

100 - General Provisions

101. City Code

101.01. City Code.

Subdivision 1. How Cited. This code of ordinances shall be known as The Proctor City Code and may be so cited.

Subd. 2. Additions. New ordinances proposing amendments or additions to the Code shall be assigned appropriate code numbers and shall be incorporated into the Code as of their effective date. Reference or citation to the Code shall be deemed to include such amendments and additions. When an ordinance is integrated into the Code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions of items identical to those contained in this ordinance, the clause indicating date of adoption, and validating signatures and dates. In integrating ordinances into the Code, the Clerk-Treasurer, in cooperation with the City Attorney, may correct obvious grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, articles, and chapters; substitute figures for written words and vice versa; substitute dates for the words "the effective date of this ordinance;" and perform like actions to insure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted.

Subd. 3. Numbering. Each section number of this Code consists of two component parts separated by a decimal. The first digit of the number refers to the chapter number, and the digits after the period refer to the position of the section within the chapter. If the chapter is divided into parts, the figure immediately to the left of the decimal corresponds to the part number.

Subd. 4. Title Headings; Cross References. Chapter, part, section, subdivision, and other titles shall not be considered part of the subject matter of this case but are intended for convenience only and not necessarily as comprehensive titles.

Subd. 5. Copies. Copies of this Code shall be kept in the office of the Clerk-Treasurer for public inspection or sale for a reasonable charge, as determined by the Council.

101.02. Definitions. Unless the context clearly indicates otherwise, the following words have the meaning given them in this section.

Subdivision 1. City. "City" means City of Proctor.

Subd. 2. State. "State" means State of Minnesota.

Subd. 3. Clerk-Treasurer. "Clerk-Treasurer" means the Clerk-Treasurer of the City of Proctor.

Subd. 4. Person. "Person" means any natural individual, firm, partnership, association, or corporation. As applied to partnerships or associations, the term includes the partners or members; as applied to corporations the term includes the officers, agents, or employees.

Subd. 5. Code. "Code" means the Proctor City Code.

101.03. Statutory Rules Adopted. The definitions and rules of construction, presumptions, and miscellaneous provisions pertaining to construction contained in Minnesota Statutes, Chapter 645, are adopted by reference and made a part of this Code. As so adopted, references in that chapter to laws and statutes mean provisions of this Code and references to the legislature mean the Council.

101.04 Existing Rights and Liabilities. The repeal of prior ordinances and adoption of this Code are not to be construed to affect in any manner rights and liabilities existing at the time of repeal and the enactment of this Code. Insofar as provisions in this Code are substantially the same as pre-existing ordinances, they shall be considered as continuations thereof and not as new enactments. Any act done, offense committed, or right accruing, or liability, penalty, forfeiture or punishment incurred or assessed prior to the effective date of this Code is not affected by the enactment of this Code.

101.05. Hearings.

Subdivision 1. General. Unless otherwise provided in this Code, or by law, every public hearing required by law, ordinance, or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this section.

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Subd. 2. Notice. Every hearing shall be preceded by ten (10) days' mailed notice to all persons entitled thereto by law, ordinance, or regulation unless only published notice is required. The notice shall state the time, place, and purpose of the hearing. Failure to give the notice or defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this subdivision.

Subd. 3. Conduct of Hearing. At the hearing, each party in interest shall have an opportunity to be heard and to present such evidence as is relevant to the proceeding. The Council may adopt rules governing the conduct of hearings, records to be made, and such other matters as it deems necessary.

Subd. 4. Record. upon the disposition of any matter after hearing, the Council shall have prepared a written summary of its findings and decisions and enter the summary in the official Council minutes.

101.06. Penalties.

Subdivision 1. Petty Offenses or Petty Misdemeanors. Unless otherwise indicated, violations of the provisions of this Code by act or omission shall constitute a petty offense or petty misdemeanor punishable by a fine of not more than \$100.00 upon conviction.

Subd. 2. Misdemeanors. Acts or omissions designated to be misdemeanors under the provisions of this Code are subject to the applicable penalty afforded misdemeanors under state law.

Subd. 3. Separate Violations. Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.

Subd. 4. Application to City Personnel. 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 violation unless a penalty is specifically provided for such failure.

Subd. 5. Separability. If any ordinance or part thereof in the Proctor City Code or hereafter enacted is held invalid or suspended, such invalidity or suspension shall not apply to any other part of the ordinance or any other ordinance unless it is specifically provided otherwise.

PROCTOR CITY CODE

200 - Council and Administration

201. The Council

201.01. Meetings.

Subdivision 1. Time and Place. Regular meetings of the Council shall be held on the first and third Mondays of each calendar month at such time that the Council, by resolution, shall fix. Any regular meetings falling upon a holiday shall be held on the following business day at the same time and place. All meetings including regular, special and recessed meetings shall be held in the City Hall except that the Council may hold any such meeting at other facilities appropriate for such meetings provided 48 hours posted notice of the location of such meetings appears in the City Hall of the City of Proctor prior to any meeting.

The Council may, upon such notice as set forth in this section, also hold regular and special meetings at times other than as set forth above.

Subd. 2. Special Meetings. Special meetings of the Council may be called by the Mayor or by any two members of the Council by writing, filed with the Clerk. At least one day before the meeting, the Clerk shall notify each member of the time, place, and purpose of the meeting by causing written notice thereof to be mailed or delivered to him personally if he can be found, or, if he cannot be found, by leaving a copy at the home of the member with some person of suitable age and discretion. Any special meeting attended by all Council members shall be a valid meeting for the transaction of any business that may come before the meeting.

The provisions regarding notice set forth in subd. 1 shall apply to all special meetings not held in City Hall.

Subd. 3. First Meeting. At the first regular Council meeting in January of each year the Council shall (1) designate the depository of City funds; (2) designate the official newspaper; (3) choose an acting mayor from the Council who shall perform the duties of the Mayor during the disability or absence of the Mayor from the City or, in case of vacancy in office of Mayor, until a successor has been appointed and qualified; (4) appoint such officers and employees and such members of boards, commissions, and committees as may be necessary.

The provisions regarding notice set forth at subd. 1 shall apply to all special meetings not held in City Hall.

Subd. 4. Open Meetings. All Council meetings, including special and adjourned meetings, shall be open to the public except as may be otherwise provided by law.

201.02. Mayor.

Subdivision 1. Presiding Officer. The Mayor shall preside at all meetings of the Council. In the absence of the Mayor, the Acting Mayor shall preside. In the absence of both, the Clerk shall call the meeting to order and shall preside until the Council members present at the meeting choose one of their number to act temporarily as presiding officer.

Subd. 2. Duties of Presiding Officer. The presiding officer shall preserve order, enforce the rules of procedure herein prescribed, and determine without debate, subject to the final decision of the Council on appeal, all questions of procedure and order. Except as otherwise provided by statute or by these rules, the proceedings of the Council shall be conducted in accordance with Robert's Rules of Order, Revised.

Subd. 3. Appeals. Any member may appeal to the Council from a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain this ruling, but no other Council member shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present, exclusive of the presiding officer.

Subd. 4. Participation in Meetings. Except as otherwise provided by law or this Ordinance, the presiding officer shall not be deprived of any of the privileges of a Council member by reason of his acting as presiding officer, including the power to move, second, and debate from the chair.

201.03. Minutes.

Subdivision 1. Recording. Minutes of each Council meeting shall be kept by the Clerk or, in his or her absence, by the Deputy Clerk. In the absence of both, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions and claims shall be recorded in full in the minutes.

Subd. 2. Approval and Publication. The minutes of each meeting shall be reduced to typewritten form, shall be signed by the Clerk, and published in the official newspaper. At the next regular Council meeting, approval of the minutes shall be considered by the Council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the Council. If there is an objection, the Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

201.04. Agenda.

Subdivision 1. Order of Business. Each meeting of the Council shall convene at the time and place appointed therefore. Council business shall be conducted in the following order:

- (1) Call to order, to be scheduled pursuant to §201.01, subd. 1 at 6:00 p.m. of the first and third Mondays, or as noted in said section.
- (2) Roll Call.
- (3) Approval of Minutes.
- (4) Approval of Agenda.
 - A. Communications.
 - B. Planning and zoning.
 - C. Clerk advises Council.
 - D. Comments and suggestions from citizens present; to be held at 8:00 p.m. on each Council meeting night, schedule allowing.
 - E. Committee reports; to be held at 8:30 p.m. on each Council meeting night.
 - F. Unfinished business.

- G. New business.
- H. Bills for approval.
- I. Liquor bills for approval.
- J. Adjournment.

Subd. 2. Variation of Order. The order of business may be varied by presiding officer; but all public hearings shall be held at the time specified in the notice of hearing.

Subd. 3. Written Agenda. An agenda of the business and claims for each regular Council meeting shall be prepared by the Clerk for said meeting. Any Council member wishing an item to be placed on the agenda to be considered by the Council must have it filed in the office of the City Clerk prior to the regular Council meeting. Any other person wishing an item to be placed on the agenda to be considered by the Council must provide a letter to the City Clerk setting forth his or her request prior to the regular Council meeting or must have a Council member place his or her matter on the agenda in accordance with the above rules.

Subd. 4. Additions. By majority vote of the members of the Council in attendance at the regular scheduled meeting, additional business may be added to the agenda for consideration at the meeting in session.

201.05. Quorum and Voting.

Subdivision 1. Quorum. At all Council meetings a majority of the Council members elected shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time.

Subd. 2. Recording of Votes. The votes of members on any question pending before the Council may be by voice vote, standing vote, or in any other manner of voting which signifies the intention of the members; but if the vote is not unanimous there shall be a roll call, and the names of those voting for and against the question shall be recorded in the minutes. If any member, being present, does not vote, the minutes, as to his name, shall be marked "Present not voting."

Subd. 3. Majority of Passage. A majority vote of all members of the Council shall be necessary for approval of any ordinance. Except as otherwise provided by statute, a majority of those voting shall prevail in all other cases.

201.06. Ordinances, Resolutions and Motions.

Subdivision 1. Ordinances, Resolutions and Motions.

- A. Every proposed ordinance, repeal of an ordinance or amendment to an existing ordinance shall be presented in writing to the City Council at two separate Council meetings where said ordinance or amendment shall be read in full. A vote of the City Council may be taken relative to said ordinance or amendment upon completion of the second reading.
- B. Every resolution shall be presented in writing and shall be read in full before a vote is taken thereon, but no second reading of resolutions.
- C. All motions shall be stated in full before they are submitted to a vote by the presiding officer. They shall be recorded by title in the minutes by the Clerk.

Subd. 2. Recording. Every ordinance and resolution passed by the Council shall be signed by the mayor and attested by the Clerk. Every ordinance shall be incorporated into the text or appendices of the Code with the original passed version of the ordinance retained in an ordinance book in chronological order. Every resolution shall be filed in the resolution book.

Subd. 3. Amendments and Repeals. Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision thereof shall give the title of the ordinance or resolution to be repealed in whole or in part. No ordinance or resolution or section or subdivision thereof shall be amended by reference to title alone, but such an amending ordinance or resolution shall set forth in full each section or subdivision to be amended. (See Appendix I for form.)

201.07. Committees.

Subdivision 1. Standing Committees. That there shall be nine standing committees of the City Council, namely: streets; liquor control; Parks and Recreation; Beautification and Trees; public safety; cable television; Infiltration & Inflow; Tourism; and trust fund board. That each of said committees except the trust fund board, said board being governed by the ordinance establishing the fund, shall consist of one Council member and two non-council members (or more as the committee shall so decide), and said committee members shall be appointed by such Council at the first meeting of each year. Any subject considered by said committees shall be presented to the Council with their recommendations for the Council's consideration.

Subd. 1a. Regulation of Cable Television Rates. The City Council delegates to the Cable Television Committee the ability to review proposed basic cable television rates submitted by the cable franchise holder operating within the City and to recommend to the Council the regulation of the rate to be charged in accordance with all requisite statutes and rules. The City shall follow rules relating to cable rate regulation promulgated by the Federal Communications Commission in 47 C.F.R. Part 76.900, subpart N.

Subd. 1b. Use of Lodging Tax Proceeds. Ten percent (10%) of the proceeds obtained from collection of lodging taxes shall be used in accordance with Minn. Stat. Sec. 469.190, as the same may be amended from time to time, to provide funding for the preservation, display and interpretation of tourist attractions, including but not limited to the Mallet, Caboose and Jet Fighter plane located within Proctor. The remaining balance of the proceeds obtained from the collection of such taxes shall be used in accordance with Minn. Stat. Sec. 469.190 as the same may be amended from time to time to provide funding to the Tourism Committee for the purpose of marketing and promoting Proctor.

Subd. 2. Special Committees. The presiding officer of said Council at his discretion may refer certain problems falling outside of the jurisdiction of the aforementioned committees to special committees appointed by him and confirmed by the Council. Said committees shall consist of at least one Council member. The reports of said special committees and their recommendations shall be forwarded to the full Council for their consideration.

Subd. 3. Personnel Committees. There shall be established for the City Council and the Proctor Public Utilities Commission two Personnel Committees which shall be standing committees of each body.

- A. Council Personnel Committee. The City Council shall, by majority vote of its members, select a member of the Council (to include the Mayor) to be the City Council's representative on the City Council Personnel Committee, which shall be a special standing committee. The term of the Council member on the Personnel Committee shall be one year, and there shall be no prohibition against successive terms on the committee by the same Council member. Provided, that the Councilor so elected shall not be an employee of the City, any of its departments or subdivisions, or the Proctor Public Utilities Commission. In addition to one member of the City Council, the Personnel Committee shall include the City Administrator and the City Attorney for a total of three members.
- B. Public Utilities Commission (PUC) Personnel Committee. The PUC shall, by majority vote of its members, select one member of the PUC to be the PUC's representative on the PUC Personnel Committee, which shall be a special standing committee. The term of the PUC member on the Committee shall be one year, and there shall be no prohibition against successive terms on the

committee by the same PUC Commissioner. Provided, that the Commissioner so elected shall not be an employee of the City, any of its departments or subdivisions, or the PUC. In addition to one Commissioner, the PUC Personnel Committee shall include the City Administrator and the City Attorney for a total of three members.

C. Duties of Personnel Committees. It shall be the duty of each of the respective Personnel Committees to perform the following functions and duties:

- (I) Prior to the discussion of any complaint regarding an employee of the City or the PUC at a closed or open meeting of the public body employing said employee, the complaint, allegation, or charge regarding that employee shall be processed in accordance with the enacted policies and procedures of the respective employer.
- (ii) Once a complaint, allegation, or charge has been properly processed through the administrative policies and procedures, the complaint shall be reduced to writing and provided to the members of the appropriate Personnel Committee. The Committee shall meet and review the complaint, allegation, or charge and if necessary, conduct any further investigation needed to determine the factual basis for the complaint, allegation, or charge. If the complaint, allegation, or charge involves either the PUC Commissioner, City Attorney, or the City Administrator, those members of the respective Personnel Committee shall be removed from the Committee and replaced with a member of the Police Civil Service Commission, who shall serve as a member of the Committee.
- (iii) Upon conclusion of the Committee's consideration of the complaint, allegation, or charge in question, the Committee shall forward a written report of its findings to either the PUC or the Council for its review. If, upon review of the report, the PUC or Council determines that further action in the form of discipline is warranted, the PUC or Council shall notify the involved employee in writing that discipline is being considered and will be discussed at the next meeting of the involved body. A copy of the letter shall be mailed to the employee's designated representative and to the City's labor attorney.
- (iv) The letter to the employee shall also state that, with the exception of supervisory personnel, consideration of discipline may be done at an open or closed meeting, at the employee's option. If the employee indicates he/she desires the meeting to be open, the body charged with discipline shall keep the meeting open. If the employee expresses no preference or desires the meeting closed, it shall be closed.
- (v) In considering methods of discipline, the PUC and/or the Council shall follow the disciplinary process and procedures set forth in the union bargaining agreements,

if applicable, or the policies and procedures enacted by the City or the PUC. Upon majority vote of the appropriate body, the employee may be disciplined as designated by the body.

- (vi) The Personnel Committees shall attempt to identify any and all pertinent issues, to include Veteran's Preference status of employees involved in the discipline process.

D. Applicability to Police. The process of discipline set forth in this Ordinance shall not be applicable to police officers employed by the City of Proctor. Discipline of those employees shall be through the Police Civil Service Commission.

201.08. Amendment of Suspension of Rules.

The rules for the conduct of Council meetings established by §201.02 through §201.08 may be temporarily suspended by a majority vote of all Council members. §201.01 through §201.08 shall not be repealed or amended except by majority vote of the whole Council after notice has been given at some preceding Council meeting.

202.01 Council Salaries.

Subdivision 1. Councilors.

(a) The salary of the City Councilors shall be \$2,400.00 per year, payable in equal installments in accordance with the City's normal payroll schedule. For purposes of this Ordinance, the salaries, compensation for attending regularly scheduled meetings of the City Council including agenda items and fulfilling the duties and obligations of the office as prescribed by the City Code and statutes of the State of Minnesota.

(b) A member of the City Council may be excused from attendance up to four regularly scheduled City Council meetings annually for reasons of illness or absence from the community. For additional absences from regularly scheduled City Council meetings, the compensation provided herein shall be reduced by \$50.00 per occurrence.

Subd. 2. Mayor. The salary of the mayor shall be \$3,600.00 per year, payable in equal installments in accordance with the City's normal payroll schedule.

Subd. 3. Commissioners' Salaries.

(a) Members of the Planning Commission, whether serving as members of the Commission, Board of Adjustment, Building Code Board of Appeals, or the Design Review Board, shall receive a salary as determined by resolution of the City Council.

(b) Members of the Proctor Public Utilities Commission and the Planning and Zoning Commission shall receive a salary as determined by resolution of the City Council.

(c) Members of the Proctor Economic Development Authority shall receive compensation as determined by resolution of the City Council.

(d) Members of the Police Civil Service Commission shall receive compensation as determined by resolution of the City Council.

(e) Members of the Cable Television Commission shall receive compensation as determined by resolution of the City Council.

