sanitary sewer trunk lines is feasible, the subdivider shall install approved sanitary sewer and make the connection with the trunk lines so as to provide service to each lot. The minimum installation of sanitary sewer shall be from manhole to manhole.

(2) House service for sanitary sewer shall be of a type approved by the Engineer in conformance with adopted engineering practices.

(3) All sanitary sewer lines shall be of a material and design approved by the Engineer and with the exception of laterals be located in the street right-of-way. Over-sized sewer lines may be required with the additional costs to be borne by the benefitted properties.

(4) When main trunk lines are not accessible, internal trunk sewers together with all necessary laterals extending from the mains to three feet beyond the curb or curb line shall be installed and capped for future connection.

(5) All installations shall be approved by the Engineer.

(6) On-site disposal systems may be permitted provided they conform to division (H) below and an adopted individual disposal system ordinance.

(C) *Storm sewer/drainage.*

(1) All surface and underground drainage systems shall be installed to adequately remove all natural drainage that accumulates in the developed property. All such systems shall be in conformity to the drainage plans and all piping shall provide complete removal and a permanent solution for the removal of drainage water.

(2) Where connection with an existing storm sewer system is feasible, that system shall be utilized so as to provide complete drainage of the subdivision.

(3) Drainage facilities shall be located in the street right-of-way where feasible or in perpetual unobstructed easements of appropriate width.

(4) In the absence of an existing storm sewer system, the subdivision shall be designed so as to be completely drained by a system of open ditches, culverts, pipes and/or catch basins.

(5) All drainage systems shall be approved by the Engineer.

(6) The drainage system shall be designed large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The drainage shall be based on conditions of total potential development permitted by Ch. 154 of this code of ordinances in the watershed. Oversized sewer lines may be required with the additional costs to be borne by the benefitted properties.

(D) *Electrical.*

(1) Electrical utilities, whenever feasible, shall be installed underground and completed prior to street surfacing.

(2) When overhead power lines are utilized, the poles shall be placed in a rear lot easement and positioned so as to provide individual service to each lot.

(E) *Street lighting.* Street lighting shall be in conformance with street lighting plans. The light standards and fixtures shall be installed after approval by the appropriate power company and the authorization of the Engineer.

(F) *Gas.* When natural gas is to be utilized, the lines shall be installed by the appropriate gas

company and be completed prior to street surfacing.

(G) *Telephone.*

(1) Telephone facilities, whenever feasible, shall be installed underground and completed prior to street surfacing.

(2) When overhead telephone lines are utilized, the pole shall be placed in a rear easement and positioned so as to provide individual service to each lot.

(H) *On-site utilities.*

(1) In areas which are not served by public water and sanitary sewer, no residential lot shall be developed unless it contains sufficient surface area for the existing sub-surface soil conditions so as to prevent possible pollution problems. Based upon percolation tests, the required lot size shall be increased in multiples of the minimum lot area for that zone, when public water and sanitary sewer is provided, until the lot size is adequate for the seepage rate.

(2) All individual wells and septic tanks shall conform to state and county regulations set forth in ordinances adopted for their installation and shall be approved by the Engineer.

(3) No installation of the distribution box of a septic tank shall be located closer than 125 feet to a well.

(4) Individual septic tanks shall be placed in the rear yard.

(5) The required plumbing shall be provided to permit connection to sanitary sewer mains where they become available. The plumbing shall be extended to a point five feet beyond the front or street side of the basement footing and capped. The vent elbow inside the basement shall be set-up to be easily reversed for connection to the capped line. The basement slab shall be scored for easy removal to include an area of three feet square.

(I) *Easements.*

(1) Easements of at least 20 feet wide, centered on rear and other lot lines as required, shall be provided for utilities where necessary. The easements shall have continuity of alignment from block to block and, at deflection points, easements for pole line anchors shall be provided where necessary. Easements may be required along property lines from utility easements on rear lot lines to rights-of-way.

(2) Easements shall be provided along each side of the centerline of any watercourse or drainage channel whether or not shown in the Comprehensive Plan, to a sufficient width to provide proper maintenance and protection and to provide for water runoff and installation and maintenance of a storm sewer.

(3) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way as required by the Engineer and in no

case less than 20 feet in width.

(4) Easements shall be dedicated for the required use.
(Ord. 79-2, passed 6-15-1979)

' 153.080 LOTS.

(A) The lot arrangement shall be such that in constructing a building in compliance with Ch. 154 of this code of ordinances, there will be no foreseeable difficulties for reasons to topography or other natural conditions. Lots should not be of a depth as to encourage the later creation of a second building lot at the front or rear.

(B) All side lines of a lot shall be at right angles to straight street lines and radial to curbed street lines, unless a variance from this rule will give a better street or lot plan.

(C) Permanent monuments meeting specifications approved by the Engineer as to size, type and installation, shall be set at such block corners, angle points, points of curves in streets and other points as the Engineer may require, including the corners and points of the subdivision, and their location shall be shown on the plat.

(D) The lot dimensions shall not be less than the minimum required to secure the minimum lot area specified in Ch. 154 of this code of ordinances. Corner lots shall have extra width to permit appropriate building setbacks from both streets. Butt lots shall be platted at least five feet wider than the width of the interior lots; their use shall be avoided, when possible. Through lots, when permitted, shall have additional depth of ten feet for screen planting along the rear lot line. Remnants of lots below the minimum required size, left over after subdividing of a longer tract must be added to adjacent lot or a plan shown as to future use rather than allowed to remain as unusable parcels.

(E) Lots abutting upon a watercourse, drainageway, channel, stream or waterbody shall have additional depth or width, as required to assure that house sites are not subject to flooding.

(F) In the subdividing of any land, regard shall be shown for all natural features, such as trees, watercourses and bodies, which if preserved will add attractiveness to the proposed development.

(G) Where a proposed plat is adjacent to a limited access highway, major highway or thoroughfare, there shall be no direct vehicular access from individual lots to the roads. A temporary entrance may be granted for single tracts until neighboring land is subdivided and the required access can be feasibly provided.

(H) Where lots are platted in excess of one acre, 200 feet in width at the building setback, a preliminary resubdivision plan shall be submitted showing a potential and feasible way in which the lot or lots may be resubdivided in the future, including the building placements.
(Ord. 79-2, passed 6-15-1979)

' 153.081 SIDEWALKS.

(A) Sidewalks may be required by the City Council and Planning Commission along all Amajor@, Aminor@ and Acollector@ streets and in other areas as are necessary to adequately provide for the safety and welfare of pedestrians.

(B) All sidewalk widths shall conform to the following minimum standards:

<i>Classification</i>	<i>Width</i>
Commercial Zone	10 feet
Industrial Zone	6 feet
Multiple-Family Zone and public building sites	6 feet
Single-Family Zone	4 feet

(C) All sidewalks shall slope one-fourth inch per foot away from the property line and the profile grade shall not exceed 6%.

(D) Sidewalks shall be placed in the public right-of-way, one foot from the property line.

(E) Required sidewalks shall be concrete of four-inch thickness and be placed on a four-inch gravel base.

(F) All sidewalks shall be approved by the Engineer.
(Ord. 79-2, passed 6-15-1979)

' 153.082 ALLEYS.

(A) Except in the case of a Aplanned unit development@, either a public or private alley shall be provided in a block where commercially zoned property abuts a major thoroughfare or a major street. This requirement may be waived where other definite and assured provisions are made for service access consistent with and adequate for the uses proposed.

(B) All alley rights-of-way and pavement widths shall conform to the following minimum standards:

<i>Classification</i>	<i>Right-of-Way</i>	<i>Pavement</i>
Industrial or commercial	24 feet	20 feet
Multiple residential (one way)	16 feet	12 feet
Multiple residential (two way)	20 feet	16 feet

(C) All centerline gradients shall be at least 0.5% and shall not exceed 8%.

(D) Alley intersections and sharp changes in alignment shall be avoided.

(E) Dead-end alleys shall not be permitted.

(F) Alleys in residential areas other than those zoned for multiple-family use shall be permitted, subject to the requirements by the Fire Department and Utilities.

(G) All alleys shall be approved by the Engineer.
(Ord. 79-2, passed 6-15-1979)

' 153.083 PARKS, OPEN-SPACES AND NATURAL FEATURES.

(A) (1) Where a proposed park, playground or open space shown on the Comprehensive Plan is located in whole or in part in a subdivision, the Planning Commission shall require that the area or areas be shown on plats in accordance with the requirements specified in this section.

(2) The area or areas shall be dedicated to the city by the subdivider if the City Council approves the dedication.

(B) (1) The Planning Commission shall require that plats show sites of a character, extent and location suitable for the development of a park, playground or other recreation purposes.

(2) The Planning Commission may require that the developer satisfactorily grade any such recreation areas shown on the plat.

(C) (1) In all new subdivisions, 7% of the gross area shall be dedicated for public recreation space, school sites or other public use with the percentage being in addition to property dedicated for streets, alleys, easements or other public ways.

(2) When a subdivision is too small for the practical dedication of public land or if no land in the subdivision is suitable for such use, the subdivider shall be required to pay a fee of \$50 per lot created or 10% of the land value prior to its subdivision (the market value shall be determined by utilization of assessment records and formulas that apply thereto).
(Ord. 79-2, passed 6-15-1979)

ADMINISTRATION AND ENFORCEMENT**' 153.095 ENFORCING OFFICER.**

This chapter shall be administered and enforced by an Administrator-Clerk appointed by the City Council.

(Ord. 79-2, passed 6-15-1979)

' 153.096 ADMINISTRATOR; DUTIES.

(A) The Administrator-Clerk is charged with the enforcement of this chapter and the regulations contained therein.

(B) The Administrator-Clerk shall receive and forward to the Planning Commission all applications, materials and information governed by the regulations contained in this chapter.

(Ord. 79-2, passed 6-15-1979)

' 153.097 VARIANCES AND WAIVERS.

(A) Where the City Council and the Planning Commission find that extraordinary and unnecessary hardships may result from strict compliance with this chapter, it may vary the regulations so that the general intent may be preserved and the public interest protected; provided that, the variations will not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Official Map or Ch. 154 of this code of ordinances.

(B) Where the City Council and the Planning Commission find that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive the requirements subject to appropriate conditions.

(C) Application for a variance shall be made in writing by the subdivider when the sketch plan is filed for consideration by the Planning Commission and shall state all facts relied upon by the applicant and be supplemented with maps, plans and other additional data. The plans for variances shall include covenants and other provisions necessary to guarantee the full achievement of the plan.

(D) In the granting of variances from this chapter, the City Council and Planning Commission shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied.

(E) Any variance granted shall be made by resolution and entered into the minutes setting forth the reasons which justified the resolution.

(Ord. 79-2, passed 6-15-1979)

' 153.098 VARIANCES PERMITTED.

The following types of variances are permissible when, in the opinion of the City Council and the Planning Commission, the proposal conforms to the provisions in this section, is consistent with the intent and purpose of this chapter and that the proposed variance is not in conflict with the Comprehensive Plan, Ch. 154 of this code of ordinances and any other ordinances which may be applicable.

(A) *Exceptional topography.* A variance may be granted where the subdivider may show that by reason of exceptional topography or other physical conditions the strict compliance with this chapter would cause undue hardship on the enjoyment of a substantial property right.

(B) *Complete neighborhood.* A variance may be granted in a case where a subdivision that is large enough to constitute a self-contained neighborhood provided the City Council receives adequate safeguards to assure the development is according to a plan.

(C) *Planned unit development.* To provide flexibility for new land planning and land development techniques and concepts, variances may be granted for planned unit development. Complete and detailed plans shall be submitted showing the information required in ' 153.035 of this chapter with the addition of all proposed structures, uses, sidewalks, landscaping, off-street parking and other features and facilities.

(D) *Small subdivisions.* For purposes of conveying title or securing building permits, " 153.015 through 153.021, 153.035 through 153.40 and 153.075 through 153.083 shall not apply to the division of one or more lots platted into lots and blocks and designated in a subdivision plat on file and of record in the office of the County Recorder, into one or more separately described tracts, nor shall the ordinance apply to the consolidation of two or more platted lots or parts thereof into one or more tracts, upon compliance with the following conditions.

(1) The owner or owners of the platted lot or lots to be so divided shall file with the Administrator-Clerk a proposed survey plat by registered land surveyor of the lot or lots to be divided or consolidated. The plat or survey shall show the dimensions of the lots as measured upon the recorded plat and also the proposed division thereof. A written description of the separately described tract or tracts which will result from the proposed subdivision or consolidation shall be filed with the plat or survey.