Subd. 4. Committee Members' Reimbursement.

Members of committees shall receive compensation as determined by resolution of the City Council. This subdivision shall not apply to City employees, members of the Planning and Zoning Commissioner the Proctor Public Utilities Commission.

202.02. Annual Military Training. Repealed.

202.03. Conflicts of Interest.

Subdivision 1. Purpose: The City Council of Proctor does find that by setting forth those acts or actions by Council members, members of any board, or their employees which it deems incompatible with the best interest of the City, the public good will be served and the faith and confidence of the citizens in their government will be promoted. The Council, with these hopes, passes this ordinance. As used herein, the term "Board" includes any and all boards, committees, or commissions of the City, to include the Proctor Public Utilities Commission.

Subdivision 2. Rules of Conduct.

(a) No Council member, member of any board, or employee shall use his position to secure special privilege, or exemptions for himself or others.

(b) No Council member, member of any board, or employee in any matter before the Council or board, which affects his financial interest or those of a

business with which he is associated, unless the effect on him is no greater than that of other members of his business classification, profession, or occupation, shall fail to disclose for the record such interest prior to any discussion or vote.

(c) No Council member, member of any board, or employee shall receive any compensation, gift, reward, or gratuity in any matter connected with the duties of his office except as provided by law.

(d) No Council member, member of any board, or employee shall request or permit the use of City owned vehicles, equipment, machinery, or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such public officials or employee in the conduct of official business.

(e) No Council member, member of any board, or employee shall engage in any business or transaction or shall have a financial interest, which is incompatible with the proper discharge of his official duties in the public interest or would tend to impair his independence or judgment or action in the performance of his official duties. Specific conflicts of interest are, but shall not be limited to, the following:

(1) Incompatible employment -- holding a position in addition to a public position which interferes, or may interfere, with the proper discharge of the public duty.

(2) Participation in transactions as a public representative with a business entity in which the public official or employee has a direct or indirect financial interest without full disclosure.

(3) Entry into contracts or other conduct of business for profit by a business in which a public official or employee has a substantial or controlling interest, especially when the public official or employee can influence such contract or business because of his public position.

(f) City Council shall determine if any outside employment by its employees is compatible or incompatible with his public position. No employee shall hold a position which the City Council deems incompatible with his public position. "Employment" is defined for the purpose of this ordinance as any position or obligation held or taken for financial or other gain, and shall include to full-time work, part-time work, salaried positions, hourly rate positions, contract work or subcontract work whether it be continuing employment as a one time transaction or obligation. The Proctor Public Utilities Commission shall make the same determinations relative to its employees.

(g) All employees, members of any board, or City Councilors shall maintain and hold confidential all information disclosed at closed meetings of the Council or any other board or commission of the City.

Subdivision 3. The Rules of Conduct herein shall apply to all employees of the City or its utility, to include the mayor, City Council members, and commissioners of the Public Utilities Commission.

202A. Proctor Clean Air Ordinance

202A.01. Scope and Intent.

Pursuant to and in recognition of the purpose of Minnesota Statute §144.412, the Minnesota Clean Air Act, the City Proctor and its Utility desire to make the property owned and maintained by the City, including its liquor store, and its Utility, tobacco free wherever possible.

202A.02. Tobacco Products Prohibited.

No smoking or use of any tobacco-based products, to include pipes, cigars, cigarettes, snuff, or similar substances, shall be permitted at any time upon any building owned, operated, leased, or maintained by the City or within any entity thereof, to include its Utility.

This prohibition shall include the smoking or use of any tobacco-based product within any motor vehicle owned, operated, leased, or maintained by the City or any entity thereof, to include its Utility.

202A.03. Tobacco Products Prohibited - Locations.

No smoking or use of any tobacco products, as set forth above at subd. 2, shall be permitted at any time within City Hall or the Proctor Public Utility building. Provided, the City Council may, by motion, permit smoking only in designated smoking areas within said buildings. At no time shall the City Council chambers, Public Utility Commission chambers, or the main floor offices of the City Hall be designated to permit smoking. Except that the office of the City Administrator, at the discretion of the Council, may be designated as a smoking area within City Hall.

This prohibition shall include all areas of City Hall and the Public Utility building unless otherwise excepted by motion of the City Council.

202A.04. Signage.

The City shall conspicuously post signs indicating those areas designated as smoking or non-smoking in accordance with state law.

202A.05. Future Intent.

It is the intent of this Ordinance to provide for future regulation of the use of tobacco upon other properties owned and maintained by the City of Proctor with the eventual result of designating all City property to be tobacco free.

203. Clerk-Treasurer

203.01. Offices Combined. Pursuant to Minnesota Statute 412.591, effective January 1, 1970, the offices and duties of Clerk and Treasurer are combined into one office to be known as the Clerk-Treasurer. The Clerk-Treasurer shall perform all duties assigned by statute or this Code to the Clerk or Treasurer.

203.02. Annual Audit. The Council shall provide for an annual audit of the City's financial affairs by the State Auditor or a public accountant in accordance with the minimum auditing procedures prescribed by the State Auditor.

204. Personnel Policy

204.01. Scope of Ordinance.

Subdivision 1. Personnel Covered. Except as otherwise specifically provided, this Ordinance applies to all employees of the City and the Proctor Public Utilities Commission (PUC) except:

- A. All elective officials.
- B. City Administrator.
- C. The City Attorney.
- D. Members of the City boards, commissions and committees.
- E. Volunteer firefighters and other volunteer personnel.
- F. Emergency employees.

G. Other employees not regularly employed in a permanent position.

Subd. 2. Union Contracts. Any employee included in a collective bargaining agreement entered into in accordance with the Public Employment Labor Relations Act, M.S. §179.61 to §179.76, shall be exempt from any provision of §204 which is inconsistent with such agreement. Any employee within the jurisdiction of a personnel board or civil service commission established under Minnesota Statutes, Chapters 44, 419, or 420, is exempt from any provision of this part which is inconsistent with such statute or rules and regulations adopted thereunder. Nothing in this part is intended to modify or supersede any provision of the Veterans' Preference Act, M.S. §197.45 to §197.481.

Subd. 3. Other Contract Employees. Any employee subject to a written contract of employment with the City or any of its commissions or departments other than as referenced at subd. 2 herein shall be bound by the specific terms and conditions of the written contract. Provided, where the written contract is silent with respect to a procedure, benefit, or duty addressed by the terms of this Ordinance, this Ordinance shall apply and be given the same effect as if it were incorporated into the written contract.

204.02. Appointments. Every appointment to municipal service shall be made by the Council on the basis of merit and fitness for the position. When required by law or by the Council, merit and fitness shall be ascertained by written, oral, or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held.

204.03. Probationary Period.

Subdivision 1. Purpose. The probationary period is an integral part of the selection process and shall be utilized for observing the employee's work, for securing the most effective adjustment of the employee to the position, and for rejecting any employee whose performance does not meet the required work standards.

Subd. 2. Duration. Every original appointment and every promotional appointment is subject to a probationary period of ninety (90) days after appointment.

Subd. 3. Completion. An employee who has completed the period of probationary service and who has not received, before completion of that period, a written notice from the department head that his services are terminated shall be considered to have successfully completed the probationary period and attained the status of a permanent employee.

204.04. Termination. The Council may terminate an employee covered under this policy at any time by written notice, and said employee shall not have the right to appeal unless he is a veteran, in which case the procedure prescribed by M.S. §197.46 shall be followed.

204.05. Work Hours.

Subdivision 1. Normal Work Day. The normal hours of work shall be as determined by resolution of the City Council. All hours worked in excess of the normal workday or workweek shall be compensated for at one and one-half times the regular rate of pay. All paid holidays shall be considered as days worked in the computation of overtime. No employee shall be allowed to accrue and/or use compensatory time in lieu of paid overtime unless the same is authorized by separate written contract or bargaining agreement.

Subd. 2. Compensation for Non-Scheduled Hours. All employees who are called out for service when off of work shall receive a minimum of two hours pay for returning to service. Any employee reporting for work without previously being notified not to report, who is subsequently sent home, shall receive a minimum of two hours pay. Any hours paid pursuant to this subdivision which are in excess of the work hours set forth above at subd. 1 of this section shall be paid at the overtime rate.

Subd. 3. Part Time/Full-Time Designation.

A. Seasonal Workers.

All employees hired by the City with the expectation that the employee will work full-time (35 hours or more per week) for a minimum of 32 weeks shall be considered seasonal workers and be defined as such.

B. Other Employees.

Other employees working 35 hours or more per week are considered to be full-time employees unless hired on a temporary basis. Employees working less than 35 hours a week are considered part-time employees for purposes of this chapter. Both full-time and part-time employees are considered regular employees for purposes of benefits under this chapter.

204.06. Compensation.

Subdivision 1. Amount. Employees of the City shall be compensated according to the schedule established by the City Council. Any wage or salary so established is the total remuneration for employment but shall not be considered as reimbursement for official travel or

other expenses which may be allowed for the conduct of official business. Unless approved by the Council, no employee shall receive pay from the City in addition to the salary authorized for the position or positions to which he has been appointed.

Subd. 2. Temporary and Part-Time Employees. Whenever an employee works for a period of less than the regularly established number of hours a day, days a week, or weeks a month, the amount paid shall bear the same relationship to the full-time rate for the position as the time actually worked bears to the time required for full-time service. Temporary employees are those employed by the City or its agencies with the express or implied understanding that the position occupied by said employees are to be of a limited duration in nature.

Subd. 3. Travel Policy. Any City employees, to include any elected official of the City, any appointed official of any City Council committee or commission, and employees of the Public Utilities Commission, who incurs travel and related expense while engaged in activities directly required by his or her position with the City, shall be entitled to reimbursement of said expenses as follows:

- A. For meal costs incurred, the maximum per diem reimbursement shall be \$25.00.
- B. For lodging costs incurred, the maximum per diem reimbursement shall be \$125.00 unless otherwise authorized by the City Council.
- C. For travel costs incurred with the employee's private vehicle, the employee shall be entitled to the current maximum rate permitted under the Internal Revenue Code. If the employee is authorized by the City Council to use a City vehicle for travel, the actual costs of fuel and necessary vehicle care incurred during the travel shall be reimbursable. If other methods of transportation are authorized by the City Council, the actual costs of said transportation shall be reimbursable.
- D. All travel expenses for which reimbursement is requested shall be documented in writing by the affected employee.
- E. In situations where the employee requires an advance of anticipated travel expenses, the request for such an advance shall be submitted to the City Council for approval if the total amount of the advance exceeds \$200.00. All advances requested in an amount equal to or less than \$200.00 may be approved by the City Administrator.
- F. All travel expenses allowed pursuant to Clause E. above shall be subject to the documentation requirements of Clause D. Any unused advance shall be repaid to the City within ten (10) days of completion of the travel.

204.07. Vacation.

Subdivision 1. Amount. Subject to the provisions hereof, each eligible employee who has completed the specified hours of work shall receive an annual vacation with pay corresponding to the length of service as shown in the following table:

After one year of continuous service, one week of vacation will be paid.

After two years of continuous service, two weeks of vacation will be paid.

After six years of continuous service, three weeks of vacation will be paid.

After fifteen years of continuous service, four weeks of vacation will be paid.

Subd. 2. Scheduling. Vacations are to be taken at such time as agreed upon by the City Council or Council representative. Except as otherwise provided in a union contract, all vacation must be taken by December 31 of the year following the year of service, or it is forfeited.

Subd. 3. Splitting Vacations. The vacation period of any employee shall not be split except by mutual agreement between the employer and employee.

Subd. 4. Termination. Upon termination of employment by any cause, employees shall be paid for any accumulated vacation credit, including pro-rated payments for periods of less than one year.

Subd. 5. Part-Time Employees. Each employee who works less than the regularly established number of hours per day, days per week, or weeks per month, shall receive vacation in the same proportion to the amounts established in subd. 1 as the time actually worked bears to the time required for full-time service.

Subd. 6. Temporary Employees. Temporary employees are not entitled to vacation pay.

Subd. 7. Seasonal Workers. Those employees defined as seasonal workers pursuant to this chapter shall be entitled to two hours of vacation per pay period. Seasonal workers may utilize their accumulated vacation only after 16 weeks of continuous service. The vacation must be scheduled with the City Administrator to prevent the disruption of the seasonal work in progress. If the vacation time is not taken prior to the end of the seasonal worker's employment, it will be forfeited.

204.08. Sick Leave.

Subdivision 1. Definition. Sick leave is defined to mean the absence of an employee because of injury, illness, childbirth or pregnancy disability, exposure to contagious diseases, or attendance of such employee upon a member of his immediate family requiring the care or attendance of such employee.

Subd. 2. Accumulation. All regular employees shall earn sick leave at the rate of one and one-half working days for each month of service accumulative to 120 working days a year. Each full month of service shall be construed as 173.3 hours.

Subd. 3. Physical Examination. The City Council and/or the Proctor Public Utilities Commission (PUC) may require any employee who has been absent for three or more consecutive days of work or five or more days in any calendar year due to illness or injury provide a detailed written medical excuse from the employee's physician.

In addition, if an employee is absent due to illness or injury for more than 21 days in a calendar year, the City and/or the PUC may require the employee to attend a medical exam at a physician of the employer's choice.

Subd. 4. Workers' Compensation. If a regular employee shall receive a compensable injury and have accrued benefits under either sick leave or vacation programs, the employer shall pay the difference between the Workers' Compensation received by the employee and his regular monthly or yearly rate of pay, the same to be deducted from said accrued vacation or sick leave benefit. The Council will provide for the payment described in this section during the period of disability. It is understood that the additional payments made to the employee over and above that paid to Workers' Compensation shall not exceed the amount of credits which an employee is entitled to from such accrued vacation or sick leave benefit. To assure that there will be no doubling up of sick leave, vacation pay, and Workers' Compensation, the City's Workers' Compensation insurance carrier will be required to make checks for such compensation payable to the City and to the employee and mail said check to the City. The City

Clerk will contact the employee to determine whether or not the employee was unable to return to work because of the compensable injury. The City Clerk will endorse the check over to the employee and will properly deliver it to him.

Subd. 5. Leave of Absence. After the employee has used all of his accumulated sick leave, he shall be granted a leave of absence without pay not to exceed six months without having his name removed from the payroll. After the six month period has expired, the Council may review the case and, in its discretion, determine whether any further leave shall be granted. That total amount of such unpaid leave shall not exceed two years. A doctor's report shall be submitted for each six months.

Subd. 6. Penalty. Using or claiming sick leave for a purpose not authorized may be cause for disciplinary action.

Subd. 7. Part-Time Employees. Each part-time employee shall receive sick leave in the same proportion to the amounts established in subd. 1 as the time actually worked bears to the time required for full-time service.

Subd. 8. Temporary Employees. Temporary employees are not entitled to sick leave.

Subd. 9. Seasonal Workers. Those employees defined as seasonal workers pursuant to this chapter shall be entitled to two hours sick leave per pay period. Seasonal workers may utilize their accumulated sick leave only after 16 weeks of continuous service.

204.09. Death in the Family. In the event there is a death in an employee's immediate family, three days absence without the loss of pay shall be granted. The immediate family shall be defined as spouse, parents, child, child of spouse, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandparents, legal guardian, or any relative residing with the employee or with whom the employee is residing. Two additional days may be granted in the event travel is necessary or for personal reasons of business transaction, in the Council's discretion. This provision applies to full-time employees and part-time employees but does not apply to temporary employees. Seasonal workers are not eligible for time off with pay under this section. One personal leave day, if earned pursuant to subd. 4 of §204.14, may be used for a death in the family.

204.10. Insurance Program. All regular full-time employees covered by this personnel policy shall be covered by an insurance program for themselves and their dependents providing for life insurance, hospital, medical, surgical, dental, and weekly indemnity as furnished by NMWA Retail Food and Welfare Fund. Any change in this program will be agreed upon by both parties.

Part-time employees working 24-34 hours per week shall be entitled to have their individual insurance costs paid by the City. However, no such part-time employee shall be eligible for payment of insurance coverage for spouses or dependents by the City. Provided, any part-time employee may procure such coverage for spouse and/or dependents through the City's insurer at the employee's own cost, to include individual coverage for those employees working less than 24 hours per week.

Temporary employees are not eligible for coverage under said insurance plan.

Seasonal workers as defined in this chapter shall have one-half (1/2) of the cost of individual medical coverage through the City's insurer paid for by the City. The remaining one-half cost shall be paid by the employee through payroll deduction. Such coverage is available only for months in which the seasonal worker works full-time for at least two weeks of the month. Coverage shall cease, subject to state law notice requirements regarding conversion of the coverage, the next month following the seasonal worker's failure to maintain this two-week requirement.

Seasonal workers may purchase family coverage through the City's insurer at the worker's expense.

204.11. Military Leave. Every employee to whom M.S. §192.26 of §192.261 applies is entitled to the benefits afforded by those sections subject to the conditions herein prescribed.

204.12. Maternity Leave. Any permanent, full-time employee may be granted a maternity leave without pay upon approval of the department head. A maternity leave of absence shall not exceed five months' duration. Such maternity leave shall be in addition to any paid sick leave taken on account of pregnancy disability.

204.13. Jury or Witness Duty. When an employee performs jury duty or is subpoenaed as a witness in court or voluntarily serves as a witness in a case in which the City is a party, the employee is entitled to compensation from the City equal to the difference between his regular pay and the amount received as a juror or witness.

204.14. Holidays.

Subdivision 1. Established. For the purpose of this policy, the following days shall be paid holidays:

New Year's Day
Labor Day
President's Day
Veterans Day

Martin Luther King Day
Memorial Day
Independence Day
Christmas Day

Thanksgiving Day

Friday following Thanksgiving Day

Subd. 2. Pay. Whenever an employee is required to work on any of the above holidays, he shall receive one and one-half times the regular classified rate of pay for his work that day in addition to his regular salary.

Subd. 3. Holiday Falling During Vacation. When a paid holiday falls during an employee's scheduled vacation, he shall receive an additional day off with pay or an additional day's pay in lieu of a day off.

Subd. 4. Personal Leave. Each regular full-time employee is entitled to receive four personal leave days per year.

Subd. 5. Part-Time and Temporary Employees. Part-time and temporary employees are not entitled to paid holidays or paid personal leave days.

Subd. 6. Seasonal Workers. Seasonal workers are not entitled to paid holidays. Seasonal workers with more than 52 weeks of accumulated service to the City are entitled to one paid personal leave day per each 52 weeks of service.

204.15. Grievance Policy.

Subdivision 1. General Policy. It is the policy of the City insofar as possible to prevent the occurrence of grievances and to deal promptly with those which occur. When any employee grievance comes to the attention of a supervisory employee, the supervisor shall discuss all relevant circumstances with the employee, and his representative if he so desires, consider and examine the causes of the grievance, and attempt to resolve it to the extent that he has authority to do so. If the grievance is not dealt with satisfactorily at that level, the grievance may be carried up to the next higher administrative level, including the Council.

Subd. 2. Discipline. In general, City employees shall be subject to disciplinary action as dictated by the Council for failing to fulfill their duties and responsibilities, including observance of work rules adopted by the Council. It is the policy of the City to administer disciplinary penalties without discrimination.

Subd. 3. Discrimination. No person shall be employed, promoted, demoted, or discharged by the City or in any way favored or discriminated against because of political opinions or affiliations, race, color, national origin, age, religion, sex, marital status, status with

regard to public assistance or disability, or because of the exercise of rights under provisions of the Public Employment Labor Relations Act, M.S. §179.61 to §179.76. No person shall be discriminated against with reference to City employment in any way forbidden by law.

Subd. 4. Life of Policy. This non-contract employee grievance policy shall remain in effect from its date of approval by the City Council and may be amended from time to time on mutual agreement between the employer and the employees.

All other provisions of the Personnel Chapter, Chapter 204, may be amended by majority vote of the Council.

205. Fire Department

205.01. Fire Department Established. There is hereby established a Fire Department in the City, consisting of a Chief and not to exceed twenty-five (25) volunteer firefighters, except as authorized by resolution of City Council.

205.02. Appointment. Firefighters and probationary firefighters shall be appointed by members of the Fire Department, subject to confirmation by the Council. Firefighters may be removed by the Council only for cause after notice and a hearing.

205.03. Fire Chief.

Subdivision 1. Appointment. The Fire Chief shall be elected annually by the members of the Fire Department, subject to confirmation by the Council. He shall hold office for one year and until his successor is appointed and qualifies, except that he may be removed by the Council for cause after notice and a hearing.

Subd. 2. Duties. The Fire Chief shall be responsible for the proper maintenance and repair of all the fire apparatus and shall see that the apparatus are in suitable condition to attend a fire at any time. He shall have exclusive control of the apparatus at any fire and shall have exclusive command of the Fire Department at any fire. He shall be responsible for the proper training and discipline of the members of the Fire Department and may suspend any volunteer firefighter for refusal or neglect to obey orders, pending final action by the Council or discharge or discipline.

Subd. 3. Records. The Fire Chief shall keep in convenient form a record of all fires. The record shall include the time of the alarm, location of the fire, cause of the fire if known, type of building, name of owner and tenant, department responding to the alarm, and such other information as he may deem advisable or as may be required from time to time by the Council or the state insurance department.

206. Debt Service and Construction Funds

206.01. Debt Service Fund. Pursuant to M.S. §475.61, there is hereby created a Debt Service Fund for the purpose of payment of principal and interest on obligations or to repay advances from other funds for such purposes. All taxes, special assessments, and other revenues pledged to the repayment of obligations shall be appropriated to the Debt Service Fund. The Debt Service Fund shall be administered in accordance with M.S. Chapter 475, M.S. Chapter 429, and other provisions of statute applicable to debt service funds.

206.02. Construction Fund. Pursuant to M.S. §529.091, subd. 4, there is hereby created a Construction Fund for the purpose of defraying expenses of improvements to be financed wholly or partly from special assessments, and payment of principal and interest due upon obligations issued therefore prior to completion, and payment of all costs of the improvements so financed. The proceeds from the sale of obligations and other monies appropriated for each such improvement shall be credited to the Construction Fund. Any balance of proceeds remaining therein may be used to pay the cost in whole or in part of any other improvement to be financed pursuant to M.S. 429. A separate account shall be maintained in the Construction Fund for each improvement, and when the total cost thereof has been paid, all subsequent collections of special assessments levied for the improvement shall be credited and paid into the Debt Service Fund as provided by M.S. 475.61 and 206.01 of this Code.

207. Unclaimed Property

207.01. Unclaimed Property Defined. "Unclaimed property" means any money or personal property, except animals and motor vehicles, lawfully coming into the possession of the City and remaining unclaimed by the owner.

207.02. Procedure.

Subdivision 1. General. The Chief of Police shall make a reasonable and diligent effort to find the owner of any unclaimed property and restore the same to him.

Subd. 2. Motor Vehicles. Abandoned motor vehicles shall be disposed of as provided by Minnesota Statutes Chapter 168B.

Subd. 3. Animals. Abandoned animals shall be disposed of as provided by §501.07 and §501.08 of this code.

207.03. Found Property. A receipt shall be issued to any person who finds lost or abandoned property or money and delivers it to the custody of the City. Such person may indicate in writing that he wishes to assert a claim to such property or money as a finder. If the finder so indicates and the property or money remains unclaimed by the owner for ninety (90) days, the property or money shall be delivered to the finders.

207.04. Perishable or Dangerous Property. Any unclaimed property which is perishable or which would lose the greater part of its value by being retained for ninety (90) days or which is determined by the Chief of Police to be dangerous shall be disposed of at the discretion of the Chief of Police in the manner deemed appropriate by him.

207.05. Money. Any money which is not claimed by the owner within ninety (90) days or by a finder pursuant to §207.03 or which was seized from illegal gambling shall be deposited in the City's general fund.

207.06. Property Seized as Evidence. Any property seized as evidence shall, when no longer needed as evidence, be returned to the owner unless otherwise subject to lawful detention. Such property which is otherwise subject to lawful detention shall be destroyed or otherwise disposed of as directed by the Court.

207.07. Disposal.

Subdivision 1. City Use. Any unclaimed property for which no other manner of disposal is provided by §207.01 to §207.06 and which is not claimed by the owner within ninety (90) days may be appropriated to City use upon approval of such appropriation by the Council.

Subd. 2. Sale. Any property described in subd. 1 which is not appropriated to the City use shall be sold by the Chief of Police to the highest bidder at public auction. Notice shall be published for two successive weeks of the time, place, and manner of sale. The notice shall also describe the property to be sold.

Subd. 3. Proceeds. The proceeds of a sale of unclaimed property shall be deposited in the City general fund. A record shall be made of the sale price of each item sold, and the sale price shall be paid to the former owner if claim is made within six (6) months of the sale and satisfactory proof of ownership is presented.

Subd. 4. Unsold Property. Any unclaimed property remaining unsold after public auction shall be disposed of as directed by the Council.

208. Escrow Deposits

208.01. Intent. Certain licensed and permitted activities carried on in the City require the assistance of the City engineer, City Attorney, City planner, or other City personnel. As these activities primarily benefit private persons rather than the City as a whole, it is appropriate that the cost of these services be borne by those benefitting thereby. Sections 208.01 to 208.06 are intended to provide a method whereby this end will be furthered.

208.02. Escrow Deposit Required. Applications for subdivision approval, rezonings, conditional use permits, planned unit developments, zoning variances, sewer connection permits, liquor licenses, building permits, and other municipal considerations may require a cash deposit which shall be placed in an applicant's escrow account in an amount sufficient to pay all engineering, legal and planning fees incurred by the City, and such other costs as may be made the applicant's responsibility in connection with the application and the supervision, inspection, and investigation of the permitted activity. The deposit shall be held in the account and shall be credited to the applicant making the deposit. All engineering, legal, planning fees, and such other costs as may be made the applicant's responsibility incurred in connection with an application shall be charged to the applicant's escrow account and credited to the City.

208.03. Fee Schedule. The Council shall establish fees for services rendered by the City Attorney, City Engineer, City Planner and other City personnel. The fee schedule shall be provided to all persons making applications listed in §208.02 upon request.

208.04. Individual Fees. Based on the fee schedule adopted pursuant to §208.03, the Clerk shall determine the amount of the escrow deposit required after consultation with the City Attorney, City Engineer, City Planner, or other City personnel whose services may be required. All time, services, and materials to be billed to an escrow account shall be itemized.

208.05. Enforcement.

Subdivision 1. Application. The application listed in §208.02 shall not be accepted or processed by the City unless accompanied by an escrow deposit as provided in this chapter.

Subd. 2. Deficits. If at any time it appears that a deficit will occur in any escrow account, the City Clerk may then require an additional deposit in the escrow account sufficient to cover the additional expenses. Failure to make such additional deposits or to pay to the City money owed for legal, engineering, or other services for which the applicant is by Ordinance made responsible in connection with an application in §208.02 shall be grounds for denial or revocation of the permit or license or cessation of work on a particular project. Such permit or license shall be revoked only after a hearing preceded by ten (10) days written notice.

208.06. Refund. Any money remaining in an applicant's escrow account after payment of all required engineering, legal, and other fees shall be returned to the applicant.

PROCTOR CITY CODE

300 - Public Property and Improvements

301. Current Services Assessments

301.01. Definition. "Current services" means one or more of the following: weed elimination from street grass plots adjacent to sidewalks or from private property, street flushing, light street oiling or other dust treatment of streets, repair of sidewalks, trimming and care of trees and removal of unsound trees from the public streets. and abatement of health or safety nuisances pursuant to §901 of this Code.

301.02. Weed Elimination. On or before June 1 of each year, the Clerk shall publish once in the official newspaper a notice directing owners and occupants of property within the City to destroy all weeds defined to be a nuisance by §901.02 (8). In the event that any owner or occupant shall fail to abate a weed nuisance after published notice, the City may cause the nuisance to be abated pursuant to Chapter 901.

301.03. Sidewalk Repair.

Subdivision 1. Owner Responsibility. The owner of any property in the City abutting a public sidewalk shall keep the sidewalk in repair and safe for pedestrians. Repairs shall be made in accordance with standard specifications approved by the Council and filed with

the City Clerk. Before commencing such repair work, the property owner shall obtain a permit from the City Clerk. No fee shall be charged for such permit.

In addition, all snow, ice, dirt, and rubbish remaining on a public sidewalk more than 12 hours after its deposit thereon is a public nuisance. The owner and the occupant of any property adjacent to a public sidewalk shall use due diligence to keep such walk safe for pedestrians. No such owner or occupant shall allow snow, ice, dirt, or rubbish to remain on the walk longer than 12 hours after its deposit thereon. Violation of this subdivision relative to snow, ice, dirt, and rubbish removal shall constitute a petty misdemeanor punishable for a fine subject to the City Administrative Fine Schedule.

Subd. 2. Enforcement. The City Clerk or such other person as the Council may designate may inspect sidewalks to determine if they are in good repair and safe for pedestrians. If he finds that any sidewalk is in need of repair, he shall cause a notice to be served, by registered or certified mail, by personal service, upon the owner of the property and the occupant if the owner does not reside in the City or cannot be found therein ordering the owner to have the sidewalk repaired and made safe within thirty (30) days and stating that if the owner fails to do so, the repairs will be made by the City, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

Subd. 3. Repair. If the sidewalk is not repaired within thirty (30) days after receipt of the notice, the Clerk shall report that fact to the Council. The Council shall, by resolution, order the street department to repair the sidewalk or order the work done by contract. The Clerk shall keep a record of the total cost of repair attributable to each lot or parcel of property.

301.04. Street Sprinkling, Flushing, Tree Care, Etc.

Subdivision 1. Notice. The Council shall each year determine what streets and alleys shall be sprinkled, flushed, oiled, or given other dust treatment during the year and the kind of work to be done on each. The Council shall also determine from time to time the streets on which trees shall be trimmed and cared for and what unsound trees shall be removed. Before any work is done, the Clerk shall, under the Council's direction, publish notice that the Council will meet to consider such projects. The notice shall be published in the official newspaper at least once no less than two weeks prior to the meeting the streets affected, the particular projects proposed, and the estimated cost of each project, either in total or on the basis of the proposed assessment per front foot or otherwise.

Subd. 2. Hearing. At such hearing or any adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed projects. The Council shall thereupon adopt a resolution confirming the original projects with such

modification as it deems desirable and shall provide for the doing of the work by day labor through the street department or by contract. The Clerk shall keep a record of the cost and the portion of the cost properly attributable to each lot and parcel of property abutting on the street or alley on which the work is done.

301.05. Personal Liability. The owner of property on or adjacent to which a current service has been performed shall be personally liable for the cost of such service. As soon as the service is completed and the cost determined, the Clerk shall prepare a bill and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the Clerk's office.

301.06. Assessment. On or before September 1 of each year, the 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 Ordinance. After notice and hearing as provided in M.S. 429.061, the Council may spread the charges against the property benefitted as a special assessment pursuant to M.S. 429.101 and other pertinent statutes for certification to the county auditor and collection along with current taxes for the following year or in annual installments, not exceeding ten, as the Council may determine in each case.

301.07. Depositing of Snow.

Subdivision 1. Depositing Snow. The depositing, placing, or throwing, upon any of the public sidewalks, streets, alleys, highways, or other public grounds within the City of Proctor of snow or accumulations thereof for the purpose of removing such snow or accumulations thereof from any lot, tract, or parcel of land is hereby prohibited.

Subd. 2. Directing the Depositing of Snow. No person as owner, lessee, occupant, tenant, or agent of any lot, parcel, or tract of land shall allow, authorize, direct, or permit another to do or cause to be done any of the things forbidden by this section.

302. Local Improvement and Assessment Policy

302.01. Cut-Off Date for Petitions. No petition for construction of any local improvement as defined by M.S. 429.011 shall be accepted or acted upon by the Council unless it is filed with the City Clerk on or before August 1 of the year prior to the year of requested construction; provided, the Council may waive this requirement upon a finding that earlier construction is feasible and desirable.

302.02. Classification of Projects.

Subdivision 1. In General. Public improvements are divided into the three classes specified in the following subdivisions according to their respective benefit to the whole City and to property specially served by the improvement and taking into account past City practice.

Subd. 2. Class A. Class A improvements are those which are of general benefit to the City at large, including (1) public buildings, except a building which is part of an improvement described in one of the following subdivisions; (2) any public park, playground, or recreational facility; (3) the installation and maintenance of street lighting systems; and (4) any improvement not described in M.S. § 409.021 subd. 1. Any such improvement shall be financed from general City funds and not from special assessments.

Subd. 3. Class B. Class B improvements are those which are of both general benefit and special benefit to abutting or nearby property. Class B improvements include: (1) trunk water mains larger than eight inches; (2) trunk sanitary sewer mains larger than eight inches; (3) permanently surfacing arterial streets; (4) storm sewers; and (5) the construction of off-street parking facilities.

Subd. 4. Class C. Class C improvements are those which are primarily, if not exclusively, of benefit to property abutting or in the area of the improvement, including (1) the construction of sidewalks; (2) the construction of water mains no larger than eight inches in diameter; (3) the construction of sanitary sewer mains no larger than eight inches in diameter; (4) the construction of curbs and gutters; (5) grading, graveling, oiling, and applying non-permanent surfacing to streets; (6) permanently surfacing residential streets; and (7) the abatement of nuisances and the draining of swamps, marshes, and ponds on public or private property and filling the same.

302.03. Financing Class B and C Improvements. It is the policy of the City to finance Class B and C improvements by the methods prescribed in §302.04, §302.05 and §302.06. The apportionment of the cost between benefitted property and the City at large and the method of levying assessments prescribed in those sections shall be followed in each case unless the Council, by resolution, finds that, because of special circumstances stated in the resolution, a different policy is necessary or desirable in the particular case. Any local improvement described in M.S. 429.021 and not placed in Class A, B, or C by §302.02 shall be financed as the Council determines to be most feasible and equitable in each case. In each case, the Council shall examine the assessment roll before approval and adjust any assessment which exceeds the benefit received by the property assessed.

302.04. Assessment Regulations for Class B Improvements.

Subdivision 1. Trunk Water Mains and Sanitary Sewers. When a water or sewer main is laid across or adjacent to unplatted property, the City shall not defer the assessment against the unplatted property if the assessment would be made for such an improvement in the case of platted property, but the City shall make the assessment at the time the assessment against other property is made, apportioning the assessment against the unplatted property on the basis of area. When a trunk sewer or water main is constructed and is to serve also as a lateral sewer or water main for abutting property, the abutting property shall be assessed for the cost of a lateral sewer or water main of eight inches plus its appertained share of the cost of the excess capacity. Other property benefitted by the trunk sewer or water main but unable to utilize it until a lateral connected to the trunk sewer or water main has been built to serve the property shall not be assessed for its share of the cost of the trunk sewer or water main until the lateral is built. The assessment for the lateral shall then include the property's share of the trunk sewer or water main. The cost of the trunk sewer or water main in excess of the lateral assessment shall be assessed on the basis of frontage against all property benefitted. The cost of a lift station shall be assessed on the basis of frontage (area, frontage, or other rule) against the property actually benefitted by the lift station.

Subd. 2. Arterial Street Surfacing. Arterial streets shall be those so designated from time to time by the Council. When an arterial street is paved with concrete, bituminous mat, or other permanent surface, the cost of the pavement on a 36 foot roadway shall be assessed against the benefitted property on the basis of frontage on the abutting street. When the standards for such paving are higher than those the City would use for a residential street, the cost to be assessed shall be based on the cost of paving a residential street of the same width. The rest of the cost shall be paid from general funds.

Subd. 3. Storm Sewers. Thirty percent of the cost of constructing storm sewers shall be paid by the City from general funds. The remainder of the cost shall be assessed against the property in the area served by the sewer on the basis of the square footage of the property. The area to be assessed shall be determined on the basis of topographic maps and other pertinent data.