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(2) The separately described tract of land to be conveyed or designated for building permit purposes by reason of the division or consolidation as described upon the proposed plat, shall not be less than the minimum dimensions required to secure the minimum lot area specified in Ch. 154 of this code of ordinances.

(3) Upon the application of an owner who shall have complied with this division (D), the Administrator-Clerk, subject only to other applicable ordinances, is authorized to issue the building permit requested on any separately described tract designated and set forth upon the proposed plat or survey.

(Ord. 79-2, passed 6-15-1979)

' 153.099 AMENDMENTS.

The procedure for amending this chapter is the same prescribed for its adoption.

(Ord. 79-2, passed 6-15-1979)

' 153.100 FEES.

The following fees shall be paid, by the subdivider, to the Administrator-Clerk at the time of submission of the required materials:

(A) Sketch plans: there shall be no fee required upon the submission of the sketch plan;

(B) Preliminary plat: a cash fee shall be paid in the amount of \$25, plus \$1 for each lot. This fee will be used for public expense in connection with the plat=s consideration by the Planning Commission; and

(C) Feasibility study: prior to the City Council ordering a feasibility study for any proposed project, the subdivider shall pay a fee of \$100 per proposed lot subject to a minimum fee of \$500 and a maximum fee of \$2,500.

(Ord. 79-2, passed 6-15-1979; Ord. 2003-1, passed 4-14-2003)

' 153.999 PENALTY.

Any subdivider who violates, omits, neglects or refuses to comply with the provisions or the enforcement of this chapter, or who sells, offers for sale or lease any lot or block of land which is in violation of this chapter, shall be guilty of a misdemeanor and subject to a fine not to exceed \$100, plus costs, and/or be sentenced to jail for a period not to exceed 90 days; each lot in violation and each day of violation shall be deemed a separate offense.

(Ord. 79-2, passed 6-15-1979)

CHAPTER 154: ZONING

Section

General Provisions

- 154.001 Title
- 154.002 Intent and purpose
- 154.003 Rules and definitions
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' 154.001 TITLE.

This chapter shall be known, cited and referred to as the ABlooming Prairie Zoning Ordinance@, except, as referred to herein, where it shall be known as Athis chapter@.
(Ord. 1-69, passed - -1969)

' 154.002 INTENT AND PURPOSE.

This chapter is adopted for the purpose of:

(A) Protecting the public health, safety, comfort, convenience and general welfare;

(B) Dividing the city into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration and use of structures and land;

(C) Promoting orderly development of the residential, business, industrial, recreational and public areas;

(D) Providing for adequate light, air and convenience of access to property by regulating the use of land and buildings and the bulk of buildings in relation to surrounding properties;

(E) Limiting congestion in the public rights-of-way;

(F) Providing the compatibility of different land uses and the most appropriate use of land throughout the city;

(G) Providing for the administration of this chapter and amendments thereto;

(H) Defining the powers and duties of the administrative officers and bodies as provided hereinafter; and

(I) Prescribing penalties for the violation of the provisions of this chapter or any amendment thereto.

(Ord. 1-69, passed - -1969)

' 154.003 RULES AND DEFINITIONS.

(A) *Rules.* The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction.

(1) The singular number includes the plural and the plural the singular.

(2) The present tense includes the past and future tenses and the future the present.

(3) The word *Ashall@* is mandatory and the word *Amay@* is permissive.

(4) The masculine gender includes the feminine and neuter genders.

(5) Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be construed as set forth in the definition thereof.

(6) All measured distances expressed in feet shall be to the nearest tenth of a foot.

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

ACCESSORY USE OR STRUCTURE. A use or structure or portion of a structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

AIRPORT or HELIPORT. Any land or structure which is used or intended for use for the landing and taking off of aircraft, and any appurtenant land or structure used or intended for use for port buildings or other port structures or rights-of-way.

ALLEY. A public right-of-way which affords a secondary means of access to abutting property.

AUTO REDUCTION YARD. A lot or yard where three or more unlicensed motor vehicles or the remains thereof are kept for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment.

BASEMENT. The portion of the building having more than one-half of the floor-to-ceiling height below the average grade of the adjoining ground.

BED AND BREAKFAST. A building other than a motel or hotel with eight or less guest rooms, where for compensation, meals or lodging are provided for one or more persons, but not to exceed ten persons. All applicable Fire and Health Code provisions must be met before issuance of the license.

BOARDING HOUSE. A building other than a motel or hotel where, for compensation and by rearrangement for definite periods, meals or lodgings are provided for three or more persons, but not to exceed eight persons.

BUILDING. Any structure having a roof which may provide shelter or enclosure of persons, animals or chattels and when the structures are divided by party walls without openings, each portion of the building so separated shall be deemed a separate building.

BUILDING HEIGHT. A distance to be measured from the mean curb level along the front lot line or from the mean ground level for all of that portion of the structure having frontage on a public

right-of-way, whichever is higher, to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest of the highest gable on a pitched or hip roof.

CARPORT. An automobile shelter having one or more sides open.

CURB LEVEL. The grade elevation as established by the city, of the curb in front of the center of the building. Where no **CURB LEVEL** has been established, the City Engineer shall determine a curb level or its equivalent for the purpose of this chapter.

DWELLING. A building, or one or more portions thereof, occupied or intended to be occupied exclusively for residence purpose, but not including rooms in motels, hotels, nursing homes, boardinghouses, nor trailers, tents, cabins or trailer coaches.

DWELLING - ATTACHED. A dwelling which is joined to another dwelling.

DWELLING - DETACHED. A dwelling which is entirely surrounded by open space on the same lot.

ESSENTIAL SERVICES. Underground or overhead gas, electrical, steam or water transmission or distribution systems; collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith, but not including buildings.

FAMILY. An individual, or two or more persons each related by blood, marriage or adoption, living together as a single housekeeping unit or a group of not more than four persons not so related, maintaining a common household and using common cooking and kitchen facilities.

FLOOR AREA. The sum of the gross horizontal areas of the several floors of a building including interior balconies, mezzanines, basements and attached accessory buildings, but excepting that area primarily devoted to window display, storage, fitting rooms, stairs, escalators, unenclosed porches, detached accessory buildings utilized for dead storage, heating and utility rooms, inside off-street parking or loading space. Measurements shall be made from the outside of exterior walls.

GARAGE - PRIVATE. A detached accessory building or portion of the principal building, including a carport, which is used primarily for storing passenger vehicles, trailers or one truck of a rated capacity not in excess of 7,000 pounds.

GENERAL INDUSTRY. All manufacture, processing, packaging, treatment or assembly of products and materials likely to create offensive odors, noise, dust, smoke, heat, glare, dust, vibrations or other objectionable influences; such uses include sand and gravel operations, concrete or asphalt plants, junk yards, vinegar works, distilleries, clay-stone-glass products, combustible or explosive materials storage or processings chemicals (manufacture), wood planning and mill work, fertilizer and similar uses.

GROUND. A portion of a building located partly underground, but having less than one-half of its floor-to-ceiling height below the average grade of the adjoining ground.

HOME OCCUPATION. Any gainful occupation meeting all of the following requirements when engaged in only by persons residing in their dwelling, when that occupation is conducted in not more than one room within the principal structure, when evidence of the occupation is not visible from the street, when the principal structure becomes the base of operation for that occupation using only that equipment or machinery which is usually found in a home, and when not involving the retail sales of products produced off the site. No accessory building shall be used for a **HOME OCCUPATION**.

HOTEL. A building containing eight or more guest rooms in which lodging is provided with or without meals for compensation and which is open to transient, permanent guests or both, and where no provision is made for cooking in any guest room, and in which ingress and egress to and from all rooms is made through an inside lobby or office.

JUNK YARD. An area where used, waste, 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 lumber. Storage of such material in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.

KENNEL, ANIMAL. Any place where three or more of any single type of domestic animals, over four months of age, are owned, boarded, bred or offered for sale.

LIMITED INDUSTRY. All manufacture, processing, packaging, treatment, or assembly of products and materials not likely to give offensive odors, noise, glare, heat, vibration, dust or other objectionable influences. Uses include service and light industries that manufacture, process, store and distribute goods and materials and are in general dependent upon raw materials refined elsewhere. These include electronics and research, assembly of parts, automobile repair, printing, tinsmithing, plumbing and contractors= shops, food processing (non-offensive) and similar uses.

LOT. A parcel of land occupied or used or intended for occupancy or use by a use permitted in this chapter, abutting on a public street, and of sufficient size to provide the yards required by this chapter.

LOT OF RECORD. Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an Auditor=s subdivision or a registered land survey, or a parcel of land not so platted, subdivided or registered, for which a deed, Auditor=s subdivision or registered land survey has been recorded in the office of the Register of Deeds or Registrar of Titles for the county, prior to the effective date of this chapter.

LOT AREA. The area of a lot in a horizontal plane bounded by the lot lines.

LOT AREA PER FAMILY. The number of square feet of lot area required per dwelling unit.

LOT - CORNER. A lot situated at the junction of and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

LOT DEPTH. The mean horizontal distance between the front lot line and the rear lot line of a lot.

LOT LINE. A lot line is the property line bounding a lot; except that, where any portion of a lot extends into the public right-of-way, the line of the public right-of-way shall be the **LOT LINE** for applying this chapter.

LOT LINE - FRONT. The boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the **FRONT LOT LINE** shall be designated by the owner and filed with the city.

LOT LINE - REAR. The boundary of a lot which is opposite 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. Any boundary of a lot which is not a front lot line or a rear lot line.

LOT - THROUGH. A lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a **THROUGH LOT**, both street lines shall be front lot lines for applying this chapter.

LOT WIDTH. The maximum horizontal distance between the side lot lines of a lot measured within the first 30 feet of the lot depth.

MOBILE HOME. Any type of structure or vehicle which can be readily adaptable to or does provide facilities for a person or persons to eat or sleep which is mounted on wheels, has provisions for wheels or may be loaded on an ordinary flat bed truck, such as a house trailer, converted bus or truck, tent or small buildings.

MOBILE HOME COURT. Ten or more spaces for mobile homes in an area designated for the use. The term **MOBILE HOME COURT** shall include the terms trailer park, trailer court and mobile home park.

MOTOR COURT, MOTOR HOTEL or MOTEL. A parcel of land upon which is located a building or a group of buildings other than a hotel and used primarily as a temporary residence of a motorist.

MOTOR FREIGHT TERMINAL. A building or area in which freight brought by motor truck is assembled and/or stored for routing in intra-state or inter-state shipment by motor truck.

MOTOR SERVICE STATION. A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles.

NOXIOUS MATTER or MATERIAL. Material capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects on the physical or economic well-being of individuals.

NURSERY - DAY. A use where care is provided for pay for three or more children under kindergarten age for periods of four hours or more per day.

OPEN SALES LOT. Land devoted to the display of goods for sale, rent, lease, advertising or trade where the goods are not enclosed within a building.

PERFORMANCE STANDARD. Criterion established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated by or inherent in uses of land or buildings.

RETAIL SALES AND SERVICES. Stores and shops selling the following goods and services, food, clothing, drugs, hardware, laundry and dry cleaning, baker, furniture, watch repair, cafés, sporting goods and others similar to those listed above.

SIGN - ADVERTISING. A sign which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such sign is located or to which it is affixed.

SIGN - BUSINESS. A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered on the premises on which the sign is located or to which it is affixed.

SIGN - FLASHING. Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color during which time the sign is in use.

SIGN - GROSS AREA OF. Shall be the entire area within a single continuous perimeter enclosing the extreme limits of the sign and, in no case, passing through or between any adjacent elements of same. However, the perimeter shall not include any structural elements lying outside of the sign and not forming an integral part of the display.

SIGN - ILLUMINATED. Any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

SIGN - NAMEPLATE. A sign indicating the name and address of a building or the name of an occupant therein.

SIGN - OUTDOOR. Any object which indicates a name, identifications description, display or illustration which is affixed to or represented, directly or indirectly, upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization, business. However, a *Asign@* for application of this chapter shall not include any display of official court or public office notices or highway directional signs.

STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a **STORY**.

STREET. A public right-of-way not less than 50 feet in width which affords a primary means of access to abutting property.

STRUCTURE. Anything constructed or erected, the use of which requires a location on the ground or attached to something having a location on the ground, including, but without limiting, the generality of the foregoing advertising signs, billboards or fences.

STRUCTURE - NON-CONFORMING. Any structure which is legally existing upon the effective date of this chapter, which would not conform to the applicable regulations if the structure were to be erected under the provisions of this chapter.