302.05. Assessment Rules for Class C Improvements.

Subdivision 1. Sidewalks. The cost of the construction of sidewalks shall be assessed on the basis of frontage against property abutting the side of the street on which the sidewalk is located.

Subd. 2. Water and Sewer. The cost of lateral water mains not exceeding eight inches in diameter and of lateral sanitary sewer mains not exceeding eight inches in diameter shall be assessed against abutting property on the basis of frontage. The cost of water mains to

be assessed includes the service lines, if furnished, hydrants, and valves. The cost of the sewer mains includes service lines, if furnished.

Subd. 3. Streets. The cost of construction of curbs and gutters on any street, of grading, graveling, oiling, and applying non-permanent surfacing to any street, or of applying permanent surfaces to residential streets shall be assessed on the basis of frontage.

302.06. Special Rules.

Subdivision 1. Corner Lots.

(1) Water and Sewer. In any assessment for sewer or water service made on the basis of frontage abutting the project, corner lots shall be assessed for the lot footage along the front of the lot only and no assessment shall be made for side footage.

Provided, that if any lot's sole and only means of obtaining sewer or water service is located on the side footage of said lot, then the lots shall be assessed based upon the front footage of that lot.

(2) Roadway, Sidewalk, Curb or Gutter. In any assessment for roadway, sidewalk, curb, or gutter improvements involving corner lots, all such corner lots shall be assessed for footage along the front of the lot plus one-fourth of the side footage.

Subd. 2. Intersections. The cost of water and sewer improvements in street intersections shall be included as part of the total assessable cost. In the case of any kind of street improvement, intersection costs shall be paid by the City.

Subd. 3. Adjusted Frontage. When the amount of an assessment is determined by frontage, an equivalent front footage shall be determined according to the following rules when an irregular lot requires such an adjustment to maintain fairness in the assessment:

(1) Front footage shall be measured at setback on cull de sacs and sharply curved streets and irregularly shaped lots.

(2) Equivalent front footage shall be determined by dividing the square footage of the lot by the general lot depth of the subdivision for pie-shaped lots and irregular shaped lots where other rules do not apply.

(3) Where frontage curves so greatly as to give a general appearance of a corner, the lot shall be considered a corner lot and equivalent front footage, as well as side footage where required, determined on the basis of an irregularly shaped lot.

(4) Where a lot consists of a combination of rectangular and pie-shaped or irregular portions, the equivalent front footage shall be determined as the sum of the straight front footage plus the remainder in accordance with applicable rules.

Subd. 4. Large Lots and Acreage. For purposes of this subdivision, the standard-sized lot within the City of Proctor shall be denoted as one having a frontage of 60 linear feet and a depth of 150 linear feet (total square feet = 9,000).

In computing assessments for all platted lots and raw acreage with a depth in excess of 150 linear feet as measured perpendicular from the frontage to be assessed for purposes of the improvements in question, any assessments against the lots and/or acreage so improved shall attach to the frontage of the lots and/or acreage improved up to a depth of 150 feet and shall not attach to said lots and/or acreage beyond a depth of 150 feet.

Subd. 5. Termination Point of Improvements. Where the proposed improvement to be assessed is to terminate immediately adjacent to any unplatted acreage or platted lot or where the improvement in question terminates having traversed less than 60 linear feet of the frontage of said lot or acreage, the unplatted acreage and/or platted lot either adjacent to the termination point of said improvement or having been traversed by said improvement shall be assessed as if said improvement traversed 60 feet of the unplatted acreage and/or platted lots' frontage.

For purposes of this subdivision the term "terminate" shall include situations where the improvement makes a corner. Any future improvement to any unplatted acreage and/or platted lot which is of the identical type of any improvement previously assessed against said acreage or lot shall not be assessed to prevent a duplicate assessment. Provided, future improvements traversing any acreage or lot previously assessed under this subdivision which provide improvements beyond the 60 feet previously assessed shall be subject to assessment.

302.07. Federal, State and County Aid Use. If the City receives financial assistance from the federal government, the state, or the county to defray a portion of the cost of a street improvement project, such aid shall be used first to reduce the share of the project cost which would be met from general City funds according to the assessment formula contained in this Ordinance. If such aid is more than the amount of the improvement cost to be borne by the City, the remainder of the aid so received shall be used to reduce each individual assessment proportionately.

302.08. Deferment of Special Assessments for Senior Citizens, Permanently Disabled, and Disadvantaged Residents of the City of Proctor.

Subdivision 1. Senior Citizens. The Council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older when payment of the assessment would create a hardship upon the property owner as defined in subd. 5.

Subd. 2. Permanently Disabled Citizens. The Council may defer the payment of any special assessment on homestead property owned by a person who:

- (1) Has been declared permanently totally disabled under any Workers' Compensation statute; or
- (2) Has been declared permanently totally disabled under any statute regarding the Social Security Administration.

Provided, said individuals meet the hardship provisions of subd. 5 herein and the determination of permanent total disability has been made or affirmed by a governmental agency, judicial officer, or judge.

Subd. 3. Disadvantaged Citizens. The Council may defer the payment of any special assessment on homestead property owned by a person who is collecting general assistance welfare benefits, AFDC welfare benefits, or other such welfare payments and who meets the hardship provisions of subd. 5 herein.

Subd. 4. Deferment. The deferment shall be granted upon a certification by the owner on a form prescribed by the City Clerk to establish the qualifications of the owner for such deferment. The application shall be made within thirty (30) days after the adoption of the assessment roll by the Council and shall be renewed each following year upon the filing of a similar application not later than September 30. The Council shall either grant or deny the deferment; and if it grants the deferment, it may require the payment of the interest due each year. If the Council grants the deferment, the Clerk shall notify the county auditor who shall, in accordance with M.S. §435.194, record a notice of the deferment with the county recorder setting forth the amount of the assessment.

Subd. 5. Standards of Hardship. A hardship shall be deemed prima facie to exist when all of the following apply:

(1) The annual gross income of the owner(s) and all adult occupants of the premises, according to their most recent federal tax return incomes plus their tax-exempt incomes, does not exceed federal low income guidelines. If no such returns were made, the Clerk shall require the applicant to submit other pertinent information to show that this qualification is met;

(2) The average annual payment due for all assessments levied against the property exceeds 1 percent of the household incomes set forth at (1) above;

(3) The total special assessments to be deferred exceed \$200.00;

(4) The applicant's assets, exclusive of the homestead, do not exceed \$50,000.00.

Notwithstanding the foregoing provisions of this subdivision, the City Council may consider exceptional and unusual circumstances pertaining to an applicant not covered by the above standards; but any determination shall be made in a non-discriminatory manner and shall not give the applicant an unreasonable preference or advantage over other applicants.

Subd. 6. Term of Deferral. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following events: (1) the death of the owner when there is no spouse who is eligible for deferment; (2) the sale, transfer, or subdivision of all or any part of the property; (3) loss of homestead status on the property; (4) determination by the Council for any reason that there would be no hardship to require immediate or partial payment; (5) failure to file a renewal application within the time prescribed by subd. 1, or the conditions required for allowance of the deferment, as set forth above at subd. 2-5, are no longer present.

Subd. 7. Termination. Upon the occurrence of one of the events specified in subd. 3, the Council shall terminate the deferment. Thereupon, the City Clerk shall notify the county assessor and the county auditor of the termination, including the amounts accumulated on unpaid installments plus applicable interest which shall become due and payable as a result of the termination.

302.09. Branch Service Lines. Water and sewer lines shall be installed from the main to the front property line of property to be served before any permanent street surfacing is constructed in the street. If any property owner fails to put in such water and sewer service lines within thirty (30) days after notice from the City Engineer, the City Council shall proceed to have water and sewer service installed and to assess the costs against the property.

302.10. Partial Prepayment. After the adoption by the City Council of the assessment roll in any local improvement proceeding, the owner of any property specially assessed in the proceeding, may, prior to the certification of the assessment or the first installment to the county auditor, pay to the City Treasurer any portion of the assessment not less than \$100.00. The remaining unpaid balance shall be spread over the period of time established by the Council for installment payment of the assessment.

302.11. Certification of Assessment. After the adoption of any special assessment by the Council, the Clerk shall transmit a certified duplicate of the assessment roll with each installment, including interest, set forth separately to the county auditor to be extended on the proper tax lists of the county.

302.12. Assessment Manual. The Clerk shall prepare an administrative manual specifying more detailed procedures for the conduct of local improvements and the levy of special assessments in supplementation of this Ordinance and consistent therewith. Upon approval of the Council by resolution, such manual shall be used with this Ordinance in the conduct of all local improvement proceedings to which they apply by their terms.

303. Utility Service and Property Improvement.

303.01. Utility Connections and Disconnections.

Subdivision 1. Connection Required.

A. Owners of lands and premises abutting on any road, street, avenue, or highway within the City of Proctor in which a newly constructed or substantially reconstructed municipal waterline or sewer line is located, whereon any structure is equipped to receive water or discharge wastes is situated, shall make connection with said waterline or sewer line as soon as practicable.

B. This Ordinance shall not apply to lands and premises already connected to municipal water and/or sewer lines.

C. Lands and premises abutting on any road, street, avenue, or highway within the City which are adjacent to but not connected with existing municipal water and/or sewer lines shall be connected within 180 days of any transfer of the title to said lands and premises. The term transfer of title includes any transfer of title by deed, contract, option, or assignment of the title to said lands and premises.

D. For all required connections to City sewer or PUC water lines, the fees for said connections, to be paid by the connecting party to the City or PUC, shall be as follows:

(1) Sewer connection fee: See City Schedule of Charges and Fees.

*For all new connections or projects not involving special assessment for said connections.

(2) Water connection fee: See City Schedule of Charges and Fees, plus plumbing inspection fee and excavation fee.

*For all new connections or projects not involving special assessment for said connections.

Subd. 2. Connections to be Approved. Plans for connections to be made pursuant to this chapter shall be required to be approved by the City Building Official and/or City Engineer and Working Street Foreman prior to the connection. All connections so approved and made shall meet applicable code standards.

Subd. 3. Disconnection and Capping Required. In the event that any structure serviced by any waterline or sewer line which is connected to the City of Proctor's system is removed or demolished, the owner of the land upon which the structure was located shall disconnect from the City of Proctor's system and cap them off in a manner approved by the Working Street Foreman and City Administrator or Deputy City Clerk prior to connection.

If the owner of the land in question fails to adhere to the provisions of the subdivision, the City Administrator shall, upon 24 hours notice, order the work to be done by the Public Utilities and/or the City, and the costs associated therewith shall be assessed against the parcel involved. Where the City Administrator deems an emergency to exist, the work may be done immediately and without prior notice.

Street Excavation and Obstruction.

303.02. Permit and Permit Fee Required. No person shall make any excavation in any street, alley, highway, sidewalk, or other public grounds or place any obstruction therein or place any scaffold, obstruction, equipment, or materials of any kind in, upon, or above any public sidewalk or immediately adjacent thereto without having first obtained a permit from the City Clerk, approved by the Working Street Foreman and City Administrator or Deputy City Clerk. Upon approval of the permit by the City, Working Street Foreman and City Administrator or Deputy City Clerk, each applicant shall pay a fee to be determined as follows: (see City Schedule of Charges and Fees).

303.03. City Employees. The provisions of §303.01 and §303.10 shall apply to excavations and obstructions by City employees, except that no permit fee shall be charged and no bond or insurance shall be required. All work done by City employees shall comply with the same standards for safeguarding the site and for restoration of the surface as apply to other excavations.

303.04. Fee. Repealed.

303.05. Sewer, Water and Gas Work. When application is made for a permit authorizing excavation for the purpose of making a connection to the sewer, gas, or water mains, the Clerk shall not issue the permit without the written consent of the Working Street Foreman and City Administrator or Deputy City Clerk or affected City department. All work done and materials used in making such connection shall conform to all applicable City ordinances and state laws.

303.06. Posting. Each permit shall be numbered and shall state the date of issuance, the date of expiration, the name of the person to whom it is issued, and the location for which it is issued. Each permit shall be posted at the site of the excavation or obstruction.

303.07. Bond and Insurance.

Subdivision 1. Generally. No permit required by this article shall be issued by the Clerk unless the applicant therefor shall first file with the Clerk a corporate surety bond of an insurance company duly authorized by the laws of the state to transact business as a surety, in the sum of at least \$5,000.00.

In addition to such bond, the applicant shall also file with the Clerk a certificate of an insurance company duly authorized by the laws of the state to transact business as an insurance company duly certifying to the fact that the applicant is insured by such company for the purpose and in the amounts of \$25,000.00 for personal injuries to any one person, \$50,000.00 for personal injuries in any one accident, and \$5,000.00 property damage.

Every corporate surety bond shall be conditioned as follows:

That the applicant guarantees to indemnify and save the City harmless from any and all claims, demands, damages, or causes of action of any kind whatsoever arising or to arise out of the doing of the work or the thing authorized by the permit issued to the applicant, to restore the street, avenue, alley, highway, or public ground to the condition it was in prior to the making of such excavation or the obstruction, and that any work done under the permit, including the installation of any sewer, gas, or water connections made by the applicant will be done in accordance with all the applicable provisions of this Ordinance. Such street restoration shall be

by compaction to 90 percent of original value with replacement of overlay. The project shall be inspected and approved by the street foreman before being accepted by the City.

If the applicant's contractor has on file with the Clerk the corporate surety bond and certificate of insurance required by this section, it shall not be necessary for such applicant to file any bond or certificate of insurance.

Subd. 2. Exceptions. A public service corporation occupying the streets or public grounds of the City and operating its business in the City either under a franchise granted by the City or under a certificate of necessity issued by the State Public Service Commission shall not be required to file a bond or certificate of insurance.

303.08. Release of Bond. Any corporate surety bond filed under the terms of this Ordinance may be released in writing by the City Clerk only if the work done under the permit shall have been completed to the satisfaction of the street foreman and only after all fees have been paid.

303.09. Safety Requirements. No person to whom a permit has been issued shall commence work under the permit without first putting in place a suitable guard or fence about the site sufficient to protect persons or animals from falling into or upon any excavation or obstruction or from being struck by falling objects. During the hours between sunset and sunrise, sufficient lights, flares, or other similar devices shall be placed on all sides of the site to warn the general public of the presence of the excavation or obstruction.

303.10. Restoration. Where an excavation has been made under permit, the permittee shall not commence restoration without first notifying the City Clerk. The Clerk shall notify the street foreman who shall be present to observe and report upon the manner of restoration of the street. Restoration of a street shall be by compaction to 90 percent of original value with replacement of overlap. The completed project shall be inspected by the street foreman to determine if the requirements of the Ordinances have been met.

303.11. Emergencies. When an emergency exists caused by the bursting of a pipe or main, the falling of electrical wires, or by other accident such that immediate excavation or obstruction of a street is necessary to safeguard the public health or safety, a contractor or any other person responsible for the maintenance of any public service utility within the streets or alleys of the City may immediately perform the necessary work without first obtaining a permit.

In such case, the person performing the work shall obtain a permit as soon as practicable thereafter. All other requirements of this Ordinance shall apply to such emergency excavations.

303.12. Unlawful Connection of Utilities. No person shall connect or tap into any cable television, water, gas, sewer, or electric line controlled, owned, operated, leased, licensed, managed, or maintained by the City of Proctor, the Proctor Public Utility Commission, or any

authorized agents thereof unless prior permission or authorization of said connection has been requested and granted by the applicable utility, the City, or a designated agent thereof.

Prior to preliminary approval of any such connection, the appropriate utility shall investigate and inspect the proposed connection site and grant or deny approval of the work. Upon completion of an approved connection, the applicable utility or its agent shall re-inspect the connection and grant or deny final approval of the connection.

Connections made in violation of this section shall constitute a misdemeanor. In addition to any criminal penalty the Court may impose, persons convicted of violating the provisions of this Ordinance may be subject to an order of the Court requiring a reimbursement of the value of any utility usage consumed, wasted, or sold as a direct result of said illegal connection. Said reimbursement shall be paid directly to the affected utility.

303.13. Installation of Culverts. In all areas adjacent to any street, road, alley, or avenue located within the City of Proctor which require, in the discretion of the Working Street Foreman, the installation of culverts, plans for all such installations shall require the prior approval of the Working Street Foreman. This approval process shall also be required for all culverts to be installed by private parties on their own initiative. The Working Street Foreman shall require that all such culvert installations, to include private installations, meet current St. Louis County Highway Department specifications as published by that Department.

303.14. Disruption of Curbs and Sidewalks. No person shall cut, disrupt, remove, cover, or otherwise damage any curbs or sidewalks located within the City of Proctor which lie within any public easement without prior approval of the Working Street Foreman of the City of Proctor. Prior to any work being done which affects any such curb or sidewalk, the Working Street Foreman shall be provided by the landowner the plans and specifications therefore for the City's review and approval.

Any cutting, disruption, removal, covering, or other damage done to any curb or sidewalk without the above-stated approval shall be remedied by the landowner. If the landowner does not remedy the damage within ten (10) days of the City Administrator's order to do so, the City may restore the curb and/or sidewalk to its original condition and assess the landowner for the costs of the restoration.

303A. Common Excavation and Drainage Alterations.

Repealed.

303B. Erosion and Sediment Control

303B.01. Purpose. The purpose of this Ordinance is to control or eliminate soil erosion and sedimentation within the City of Proctor. This Ordinance establishes standards and specifications for conservation practices and planning activities which minimize soil erosion and sedimentation, including adherence to MPCA minimum standards.

303B.02. Scope. Except as exempted by §303B.05, property owner or property owner's representative or agent thereof proposing land disturbance activity within the City of Proctor shall submit an erosion and sediment control plan to the City for approval. No land shall be disturbed until the plan is approved by the City and conforms to the standards set forth herein.

303B.03. Definitions. For the purposes of this Ordinance, the following terms have the meanings given them in this section:

- (a) District. "District" means the South St. Louis County Soil and Water Conservation District organized and operating under Minnesota Statutes, Chapter 103C.
- (b) Erosion and Sediment Practice Specifications or Practice. "Erosion and Sedimentation Practice Specifications or Practice" means the management procedures, techniques, and methods to control soil erosion and sedimentation as officially adopted by the District.
- (c) Developer. "Developer" means a person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a land disturbance activity.
- (d) Erosion. "Erosion" means any process that wears away the surface of the land by the action of water, wind, ice, or gravity. "Erosion" can be accelerated by the activities of man and nature.

303B.04. Erosion and Sediment Control Plan. "Erosion and Sediment Control Plan" means a document containing the requirements of §303B.09 that when implemented will decrease on and off site soil erosion and sedimentation damage.

303B.05. Land Disturbance Activity. "Land Disturbance Activity" means land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands of or downstream of the City of Proctor, including clearing, grading, excavating, transporting, and filling of land. "Land Disturbance Activity" does not mean:

- (a) Minor land disturbance activities such as home gardens and individual home landscaping, repairs, and maintenance work;

- (b) Construction, installation, and maintenance of electric, telephone, and cable television utility lines or individual service connection to these utilities, except where a minimum of 10,000 square feet of land disturbance can be anticipated;
- (c) Tilling, planting, or harvesting of agricultural, horticultural, or forestry crops;
- (d) Disturbed land areas for commercial or non-commercial uses of less than 10,000 square feet in size;
- (e) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles;
- (f) Emergency work to protect life, limb, or property and emergency repairs, except if the land disturbing activity would have required an approved erosion and sediment control plan except for the emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirement of §303B.09.

303B.06. Handbook. "Protecting Water Quality in Urban Areas" by MPCA, current MPCA requirements, or "Handbook," means the handbook which contains the erosion and sediment control practice specifications and planning procedures used to control soil erosion and sedimentation.

303B.07. Sediment. "Sediment" means solid mineral or organic material that, in suspension, is being transported or has been moved from its original site by air, water, gravity, or ice and has been deposited at another location.

303B.08. sedimentation. "Sedimentation" means the process or action of depositing sediment that is determined to have been caused by erosion.

303B.09. Erosion and Sediment Control Plan. A document or plan will be prepared and submitted to the City for approval by the developer prior to engaging in a land disturbance activity. This plan will outline practices that will minimize soil erosion or sediment.

303B.10. Plan Criteria. The erosion and sediment control plan shall address the following criteria:

- (a) Stabilization of denuded areas and soil stockpiles
- (b) Establishment of permanent vegetation
- (c) Protection of adjacent properties
- (d) Timing and stabilization of sediment trapping measures
- (e) Use of sediment basins
- (f) Cut and fill slopes
- (g) Stormwater management criteria for controlling off-site erosion
- (h) Stabilization of waterways and outlets
- (I) Storm sewer inlet protection
- (j) Working in or crossing waterbodies
- (k) Underground utility construction
- (l) Construction access routes
- (m) Disposition of temporary erosion and sediment control measures
- (n) Maintenance of erosion and sediment control measures

303B.11. Plan. The erosion and sediment control plan shall include a site plan and plan narrative.

Subdivision 1. Site Plan. The site plan shall include:

- (a) Location map
- (b) North arrow
- (c) Scale (1 inch = 100 feet or greater detail)
- (d) Benchmark

- (e) Existing contours--two-foot intervals--extending 200 feet beyond property boundary
- (f) Final contours
- (g) Existing vegetation--trees, shrubs, grasses
- (h) Soil boundaries
- (i) Property boundary and lot lines
- (j) Elevations and grades--street grades, pond elevations, etc.
- (k) Drainage direction arrows
- (l) Critical erosion areas
- (m) Limits of clearing and grading
- (n) Utility plans
- (o) Location of erosion and sediment control practices
- (p) Location of other practices
- (q) Signature of plan preparer
- (r) Name of responsible individual

Subd. 2. Plan Narrative. The plan narrative shall include:

- (a) Project description
- (b) Phasing of construction
- (c) Existing site conditions
- (d) Adjacent areas affected by project
- (e) Critical areas identified
- (f) Erosion and sediment control measures

- (g) Soil Descriptions
- (h) Permanent stabilization methods
- (i) Stormwater management considerations
- (j) Maintenance schedule for erosion and sediment control measures
- (k) Calculations made for practice design

303B.12. Handbook. "Protecting Water Quality in Urban Areas" by the Minnesota Pollution Control Agency (MPCA), current MPCA requirements will be the primary reference for erosion and sediment control practices specifications used in the City of Proctor.

303B.13. Application Fee. The developer shall submit an application fee as per the City's schedule of fees, together with the erosion and sediment control plan to the City. This fee shall cover any review or inspection cost accrued.

303B.14. Review. The City shall review (zoning, planning, building inspector, engineer, District) the erosion and sediment control plan to determine if the plan meets the requirements of the Ordinance.

303B.15. Approval. If the City determines that the erosion and sediment control plan meets the requirements of this Ordinance, the City shall approve the plan and issue a permit valid for a specific period of time, that authorizing the land disturbance activity contingent upon the implementation and completion of the erosion and sediment control plan. If no period of time is specified, the permit shall be valid for one year after which time the permit shall terminate. No land disturbance activity may commence without new application, review, and approval.

303B.16. Denial. If the City determines that the erosion and sediment control plan does not meet the requirements of this Ordinance, the City shall not issue a permit for the land disturbance activity. The erosion and sediment control plan must be re-submitted for approval before any land disturbance activity begins. All land use and building permits must be suspended until the developer has an approved erosion and sediment plan.

303B.17. Easement. The developer may be required to dedicate an easement to the City for any permanent erosion and sediment control practice(s) that remain after the land disturbance activity is completed.

303B.18. Maintenance. The developer shall be responsible for the maintenance of the permanent erosion and sediment control practices for the period of construction activity. The City may require the developer to maintain permanent erosion and sediment control practice(s) after that time.

303B.19. Modification of Plan. An approved erosion and sediment control plan may be modified upon submission of a request for modification to the City and subsequent approval by the City. In reviewing such a request, the City may require additional reports and data.

303B.20. Escrow Requirement. Upon approval of an erosion and sediment control plan, the City shall require the developer to escrow a sum of money sufficient to insure the installation, completion, and maintenance of the erosion and sediment control plan and practices.

303B.21. Preconstruction Meeting. A preconstruction meeting shall be held to review the requirements of the erosion and sediment control plan with the grading contractor, engineer, or other representatives of the developer and the City or its representative.

303B.22. Inspections. The City or its designated representative shall inspect the construction sites:

- (a) During the design stage;
- (b) After installation of sediment controls;
- (c) Following severe rainstorms;
- (d) Prior to seeding deadlines;
- (e) As a final inspection of terminating projects to insure that temporary controls have been removed, and stabilization is complete.

303B.23. Inspection Log. An Inspection Log shall be completed for any inspection and transmitted to those responsible for plan implementation and maintenance of controls.

303B.24. Penalty. Any person, firm, or corporation who fails to comply with or violates any of these regulations shall be deemed guilty of a petty misdemeanor and be subject to a fine subject to City Administrative Fine Schedule. All land use and building permits must be suspended until the developer has corrected the violation. The City may deem it necessary to use escrowed monies to complete erosion control work for the developer.

303B.25. Variance. Variances shall be granted only upon a showing of hardship. No variance shall be granted that compromises the general purposes or intent of this Ordinance or results in adverse consequences to the environment. The variance shall be approved or denied by the City within 30 days after receipt of application. All variances shall be subject to the variance procedures set for in §1002.17 subd. 6 of the Proctor City Code.

304. Public Contracts: Wages and Hours (Davis-Bacon)

304.01. Definitions. For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them in this section:

- A. Basic hourly rate. The hourly wage paid to any employee.
- B. Prevailing wage rate. The basic hourly rate plus fringe benefits prevailing in the City of Proctor as determined by the United States Secretary of Labor pursuant to the Davis-Bacon Act, as amended.
- C. Fringe benefits. Employer contribution for health and welfare benefits, vacation benefits, pension benefits, and all other economic benefits other than the basic hourly rate.
- D. Apprentice-trainee. An employee who is working under a training program which is approved either by the U.S. Department of Labor Bureau of Apprenticeship and Training or the Minnesota Director of Voluntary Apprenticeship.
- E. Project. Erection, construction, demolition, remodeling or repairing of any public building, and the construction or repairing of highways, sidewalks, bridges, water or gas lines, sewers and sewage treatment facilities, or other public works performed under contract with the City.

304.02. Wage Rates and Hours for City Projects.

- A. Any contract which provides for a project of estimated total cost of over \$2,000.00 shall contain a stipulation that no laborer, mechanic, or apprentice-trainee

employed directly upon the project work site by the contractor or any subcontractor shall be permitted or required to work at a rate of pay less than the prevailing wage rate; nor shall any such employee be permitted or required to work more than 8 hours in any work day or 40 hours in any work week unless he is paid at a rate of at least one and one-half times the basic hourly rate for all hours in excess of 8 per day or 40 per week and unless he receives fringe benefits that are at least equal to those in the prevailing wage rate.

B. All contracts for City projects shall have applicable schedules of prevailing wage rates set forth in the contract. Schedules of applicable prevailing wage rates shall be present on all project job sites and shall either be posted on the site or be on the person of any supervisor in charge of the job site.

C. Employees on projects shall be paid at least weekly. Fringe benefits shall be paid either in cash or to an employee benefit plan that has been approved by the U.S. Department of Labor.

D. Any contractor or subcontractor working on a project shall furnish the City with a copy of all payrolls relating to the project. Such payroll reports shall be submitted weekly on U.S. Department of Labor standard forms or their equivalent to the employee of the City in charge of supervising contract performance.

E. No contractor or subcontractor working on a project shall evade or attempt to evade the provisions of this section through the use of non-recognized training programs. The only employees involved in training programs that shall be allowed to work on projects covered by this section shall be apprentice-trainees as defined by this article.

F. Any person violating the provisions of this section shall be guilty of a misdemeanor with each day of violation constituting a separate offense. In addition, if the prevailing wage rate is not paid to employees working on a project, the City of Proctor may withhold contract payments to the contractor until such deficiencies are corrected.

G. This section shall not apply to contracts for projects where the total estimated cost of the project is less than \$2,000.00; nor to material men who do no more than deliver materials to the work site, except that this section shall apply to employees who deliver asphalt, concrete, or mineral aggregate such as sand, gravel, or stone where such material is incorporated into the project by depositing the material substantially in place, either directly or through spreaders, from the transporting vehicle.

304.03. Kickbacks from Public Works Employees Prohibited.

No contractor working on a project or other person shall, by force, intimidation, or threat of termination of employment, cause any employee working on a project to give up any part of the compensation to which he is entitled under his contract of employment.

PROCTOR CITY CODE

400 - Public Utilities

401. Sewers

401.01. Wastewater Facilities System Established.

Subdivision 1. System Established. There is hereby established a City wastewater facilities system. Such system shall include all lateral, main, and intercepting sewers, wastewater pumping stations, equipment, and other works and facilities, whether presently existing or hereafter acquired, as are found necessary for completion of such system in first-class operating condition adequate to collect and transmit all wastewater of the City which is discharged into the City's wastewater facilities system to the wastewater facilities of the WLSSD.

Subd. 2. Policy Declared. It is hereby declared that the establishment and operation of the City wastewater facilities system is necessary and conducive to the public health, safety, welfare, and convenience of the City and its inhabitants; that such system shall constitute and be a public utility plant and convenience from which revenues may and shall be derived; and that service to be rendered to the inhabitants, industries, and property by the collection of wastewater confers direct and indirect benefits to the inhabitants, industries, properties, or the City for which reasonable rates and charges may be imposed.

401.02. Definitions. The following words and phrases when used in this chapter shall have the meaning given below unless the context otherwise clearly indicates.

- (1) Bio-chemical oxygen demand (BOD) means the quantity of oxygen utilized in the bio-chemical oxidation of organic matter expressed in milligrams per liter, as determined in accordance with standard laboratory procedures as set out in Standard Methods.

- (2) (a) Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of a building and conveys it to the building's sewer, beginning five (5) feet (1.5 meters) outside the innerface of the building wall.
- (b) Building drain - sanitary means a building drain which conveys wastewater only.
- (c) Building drain - storm means a building drain which conveys storm water or other unpolluted water drainage but no wastewater.
- (3) (a) Building sewer means the extension from the building drain to the public sewer or other place of disposal, also called house connection.
- (b) Building sewer - sanitary means a building sewer which conveys wastewater only.
- (c) Building sewer - storm means a building sewer which conveys storm water or other unpolluted water drainage but no wastewater.
- (4) Capital cost means all reasonable and necessary costs and expenses incurred by the City in planning, designing, financing, and constructing wastewater facilities including, but not limited to, costs and expenses for obtaining necessary permits, licenses, approvals, and grants for design and construction, architect and engineers' fees, construction costs, fees for legal and consulting services, and that portion of WLSSD capital costs charged by WLSSD to the City.
- (5) (a) Classes of users means the division of wastewater facility users by waste characteristics and process or discharge similarities.
- (b) Domestic user means those users which discharge exclusively domestic strength wastewater or wastewater which contains characteristics so similar to domestic strength wastewater as to be capable of treatment in the same manner as domestic strength wastewater.
- (c) Non-domestic wastewater user means a user which discharges wastewater other than domestic wastewater.
- (6) Debt service means the principal and interest necessary to pay indebtedness of the City and City's share of the indebtedness to WLSSD.
- (7) Easement means an acquired legal right for the specific use of land owned by others.

- (8) Federal Code of Regulations means the United States Government Regulations so entitled.
- (9) Floatable oil means oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pre-treatment facility.
- (10) Flow means the quantity of wastewater.
- (11) Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.
- (12) Industrial cost recovery means recovery by the WLSSD from the industrial users of the WLSSD wastewater facilities of the grant amount received by the WLSSD from the United States Environmental Protection Agency allocable to the transmission and treatment of such users' wastewater in the amount as required by Public Laws 92-500.
- (13) Industrial user means any nongovernmental user of the District's wastewater treatment facilities, as is identified in the Standard Industrial Classification Manual (1972), Office of Management and Budget, as amended and supplemented, under the following divisions:
- (14) Industrial waste means the solid, liquid, or gaseous wastes resulting from any industrial or manufacturing processes, trade or business, or from the development, recovery, or processing of natural resources.
- (15) Loads means quantities of wastewater characteristics such as BOD, SS, P, or other constituents.
- (16) National Pollution Discharge Elimination System (NPDES) permit is a permit system of the United States Environmental Protection Agency.
- (17) Natural outlet means any outlet into a water course, pond, ditch, lake, or other body of surface or ground water.
- (18) Peak flow means the maximum instantaneous rate of flow that is discharged by a user into the wastewater facility.
- (19) Permit means written authorization from the City or the WLSSD to perform acts allowed or required by this chapter.
- (20) pH means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight, in grams, of hydrogen ions per liter of solution.

Neutral water for example, has a pH value of 7 and a hydrogen ion concentration of 10^{-7} .

- (21) Phosphorous (P) means total phosphorous in wastewater as determined under standard laboratory procedures as set forth in Standard Methods.
- (22) Polluted water means water of quality which does not meet the effluent criteria in effect or water which would cause violation of receiving water quality standards and would be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.
- (23) Pretreatment means the treatment of wastewater prior to introduction thereof into the City or the WLSSD wastewater facilities.
- (24) Private wastewater disposal system means an arrangement of devices or structures for treating domestic or nondomestic wastewater approved for use by applicable regulations of the State of Minnesota and the County of St. Louis.
- (25) Properly shredded garbage means the wastes from the preparation, cooking, or dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (1.27 centimeters) in any dimension.
- (26) Public sewer means any sewer owned or operated by the City or the WLSSD.
- (27) Sanitary sewer means a sewer which carries wastewater and to which storm, surface, and ground water are not intentionally admitted.
- (28) Sewer means a pipe or conduit that carries wastewater to storm, surface, or ground water.
- (29) Slug means 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 fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation and which may adversely affect the collection system and/or performance of the wastewater treatment works.
- (30) Standard Methods means the latest edition of Standard Methods for the Examination of Water and Wastewater published jointly by the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation.

- (31) Working Street Foreman means the Working Street Foreman of the City's wastewater facilities or his authorized deputy, agent, or representative.
- (32) Suitable wastewater collection facilities means a device(s) adequate to capture all significant wastewater developed or occurring on the premises where such facilities are located.
- (33) Suspended Solids (SS) means total suspended solids in wastewater as determined under Standard Laboratory procedures as set forth in Standard Methods.
- (34) Unpolluted water means water which meets 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.
- (35) User charge means a charge levied on the users of the wastewater facilities for the cost of operation, maintenance, including replacement and debt service.
- (36) Wastewater means that portion of the spent water of a community which is polluted water. 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.
- (a) Domestic strength wastewater means wastewater having an average daily suspended solids concentration of not more than 300 mg/L, an average daily BOD of not more than 300 mg/L, an average daily phosphorous concentration of not more than 15 mg/L, and an average daily hexane soluble matter (grease and oil) concentration of not more than 40 mg/L.
- (b) Non-domestic strength wastewater means all wastewater other than domestic strength wastewater.
- (37) Wastewater facility means the structures, equipment, and process required to collect, carry away, and treat domestic and non-domestic wastes and dispose of the effluent and when preceded by the word "District" means the wastewater facilities of the WLSSD and when preceded by the word "City" means the wastewater facilities of the City.
- (38) Wastewater treatment works means an arrangement of devices and structures for treating wastewater, industrial waste, and sludge.
- (39) WLSSD means Western Lake Superior Sanitary District, a public corporation and political subdivision of the State of Minnesota established by Chapter 478, Laws of Minnesota, 1971.

401.03. Use of Public Sewers Required.

Subdivision 1. Discharge Unlawful. It shall be unlawful to discharge to any natural outlet within the City or in any area under jurisdiction of the City any wastewater or other polluted waters except where suitable treatment has been provided in accordance with the provisions of this Ordinance.

Subd. 2. Septic Tanks. Except as provided in §401.04, 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.