STRUCTURAL ALTERATION. Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

USE. The purpose or activity for which the land, structure or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

USE - CONDITIONAL. Either a public or private use as listed which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district. After consideration, in each case, of the impact of the use upon neighboring land, and of the public need for the particular use at the particular location, the **CONDITIONAL USE** may or may not be granted by the Council.

USE - NON-CONFORMING. A use of lands, buildings or structures lawfully existing at the time of adoption of this chapter which does not comply with all the regulations of this chapter or any use of land, building or structure lawfully existing prior to the adoption of an amendment which would not comply with all of the regulations.

USE - OPEN. The use of a lot without a building or including a building incidental to the open use with a ground floor area equal to 5% or less of the area of the lot.

USE - PERMITTED. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards of the districts.

USE - PRINCIPAL. The main use of land or buildings as distinguished from subordinate or accessory uses. A **PRINCIPAL USE** may be either permitted or conditional.

YARD. A required open space on a lot, which is unoccupied and unobstructed by a structure from its lowest ground level to the sky, except as expressly permitted in this chapter. A **YARD** shall extend along a lot line and at right angles to the lot line to a depth or width specified in the yard regulations for the district in which the lot is located.

YARD - FRONT. A yard extending along the full width of the front lot line between side lot lines and extending from the abutting front street right-of-way line to a depth required in the yard regulations for the district in which the lot is located.

YARD - REAR. A yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which the lot is located.

YARD - SIDE. A yard extending along a side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which the lot is located.

ZONING DISTRICT. An area or areas within the limits of the city for which the regulations and requirements governing use are uniform.
(Ord. 1-69, passed - -1969; Ord. 88-1, passed 6-6-1988)

' 154.004 DISTRICT ESTABLISHMENT.

(A) For the purpose of this chapter the city is divided into zoning districts as shown on the AOfficial Zoning Map@, and which map is hereby made a part of this chapter.

(B) The city is hereby divided into the following zoning districts:

- (1) R-1A, Single-Family Residence;
- (2) R-1B, Single-Family Residence;
- (3) R-2, One- and Two-Family Residence;
- (4) R-3, Multiple-Family Residence;

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- (5) B-1, Limited Business;
- (6) B-2, General Business;
- (7) B-3, Central Business District; and
- (8) I, Industrial.

(C) Any land annexed to the city in the future shall be placed in the R-1A Residential District until placed in another district by action of the City Council.
(Ord. 1-69, passed - -1969)

' 154.005 DISTRICT REGULATIONS.

(A) *All districts.*

- (1) Excavation, construction sheds and stock piling of construction equipment and materials incidental to construction on the premises providing the activities are of a temporary nature;
- (2) Public facilities and essential services; and
- (3) Accessory uses.

(B) *R-1A Residential District.*

- (1) Permitted uses:
 - (a) One-family detached dwellings;
 - (b) Churches;
 - (c) Agricultural uses provided that no building in which farm animals or fowl are to be housed is nearer than 100 feet of a lot line;
 - (d) Plant nurseries or greenhouses, but no retail activities or commercial structure shall be located thereon without a special use permit; and
 - (e) Home occupations by special use permit only.
- (2) Special uses:
 - (a) Hospitals and clinics;

- (b) Rooming and boarding houses;
- (c) Bed and breakfast;
- (d) Philanthropic and charitable institutions;
- (e) Cemeteries;
- (f) Country clubs, golf courses, and other private or commercial recreation areas or facilities; and
- (g) Off-street parking facilities for more than three vehicles when abutting a non-residential district.

(C) *R-1B Residential District.*

- (1) Permitted uses: uses permitted in R-1A Districts; and
- (2) Special uses: special uses in R-1A Districts.

(D) *Residential District.*

- (1) Permitted uses:
 - (a) Two-family attached dwellings; and
 - (b) Uses permitted in R-1A and R-1B Districts.
- (2) Special uses:
 - (a) Special uses in R-1A and R-1B Districts; and
 - (b) Nursing homes.

(E) *R-3 Residential District.*

- (1) Permitted uses:
 - (a) Uses permitted in R-1A Districts;
 - (b) Uses permitted in R-1A and R-1B Districts; and
 - (c) Residential structures containing less than 12 or fewer dwelling units.

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(2) Special uses:

- (a) Special uses in R-1A, R-1B and R-2 Districts;
- (b) Residential structures containing more than 12 dwelling units; and
- (c) Day nurseries and nursery schools.

(F) *B-1 Business District.*

(1) Permitted uses:

- (a) Offices;
- (b) Clinics;
- (c) Clubs and lodges;
- (d) Laboratories; and
- (e) Limited industry.

(2) Special uses:

- (a) Residential structures containing more than two dwelling units;
- (b) Motor service station;
- (c) Nursing home;
- (d) Motel (if adjacent to state highway);
- (e) Drive-in business where people are served in automobiles; and
- (f) Undertaking establishments.

(G) *B-2 General Business District.*

(1) Permitted uses:

- (a) Retail sales and services;
- (b) Clinics;

- (c) Offices; and
- (d) Clubs and lodges.

(2) Special uses:

- (a) Motor service stations;
- (b) Used car lots;
- (c) Commercial recreation;
- (d) Drive-in business where people are served in automobiles; and
- (e) Undertaking establishments.

(H) *B-3 Business District.*

(1) Permitted uses:

- (a) Uses permitted in B-2 Districts;
- (b) Motor service stations;
- (c) Commercial recreation; and
- (d) Undertaking establishments.

(2) Special uses: limited industry.

(I) *I Industrial District.*

(1) Permitted uses:

- (a) Limited industry;
- (b) Warehousing and truck terminals; and
- (c) Railroad uses.

(2) Special uses:

- (a) General industry;

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- (b) Drive-in business where people are served in cars, including drive-in theaters; and
- (c) Undertaking establishments.

(J) *Uses not provided for.* Whenever in any district a use is neither specifically permitted, nor denied, the Planning Commission shall determine whether a building permit shall be issued. It shall be issued if the use is generally of the same nature as permitted uses, and shall be denied if it is not so similar.

(Ord. 1-69, passed - -1969; Ord. 88-1, passed 6-6-1988)

ADMINISTRATION AND ENFORCEMENT

' 154.020 ENFORCING OFFICER.

The Mayor shall appoint a Zoning Administrator, subject to the approval of the Council, who shall have the duty and responsibility of enforcing and administering this chapter.

(Ord. 1-69, passed - -1969)

' 154.021 BUILDING PERMITS.

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. All applications for building permits pertaining to the erection, or major alteration, which will affect the outside dimensions of a structure shall be accompanied by three copies of a plat drawn to scale showing the actual dimensions of the lot, lots or parcel to be built upon, the dimensions of the ground and the extensions beyond the outside wall of the proposed structures to be erected or structurally altered, their location on the site in relation to the outside boundary and other information as may be necessary to provide for the enforcement of these regulations. One copy of the plat is to be approved and is to be made available on the site until the issuance of an occupancy permit.

(Ord. 1-69, passed - -1969)

' 154.022 ZONING ADMINISTRATOR; DUTIES.

The Zoning Administrator shall enforce this chapter and, in addition thereto and in furtherance of the authority, he or she shall:

(A) Conduct inspections of buildings and use of land to determine compliance with the terms of this chapter;

(B) Maintain permanent and current records of this chapter, including, but not limited to, all maps, amendments, and conditional uses, variances, appeals and applications thereto;

(C) Receive, file and forward all applications for amendments, variances, conditional use or other matters to the Planning Commission and City Council; and

(D) Institute in the name of the city any appropriate actions or proceedings against a violator as provided by law.

(Ord. 1-69, passed - -1969)

' 154.023 APPEALS.

(A) A Board of Appeals, which shall be the Planning Commission, plus the Fire Chief and Zoning Administrator, who shall be ex-officio members, but shall have no right to vote, shall have the duty of hearing all appeals from any order, requirement or decision made by the Zoning Administrator under this chapter; and from any interpretation of the text of the ordinance, or any determination by the Zoning Administrator as to the location of the boundary of a zoning district as shown on the zoning map.

(B) The Board of Appeals shall have the final authority to deny the appeal after due study and deliberation. Should the Board of Appeals act favorably on the appeal, it shall forward its recommendation to the City Council for final action.

(C) Notice of hearings shall be mailed to all appellants. In all cases rendering determination of district boundary lines or interpretation of the text of this chapter, a notice shall be published in the official newspaper once at least ten days prior to the hearing.

(Ord. 1-69, passed - -1969)

' 154.024 VARIANCES.

(A) The City Council may grant variances from the strict application of the provisions of this chapter and impose conditions and safeguards in the variances so granted, in cases where, by reason of narrowness, shallowness or shape of a lot, or where by reason of exceptional topographic or water conditions or other extraordinary and exceptional conditions of the lot, the strict application of the terms of this chapter would result in peculiar and practical difficulties or exceptional or undue hardship upon the owner of the lot in developing or using the lot in a manner customary and legally permissible within the zoning district in which the lot is located.

(B) Applications for variances shall be filed with the Zoning Administrator and shall state the exceptional conditions of the lot and the peculiar and practical difficulties claimed as a basis for the variance.

(C) All applications for variances shall be referred to the Planning Commission, which shall hear the applicant, or representative thereof, at its next regular meeting after the filing of the application or at some other specified time. The Planning Commission shall recommend conditions relating to the granting of a variance as it deems necessary to adjust the hardship or special situation so as to carry out the intent and purpose of this chapter or shall deny the request.

(D) Upon receiving the recommendation of the Planning Commission or within 60 days after referral of the application for a variance to the Planning Commission if no recommendation has been transmitted, the City Council shall place the request on the agenda for its next regular meeting. The City Council shall reach a decision upon the request within 60 days after the date of the above meeting.

(E) In considering all requests and in taking subsequent action, the Planning Commission and City Council shall make a finding of fact that the proposed action will not impair an adequate supply of light and air to adjacent property, increase the congestion in the public streets, unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of this chapter.

(Ord. 1-69, passed - -1969)

' 154.025 SPECIAL USES.

(A) *General.* The City Council may, by resolution, grant special use permits for uses and purposes elsewhere in this chapter provided, and may impose conditions and safeguards in the permits to promote the Comprehensive Plan in harmony with the general purpose and intent of this chapter. Applications for special use permits shall be filed in the office of the Zoning Administrator.

(B) *Referral to Planning Commission.* Before authorization of any special use permits, the request therefor shall be referred to the Planning Commission for study concerning the effect of the proposed use on the Comprehensive Plan and on the character and development of the neighborhood and for its recommendation to the City Council for the granting of the special permit and the conditions thereof if any, or for the denial of the special permit.

(C) *Issuance.* In considering applications for special use permits under this chapter, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety and welfare of occupants of surrounding lands, existing and anticipated traffic conditions, including parking facilities on adjacent streets, and the effect on values of property in the surrounding area, and the effect of the proposed use on the Comprehensive Plan. If it shall determine by resolution that the proposed use will not be detrimental to the health, safety or general welfare of the community, nor will cause serious traffic congestion or hazard, nor will seriously depreciate surrounding property values, and that the same is in harmony with the general purpose and intent of this chapter and the Comprehensive Plan, the Council may grant the permits and may impose safeguards and conditions therein. Any conditional use permit shall apply only to the use stated on the permit.

(D) *Denial*. Special use permits may be denied by motion of the City Council and the motion shall constitute a finding and determination by the City Council that the conditions required for approval do not exist.

(E) *Action without Planning Commission recommendation*. If no recommendation is transmitted by the Planning Commission within 60 days after referral of the application for a special use permit to the Commission, the City Council may take action without further awaiting the recommendation.
(Ord. 1-69, passed - -1969)

' 154.026 AMENDMENTS.

(A) *General*. In accordance with the provisions of state statutes, the City Council may, from time to time, adopt amendments to this chapter.

(B) *Initiation for amendment*. The City Council or the Planning Commission may, upon their own motion, initiate a request to amend the text or the districting map of this chapter. Any person, persons, firm or corporation owning real estate may initiate a request to amend the district boundaries so as to affect the real estate and/or the real estate abutting thereto. Any resident or owner of real estate in the city may initiate a request to amend the text of this chapter.

(C) *Application for amendment*. All applications for amendments which are initiated by the petition of owners of property or residents shall be filed with the Zoning Administrator. When the application involves the changing of zoning districts and boundaries thereof, it shall be accompanied by a map or plat showing the lands proposed to be changed and all lands within 200 feet of the boundaries of the property proposed to be rezoned, together with the names and addresses of the owners of the lands in the area.

(D) *Referral to the Planning Commission*. All petitions for amendments shall be referred to the Planning Commission, which shall hold an official public hearing.