Subd. 3. Connection Required. The owner of all houses, buildings, or properties of any character wherein or whereon wastewater develops or occurs is hereby required at the owners expense to install suitable wastewater collection facilities therein or thereon and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter at the time of construction of such facilities in the case of new construction or new use or within ninety (90) days after date of official notice to do so in the case of existing housing, buildings or properties; provided that such public sewer is within one hundred feet (100') of the property line.

401.04. Private Wastewater Disposal.

Subdivision 1. Connection Required. Where a public sanitary sewer is not available within the distance prescribed by the provisions of §401.03, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

Subd. 2. Permit. Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit from the St. Louis County Health Department.

Subd. 3. County Requirements. The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of the ordinances and regulations of St. Louis County, Minnesota. No such system shall be permitted to discharge to any natural outlet.

Subd. 4. Public Sewer Availability. At such time as a public sewer becomes available to a property served by a private wastewater disposal system within the distance

prescribed by §401.03, a direct connection shall be made to the public sewer within ninety (90) days in compliance with this chapter, and any private wastewater disposal system shall be cleared of sludge and filled with suitable material.

Subd. 5. Operation. The owner shall operate and maintain the private wastewater disposal system in a manner which complies with applicable state and county regulations at all times and at no expense to the City.

Subd. 6. Additional Regulations. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Minnesota Pollution Control Agency, St. Louis County, Minnesota, or the WLSSD.

401.05. Building Sewers and Connections.

Subdivision 1. Tampering Prohibited. Except for City employees acting in the course of employment, no person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Working Street Foreman. All persons doing work shall comply with the licensing requirements for plumbers provided in this Code. The permit fee for connection to the sewer system shall be established from time to time by Council resolution.

Subd. 2. Classes of Connections. There shall be three classes of building sewer connection permits: (1) for users discharging domestic strength wastewater to sanitary sewers; (2) for users discharging non-domestic strength wastewater to sanitary sewers; and (3) for discharge of stormwater or other unpolluted drainage to storm sewers. In all cases, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the City Engineer or Working Street Foreman. A permit and inspection fee sufficient to defray the cost incidental to the processing of such connection permit, including the cost of inspection of connection for each such class, shall be established by resolution of the City Council and shall be paid to the City at the time the application is filed.

Subd. 3. Costs. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Subd. 4. System Capacity. No building sewer connection permit shall be issued unless the City Engineer or Working Street Foreman first determines that all City and WLSSD wastewater facilities have sufficient capacity to accommodate the flow and load to be discharged as a result of such connection.

Subd. 5. Separate Connections. A separate and independent building sewer shall be provided for every building; except where an existing building stands at the rear of another and no separate sewer has been constructed therefore, such building may continue to be connected to the building sewer of the front building and the whole considered as one building sewer. The City shall have no obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

Subd. 6. Old Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City Engineer or Working Street Foreman, to meet all requirements of this Ordinance.

Subd. 7. Materials. The size, slope, alignment, materials of construction of a building sewer; 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 codes or other applicable rules and regulation of the City.

Subd. 8. Elevation. 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 sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Subd. 9. Stormwater Connection. No person shall make connection of roof downspouts, sump pump, or other sources of unpolluted waters such as storm water, ground water, roof run-off, subsurface drainage, unpolluted industrial water, or cooling water to a building sewer or building drain which is connected directly or indirectly to a public sanitary sewer.

Existing dwellings: No water from any roof, surface, ground water sump pump, footing tile, swimming pool, or other natural precipitation shall be discharged into the sanitary sewer system.

Dwellings and other building and structures which require, because of infiltration of water into basements, crawl spaces, and the like, a sump pump discharge: The sump pump discharge system shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer system, except as provided herein. A permanent installation shall be one which provides for year round discharge capability to either the outside of the dwelling, building, or structure or is connected to the City storm sewer or discharges through the curb or

gutter to the street. It shall consist of a rigid discharge line, without valving or quick connections for altering the path of discharge.

The City I & I Committee shall have the power and duty of hearing and deciding requests for waivers from the applicability of the provisions of this ordinance. Where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration or cause a safety problem., application for a waiver shall be in writing addressed to the City of Proctor, I & I Committee. The applications shall identify the property for which the waiver is being applied, the name of the property owner, and describe in detail what characteristics of the subject property create an undue hardship. Upon approval of an application for a waiver, the property owner shall be allowed to temporarily pump directly into the sanitary sewer system between the date of November 1 and April. The City shall have the right to inspect all property in the spring to assure their discharge water connection has been removed from the sanitary sewer. Failure to remove said discharge will result in a fine subject to City Ordinance §101.06. If a property owner feels undue hardship after I & I Committee findings, appeal will be made to the City Council.

Subd. 10. Other Codes. The connection of the building drain to the building sewer and 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 gastight and watertight and verified by proper testing. The Working Street Foreman shall have authority to promulgate rules, regulations, and tests as to the manner in which connections shall be made; and such rules, regulations, and tests when so promulgated and filed with the City Clerk shall be met.

Subd. 11. Inspection. The applicant for the building sewer connection permit shall notify the Working Street Foreman when the building sewer is ready for inspection and connection to the building drain and public sewer. The connection and setting shall be made under the supervision of the Working Street Foreman. No building sewer shall be covered until it has been inspected and tested under the supervision of the Working Street Foreman.

Subd. 12. Excavations. 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 superintendent. The Council may require that prior to remitting excavation in any public right-of-way a bond or cash, in its discretion, be deposited with the City to cover the estimated costs of repairs. (See also §303.02.)

Subd. 13. Enforcement and Additional Charges. The provisions of this Ordinance and all standards, limitations, orders, schedules of compliance, and all provisions and conditions of any permit issued by the City hereunder shall be enforced by the City by any one

or any combination of the following: additional monthly surcharges, criminal prosecution, action to recover civil damages, injunctions, action to compel performance, or termination of service.

Subd. 14. Penalties and Surcharges.

- (a) Any person who willfully or negligently violates any provision of this Ordinance or any provision of a permit issued by the City hereunder shall be subject to a fine subject to City Administrative Fine Schedule.
- (b) Any person who continues any violation of any provision of this Ordinance or any provision of a permit issued by the City hereunder beyond the time limit provided for in the Working Street Foreman's written notice of violation shall be subject to the City Administrative Fine Schedule.
- (c) Each day in which a violation referred to in either (a) or (b) continues shall be deemed a separate violation.
- (d) Any person who knowingly makes any false statement or representation in any record, report, applications, plan, or other document filed with the City pursuant to this Ordinance, or who falsifies, tampers with, or renders inaccurate any monitoring device or method required under this Ordinance or any permit issued by the City hereunder shall be guilty of a misdemeanor.
- (e) Any person who continues to discharge groundwater into the sanitary sewer system in violation of this Ordinance will be charged an additional \$100.00 surcharge per month on their utility bill. Said surcharge will be imposed every month until the property at issue is in compliance with this Ordinance.

401.06. Use of Public Sewers.

Subdivision 1. Discharge of Unpolluted Waters. No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof run-off, subsurface drainage, unpolluted industrial process water, or cooling water to any sanitary sewer. Stormwater run-off from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by written permission of the Working Street Foreman. All other stormwater other than that exempted under subd. 1 and all other unpolluted drainage shall be discharge to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Working Street Foreman. No person shall connect to or otherwise make use of storm sewers without first obtaining a permit as provided in §401.05, subd. 2.

Subd. 2. Prohibited Discharges. No person 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, oil solvent, 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 or wastewater facilities, to constitute a hazard to humans or animals, to create a public nuisance, or to create any hazard in the receiving waters of the wastewater treatment works.
- (3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater treatment works.
- (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, asphalt, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, disposable diapers, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, napkins, cups, milk containers, either whole or ground by garbage grinders.

Subd. 3. Limited Discharge. The following described substances, materials, waters, or waste shall be limited in discharges to the wastewater facilities to concentrations or quantities which will not harm the wastewater facilities, will not endanger lives, limb, public property, or constitute a nuisance, and which are capable of regular and ordinary treatment at the wastewater treatment works so as to permit discharge therefrom in compliance with the NPDES permit issued to WLSSD. The City Engineer and the WLSSD may set limitations different from the limitations established in the regulations below if such further limitations are necessary to meet the above objectives. In making such determination due consideration shall be given to such factors as the quantity of waste in relation to flows and velocities in the sewers, materials, or construction of the wastewater facility, degree of treatability of the waste in the wastewater facility, and other pertinent factors. Until different limitations or restrictions on materials or characteristics are so established, no person shall discharge or cause to be discharged any of the following described waters or wastes to any sanitary sewer without the approval of the City Engineer or Working Street Foreman.

- (1) Wastewater having a temperature higher than +150° Fahrenheit (65° Celsius).
- (2) Wastewater having a concentration of more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or products of mineral oil origin.

- (3) Wastewater from industrial plants or commercial establishments containing floatable oils, fat, or grease.
- (4) 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 when served by caterers; provided that no garbage grinder with 3/4 horsepower or greater motor shall be used without the approval of the Working Street Foreman.
- (5) Any waters or wastes containing iron, chromium, copper, zinc, lead, mercury, cadmium, organic solvents, non-biodegradables, organic chemicals, and similar untreatable or toxic substances to such degree that any such materials received in the composite wastewater at the wastewater treatment works exceed the limits established by the superintendent for such materials.
- (6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the City Engineer.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City Engineer in compliance with applicable state or federal regulations.
- (8) Quantities of flow, concentration, or both which constitute a "slug" as defined herein.
- (9) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, are amenable to treatment only to such degree that the wastewater treatment works effluent cannot meet the requirements of the NPDES permit issued to the WLSSD, or are amenable to treatment only by the application of extraordinary processes.
- (10) Any water or wastes which, alone or by interaction with other water or wastes in the public sewer system, release noxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

Subd. 4. Other Harmful Wastes. 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 §401.06 subd. 3 and which, in the judgment of the City Engineer or the WLSSD, may have a deleterious effect upon the wastewater facilities, processes, equipment,

or receiving waters, otherwise create a hazard to life, or constitute a public nuisance, the City Engineer or the WLSSD may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition having in mind the effect on wastewater facilities and the ability of the wastewater treatment works to treat such waste and achieve a discharge in compliance with the NPDES permit;
- (3) Require control over the quantities and rates of discharge;
- (4) Require payment to cover added cost of handling and treating the wastes not covered by existing user charges under the provisions of this chapter.

Subd. 5. Interceptors. Grease, oil, and sand interceptors (sometimes termed traps), shall be provided when, in the opinion of the Working Street Foreman or the WLSSD, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in §4 (c) or any flammable wastes, sand, grit, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Working Street Foreman and the WLSSD and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintenance of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of dates and means of disposal which are subject to review by the Working Street Foreman, the City Building Official and the WLSSD. Any removal and hauling of the collected materials not performed by owner personnel must be performed by currently licensed waste disposal firms.

Subd. 6. Pretreatment. Where pretreatment or flow equalizing facilities are provided or required for any water or wastes, plans, specifications, and any other pertinent information relating thereto shall be submitted for approval of the City and the WLSSD, and no construction of such facilities shall be commenced until approval in writing is granted. Where such facilities are provided, they shall be maintained continuously in satisfactory and effective operating order by the owner at his expense and shall be subject to periodic inspection by the City and the WLSSD to determine that such facilities are being operated in conformance with applicable federal, state, and local laws, regulations, and permits. The owner shall maintain operating records and shall submit to the City and the WLSSD a monthly summary report of the character of the influent and effluent to show the performance of the pretreatment facilities and for comparison against WLSSD and City monitoring records.

Subd. 7. Additional Meters. When required by the Working Street Foreman, the City Administrator, or the WLSSD, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes by the City and the WLSSD. Such structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City Engineer and the WLSSD. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

Subd. 8. Additional Information. The Working Street Foreman, the City Administrator, and the WLSSD may require a user of sewer services and a person applying for sewer service to provide information needed to determine compliance with this chapter. These requirements may include:

- (1) Wastewater peak flow and volume over a specified time period.
- (2) Chemical analyses of wastewaters.
- (3) Information on raw materials, processes, and products affecting wastewater volume and quality.
- (4) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
- (5) A plot plan of the user's property showing sewer and pretreatment facility or flow equalizing facility location.
- (6) Details of wastewater pretreatment or flow equalizing facility.
- (7) Details of systems to prevent and control the losses of materials through spills to the public sewer.
- (8) Access to users' premises so that City and WLSSD personnel can carry out sampling, monitoring, and measurement of users' discharge.

Subd. 9. Notice Required. Users of the wastewater facilities shall immediately notify the Working Street Foreman, the City Administrator, and the WLSSD of any unusual flows of wastes that are discharged accidentally or otherwise to the wastewater facilities.

Subd. 10. Tests. 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 provisions set out in Standard Methods.

Subd. 11. Special Agreements. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City, the WLSSD, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City and WLSSD for treatment. Provided that any such agreement shall establish that charges to such user shall be in accordance with the City established user charges.

401.07. Damage to Wastewater Facilities Prohibited. No person shall maliciously or willfully break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the wastewater facilities.

401.08. Powers and Authority of Inspectors.

Subdivision 1. Entrance on Property. The Working Street Foreman and other duly authorized employees of the City and WLSSD bearing proper credentials and identification shall be permitted to enter, at all reasonable and necessary times, all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the wastewater facilities in accordance with the provisions of this chapter.

Subd. 2. Information. The Working Street Foreman or other duly authorized employees of the City and the WLSSD shall be provided by users with such information concerning industrial processes as have a direct bearing on the kind and source of discharge to the wastewater facilities.

401.09. User Charge System Established.

Subdivision 1. Purpose. For the purpose of distributing among users with the City the charges made to the City by the WLSSD for the cost of the City's proportionate share of the operation, maintenance, including replacement, and debt service of WLSSD wastewater facilities for the purpose of recovering from users the cost of operation, maintenance (including replacement), debt service of City wastewater facilities, and for services rendered and benefits conferred by WLSSD and City facilities, there is hereby established a wastewater facility user charge system.

Subd. 2. Collection. The user charges provided for in this section shall be collected by the City Administrator through a monthly billing and collection procedure to be established in regulation form by the City Administrator, and such procedure shall be effective upon approval of the Council by resolution. Such procedure shall include a late payment penalty provision and shall provide for an interest charge on the unpaid balance of such charges.

Subd. 3. Joint Liability and Actions to Collect. The owner of premises which are connected to the City's wastewater facilities, the occupant thereof, and the user of the service shall be jointly and severally liable to pay for the service to such premises, and the service is furnished to the premises by the City only upon the condition that the owner of the premises, occupant, and

user of the service are jointly and severally liable to the City therefor. A claim for unpaid charges which have been billed to the occupant of the premises or the user of the service may be recovered against the owner, occupant, or user in a civil action in any court of competent jurisdiction; and all delinquent accounts shall be certified to the City Clerk who shall prepare an assessment roll each year providing for assessment of delinquent amounts against the respective property service pursuant to Minnesota Statute §444.075 subd. 4. The assessment roll shall be delivered to the Council for adoption on or before October 1 of each year for certification of the county auditor for collection along with taxes. Such action by the City Council and adoption of the certification is optional. Money paid to the county auditor on such account shall belong to the City and shall be remitted to the City Treasurer by the county auditor in the manner provided by law for the payment of other money belonging to the City. In addition to, and not in lieu of, the foregoing method of enforcing payment of such charges, the City Administrator may, according to such rules and regulations as he may have established and the Council shall have by resolution approved, cause the City water supply for and to any premises to be shut off until all arrears, with interest and penalties on such delinquent charges, shall be paid, together with the cost of shutting off and turning on such water.

Subd. 4. Water Usage. Except as otherwise hereinafter provided, for the purpose of determining the charge to be rendered against premises using the City's wastewater facilities system and the WLSSD wastewater facilities, the volume of wastewater discharged into the City wastewater facilities system by the owner, lessee, or occupant of any premises having any direct or indirect connection with such system shall be deemed to be and shall be based and computed upon the amount of water used on such premises.

- (1) In all cases where such premises obtain water from the City's water supply, the volume of water used on any such premises shall be determined by the water meter readings made by the City.
- (2) In all cases whereon the water is derived in whole or in part from sources independent from the City, water used thereon which is supplied from private sources shall be measured by a water meter of a type approved by the Commission Secretary/Senior Bookkeeper/Utility Operations Coordinator to be installed by the owner, lessee, or occupant of such premises at his own cost and subject to the supervision and inspection of the Commission Secretary/Senior Bookkeeper/Utility Operations Coordinator. User charges against such premises shall be based upon the volume of water used thereon as measured from both public and private sources. Whenever the owner, lessee, or occupant fails to

install such meter or where it is not practicable to measure the water consumed on any premises by a meter, the Commission secretary/Senior Bookkeeper/Utility Coordinator or the WLSSD shall determine, in such manner and by such methods as he may find practicable considering conditions and attendant circumstances in each case, the estimated volume of water from private sources which discharges into such system. Such estimate shall be used in lieu of the meter volume of water from private sources to determine the user charge thereon and therefor.

Subd. 5. Meters. Where the owner, occupant, or user of the service has been required by the Commission Secretary/Senior Bookkeeper/Utility Operations Coordinator, or the WLSSD as authorized by §401.06 to install meters or other measuring devices that serve to demonstrate the volume of wastewater being discharged to the City's wastewater collection system and WLSSD's treatment facilities, the volume of wastewater as so measured shall be the basis upon which the charges to be made hereunder shall be determined.

Subd. 6. WLSSD Charges. Charges made to the City by the WLSSD for the cost of the City's proportionate share of the operation, maintenance, including replacement, and debt service to the WLSSD wastewater facilities shall be distributed among the users within the City in accordance with the WLSSD domestic equivalent classification system, 1976, a copy of which is on file in the office of the Clerk. Charges made to the City by the WLSSD in accordance with the Industrial Cost Recovery Requirements of Title II of the Federal Water Pollution Control Act Amendments of 1972 (Public Laws 92-500, 33 U.S.C. 1251, et seq.) shall be apportioned among industrial users within the City in accordance with the WLSSD Industrial Cost Recovery Classification System, 1976, a copy of which is on file in the office of the Clerk.

Subd. 7. City Charges. For the purpose of recovering from users the cost of operation, maintenance (including replacement), and debt service of the City's wastewater facilities, there is established and shall be collected a user charge based upon the volume of wastewater discharged to the City's wastewater facilities system and determined as in subd. 4 herein; provided, and in accordance with the City Schedule of Charges and Fees.

401.10 Ordinance Establishing Standards For Fats, Oil and Grease Reduction

SECTION 1: Authority and Purpose.

This Ordinance establishes standards for the reduction of fats, oils and grease by requiring proper grease interceptor design, installation, maintenance, reporting and the enforcement of penalties for failure to comply. This Ordinance will protect the health, welfare and safety of the public and the environmental by requiring provisions for the reduction of fats, oils and grease, minimizing the impact on the Wastewater Collection and Transmission System.

SECTION 2: Definitions.

2.1 “*Customer*” means any entity which discharges wastewater to the City wastewater conveyance system.

2.2 “*Fats, Oils and Grease*” (FOG) means material, either liquid or solid, composed primarily of fat, oil and grease from animal, vegetable or mineral sources.

2.3 “*Food Service Facility*” includes the following types of establishments: Full service restaurants, fast food establishments, delicatessens, cafeterias, school cafeterias, church kitchen, hospitals and medical facilities, boarding houses, clubhouses, adult daycare facilities, assisted living facilities, convalescent homes, meat distributors and processing facilities, food processing facilities, grocery stores with food preparation/service areas, bakeries, caterers and or other similar types of operations with commercial kitchen equipment.

2.4 “*Grease Interceptor*” means a device designed to capture fats, oils and grease prior to discharge to a sanitary sewer. Also termed grease traps or grease recovery devices.

2.5 “*City*” means the City of Proctor, Minnesota.

SECTION 3: Fats, Oils and Grease Reduction Requirements.

3.1 **Requirements.** The installation or upgrade, and maintenance, of grease control equipment at both new and existing FOG generating facilities must meet the following requirements:

- A. Grease Interceptors must be installed at all new FOG generating facilities.
- B. Existing FOG generating facilities must install an approved, properly operated and maintained Grease Interceptor when any of the following conditions exist:
 - i. If the City determines the discharge of grease from the facility to the sewer has or its creating restrictions in the public sewer or is causing additional sewer maintenance costs.
 - ii. Construction which requires issuance of a building permit from the City occurs at a Food Service Facility.

C. Grease Interceptors must be of adequate size and efficiency and at a minimum shall be sized and installed in accordance with the State of Minnesota Administrative Rules, Chapter 4715, Plumbing Code and all applicable municipal plumbing codes.

D. Grease Interceptors shall be installed in the waste line leading from the sinks, drains or other fixtures where grease may be introduced, and must be readily accessible for cleaning and inspection.

E. FOG generating facilities must maintain records for all Grease Interceptor cleaning and maintenance activities in a format approved by the City and have such records available for inspection.

F. FOG generating facilities must regularly clean and maintain the Grease Interceptor and properly dispose of captured material.

i. Each facility must maintain records of the dates and means of disposal.

ii. Any removal and hauling of the captured materials not performed by the owners personnel must be performed in compliance with all applicable laws and regulations by a licensed waste disposal contractor.

3.2 Variance. The City may grant a variance or conditional waiver from the minimum requirements in Section 3.1 if the FOG generating facility demonstrates to the satisfaction of the municipality that any FOG discharge is negligible and will have an insignificant impact on the sewer system. At a minimum, the following conditions apply:

A. The FOG generating facility must demonstrate that the discharge from its activities contains less than 100 mg/l of FOG.

B. The sampling and testing to demonstrate the concentration of grease in the discharge must be conducted, at a facilities expense, by an independent testing organization in accordance with acceptable industry standards.

3.3 The City will perform periodic and random FOG equipment inspections, including scheduled inspections of known problem areas. Records of the inspections shall be

maintained by the City. An authorized agent of the City or employee of the City may at all reasonable hours, enter any private premises for the purpose of inspecting sewer system connections, plumbing, Grease Interceptors and appurtenances to assure compliance with this or other applicable laws, regulations and ordinances.

Section 4: Penalties

- 4.1 Any person found in violation of any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by penalty established in Minnesota law for a misdemeanor as may be amended from time to time. Any person convicted of a violation of this ordinance shall be required to pay the reasonable costs of prosecution.
- 4.2 The City may in its discretion, seek any civil remedies available to it including remedies at law, in equity or other relief. In the event that civil remedy is pursued, the City may seek reimbursement of any and all costs, disbursements, witness or other fees, as well as reasonable attorney's fees expended by the City in order to enforce this Ordinance.
- 4.3 Other Remedies. Each right or remedy accruing to the City under this Ordinance or at law is separate and distinct and may, at the City's discretion, be exercised independently or simultaneously with any other right or remedy.

Section 5: Record Retention

Records required to be maintained under Section 3.1 shall be retained for a minimum of seven years from the date of creation of the record. Records include written, photographic, recorded, electronic, or stored data of any kind.

Section 6: Effective Date

This ordinance shall become effective immediately following publication.

402. Utility Commission

402.01. Commission Created. There is hereby continued a Public Utilities Commission pursuant to Minnesota Statutes §412.321 through §412.391 which will have all the powers and duties set forth therein as supplemented and amended, together with all of the powers hereinafter granted. The Commission shall have jurisdiction over the City's water and light and power system.

All Commissioners of the Commission shall be residential customers of the Proctor Utilities Commission (PUC), receiving their water and/or electrical utility service from the PUC. In the event that a Commissioner of the PUC discontinues service from the PUC or leaves the territory served by the PUC, he or she shall immediately resign from the PUC, and the Council shall appoint a successor.

402.02. Building. The Commission shall have no power or authority over any buildings owned, leased, or operated by the City and shall have no power to dispose of, rent, lease, or let such buildings, except as the same are acquired

or used primarily and exclusively for the purposes and in the operation of the electrical and water distribution systems in the City or other areas served.

402.03. Water and Light Fund. There are hereby created two funds; a water fund and a power and light fund. Said funds shall be separate from each other and all other funds of the City or the Commission. It shall be the duty of the Commission and, it is hereby empowered, to collect all water, light, heat, power, and rent charges from patrons of the systems, including the City, and pay the same into the designated funds. The Commission shall have the exclusive control of the funds and of all collections made by the Commission except as agreed between the Commission and the Council. It shall be the duty of the Commission to fully, absolutely, and exclusively control all the operation and management of the water, light, and power plants and systems in the City and adjacent territory and to pay the operation thereof out of the funds.

402.04. Clerk May Be Secretary. The City Clerk may, at the option of the Commission and, in that event, shall receive for his services as secretary such compensation as the Commission may determine.

403. Proctor Utility Billing Ordinance

Subdivision 1. Owners of Premises to be Responsible for Charges.

- (A) The owner or his authorized agent of premises where water, sewer, and/or electrical service is delivered is required to be a responsible party (either as customer or guarantor) for payment for those services, unless the Utility Commission or, in the case of sewer, the City, in writing, waives this requirement. An applicant or customer shall provide the applicable provider, at its request, with information enabling it to determine the ownership status of premises to which water, sewer, or electric service is proposed to be or is being provided. This paragraph is effective as to all premises leased after January 1, 1986; provided that this paragraph shall not be effective with respect to premises which are subject to a lease on January 1, 1986, which has a term greater than one month until the time of the first renewal of such lease after January 1, 1986.
- (B) Where the provider provides service to a residence with an address which is different than that of the person paying the charges for service to such residence or where the provider has other reason to know that a landlord has contracted to be responsible for the utility account at a residence occupied by renters and where the provider proposes to discontinue service at such residence for non-payment of outstanding charges or for any other reason, then the provider shall post, on or near the front and rear entrances of the premises where service is rendered a notice of intent to discontinue service. Said notice shall be posted not less than thirty-one (31) calendar days prior to the actual discontinuance of said service. Copies of said notice shall also be sent by first class mail to the occupants of the address where service is rendered and to the customer at his billing address. The notice to the tenants shall contain the following information:
- (1) The date of posting;
 - (2) The proposed date of termination;
 - (3) The reason for the proposed termination;
 - (4) The total amount of arrearages charged to the account for the unit or units

subject to termination and the current bill for utility consumption over the past billing period;

- (5) The right of the tenant(s) to avoid termination by paying the current charges as set forth below.
- (C) If the reason for the proposed termination of service is failure of the landlord to pay outstanding charges on his account then the tenant shall be entitled during the (31)-day notice period provided by subd. (B) of this section to avoid termination of services by following the procedures set forth below.
- (D) No person shall deface or remove any notice posted by the provider pursuant to this section during the 31-day period or until the tenant has made arrangements to avoid termination following the applicable procedures as set forth at §403 subd. 4.

Subd. 2. Misdemeanor to Rent Premises Where Service Disconnected.

- (A) No person shall let to another for occupancy any dwelling or dwelling unit within the City of Proctor for the purpose of living therein to which water, electric, or sewer service has been discontinued by the Utility Commission or the City for the failure of the owner or any other person to pay outstanding charges on his or her account unless one of the following conditions is met:
 - (1) The landlord provides the prospective tenant with written confirmation from the applicable service provider that arrangements have been made to reconnect utility service; or
 - (2) The landlord and prospective tenant enter into a written agreement with the applicable service provider that the tenant may pay all or part of the rent to the provider in consideration for reconnection of utility service.
- (B) No landlord, agent of the landlord, or person acting under a landlord's direction or control may disconnect or cause the disconnection of water, electric, or sewer services to the tenant, without the tenant's consent, unless such interruption is for the purpose of repairing or correcting faulty or defective equipment or protecting the health and safety of the occupants of the premises involved. If such disconnection occurs, the landlord shall be obligated to reinstate the service as soon as possible.

- (C) If residential premises are rented in violation of paragraph (A) of this subsection, the tenant may reinstate service by paying to the provider an amount equal to the estimated utility charges for the remainder of the period for which the tenant has paid rent, not to exceed thirty-one (31) days. The provider shall bill the landlord for the reconnection charges.

Subd. 3. Tenant's Right to Pay Bill and Deduct Charges From Rent.

- (A) Where an applicable provider has given notice that it will terminate utility service or where the provider has terminated service because of the failure of the owner to pay outstanding charges on his or her account, a tenant may notify the landlord in writing of his or her intent to follow the procedures set forth in this section. During the time period from October 15 to April 15 if utility service has been disconnected or is threatened with disconnection within 48 hours, the tenant may notify the landlord, either orally or in writing, of the situation and of his or her intent to pay the bill within such period as is reasonable under the circumstances. If the situation is not remedied, the tenant may pay the outstanding bill or portion thereof and, upon submitting to the landlord receipts, deduct the cost from the rent.
- (B) If the provider receives payment from a tenant under this section equivalent to the current bill, it shall not terminate service for the following month, or if service has already been terminated, it shall reconnect service for at least one month.
- (C) If the tenant desires to continue paying service charges for the landlord beyond the one month period authorized in paragraph (B) of this section, the provider may require the tenant to make payments in addition to the current bill in following months in an amount equal to one-third (1/3) of the past due bill of the landlord; provided that the tenant shall not be required to pay a total amount in any month greater than twice the average bill nor an amount in excess of the amount of the tenant's monthly rent. The provider may require the tenant to furnish rent receipts, a written lease, or other proof in writing of the amount of the tenant's monthly rent. All agreements to make payments to the provider in lieu of rent shall be in writing and signed by the tenant and a representative of the Department. A copy of such agreement shall be furnished to the tenant.
- (D) When a tenant elects to pay for water, sewer, or electric service in accordance

with this section, the provider shall notify the tenant's landlord of the election. This notice shall advise the landlord that the tenants have the right to deduct utility charges actually paid from future rental payments and that no landlord can retaliate against tenants (i.e., eviction or rent increase without other good cause) for exercise of their rights under this section.

- (E) For purposes of this section, "current bill" means the bill for utility consumption at the premises during the previous billing period and "average bill" means the bill for a year's consumption at the premises divided by the number of billing periods a year.
- (F) The provider shall not require the tenant to place the account in his or her own name as a condition to continuing the utility service under this section. The provider shall advise any requesting tenant, or the tenant's representative, of the amount owing on the utility account for rental property for which the provider has given notice of intent to terminate.
- (G) If the tenant fails to make payments under this section, the department shall give the tenant five (5) days notice by certified mail of its intent to terminate utility service before terminating such service.

Subd. 4. All Charges to be Paid Before Water, Electric, or Sewer Supply is Re-established. After the supply of water, electric, or sewer to any applicant or to any premises has been shut off on account of non-payment of charges or for violation of the provisions of this chapter or department rules, neither water, electric, nor sewer will be again supplied to the non-paying customer until all past charges incurred by said customers are paid in full. In lieu thereof, the applicable provider may enter into an agreement with the customer for payment of the outstanding billing over time to carry interest equal to the judgment rate. Failure of the customer to make payments as agreed will subject the customer to the shut-off regulations of the applicable provider.

Subd. 5. Landlord Shut-Off Notice Provisions. Landlords renting residential dwelling units to the public within the service territory of the Proctor Utility Commission (for the City in case of sewer) shall be subject to the following notice requirements and provisions:

- (A) Landlords owning, controlling, supervising, or managing such rental units shall

sign an agreement with the provider to insure the provisions of this subdivision apply.

- (B) The service agreement form to be signed by the service provider shall contain sufficient information for purposes of locating and notifying each landlord signing such agreements.
- (C) Pursuant to the landlord's signing of the required agreement, anytime during the term of the agreement the provider listed by the landlord in the agreement has actual knowledge of a tenant quitting or vacating any unit therein, the provider shall attempt to give telephone notice of the quitting or vacating to the landlord.
- (D) After two attempts to notify the landlord of the quitting or vacating of a tenant, the provider may discontinue efforts to notify the landlord and discontinue utility service to the unit rented by the quitting or vacating tenant.

Provided, the provider shall not discontinue service so long as the landlord agrees in writing to pay for service to the unit which is being quit or vacated.

- (E) If any time the landlord fails to continue to pay for the service provided under paragraph D above, the provider shall be empowered to discontinue service to the rental premises in question.

Subd. 6. Utility Service Repairs. Pursuant to subd. 1 (B) herein, if a tenant elects to continue to receive service where the providing utility has indicated it will discontinue service for reasons other than non-payment of service billings (such as defective or hazardous service entrance to the dwelling unit) the tenant may elect to repair or remedy the situation leading to the discontinuance and deduct the cost thereof as allowed under subd. 3.

404. Utility Service Deposit and Lien Ordinance

404.01. Deposit Requirements.

Subdivision 1. Service Application. Every person, partnership, corporation, or other entity desiring to purchase electric power, water, and/or services from the Proctor Public Utility and/or the City of Proctor shall be required to fill out an application for service with the

appropriate provider prior to service being instituted.

For purposes of this Ordinance, the provider of electric and water service is the Proctor Public Utility. The provider of sewer service is the City of Proctor.

Such application shall be required regardless of whether the party seeking service is a tenant, fee owner, subtenant, or contract vendee relative to the property desired to be serviced.

A new application shall be required of any party moving or changing physical locations within the service area of the applicable provider regardless of the past history of said party.

Subd. 2. Deposit Required: Lien Exception. Each party completing an application for such utility service shall post a deposit equal to three month's average of the previous twelve months' billings for the property to be serviced as computed and billed by the applicable provider.

If service has been discontinued prior to the application in question, the provider shall utilize the most recent previous twelve months of service listed in the billings for that particular location or property.

- (A) Fee Owner Exception: Provided, that if a party desiring service is the fee owner of the property to be serviced, the fee owner may sign an agreement with the provider allowing the provider to place of record a lien against the real property serviced for any past-due utility billings. In such instances where a lien agreement is signed by the fee owner of the property, the applicable provider shall except and waive the requirement of posting a deposit.
- (B) Non-Fee Owners Exception: A party applying for service that is not the fee owner of the property to be serviced may obtain a waiver and exception to the above-described deposit requirement by obtaining the fee owner's written agreement to a lien for past-due utility service as set forth in subpart (A) above. To obtain such a waiver and exception, the fee owner must sign the lien agreement authorizing the lien at the time service is applied for.
- (C) Prior Customer Exceptions: A party applying for service that is the fee owner of the property to be serviced who has had an account established with the Proctor Public Utilities prior to his/her present application for service and who meets the

following requirements shall not have to post the deposit required by this subdivision or sign a lien agreement:

- I. The applicant has had an account with the Proctor Public Utilities within the past five years; and
- ii. The applicant's prior account covered at least two complete years' of service; and
- iii. The applicant's prior account with the Proctor Public Utilities had not been subject to involuntary discontinuance, termination, an electric service limiter, or had not been past due more than one time during any two year period of service previously provided by the Proctor Public Utilities.

Subd. 3. Refunds of Deposits.

- (A) Twenty-four Months: Any party posting a deposit as required by subd. 2 above shall be entitled to a full refund of said deposit with interest as allowed by law after twenty-four (24) months service to said party. The refund shall be calculated by the appropriate provider and shall be either credited to the involved customer's bill until exhausted or, in the case of a customer who is not continuing service, may be refunded directly to the customer. Provided, that no refund shall be credited or allowed to any party receiving service hereunder if said party's account covered by the deposit has been past due more than one time during the twenty-four (24) month service period.
- (B) Termination of Customer's Interest: At any time upon customer request the applicable utility shall terminate any and all utility service to said customer and shall refund any deposit posted and interest as allowed by law.

Additionally, in the event the customer being served terminates his/her interest in the property being provided utility service through sale, foreclosure, death, or any other event terminating his/her interest in the property, the applicable utility shall refund any deposit posted and interest as allowed by law.

405. Utility Connection Inspections

Subdivision 1. Inspections Mandated by Service Connection. All customers of the Proctor Public Utilities, with respect to water and electric service, and customers of the City of Proctor, with respect to sewer service, shall allow properly identified employees of the Proctor Public Utilities (PUC) and the City of Proctor access to any and all structures being provided such utility service for the purposes of inspection; provided, that in any non-emergency situation, the City or the PUC shall provide to the owner or occupant of the structure 24 hours notice of the need to inspect.