(E) *Hearing*. At the time and place specified in the notice, the Planning Commission shall meet and conduct a public hearing upon the proposed zoning ordinance amendment.

(F) *Action by the Planning Commission*. If the request is for a district change, notices shall be mailed to all owners of property according to the assessment records within 200 feet of the parcel included in the request, not less than five days, nor more than 30 days, prior to the hearing. Failure of a property owner to receive the notice shall not invalidate any such proceeding as set forth within this chapter. The Planning Commission shall reach a decision and make its recommendation within 60 days of filing of the request unless the applicant has granted a deferment of action in writing and, if so, the City Council shall be so notified.

(G) *Action by the City Council.* The City Council shall, upon receiving the recommendation of the Planning Commission, place the request on the agenda of its next regular meeting and decide the issues within ten days. Notification to the applicant shall be made of the Council=s action.

(Ord. 1-69, passed - -1969)

' 154.027 FEES.

The fees to be paid for each application for an amendment to this chapter or a variance or conditional use permit shall be established by the City Council. Fees shall be payable at the time applications are filed with the Zoning Administrator and not refundable unless application is withdrawn prior to referral to the Planning Commission. There shall be no fee in the case of applications filed in the public interest by members of the City Council or by the Planning Commission.

(Ord. 1-69, passed - -1969)

SUPPLEMENTAL REGULATIONS

' 154.040 APPLICATION.

(A) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morale and welfare.

(B) Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

(C) Except as in this chapter specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered and no structure or land shall be used, for any purpose or in any manner which is not in conformity with this chapter.

(D) If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, the judgment shall not affect any other provisions of this chapter not specifically included in the judgment.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.041 NON-CONFORMING USES AND STRUCTURES.

(A) Any structure or use lawfully existing upon the effective date of this chapter may be continued at the size and in a manner of operation existing upon the date, except as hereinafter specified.

(B) Nothing in this chapter shall prevent the placing of a structure in safe condition when the

structure is declared unsafe by the city.

(C) When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

(D) Whenever a lawful non-conforming building or structure shall have been damaged by fire, flood, explosion, earthquake, war, riot, or act of God, it may be reconstructed and used as before if it be reconstructed within 12 months after such calamity, unless the damage to the building or structure is 50% or more of its fair market value, in which case the reconstruction shall be for a use in accordance with the provisions of this chapter.

(E) Whenever a lawful, non-conforming use of a building or structure or land is discontinued for a period of six months, any future use of the building or structure or land shall be in conformity with the provisions of this chapter.

(F) Any non-conforming open use of land lawfully existing upon the effective date of this chapter may be continued for a period of three years after the effective date of this chapter, whereupon the non-conforming use shall cease.

(G) Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

(H) A lawful non-conforming use may be changed only to a use of the same or more restricted classification.

(I) Alterations may be made to a structure or building containing lawful non-conforming residential units when they will improve the livability thereof; provided, they will not increase the number of dwelling units.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.042 LOT PROVISIONS.

(A) A lot or parcel of land for which a deed has been recorded in the office of the County Registrar of Deeds upon, or prior to, the effective date of this chapter shall be deemed a buildable lot; provided, it has frontage on a public right-of-way and the space requirements for the district in which it is located can be maintained or adjusted to conform as follows.

(B) A lot or parcel of land of record upon the effective date of this chapter which is in a residential district and which does not meet the requirements of this chapter as to area, width or other open space, may be utilized for single-family detached dwelling purposes provided the measurements of the area, width or open space is within 60% of the requirements of this chapter, but the lot or parcel shall not be more intensively developed.

(Ord. 1-69, passed - -1969)

' 154.043 ACCESSORY BUILDINGS.

(A) No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

(B) No accessory building shall exceed the height of the principal building. However, in no case shall the accessory building exceed 15 feet in height.

(C) No more than two accessory buildings and no more than one detached garage shall be permitted on a single residential lot, except for multi-family dwellings of four or more units.

(D) Accessory buildings in a residential area shall not exceed 1,000 square feet in total gross floor area and shall abide by the same setback requirements as the principal structure.

(E) No accessory building in a residential area shall be used for commercial purposes.

(F) To ensure that the design and appearance of accessory buildings are appropriate for a residential district, the buildings that are greater than 120 square feet in gross floor area shall have a roof and siding design which matches or is architecturally complimentary to the principal structure.

(G) The requirements of this section will only apply to structures of 120 square feet of gross floor area or larger.

(Ord. 1-69, passed - -1969; Ord. 98-5, passed 6-8-1998) Penalty, see ' 154.999

' 154.044 REQUIRED YARDS AND OPEN SPACES.

(A) No yard or other open space shall be reduced in area or dimension so as to make the yard or other open space less than the minimum required by this chapter and, if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced.

(B) No required yard or other open space allocated to a building or dwelling group shall be used to satisfy minimum lot area requirements for any other building.

(C) The following shall not be considered to be encroachments on yard and setback requirements: chimneys; flues; belt courses; leaders; sills; pilasters; lintels; ornamental features; cornices; eaves; gutters and the like; provided, they do not extend more than one and one-half feet into a yard.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.045 TRAFFIC VISIBILITY.

No fences, structures or planting exceeding 30 inches in height above the centerline grade of the street shall be permitted within the required front yard setback on a corner lot.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.046 FARMING OPERATIONS.

All farms in existence upon the effective date of this chapter and all farms which are brought into the city by annexation shall be a permitted use where the operator can conduct a farming operation. However, all regulations contained herein and other city ordinances as in effect shall apply to all changes of the farming operation which will cause all or a part of the area to become more intensively used or more urban in character.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.047 ESSENTIAL SERVICES.

Essential services shall be permitted as authorized and regulated by state law and ordinances of the city.

(Ord. 1-69, passed - -1969)

' 154.048 LAND RECLAMATION.

Under this chapter, *LAND RECLAMATION* is the reclaiming of land by depositing of material so as to elevate the grade. Land reclamation shall be permitted only by conditional use permit in all districts. Any lot or parcel upon which 400 cubic yards or more of fill is to be deposited shall be land reclamation.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.049 RELOCATED STRUCTURES.

Before any structure or house is moved onto a lot, the Planning Commission shall report to the City Council whether the structure will be compatible with other development in the area. If the Council shall find that a structure would depreciate the area into which it is moved, the City Council may withhold issuance of a conditional use permit for the relocation. The applicant shall submit photographs taken from two or more angles of the structure to be moved and photos of the lot on which the structure is to be located together with photos of adjacent lots and structures. These requirements do not apply to construction sheds or other temporary structures to be located on a lot for 12 months or less.

(Ord. 1-69, passed - -1969)

' 154.050 TEMPORARY HEALTH CARE DWELLINGS.

Pursuant to authority granted by M.S. ' 462.3593, subd. 9, as it may be amended from time to time, the city opts-out of the requirements of M.S. ' 462.3593, as it may be amended from time to time, which defines and regulates temporary family health care dwellings.

(Ord. 2016-1, passed 10-10-2016)

PERFORMANCE STANDARDS

' 154.065 PURPOSE.

The guiding of urban development so as to bring about a compatible relationship of uses depends upon certain standards being maintained. Permitted uses, uses by conditional permit and accessory uses in the various districts shall conform to the following standards.

(Ord. 1-69, passed - -1969)

' 154.066 NOISE.

Any use established shall be so operated that no noise resulting from the use is perceptible beyond the boundaries of the lot line of the site on which the use is located. This standard shall not apply to incidental traffic, parking, loading, constructions or maintenance operations.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.067 SMOKE AND PARTICULATE MATTER.

Any use established, enlarged or remodeled after the effective date of this chapter shall be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental to or shall endanger the public health, safety, comfort or general welfare of the public. For purpose of determining when the degree of smoke is unsatisfactory the Ringelmann Chart published and used by the United States Bureau of Mines shall be employed. The emission of smoke shall not be of a density greater than No. 2 in the Ringelmann Chart.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.068 TOXIC OR NOXIOUS MATTER.

Any use established shall be so operated as not to discharge across the boundaries of the lot or through percolation into the subsoil beyond the boundaries of the lot wherein the use is located, toxic or noxious matter in a concentration as to be detectable or to endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.069 ODORS.

Any use established, enlarged or remodeled shall be so operated as to prevent the emission of odorous matter in quantities as to be readily detectable at any point beyond the lot line of the site on which the use is located.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.070 VIBRATION.

Any use creating periodic earth-shaking vibrations, such as may be created from a drop forge, shall be prohibited if the vibrations are perceptible beyond the lot line of the site on which the use is located. This standard shall not apply to vibrations created during the process of construction.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.071 GLARE OR HEAT.

Any use requiring an operation producing an intense heat or light transmission shall be performed with the necessary shielding to prevent the heat or light from being detectable at the lot line of the site on which the use is located.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.072 EXPLOSIVES.

Any use requiring the storage, utilization or manufacturing of products which would decompose by detonation shall be located not less than 400 feet from the R District line.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.073 WASTE MATERIAL.

Waste material shall not be washed into the public storm sewer system nor the sanitary sewer system without first having received a permit to do so from the city, if the permit is not granted, a method of disposal shall be devised which will not require continuous land acquisition for permanent operation and will not cause a detrimental effect to the adjacent land. Should the waste be of a solid form rather than fluid, the storage area shall be so located and fenced as to be removed from public view.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.074 GENERAL INDUSTRY USES.

General industry uses may be excepted from the performance standards.

(Ord. 1-69, passed - -1969)

' 154.075 MINIMUM LOT REQUIREMENTS.

	<i>Districts</i>							
	<i>R-1A</i>	<i>R-1B</i>	<i>R-2</i>	<i>R-3</i>	<i>B-1</i>	<i>B-2</i>	<i>B-3</i>	<i>I</i>

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	<i>Districts</i>							
	<i>R-1A</i>	<i>R-1B</i>	<i>R-2</i>	<i>R-3</i>	<i>B-1</i>	<i>B-2</i>	<i>B-3</i>	<i>I</i>
Lot area per dwelling unit (square feet)								
1-family structure	10,000	6,500	6,500	6,500	-	-	-	-
2-family structure	-	-	3,250	3,250	-	-	-	-
Over 2-family structure	-	-	-	10,000 min.	-	-	-	-
1-bedroom	-	-	1,500	-	-	-	-	-
2-bedroom	-	-	-	2,000	-	-	-	-
Non-residential lot area	-	-	-	-	10,000	-	-	-
Lot width (feet)	80	50 (65 for 2-family)	50 (65 for 2-family)	80	-	-	-	-
Setback								
Front	30	30	30	30	30	15	-	20*
Side								
(with alley)	6	5	5	10**	10***	-	(1)	(3)
(no alley)	6 on enc. 9 on other	5	5	10**	10***	-	(1)	(3)
Rear	30	30	30	30	20	-	(2)	(4)
From street right-of-way, in case of corner lot	25	20	15	20	25	20	20	25
Maximum permitted height (feet)	25	25	25	30	35	35	35	40
<p>NOTES TO TABLE:</p> <p>* 40 feet when across street from residential district.</p> <p>** 15 feet when adjacent to R-1A, R-1B or R-2 District.</p> <p>*** 15 feet when adjacent to residence district.</p> <p>(1) 15 feet when adjacent to residence district.</p> <p>(2) 20 feet when adjacent to residence district and 5 feet for parking adjacent to residence district.</p> <p>(3) 15 feet, except 40 feet when adjacent to residence district.</p> <p>(4) 20 feet, except 50 feet when adjacent to residence district.</p>								

The setback requirements for fences are as follows:

(A) Thirty feet from street right-of-way at the front of the property;

(B) Two feet from side and rear property lines, except twenty-five feet from the edge of the gravel on an alley; and

(C) Twenty-five feet from street right-of-way on the side lot line of a corner lot.

(Ord. 1-69, passed - -1969; Ord. 2000-4, passed 7-10-2000)

SIGNS

' 154.090 SIGNS IN ALL DISTRICTS.

Signs are a permitted accessory use in all use districts, subject to the following regulations.

(A) Signs are prohibited within the public right-of-way or easements; except that, the City Council may grant a conditional permit to locate signs and decorations on or within the right-of-way for a specified time not to exceed 60 days.

(B) Illuminated signs or flashing signs shall not be permitted within the residential districts.

(C) Illuminated signs or devices giving off an intermittent, or rotating beam consisting of a collection or concentration of rays of light shall not be permitted in any district.
(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.091 PERMITTED SIGNS IN R-1A, R-1B, R-2 AND R-3 DISTRICTS.

(A) One nameplate sign for each dwelling, not to exceed one square foot in area per sign; and

(B) One nameplate sign for each dwelling group of three or more units not to exceed three square feet in area per sign.
(Ord. 1-69, passed - -1969)

' 154.092 PERMITTED SIGNS IN B-1 DISTRICT.

(A) Nameplate and business signs with the aggregate area per lot not to exceed three square feet for each front foot of building plus one square foot for each front foot not occupied by a building.

(B) No individual sign shall exceed 150 square feet of area per surface.
(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.093 PERMITTED SIGNS IN B-2 AND B-3 DISTRICTS.

(A) Nameplate and business signs are permitted subject to the following: the aggregate square footage of sign space per lot shall not exceed the sum of two square feet per front foot of building, plus one square foot for each front foot of lot not occupied by the building which fronts on a public right-of-way 50 feet or more in width. The least width of a lot for purposes of this chapter shall be the front. No individual sign surface shall exceed 100 square feet.

(B) Advertising signs are not permitted without the granting of a special use permit.

(Ord. 1-69, passed - -1969; Ord. 98-6, passed 8-10-1998) Penalty, see ' 154.999

' 154.094 PERMITTED SIGNS IN I DISTRICTS.

(A) Nameplate and business signs shall be permitted subject to the following: the aggregate square footage of sign space per lot shall not exceed the sum of four square feet per front of building, plus one square foot per front foot of property not occupied by a building. No individual sign surface shall exceed 250 square feet.

(B) Advertising signs are not permitted without the granting of a special use permit.
 (Ord. 1-69, passed - -1969; Ord. 98-6, passed 8-10-1998) Penalty, see ' 154.999

OFF-STREET PARKING AND LOADING

' 154.105 OFF-STREET PARKING.

(A) *General provisions.*

(1) When applying for a building permit in all districts for a new structure, the enlarging of a structure or a new or enlarged use of a parcel of land, the application shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of off-street parking and loading spaces in compliance with the following requirements.

(2) Individual parking spaces shall be no smaller than ten feet by 20 feet.

	<i>Off-Street Parking Spaces Required</i>
Residential structures	1/dwelling unit
Uses in B-1 Districts	1/200 square feet of building area
Uses in B-3 Districts	1/150 square feet of building area
Uses in I Districts	1/2 employees or 1/1,000 square feet of building area, whichever is the greatest requirement

(B) *Miscellaneous uses.*

Banks, offices and/or public office buildings	At least 4 parking spaces for each 100 square feet of gross floor area
Bowling alley	At least 5 parking spaces for each alley, plus additional spaces as may be required herein for related uses such as a restaurant

Church, institution	At least 1 parking space for each 3-1/2 seats based on the design capacity of the main assembly hall
Drive-in food establishment	At least 1 parking space for each 15 square feet of gross floor space in building allocated to drive-in operation
Furniture store, wholesale auto sales, repair shops	At least 3 parking spaces for each 1,000 square feet of gross floor area; open sales lots shall provide 1-1/2 parking spaces for each employee on maximum shift, but not less than 3 spaces
Hospital	At least 1 parking space for each 3 hospital beds, plus 1 space for each 4 employees other than doctors, plus 1 parking space for each resident and regular staff doctor
Hotel or apartment hotel	At least 1 parking space for each rental unit provided in the design of the building
Medical or dental clinic	At least 3 parking spaces for each staff doctor or dentist
Motel, tourist home, motor hotel	At least 1 space for each dwelling unit or lodging room
Motor fuel station	At least 1 off-street parking space for each employee on maximum shift, plus 2 off-street parking spaces for each service stalls
Restaurants, cafes, bars, taverns, night clubs	At least 1 space for each 3 seats based on capacity design
Retail store	At least 7 off-street parking spaces for each 1,000 square feet of gross floor area
Sanitarium, convalescent home, best home, nursing home or institution	At least 1 parking space for each 6 beds for which accommodations are offered, plus 1 parking space for each 2 employees on maximum shift
School, elementary and junior high	At least 1 parking space for each classroom, plus 1 additional space for each 400-student capacity
School - high school through college	At least 1 parking space for each 7 students based on design capacity, plus 1 additional space for each 2 classrooms
Theater	At least 1 parking space for each 3 seats of design capacity
Undertaking establishments	At least 5 parking spaces for each chapel or parlor, plus 1 parking space for each funeral vehicle maintained on the premises; aisle space shall also be provided off the street for making up a funeral procession
Warehouse, storage, handling of bulk goods	At least 1 space for each 2 employees on maximum shift, or 1 for each 2,000 square feet of gross floor area, whichever is the larger

(Ord. 1-69, passed - -1969)

' 154.106 OFF-STREET LOADING.

In connection with any structure which is to be erected or substantially altered, and which requires

the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space on the basis of adequate space for loading and unloading all vehicles used incidental to the operation of the use.

(Ord. 1-69, passed - -1969)

MOBILE HOMES AND MOBILE HOME COURTS

' 154.120 GENERAL REGULATIONS.

(A) No mobile home for residential purposes shall be permitted on any lot or lots of record within the city unless the lot or lots are part of an approved mobile home court as established herein.

(B) Any trailer house parked within any residential area of the city on the effective date of this chapter, and shall have been continuously so parked therein for at least 30 days with proper authorization prior to the dates it shall be lawful to continue the parking at the same place from and after the effective date of this chapter; provided, however, that, upon removal of the trailer house for any reason whatsoever, it shall be unlawful to repark the trailer house or to replace the trailer house on a lot within a residential area of the city in violation of the provision of this chapter.

(C) Mobile homes shall be prohibited that:

(1) Do not conform to the requirements of the state; and

(2) Are in an unsanitary condition or having an exterior in bad repair, are structurally unsound and do not protect the inhabitants against all elements.

(D) Every structure shall be developed and maintained in a safe, approved and substantial manner. The exterior of the structures shall be kept in good repair and shall be repainted or refinished when directed by the city.

(E) All land areas shall be properly maintained and adequately drained and be clean and free from refuse, garbage, rubbish or debris.

(F) No tents shall be erected or occupied.

(G) There shall be no outdoor camping anywhere in the mobile home court.

(H) No public address or loud speaker system shall be permitted.

(I) Dogs and animals shall not be permitted to run at large within the mobile home court.

(J) Access to mobile home courts shall be as approved by the city.

(K) Advertising shall be limited to one sign not to exceed six square feet, with lighting, height and location as approved by the city.

(L) The operator of every mobile home court shall maintain a registry of the mobile home court showings.

(M) (1) The name and address of each guest or permanent resident; and

(2) The make, type and license number of each mobile home and automobile.

(N) No person shall erect, place, construct, reconstruct, relocate, alter, maintain, use or occupy a cabana or structure in a mobile home court without the written consent of the owner or operator of the mobile home court.

(O) All structures (fences, sidewalks, roads, storage space, cabana, ramada or other) shall require a building permit.

(P) The area beneath a mobile home coach shall be enclosed; except that, the enclosure must be openable for inspection.

(Q) Laundry and clothes shall be hung out to dry only on lines located in approved areas established and maintained exclusively for that purpose.

(R) No more than 10% of all trailer sites shall be occupied by transient (less than seven days= occupancy) coaches.

(S) No building cabana, ramada, carport, awning, storage closet, cupboard or other structure shall be permitted on a transient trailer site, except plumbing and electrical service connections.

(T) (1) Where mobile home court has a central community building with the following features:

(a) Laundry drying areas and machines;

(b) Laundry washing machines;

(c) Showers; and

(d) Public toilets and lavatories.

(2) The building shall have approved heating system and be maintained in a safe, clean and sanitary condition.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

' 154.121 SITE PLAN REQUIREMENTS.

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(A) Five copies of a plot plan of the proposed mobile home court shall be submitted to the Planning Commission for its consideration.

(B) The plot plan shall be drawn to scale and showing:

- (1) Legal description and size in acres of the proposed mobile home court;
 - (2) Location and size of all mobile homes sites, dead storage areas, recreation areas, laundry drying areas, roadways, parking sites and all set-back dimensions (parking spaces, exact mobile home sites and the like);
 - (3) Detailed landscaping plans and specifications;
 - (4) Location and width of sidewalks;
 - (5) Plans for sanitary sewage disposal, surface drainage, water systems, electrical service and gas service;
 - (6) Location, size and character of each cabana and cabana site;
 - (7) Location and size of all streets abutting the mobile home court and all driveways from the streets to the mobile home court;
 - (8) Road construction plans and specifications;
 - (9) Plans for any and all structures;
 - (10) Other information as required or implied by these mobile home court standards or requested by public officials;
 - (11) Name and address of developer;
 - (12) Description of the method of disposing of garbage and refuse;
 - (13) Detailed description of maintenance procedures and grounds supervisor; and
 - (14) Description of construction plans (i.e., time involved, cost estimates, stage development, if any, and so on).
- (Ord. 1-69, passed - -1969)

' 154.122 DESIGN STANDARDS.

(A) *Site.*

- (1) Each mobile home site shall contain at least 3,600 square feet of land area for the exclusive

use of the occupants:

(a) Widths: no less than 40 feet; and

(b) Depths: no less than 90 feet.

(2) Each mobile home site shall have frontage on an approved roadway.

(3) The corners of each mobile home site shall be clearly marked and each site shall be numbered.

(4) The area occupied by a mobile home shall not exceed 75% of the total area of a mobile home site; land may be occupied by a trailer, a vehicle, a building, a cabana, a ramada, a carport, an awning, storage closet or cupboard, or any structure; unoccupied land shall be landscaped.

(B) *Setbacks.*

(1) No coach shall be parked closer than five feet to the side lot lines, nor closer than ten feet to the front lot line or within three feet of the rear lot line.

(2) There shall be an open space of at least ten feet between the sides of adjacent coaches.

(3) Automobiles may park no closer than five feet to the side of any adjacent coach, automobiles shall not, however, be parked nearer than five feet to any side lot line.

(4) No coach, off-street parking space or building shall be located within ten feet of the exterior boundary of any mobile home courts.

(5) Mobile home sites with access to public streets shall conform to all setback and other requirements of the zoning district in which the site is located.

(C) *Parking.* Each mobile home site shall have off-street parking space for two automobiles.

(D) *Utilities.*

(1) All mobile homes shall be connected to a public water and sanitary sewer system or a water and sewer system approved by the state=s Department of Health.

(2) All plans for disposal of surface storm water must be approved by the city.

(3) All utility connections shall be approved by the city.

(4) The source of fuel for cooking, heating or other purposes at each mobile home site shall be as approved by the city.

(5) All utilities shall be underground; there shall be no overhead wires or supporting poles, except those essential for street or other lighting purposes.

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(6) No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities and related mobile home equipment.

(7) The proposed method of garbage, waste and trash disposal must be as approved by the city.

(E) *Internal roads and streets.*

(1) All roads shall have a hard surface and approved drainage.

(2) Rights-of-way shall be no less than 40 feet in width.

(3) All streets shall be developed to a minimum width of no less than 22 feet.

(F) *Recreation.* All mobile home courts shall have at least 10% of the land areas developed for recreational use, developed and maintained at the owner or operator=s expense.

(G) *Landscaping.*

(1) Each site shall have a front yard not less than ten feet in depth across the entire frontage; this yard shall be landscaped, except for necessary driveway and sidewalk needs which shall not exceed one-half the width of the site.

(2) A landscaped rear yard shall be maintained to a depth of five feet.

(3) A five-foot landscaped side yard (both sides) shall be maintained.

(4) All areas shall be landscaped in accordance with a landscaping plan approved by the City Council.

(H) *Lighting.*

(1) Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment and the like.

(2) The mobile home court grounds shall be lighted as approved by the city from sunset to sunrise.

(Ord. 1-69, passed - -1969) Penalty, see ' 154.999

SOLAR ENERGY SYSTEMS

' 154.135 **PURPOSE.**

This subchapter permits, as an accessory use, solar energy systems, while protecting the health, safety and welfare of the city residents. To correct and prevent conditions that might adversely affect the safety, general welfare and health of nearby property owners. To preserve the value of land and structures throughout the city through appropriate zoning and land use controls.

(Ord. 18-01, passed 4-16-2018)

' 154.136 DEFINITIONS.

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

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM. A solar energy system that is directly incorporated into the building by replacing typical building materials.

GROUND-MOUNTED SOLAR ENERGY SYSTEM. A solar energy system that is installed onto the ground directly or by means of brackets or poles.

ROOF-MOUNTED SOLAR ENERGY SYSTEM. A solar energy system mounted to a house or other building.

SOLAR ENERGY SYSTEM. A set of devices whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

SOLAR THERMAL SYSTEM. A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs of the building.

(Ord. 18-01, passed 4-16-2018)

' 154.137 SOLAR ENERGY SYSTEMS.

Solar energy systems are allowable as an accessory use in all zoning districts, subject to the following requirements:

(A) *Standards.*

(1) *Height.* Roof-mounted solar energy systems shall not project beyond the peak of the roof and shall not be more than two feet above the roof surface to which they are attached. Ground-mounted solar energy systems shall not exceed five feet in height.

(2) *Location.* Ground-mounted solar energy systems must be located in the rear yard only.

(3) *Setbacks.* Ground mounted solar energy systems shall be set back a minimum of ten feet from all property lines, a minimum of ten feet from all buildings located on adjacent lots, a minimum of 30 feet from all public right-of-way, and a minimum of ten feet from all utility easements. Roof-mounted

solar energy systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.

(4) *Coverage.* Roof-mounted solar energy systems shall not cover more than 25% of the total area of the roof. Solar energy systems must have ten feet of clearance around all edges to facilitate emergency responder access.

(5) *Feeder lines.* All power exterior electrical or other service lines must be buried below the surface of the ground.

(6) *Exemption.* Building integrated solar energy systems are exempt from the requirements of this section and shall be regulated as any other building element.

(B) *Safety.*

(1) *Compliance with building codes.* All solar energy systems shall comply with the Minnesota Building Code and any local building code requirements.

(2) *Compliance with Electric Code.* All solar energy systems shall comply with the National Electrical Code.

(3) *Compliance with Plumbing Code.* All solar thermal systems shall comply with the Minnesota State Plumbing Code.

(4) *Certifications.* Solar energy system components shall be certified by Underwriters Laboratories Inc. and the Solar Rating and Certification Corporation. The city reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

(5) *Installation.* Solar energy systems shall be installed only by licensed contractor.

(6) *Solar panel glare.* All solar energy system facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties, as well as adjacent street rights-of-way. Steps to control glare nuisance may include selective placement of the system, screening on the side of solar array facing the reflectors, reducing use of the reflector system, or other remedies that limit glare.

(7) *Safety measures.* A clearly visible warning sign concerning voltage must be placed at the site. All mechanical equipment, including any structure for batteries or storage cells, shall be completely enclosed by a minimum six-foot high fence with self-locking gate. The fence must be two feet off the property line per zoning ordinance unless written permission is obtained from abutting property owner to have fence on the property line.

(C) *Approval.*

(1) *Permits.* The erection, alteration, improvement, reconstruction, and movement of a solar energy system requires the following for the city building permit.

(a) A site plan of existing applicable conditions showing the following:

1. Existing property lines;
2. Existing public and private streets and any easements;
3. Existing house, buildings and any impervious surface; and
4. Existing vegetation.

(b) A site plan of proposed conditions showing the following:

1. Planned location and spacing of solar panels;
2. Planned location of underground electric lines connecting the solar energy system to the house, building, substation or other electric load; and
3. Planned new electrical equipment other than at the existing home, building or substation that is the connection point for the solar energy system.

(c) Specifications and proposed installation methods for planned major equipment including solar panels, mounting systems and foundation for poles or racks;

(d) The number of panels to be installed;

(e) A description of the method of connecting to a house, building or substation;

(f) A copy of the submitting interconnection application with the Blooming Prairie Public Utilities or a written explanation outlining why an interconnection application is not necessary;

(g) A decommissioning plan is required to ensure that the facilities are properly removed after their useful life. The plan shall include who will be responsible for removal of all structures and foundations, restoration of soil and vegetation and a plan describing the financial resources that will be available to fully decommission the site;

(h) Solar energy systems are subject to the following height requirements:

1. Building or roof mounted solar energy systems shall not exceed the maximum allowed height in any zoning district; and

2. Pole mounted solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt in residential zones and may be allowed up to 20 feet in other zones.

(i) Location within lot: solar energy systems must meet the setback requirements.

(D) *Utility notification.* The owner of a solar energy system that will physically connect to a house or other building=s electrical system and/or the electric utility grid must enter into a signed interconnection agreement with the utility prior to the issuance of a building permit.

(E) *Abandonment.* If the solar energy system remains nonfunctional or inoperative for more than twelve consecutive months, the system shall constitute a public nuisance. The owner shall remove the abandoned system at their expense. Removal includes the entire structure, including collector, mount, and transmission equipment.

(Ord. 18-01, passed 4-16-2018) Penalty, see ' 154.999

' 154.138 OTHER RESTRICTIONS.

(A) City boulevard trees removal is prohibited without the City Planning and Zoning Board approval and not more two boulevard trees will be considered for removal.

(B) Roof mounted solar energy systems must not overload the designed weight limit of the roof.

(C) All solar energy systems shall use colors that blend with the color of the roof or other structures.

(D) The Planning and Zoning Board may require additional buffer between solar energy systems and adjoining properties.

(E) The Planning and Zoning Board may require a greater setback between adjoining properties if conditions warrant.

(Ord. 18-01, passed 4-16-2018) Penalty, see ' 154.999

' 154.139 EASEMENTS.

It shall be the responsibility of the property owner to secure any desired solar easement to protect solar access for the system (per M.S. ' 500.30, as it may be amended from time to time).

(Ord. 18-01, passed 4-16-2018)

' 154.999 PENALTY.

Any person, firm, corporation or voluntary association which violates or refuses to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, be subject to a fine of not more than \$100 for every offense or to imprisonment not exceeding 90 days. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. 1-69, passed - -1969)

CHAPTER 114: REGULATIONS AND FEES FOR MOBILE FOOD UNITS AND FOOD CARTS

Section

114.01 Purpose and Intent

114.02 Definitions

114.03 License Requirement

114.04 Fees

114.05 Operation

114.06 Inspection

114.07 Insurance

114.08 Denial, Revocation, and Suspension

114.09 Exemptions

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114.11 Severability and Savings Clause

114.01 PURPOSE AND INTENT.

The ordinance is adopted for the purpose of authorizing the City of Blooming Prairie to regulate the operation of mobile food units and food carts.

114.02 DEFINITIONS.

The following words and terms when used for this license shall have the following meanings unless the context clearly indicates otherwise.

- (A) Mobile Food Unit. A food and beverage service establishment that is a vehicle mounted unit, either:
 - (1) Motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the City Administrator or City Council for the City of Blooming Prairie.
 - (2) Operated in conjunction with a permanent business licensed under Minnesota Statute chapter 157 or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.
- (B) Food Cart. A food and beverage service establishment that is a non-motorized vehicle that is propelled by the operator.
- (C) Restaurant. A food and beverage service establishment, where the establishment serves alcohol or nonalcoholic beverages, which operates from a location for more than twenty-one (21) days annually. A restaurant does not include a mobile food unit or food cart.
- (D) Ice Cream Truck. A motor vehicle utilized as the point of retail sales of pre-wrapped or pre-packaged ice cream, frozen yogurt, frozen custard, flavored frozen water, or similar frozen dessert products.

114.03 LICENSE REQUIREMENT.

- (A) No person or business shall vend from a mobile food cart or mobile food unit within the City unless a license to do so is obtained from the City. Licenses are not required for operations occurring entirely within a permitted community event.
- (B) The City may require such information on the license application as city staff deem reasonable and necessary, including but not limited to, the following information:
 - (1) Trade name;
 - (2) Name, mailing address, email address, and telephone numbers of applicant and manager;
 - (3) Name and contact information of commercial food supply sources;
 - (4) Proof of applicable licenses or permits required by the State of Minnesota Department of Health or Department of Agriculture.
 - (5) Brief physical description of the mobile food cart or mobile food unit, which may include physical layout plan and dimensions, photographs, equipment types, manufacturer and model numbers, axle weight limit, license plate numbers, and vehicle identification numbers.
 - (6) Information regarding water, fuel, electrical supply, and waste disposal.
- (C) A mobile food unit or food cart license is non-transferable. Proof of license shall be displayed at all times in the mobile food unit or food cart.

Regulations and Fees for Mobile Food Units and Food Carts

114.04 FEES.

License application under this Ordinance shall be submitted to city administration with the designated license fee. Fees can be found on the Blooming Prairie Annual Fee Schedule.

114.05 OPERATION.

A mobile food cart or mobile food unit is, by definition, a food establishment and must comply with the Minnesota Food Code, Minnesota Statutes Chapter 157, and Minnesota Rules Chapter 4626, or as amended. It shall be unlawful to operate any mobile food cart or mobile food unit in Blooming Prairie unless it is licensed, operated, and conducted in accordance with local, state, and federal requirements:

- (A) Discarding waste, liquids, gray water, garbage, litter, or refuse on city sidewalks, streets, or lawn areas, or in city drains or trash receptacles is prohibited; Licensees must provide at least one designated waste container for customer use. Licensees are responsible for clean-up and trash removal generated from their operation;
- (B) Using utilities from public property and right-of-ways is prohibited;
- (C) Using the utilities of any adjacent private property is prohibited unless written permission is obtained from the property owner or agent;
- (D) Licensees must comply with all city parking, signage, lighting, and noise regulations;
- (E) Food sold or served from mobile food carts and mobile food units may not be prepared or stored at a private residence;
- (F) Licensees shall collect and remit applicable Minnesota and city sales tax, if applicable;
- (G) Licensees shall comply with the National Fire Protection Associations' Standard for Ventilation Control and Fire protection of Commercial Cooking Operations;
- (H) Hours of operation are from 7:00 a.m. to 8:00 p.m. or as set by the City Administrator or designee; Licensees are allowed to set up one (1) hour prior to conducting food vending and allowed one (1) hour after conducting business for clean-up and trash removal. Hours of operation may be extended in conjunction with a permitted community event. No food cart or mobile food unit may remain on site for more than twenty-four hours, unless written permission is granted by the property owner. Licensee must comply with all parking regulations.
- (I) Licensees are prohibited from selling or serving alcohol;
- (J) Mobile food units and food carts may not operate within a residential zoning district, unless authorized by the City Administrator or designee for a community or private event. Ice cream truck vendors may operate in all zoning districts;
- (K) Mobile food units and food carts must not be located on private property unless written permission is given by the property owner or agent;
- (L) Mobile food units and food carts may not operate or travel in or on public sidewalks;
- (M) Mobile food units or food carts are prohibited from obstructing the ingress and egress from commercial buildings during the building hours of operation;
- (N) Mobile food units or food carts must not be located closer than 100 feet from any restaurant and/or its outdoor dining area during normal business hours, unless written permission is given by the restaurant proprietor. The distance is measured from the front door or the outdoor seating area (whichever is closer to the mobile food unit or food cart licensee);

Blooming Prairie – Business Regulations

- (O) Mobile food units or food carts must not be located within 500 feet of a community event or parade, unless written permission is given by the community event or parade holder. The distance is measured from the event entrance or any clearly defined event boundary or parade route (whichever is closer to the mobile food unit or food cart);
- (P) Mobile food units or food carts may not impede pedestrian movement or parking;
- (Q) Mobile food units or food carts may not have a drive-through;
- (R) The use of any outside sound amplifying equipment, televisions or similar visual entertainment devices, lights, or noisemakers, such as bells, horns, or whistles are prohibited. Ice cream trucks traveling through a residential district may have outdoor music or noise-making devices to announce their presence;
- (S) An out of service mobile food unit or food cart stored within the City must comply with all applicable ordinance requirements;
- (T) A mobile food unit or food cart may not operate in city-owned parking lots, except those parking lots adjacent to or inside a city park with the approval of a special event permit.

114.06 INSPECTION.

Mobile food carts and mobile food units are subject to inspection by city staff, licensees must comply with any regulation or specific directive imposed by city staff.

114.07 INSURANCE.

- (A) Mobile food units or food cart licensees must have current insurance during the term of the license. A certificate of insurance showing the applicant has obtained liability, food products liability, and property damage insurance that will protect the licensee, property owners, and the city from all claims for damage to property or bodily injury, including death, which may arise from operations under the license or in connection therewith must be provided to city administration. Such insurance shall provide coverage of not less than one million (\$1,000,000) per occurrence. The City shall be named as an additional insured on the certificate of insurance. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice filed with city administration. No license issued pursuant to the provisions of this section shall be valid at any time the insurance required herein is not maintained and evidence of its continuance filed with the City.
- (B) Each mobile food unit or food cart licensee must sign a statement agreeing to defend, indemnify, and hold harmless the City from and against all claims, damages, losses and expenses, including attorney's fees and costs, arising out of, or resulting from the applicant's operation of a mobile food unit or food cart as permitted by this chapter.

114.08 DENIAL, REVOCATION, AND SUSPENSION

All license applications shall be submitted to city administration and/or the City Council for approval. License applications and current licenses may be denied, revoked, or suspended for good cause. The city shall mail written notice describing the reason for denial, revocation, or suspension of a license covered by this Ordinance. The licensee may then request a hearing before the city council by delivering a written request to city administration within ten business days after the notice of denial, revocation, or suspension is mailed. Such appeal shall be heard at the first regularly scheduled meeting of the city council thereafter. For the purposes of this section “good cause” shall include, but is not limited to:

- (A) The manner, or proposed manner, of operating the mobile food unit or food cart violates and local, state, or federal law;
- (B) Licensee or any employee or agent of the licensee are convicted of any crime relating to the operation of the mobile food unit or food cart;
- (C) Licensee or any employee or agent of the licensee made omissions, deceptive statements, and/or false statements of material fact to city staff; or
- (D) Failure to timely pay licensee fee or previous pattern of operation without a license.

114.09 EXEMPTIONS

The following are exempt from Mobile Food Unit licensing requirements.

- (A) Appropriately licensed caterers are exempted from this Ordinance for catered events.
- (B) Mobile food units which are vending at a school, church, or other non-profit owned land for a non-profit event.
- (C) Mobile Food Units which are hired to vend on private property for private events, located in any residential or agriculture zoned property. The mobile food units must be fully contained on private property.
- (D) Mobile food units owned and operated by a commercial food business located in the City of Blooming Prairie.
- (E) Licenses are not required for operations occurring entirely within a permitted community event.

114.10 PENALTY

Any person, firm, or corporation violating any provision of this ordinance shall be guilty of a misdemeanor and a separate offense shall be deemed committed on each day during or on which a violation occurs.

114.11 SEVERABILITY AND SAVINGS CLAUSE

If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

Blooming Prairie – Business Regulations

Passed by the City Council of Blooming Prairie, Minnesota this 17th day of May, 2021.

Mayor

Attested:

City Administrator

CHAPTER 90: ANIMAL CONTROL

- 90.01 Purpose and Intent
- 90.02 Definitions
- 90.03 Permitted Domesticated Animals
- 90.04 Ownership Limits
- 90.05 Prohibited Wild Animals
- 90.06 License Requirements
- 90.07 Vaccination Certificates, Fees and Enforcement; Rabies Vaccination Required
- 90.08 Running at Large
- 90.09 Condition of Premises; Excrement
- 90.10 Barking Dogs
- 90.11 Abuse/Neglect of Animals
- 90.12 Apprehension of Animals
- 90.13 Notice of Apprehension
- 90.14 Reclaiming Animals from the Animal Shelter
- 90.15 Disposing of Unclaimed Animals
- 90.16 Offenses
- 90.17 Animal Bites
- 90.18 Dangerous Dogs
- 90.19 Quarantine of Unvaccinated Animal
- 90.20 Restrictions
- 90.99 Penalty

90.01 PURPOSE AND INTENT.

The ordinance is adopted for the purpose of authorizing the City of Blooming Prairie to regulate animals throughout the city. This is to ensure the safety, public health, and welfare of residents, property owners, and animals alike.

Blooming Prairie – General Regulations

90.02 DEFINITIONS.

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

- (A) **Animal.** Meaning any living creature, excluding humans and plants.
- (B) **Animal Control Officer.** Any employee of the city who is entrusted to enforce city ordinances.
- (C) **At Large.** For an on-leash area, not under the control of the owner or some other person of suitable age and discretion by leash, chain, or cable, none of which may be longer than ten feet in length, or fence, kennel, or other suitable enclosure. The term “at large” means, for an off-leash area, not under the control of the owner or some other person of suitable age and discretion by command or by leash, chain, cable, fence, kennel, or other suitable enclosure. An animal enclosed within a residence, dwelling, business, or other structure so that it cannot leave on its own volition shall not be considered at large.
- (D) **By Command.** The dog must be under the control of the responsible person by command, must remain within sight of the responsible person, and must be adequately trained to return to the responsible person when called.
- (E) **Owner.** Any person owning, keeping, harboring or maintaining an animal within the city or permitting such animal to be at large within the city. An animal shall be deemed to be harbored if it is fed or sheltered for three days or more.
- (F) **Off-leash areas** means any of the following areas:
 - a. Designated dog parks.
- (G) **On-leash areas** means any of the following areas:
 - a. Any public streets or sidewalks;
 - b. Any private property unless with the consent of the property owner.
 - c. Dogs are not permitted in city parks.

90.03 PERMITTED DOMESTICATED ANIMALS.

- (A) Any person may own, keep, harbor or maintain any domesticated animal that is not susceptible to rabies.
- (B) Any person may own any domesticated animal which is susceptible to rabies if it can be vaccinated for rabies and it has been vaccinated with a vaccine licensed for use specifically for that species of animal. Based on current knowledge, the following animals can be legally vaccinated for rabies: dogs, cats, ferrets, cattle, sheep and horses. However, the latter three are considered livestock and therefore not permitted in the city.
- (C) It shall be unlawful to own, keep, harbor or maintain any domesticated animal which is susceptible to rabies and which has not been vaccinated with an approved vaccine. However, the keeping of chickens shall be permitted in accordance with ordinance 94: Chickens.

Animal Control

90.04 OWNERSHIP LIMITS

- (A) No person shall keep five or more multiple animals over the age of six months within any household in the city. The term “multiple animals” means two or more cats, dogs or ferrets. Notwithstanding any provision to the contract, no person shall keep four or more dogs over the age of six months within any household in the city. For the purposes of this section, the term “household” refers to a single-family residence or single unit of a townhome, condominium, apartment or comparable structure which is rented, leased or used as a single unit. This section shall not be construed to limit the ability of apartment managers, landlords, townhome associations or other representatives of property owners to impose greater restrictions.
- (B) Any person who owned four or more dogs prior to the effective date of the ordinance shall be permitted to keep those animals, provided that those animals resided in that household and have been properly licensed. No person affected by this subsection shall be permitted to acquire any additional dogs or to replace any dogs in excess of three unless specifically authorized by the city council.
- (C) Any person who moves into the city may bring into the city any number of cats, dogs or ferrets that do not exceed the limits identified in this section. The animals must be licensed within 30 days of establishing residence in the city.
- (D) Any person who currently owns cats, dogs or ferrets who becomes a resident of the city by annexation shall be permitted to keep those animals, provided that those animals are licensed withing 30 days following the approval of the annexation. No person affected by this subsection shall be permitted to acquire any additional cats, dogs or ferrets or to replace any cats, dogs or ferrets in excess of the limits established in this section unless specifically authorized by the city council.

90.05 PROHIBITED WILD ANIMALS.

- (A) It shall be unlawful to keep any wild animal within the city limits, except as permitted pursuant to the provisions of this section.
- (B) As used in this section, the term “wild animal” means any animal, 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 characteristics, is inherently dangerous to human beings. Examples of wild animals, without limitation, are:
 - a. Any large cat of the family Felidae, such as lions, tigers, jaguars, leopards, cougars and ocelots, except domestic house cats.
 - b. Any member of the family Canidae, such as wolves, hybrid wolves, coyotes, dingoes and jackals, except domesticated dogs.
 - c. Any crossbreed such as crossbreeds between dogs and coyotes, and dogs and wolves, but does not include crossbred domesticated animals.
 - d. Any poisonous snake, including, but not limited to, rattlesnakes, coral snakes, water moccasins, puff adders or cobras.
 - e. Any skunk, raccoon, fox or animal protected under state or federal wildlife regulations.
 - f. Any bear, ape, monkey in excess of five pounds, or badger.
 - g. Any porcine, including, but not limited to, pot-bellied pigs.

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- h. Any other animal, bird or reptile which is commonly considered wild and not domesticated.
- (C) Exceptions to the definition of the term “wild animal” are:
- a. Nonpoisonous snakes, domesticated birds, hamsters, mice, rabbits, lizards, spiders and other similar small animals capable of being kept in cages, including rats, if purchased from a bona fide pet store;
 - b. Medically prescribed companion animals;
 - c. Wildlife rehabilitators may only possess animals with a state department of natural resources permit. Such animals will be kept in a manner as to not create unsanitary conditions or unreasonable noise;
 - d. Birds and birds of prey if kept pursuant to a valid U.S. Fish and Wildlife Services permit.

90.06 LICENSE REQUIREMENTS.

- (A) It is unlawful for any person to keep, harbor or maintain a dog, cat or ferret over the age of four months unless it is licensed through the city. Licenses are available at city hall; proof of vaccination is required to obtain a license.

90.07 VACCINATION CERTIFICATES, FEES AND ENFORCEMENT; RABIES VACCINATION REQUIRED.

- (A) It is unlawful for any person to keep, harbor, or maintain any animal over the age of four months which is susceptible to rabies unless that animal has a current rabies vaccination or unless otherwise specified by a licensed veterinarian.

90.08 RUNNING AT LARGE.

- (A) *Any animal.* No owner of any animal, whether kept, harbored, or maintained within or without the city, shall permit or suffer such animal to run or move at large at any time within the city. For the purpose of this section, every such animal at large shall be deemed at large with the permission and at the sufferance of its owner, and in the event of a violation of the provisions of this section, it shall be no defense that the offending animal escaped or is otherwise at large without the permission or sufferance of its owner.

90.09 CONDITION OF PREMISES; EXCREMENT.

- (A) *Dog and cat excrement.* It is unlawful for any person who owns or has custody of a dog or cat to cause or permit such animal to defecate on any private property without the consent of the property owner or on any public property, unless such person immediately removes the excrement and places it in a proper receptacle. The provisions of this subsection shall not apply to Seeing-Eye dogs under the control of a blind person.

Animal Control

90.10 BARKING DOGS.

- (A) *Nuisance.* It shall constitute a nuisance and be unlawful if any dog barks, whines, howls, bays, cries or makes any other noise excessively so as to cause annoyance, disturbance or discomfort to any reasonable person of ordinary sensibilities, provided that such noise lasts for a period of more than five minutes continuously or intermittent barking that continues for more the twenty minutes and is plainly audible outside the property limits of where the dog is kept. It shall not be a violation of this section if the dog was barking, crying or making other noise due to harassment or injury to the dog or a trespass occurs upon the premises where the dog is located.
- (B) *Penalty.* A first-time violation of this section shall be deemed a petty misdemeanor.
- (C) *Seizure; noise abatement.* Any police officer or animal control officer may enter onto private property and seize any barking dog, provided that the following conditions exist:
- a. There is an identified complainant other than the police or animal control officer making a contemporaneous complaint about the barking;
 - b. The officer reasonably believes that the barking meets the criteria set forth in subsection (A) of this section;
 - c. The officer can demonstrate that there has been at least one previous complaint of a dog barking at this address on a prior date;
 - d. The officer has made reasonable attempts to contact the owner of the dog or the owner of the property and those attempts have either failed or have been ignored;
 - e. The seizure will not involve forced entry into a private residence. Use of a passkey obtained from a property manager, landlord, innkeeper, or other person authorized to have such a key shall not be considered as forced entry;
 - f. No other less intrusive means to stop the barking is available; and
 - g. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.
- (D) *Disposition of seized animals.* Any dog seized under the provisions of subsection (C) of this section shall be taken to the animal control shelter and kept there to be reclaimed by the owner. No impound fee shall be charged unless circumstances indicate that the owner failed to cooperate with or obstructed an animal control or police officer's attempts to abate the noise through other less intrusive means. The owner shall pay all other fees required under section 90.14. Any dog seized in subsection (C) of this section which is unclaimed may be disposed of according to provision of section 90.15.

90.11 ABUSE/NEGLECT OF ANIMALS.

- (A) *Food.* Animals must be provided with food of sufficient quantity and quality to allow for normal growth and maintenance of body weight.
- (B) *Water.* Animals must be provided with clean, fresh water in sufficient quantity to satisfy the animal's need or supplied by free choice. Snow or ice is not an adequate water supply.

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- (C) *Shelter.* Animals must be provided with shelter at all times during inclement weather. The shelter must be large enough to comfortably accommodate the animal, be windproof and waterproof and contain enough bedding to provide the animal with insulation against the elements. Shade must be provided at all times during the months of May through October.
- (D) *Sanitation.* It shall be unlawful for any person to allow food or water receptacles, kennels, yards or the premises where the animal is kept to be or to remain in an unhealthy, unsanitary, or obnoxious condition or to permit the premises to be in such condition that obnoxious odors can be plainly detected on adjacent public or private property.
- (E) *Enforcement.* An animal control officer or a police officer may issue a citation to the owner of any animal and/or remove any such animal from any premises if the welfare of that animal is threatened due to a violation of this section.
- (F) *Reclaiming neglected animals.* Any animal removed from any premises pursuant to subsection (E) of this section may be reclaimed by the owner within five working days from the time the animal was taken, provided that all conditions for which the animal was removed have been corrected. The owner shall also be liable for payment of all boarding fees to the city and/or veterinarians office. Any animal not reclaimed within the time allowed may be disposed of pursuant to section 90.15.
- (G) *Abandonment.* Any animal left at the animal shelter by the owner, keeper, or caretaker beyond five working days after being notified as required by section 90.13, shall be deemed abandoned and may be disposed of according to section 90.15. The owner shall be liable for payment of all fees and expenses incurred by the city for the care and/or disposal of the animal.

90.12 APPREHENSION OF ANIMALS.

- (A) *Seizure of animals at large.* An animal control officer may apprehend and take possession of any animal at large. Any animal apprehended by an animal control officer may be conveyed to the city animal shelter to be there confined until released or disposed of as hereinafter provided.
- (B) *Seizure of unlicensed or unvaccinated animals.* Any animal control officer or police officer may seize any animal which is not licensed or not vaccinated or the possession of which is prohibited within the city, provided that the officer can demonstrate that the owner or other person in control of such animal has been warned or cited for at least three previous violations of section 90.05 or 90.06. Any animal seized under this subsection shall be taken to the shelter and held according to the provisions of section 90.13. Any other prohibited animal shall be confined by the animal control officer in an appropriately secure place and disposed of according to state law.

Animal Control

90.13 NOTICE OF APPREHENSION.

Within 48 hours after apprehending any properly identified dog or cat, pursuant to section 90.12, the animal control officer shall make reasonable efforts to contact the owner at the address/telephone number which corresponds to the ID tag that is issued by the city when an animal is properly licensed.

90.14 RECLAIMING ANIMALS FROM THE ANIMAL SHELTER.

- (A) Within the time limit set forth in section 90.15, the owner of any animal seized pursuant to this chapter may retrieve the animal from the designated animal shelter, provided the owner first obtains the appropriate license, pays all impound, boarding, and veterinary fees, or any other costs incurred by the city. Additionally, if vaccination is required, the owner must make arrangements to have the animal appropriately vaccinated by a veterinarian. Any owner who fails to comply with these requirements within five working days shall be deemed to have forfeited any property right to the animal and the city may dispose of it pursuant to section 90.15.
- (B) The council may from time to time amend the fees and penalties set forth in subsection (A) of this section by updating the annual fee schedule.

90.15 DISPOSING OF UNCLAIMED ANIMALS.

If any animal apprehended by the animal control unit is not claimed by its owner within five days after the date of apprehension, excluding holidays or other days the animal shelter is closed, the animal control unit shall cause the animal to be destroyed in a humane way or may allow the animal to be adopted by any other interested person over the age of 18 after payment of such fees as may be determined by the council.

90.16 OFFENSES.

- (A) *Generally.* No person shall break open the animal shelter or attempt to do so, or take or attempt to take from an animal control officer or any police officer or any other authorized representative of the city, any animal taken up or apprehended in compliance with this chapter or in any manner intentionally interfere with or hinder such persons in the discharge of their duties under this chapter.
- (B) *Citations for certain violations.* The animal control officer is authorized to issue a citation to any person, firm or entity for any alleged violations of this chapter and any other ordinance or statute which provides the basis for prosecution of violations of this chapter. Nothing within this chapter shall be construed to limit the authority of police officers to enforce any provisions of this chapter or related statutes or ordinances.

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90.17 ANIMAL BITES.

Whenever any animal shall have bitten a person or there is good reason to believe that such animal has bitten a person, such fact shall be reported within 24 hours to the police department and, thereafter, the owner of such animal shall comply with the instructions of said department concerning such animal.

90.18 DANGEROUS DOGS.

- (A) The provisions of Minn. Stats. § 347.50—347.565, relating to the regulations of dangerous dogs, are hereby incorporated by reference and adopted as part of this section. The city council shall act as impartial hearing officers as required by these sections.
- (B) Potentially dangerous dogs shall be regulated under Minn. Stats. §§ 347.50—347.565 the same as if they were dangerous dogs. Notwithstanding the provisions of Minn. Stats. §§ 347.50—347.565, the following provision shall apply:
 - a. The definition of the term “proper enclosure” shall be expanded to include a fenced-in yard that prevents the dog from leaving the property and to which the public cannot gain access;
 - b. The dog owner shall not be required to have the dog sterilized; and
 - c. A surety bond or policy of liability insurance in the amount of \$25,000.00 shall be required if the hearing officers determines the dog is potentially dangerous as a result of biting a human.
- (C) No person shall take a dog that has been declared dangerous or potentially dangerous into the public unless the dog is muzzled and restrained by a substantial chain or leash, and is under the physical restraint of a responsible person.
- (D) The city council may make the final determination whether a dog is considered dangerous or potentially dangerous if a bite occurs while on the dog is on the private property on which it resides, and there are extenuating circumstances.

90.19 QUARANTINE OF UNVACCINATED ANIMAL.

The owner of an animal that inflicts a bite on a human shall provide to the animal control officer evidence that the animal is current on its rabies vaccination. Animal control may seize and hold such animal at a designated animal shelter for a period of not less than ten days if evidence of a current rabies vaccination is not presented or otherwise on record. The animal may be reclaimed by the owner upon payment of impounding and boarding fees. An animal not reclaimed under this section within seven days after quarantine may be disposed of, and the owner is liable to the animal control authority for costs incurred in confining and disposing of the animal.

Animal Control

90.20 RESTRICTIONS.

- (A) *Dog ownership prohibited.* Except as provided in subsection (C) of this section, no person may own a dog if the person:
- a. Has been convicted of a third or subsequent violation of this chapter, or of Minn. Stats. § 347.51, 347.515 or 347.52;
 - b. Has been convicted of violation of Minn. Stats. § 609.205(4);
 - c. Has been convicted of a gross misdemeanor violation of Minn. Stats. § 609.226, subd. 1;
 - d. Has been convicted of a violation of Minn. Stats. § 609.226, subd. 2; or
 - e. Has had a dog destroyed pursuant to Minn. Stats. § 347.56 and:
 - i. Has been convicted of one or more violations of Minn. Stats. § 347.51, 346.515, or 347.52; or
 - ii. Has been convicted of one or more violations of Minn. Stats. § 609.226, sub. 2, or has been convicted of one or more violations of this section.
- (B) *Household members.* If any member of a household is prohibited from owning a dog, as provided in subsection (A) of this section, unless specifically approved in writing with or without restrictions by the animal control officer, no person in the household is permitted to own the dog.
- (C) *Dog ownership prohibition review.* Beginning three years after a conviction under subsection (A) of this section that prohibits a person from owning a dog, and annually thereafter, the person may request that the animal control unit review the prohibition. The animal control unit may consider such facts as the seriousness of the violations that led to the prohibition, any criminal convictions, or other facts that the animal control unit deems appropriate. The animal control unit may rescind the prohibition entirely or rescind it with limitations. The animal control unit also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the animal control unit rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the animal control unit or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the animal control unit may permanently prohibit the person from owning a dog in the city.

90.99 PENALTY.

Any person, firm or corporation violating the provisions of this chapter shall be guilty of a petty misdemeanor, as defined by state law, upon conviction thereof, shall be punished by a fine of not more than an amount as is provided for petty misdemeanors by state law from time to time.
(Ord. 08-1, passed 2-11-2008)

Blooming Prairie – General Regulations

Passed by the City Council of Blooming Prairie, Minnesota this 13th day of June, 2022.

Mayor

Attested:

City Administrator

Animal Control

Blooming Prairie – General Regulations

Animal Control

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CHAPTER 94: CHICKENS

- 94.01 Purpose and Intent
- 94.02 Limitation on Number Allowed to Keep
- 94.03 Definitions
- 94.04 Permit
- 94.05 Confinement
- 94.06 Requirements for Chicken Coops and Runs
- 94.07 Conditions
- 94.99 Penalty

94.01 PURPOSE AND INTENT.

It is recognized that the ability to cultivate one's own food is a sustainable activity that can also be a rewarding past time. Therefore, it is the purpose and intent of this ordinance to permit the keeping and maintenance of chicken hens for eggs and a meat source in a clean and sanitary manner that is not a nuisance to or detrimental to the public health, safety, and welfare of the community.

94.02 LIMITATION ON NUMBER ALLOWED TO KEEP.

- (A) It is unlawful for any person to keep or harbor chickens on any premises unless issued a permit to do so as provided in this ordinance or except as specifically allowed under law. Except as provided in subsection (B) of this section, no permit shall be issued for the keeping or harboring of more than four (4) hen chickens on any premises. No permit shall be issued for the keeping of any rooster on any premises.
- (B) A permit may be issued for the keeping and harboring up to twelve (12) hen chickens if the applicant is involved in educational or instructional activity, and the need for the greater number of chickens is directly related to the education or instructional activity.

94.03 DEFINITIONS.

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

- (A) Chicken Coop. A structure for housing chickens made of wood or other similar materials that provides shelter from the elements.
- (B) Chicken Run. Means an enclosed outside yard for keeping chickens.
- (C) Premises. Any platted lot or group of contiguous lots, parcels or tracts of land.

94.04 PERMIT.

No person shall maintain a chicken coop and run unless they have been granted a permit. The permit shall be subject to all terms and conditions of this ordinance and any additional conditions deemed necessary by the council to protect the health, safety and welfare of the community. The necessary permit applications are available in the city administration office. Included with the completed application must be a scaled diagram that indicates approximate size and location of any chicken coop and run and the distance from nearby structures and property lines. A permit for the keeping of chickens may be revoked or suspended by the council for any violation of this chapter following written notice and a public hearing. The fee for a permit shall be established as part of the fee schedule adopted by the city council. Issued permits will be valid until December 31 of the given year.

This ordinance shall not be construed to limit the ability of apartment managers, landlords, townhome associations or other representatives of property owners to impose greater restrictions.

94.05 CONFINEMENT.

Every person who owns, controls, keeps, maintains or harbors hen chickens must keep them confined at all times while in the city in a chicken coop and chicken run.

94.06 REQUIREMENTS FOR CHICKEN COOPS AND RUNS.

- (A) Chicken coops and runs must be as follows:
 - a. Chicken coops be must located at least 25 feet from any dwelling on any premises.
 - b. Chicken coops and runs are prohibited in the front yard.
 - c. Chicken coops must meet the accessory structure setback requirements.
 - d. Chicken runs must follow fence setback requirements.
 - e. Chicken coops must meet the requirements of the building and zoning codes, must not exceed ten (10) square feet per chicken and must not exceed six (6) feet in total height.
 - f. Attached fenced-in chicken runs must not exceed 20 square feet per chicken and must not exceed six (6) feet in total height.

Chickens

- g. Chicken runs shall be enclosed with wood and/or woven wire materials, and allow chickens to contact the ground.
- h. Chicken coops must be elevated with a clear open space of at least one (1) foot between the ground surface and framing/floor of the coop; or
- i. The coop floor, foundation and footings must be constructed using rodent-resistant concrete construction.

94.07 CONDITIONS.

- (A) No person who owns, keeps or harbors hen chickens shall permit the premises where the hen chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. Any chicken coop and run authorized by permit under this chapter may be inspected at any reasonable time by a city animal control officer or other agent of the city.
- (B) Each owner holding a license to keep chickens within the city shall comply with the following:
 - a. No person shall keep chickens inside the dwelling or an attached or detached garage.
 - b. No person shall slaughter any chickens outdoors.
 - c. Chickens shall not be raised or kept for fighting. Cockfighting is prohibited.
 - d. Chicken feed and manure must be kept in rodent-proof and pest-proof containers and must not be placed in yard compost piles.
 - e. Dead chickens shall be disposed of according to the Minnesota Board of Animal Health rules, which require chicken carcasses to be disposed of as soon as possible after death, usually within 48-72 hours. Legal forms of chicken carcass disposal include offsite burial, offsite incineration or rendering, or offsite composting.

94.99 PENALTY.

Any person, firm or corporation violating the provisions of this chapter shall be guilty of a petty misdemeanor, as defined by state law, upon conviction thereof, shall be punished by a fine of not more than an amount as is provided for petty misdemeanors by state law from time to time.

Passed by the City Council of Blooming Prairie, Minnesota this 13th day of June, 2022.

Mayor

Attested:

City Administrator

Chickens