Prior to the inspection, the employees shall present picture identification provided by the PUC and/or the City to the structure's owner, if present, or to any occupant of the structure if the owner is not present.

The term "inspection" shall include the inspection of water and sewer mains, service lines, drains, and meters and/or electrical lines, connections, and meters.

Subd. 2. Failure to Allow Access. Any customer, as described above at subd. 1, who fails or refuses to allow a properly identified employee of the PUC or the City to inspect shall be subject to the immediate discontinuance of all utility service until the inspection is allowed. All applicable state and federal laws regarding shut-offs of municipal utilities shall be adhered to prior to any such shut-off. Upon compliance with a demand to inspect, any utility service disconnected for noncompliance with this ordinance shall be immediately reconnected and service restored upon the payment of any required reconnection fees.

PROCTOR CITY CODE

500. General Regulations

501. Animals

501.01. Definitions.

Subdivision 1. Person. "Person" means any natural person, partnership, corporation, or association.

Subd. 2. Owner. "Owner" means any person owning, keeping, harboring, or having custody of any animal.

Subd. 3. Dog and Cat. "Dog" shall include both male and female dogs. "Cat" shall include both male and female cats.

Subd. 4. Farm Animal. "Farm Animal" includes any horse, mule, cattle, swine, sheep, goat or other beast, and any chicken, turkey, goose, or other fowl or poultry.

Subd. 5. Animal. "Animal" means any dog, cat, or farm animal.

Subd. 6. Running at Large - Dogs and Cats. A dog or cat is deemed to be running at large unless it:

- (1) On the premises of its owner; or
- (2) On a leash not exceeding six feet in length and accompanied by and under the control of its owner or other responsible person; or
- (3) Confined in a shipping receptacle or a closed vehicle; or
- (4) Is actually participating in a bona fide field trial, dog or cat show or exhibition, training school, obedience school, or similar activity.

A dog or cat is also deemed to be running at large if it commits damage to the person or property of anyone other than the owner, or creates a nuisance upon the property of anyone other than the owner, except in defense of the owner, his family or his property. A female dog or cat in heat is also deemed to be running at large if it is off the premises of its owner, unless such dog or cat is confined and being transported to or from the premises of the owner.

Subd. 7. Running at Large - Farm Animals. A farm animal is deemed to be

running at large if:

- (1) It is off the premises of the owner, unless accompanied by its owner or an agent or employee of its owner; or
- (2) It is allowed to trespass upon or run over any lawn, garden, improved lot or fenced private grounds other than those of its owner.

501.02. Running at Large Prohibited. No owner shall permit any animal to run at large.

501.03. Interference with Persons. No owner shall harbor or keep on a chain or otherwise any dog or cat which shall cause annoyance to or interfere with people passing upon any streets, sidewalks, or other public place by physical interference with such people.

501.04. Muzzling. Whenever the prevalence of rabies or any other contagious disease affecting dogs or cats renders such action necessary to protect the public health and safety, the Council shall issue an order requiring every dog or cat to be confined or muzzled securely so it cannot bite. Such order shall remain in effect for such time as the Council deems necessary for the protection of the public. The owner of every dog or cat shall comply with such order for such period of time as it remains in effect. Any dog or cat not muzzled or confined in compliance with such order shall be impounded pursuant to §501.07.

501.05. Dog and Cat Licenses.

Subdivision 1. License Required. No person shall own, harbor or have custody of any dog or cat over the age of six months without obtaining a license for such dog or cat.

Subd. 2. Application. Every application for a dog or cat license shall be made to the City Clerk and shall state the name and address of the owner, and the sex, breed, age, color, and marking of the dog or cat, and, if female, whether the dog or cat is spayed. Each application shall be accompanied by payment in full of the license fee. No application for a license shall be accepted without proof of current rabies vaccination for each such dog or cat to be licensed. Further, the failure of any dog or cat owner, whether the animal is licensed or unlicensed, to keep any such animal vaccinated against rabies shall be a petty misdemeanor. In addition to any court fines, owners may post a \$25.00 deposit for said animals which shall be refunded upon

proof of vaccination.

Subd. 3. Term and Fee. The annual fee for a dog or cat license shall be subject to the City Schedule of Charges and Fees. Each license shall expire on January 1 of each year. The fee shall not be prorated for a partial year.

Subd. 4. License Tag. The Clerk shall issue a numbered license bearing the description of the dog or cat and the owner's name and address, and a metal or plastic tag bearing the license number. The tag shall be fastened to the dog or cat's collar, and shall be worn by the dog or cat at all times. The Clerk shall maintain a record showing the owner's name and address, description of the dog or cat, and the license number for each license issued. No person except the owner or his agent shall remove a license tag from a dog or cat collar or remove from a dog or cat any collar with a license tag attached. No person shall keep, harbor, or have custody of a dog or cat bearing a fictitious, altered, or invalid license tag, or a license tag not issued for the dog or cat wearing it. No person shall transfer a tag from one dog or cat to another.

Subd. 5. Owner Responsibility. The owner of any licensed dog or cat, as recorded by the City Clerk, shall be responsible for all fees and charges accruing by reason of owning, harboring, or having custody of any dog or cat in the City. If the ownership of a dog or cat changes, it is the responsibility of the recorded licensee to notify the City Clerk of the change.

501.06. Pound and Animal Control Officer.

Subdivision 1. Pound Established. There is hereby established a City pound at such location as the Council may designate for the keeping of any animal impounded under this Ordinance. The Council shall provide suitable facilities for the well-being and humane care of impounded animals.

Subd. 2. Animal Control Officer. There is hereby created the office of Animal Control Officer. The Animal Control Officer and/or other designated employees of the Proctor Police Department shall enforce the provisions of this Ordinance and shall have charge of the pound. The Animal Control Officer shall be paid a salary or fee established by the Council. The Animal Control Officer shall render a monthly statement to the Council of all fees, charges and

monies received by him. Upon the Council's approval, said bills will be paid. Council, as an alternative, may contract with any other government for Animal Control Officer services.

Subd. 3. Interference. No unauthorized person shall break open the pound, or attempt to do so, or assist in doing so. No unauthorized person shall take or let out any animal from the pound or take or attempt to take from the Animal Control Officer and/or other designated employees of the Proctor Police Department any animal taken up by him as provided by this Ordinance. No person shall hinder, obstruct or interfere with the Animal Control Officer and/or other designated employees of the Proctor Police Department in the performance of their duties.

501.07. Impounding.

Subdivision 1. Authorization. The Animal Control Officer and/or other designated employees of the Proctor Police Department shall seize and impound any unlicensed dog or cat, any animal running at large, and any animal otherwise in violation of this Ordinance. The fact that a dog or cat is without a license tag attached to its collar shall be presumptive evidence that the dog or cat is unlicensed. Any police officer seizing a dog or cat shall immediately deliver the dog or cat to the Animal Control Officer. The Animal Control Officer and/or other designated employees of the Proctor Police Department shall thereupon give notice of the impounding to the owner, or if the owner is unknown or cannot be found, he shall post notice at the City Hall and at the pound. The notice shall describe the impounded animal and the time and place of its taking.

Subd. 2. Redemption. Any impounded animal may be redeemed by the owner within five (5) days from the date of impounding by payment of the impounding fee. No unlicensed dog or cat shall be released by the Animal Control Officer and/or other designated employees of the Proctor Police Department unless a license is first obtained for the dog or cat. Any impounded animal found to be rabid or hopelessly crippled, and any dog or cat known to be treacherous or vicious, shall be destroyed immediately by the Animal Control Officer and/or other designated employees of the Proctor Police Department.

Subd. 3. Disposal - Research. When any hospital or reputable institution of learning shall apply to the Clerk for permission to use for research purposes on the study of prevention or cure of disease for the betterment of mankind any impounded animal remaining

unclaimed after five (5) days, the Animal Control Officer and/or other designated employees of the Proctor Police Department upon direction of the Council shall surrender to the institution or hospital such unclaimed animals as are requested.

Subd. 4. Disposal Generally. Any unclaimed impounded animal may be sold by the Animal Control Officer and/or other designated employees of the Proctor Police Department and the proceeds remitted to the City treasury after deduction for the cost of care of the animal. Any impounded animal not redeemed, surrendered to a hospital or institution, or sold shall be humanely disposed of by the Animal Control Officer and/or other designated employees of the Proctor Police Department at the direction of the Council. Costs of disposal shall be the responsibility of and be billed to the owner of said animal, if known.

Subd. 5. Fees. For every animal impounded, the owner shall pay, before release, an amount equal to the actual costs of the care, feeding, and impounding of any such animal. Provided, that the owner of any animal found to be running at large or impounded for any reason under the terms of the Ordinance on more than one occasion shall be guilty of a petty misdemeanor punishable by a maximum fine subject to City Administrative Fine Schedule. This fine shall be in addition to the costs of impoundment as set forth above.

501.08. Voluntary Pickup. Upon request of the owner, the Animal Control Officer and/or other designated employees of the Proctor Police Department shall pick up and dispose of any animal, alive or dead. The owner or other person requesting such service shall, at the discretion of the Animal Control Officer and as recommended to the Chief of Police, pay all costs thereof.

501.09. Dangerous Animals. Notwithstanding any other provisions of this Ordinance, any animal which is diseased, vicious, dangerous, rabid, exposed to rabies, or which has been bitten by another animal, including wild animals, and which cannot be impounded without serious risk to the persons attempting it, may be immediately destroyed by or under the direction of the Animal Control Officer and/or other designated employees of the Proctor Police Department.

501.10. Adoption by Reference. M.S. §§ 35.67, 35.68 and 35.71 are adopted by reference.

501.11. Habitual Barking, Yelping, Etc. No person shall harbor or keep any dog or cat which, by loud and frequent or habitual barking, yelping, meowing, howling, etc., shall cause annoyance to the neighborhood or to people passing upon the streets, sidewalks or other public places in the City.

501.12. This Ordinance shall apply to any and all animals kept within the City of Proctor and to all animals found within the City of Proctor. The City Council shall post the major roadways entering the City of Proctor with signage indicating that the City of Proctor has a leash law and that said law will be enforced. The selection of the roadways to posted shall be at the Council's discretion.

501.13 Public Nuisance Animals.

Subd. 1. Definition. A “public nuisance animal” shall mean and include any animals that:

- a). Is repeatedly found at large as defined by this chapter.
- b). Damages the property of anyone other than the owner.
- c). Attacks without provocation.
- d). Excessively makes disturbing noises including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity.
- e). Creates unsanitary conditions or offensive and objectionable odor in enclosures or surroundings and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept.

Subd. 2. Impoundment of Public Nuisance Animals. Any public nuisance animal may be impounded and the owner or possessor thereof charged as provided in this Chapter for a violation thereof.

501.14 Dangerous Animal Requirements.

Subd. 1. Requirements. If city police personnel do not order the destruction of an animal that is dangerous, city police personnel may, as an alternative, order any or all of the following:

- a). That the owner provide and maintain a proper enclosure for the dangerous animal as defined in this Chapter;
- b). Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property, which warning symbol shall be the same or similar to those specified in Minnesota Statute 347.51;
- c). Provide and show proof annually of public liability insurance in the minimum amount of three hundred thousand dollars (\$300,000.00);
- d). If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six (6) feet in length) and under the physical restraint of a person sixteen (16) years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;
- e). If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in Minnesota Statute 347.51;
- f). All animals deemed dangerous by city police personnel shall be registered with the County in which this city is located within fourteen (14) days after the date the animal was so deemed and provide satisfactory proof thereof to city police personnel.
- g). If the animal is a dog, the dog must be licensed and up to date on rabies vaccination. If the animal is a cat or ferret, it must be up to date with rabies vaccination.

h). If there is more than one (1) animal in a given household, the owner or possessor thereof may be required to reduce the number of animals for a period of time deemed appropriate by the City or its designee depending upon the severity of the offense or situation.

Subd. 2. Seizure. City police personnel shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within fourteen (14) days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

Subd. 3. Reclaiming Animals. A dangerous animal seized under this Chapter, may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to city police personnel that each of the requirements under this Chapter is fulfilled. An animal not reclaimed under this section within fourteen (14) days may be disposed of as provided under this Chapter and the owner is liable to the city for costs incurred in confining the animal.

Subd. 4. Subsequent Offenses. If an owner of an animal has subsequently violated the provisions under this Chapter with the same animal, the animal must be seized by city police personnel. If the owner is found to have violated the provisions for which the animal was seized, city police personnel shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of this Chapter. If the animal is not yet reclaimed by the owner within fourteen (14) days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under this Chapter and the owner is liable to the city for the costs incurred in confining, impounding and disposing of the animal.

502 - 502.06. Weapons

502.01. Definitions.

Subdivision 1. Firearms. "Firearm" means any rifle, shotgun, pistol, air rifle, or BB gun.

Subd. 2. Assault Weapon. "Assault weapon" means any dagger, dirk, stiletto, switchblade knife, blackjack, sand-club, pipe-club, chain club, metal knuckles, or any similar

device having no useful purpose other than personal assault.

502.02. Discharge. No person shall fire or discharge any firearm within the City, except as provided by §502.04.

502.03. Carrying. No person shall have in his possession any firearm unless the weapon is unloaded and is dismantled, broken apart, or carried in a case in such a manner that it cannot be discharged, except as provided by 502.04.

502.04. Exceptions. The provisions of §502.02 and §502.03 shall not apply to the following:

- (1) The possession or discharge of any firearm by a peace officer or military personnel in the scope of their official duties;
- (2) The possession of a firearm by a person within his home or place of business;
- (3) The discharge of a firearm in the lawful defense of a person or property;
- (4) The carrying of a pistol by a person whom a permit has been issued pursuant to M.S. §624.711 - §624.717;
- (5) The discharge of a firearm at a shooting range or facility approved by the Chief of Police.

502.05. Minors. No minor under the age of 14 years shall handle or have in his possession or under his control any firearm except when accompanied by or under the immediate charge of his parent or guardian.

502.06. Assault Weapon. No person shall own, keep, carry, or have in his possession any assault weapon.

502.07. Discharge of Bow and Arrows Prohibited. No person shall discharge any bow and arrow, to include any long bow, short bow, cross bow, or similar device within the City of Proctor unless solely upon premises owned by said person or unless permitted by City Code.

Hunting within the City of Proctor with any such device is prohibited, unless it is specifically permitted pursuant to Sections 806.01 and 806.05.

503. Curfew

503.01. Curfew Imposed.

Subdivision 1. Age and Time. No person under the age of 17 years except as provided in subd. 2 shall be on any public street, alley, in any park or in other public grounds or building, place of amusement, entertainment, or refreshment, vacant lot, or any other unsupervised place between the hours of 10 p.m. and 5 a.m. of the following day.

Subd. 2. Exceptions. The restrictions of subd. 1 do not apply when the minor:

- (1) Is accompanied by his parents, guardian, or other person having the minor's lawful care, custody, and control; or
- (2) Is returning home by a direct route from and within 30 minutes after a school activity or an activity of a religious or other voluntary association when prior notice of the activity and its place and probable time of termination has been given to the police department by an adult person authorized by the school or the religious or voluntary association to do so; or
- (3) Is carrying a certified card of employment and is on his way to or from his place of employment; or
- (4) Is upon an emergency errand or other legitimate business directed by the minor's parent, guardian, or other adult having lawful custody of the minor.

503.02. Parental Responsibility. No parent, guardian, or other adult having custody and control of a minor under 17 years of age shall knowingly permit the minor to violate the provisions of §503.01.

503.03. Penalties. Any person under the age of 17 on a street or other place in violation of §503.01 shall be ordered to go home immediately. After investigation, if responsible City authorities determine that court action should be initiated, the minor shall be dealt with in accordance with juvenile court law and procedure. Any such minor who is convicted of a violation of this Ordinance after the case has been referred for prosecution in the trial court under M.S. §260.15 and any person who is convicted of a violation of any provision of §503.02 is guilty of a petty misdemeanor and shall be punished by a fine subject to the City Administrative Fine Schedule or pursuant to Chapter 506A of the City Code.

504. Open Burning

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

504.02. Regulations Adopted. The regulations of the Minnesota State Pollution Control Agency regulating open burning, APC8, are adopted by reference.

504.03. Prohibition. No person shall cause, suffer, allow, or permit open burning, except as permitted by the regulations of the Minnesota State Pollution Control Agency.

504A. Trespass

504A.01. Trespass. No person shall do any of the following acts unless he is a public official or officer engaged in a good faith effort to carry out his duties.

- (a) Trespass upon the premises of another and, without claim of right, refuse to depart therefrom upon demand of the lawful possessor.
- (b) Tamper with or get into or upon a motor vehicle without the permission of the owner or rightful user of the motor vehicle.
- (c) Get into or upon or ride in a motor vehicle knowing it is being operated by another without the permission of the owner.
- (d) Occupy or enter the premises of another while knowing, or having reasonable grounds to know, that such entering or occupying will be in violation of the wishes of the lawful possessor of the premises.
- (e) Enter or occupy the dwelling of another without claim of right or consent of the owner or another who has a right to give consent, except in an emergency situation.

Violation of this provision shall constitute a misdemeanor under the Proctor City Code.

504A.02. Public Property Trespass.

Subdivision 1. Definitions. As used in this section, the following terms shall mean as follows:

- (1) "Public property" shall include any real property owned or leased by a public body, entity, or subdivision, including but not limited to the City of Proctor, the Proctor Public Utility Commission, and Independent School District 704, and shall include any buildings located upon such real property, together with improvements or fixtures therewith.

Subd. 2. Violations. It shall be a misdemeanor for any person to do any of the following:

- (1) Refuse to depart from public property upon the demand of an employee of the public body owning or leasing said property.
- (2) Whether on or off said property, to willfully disturb or obstruct any function, program, assembly, or publicly sponsored and recognized activity.
- (3) To operate an all terrain vehicle, snowmobile, or similar device on public property.
- (4) To enter or remain upon said property, in contravention of regulatory signs displayed upon such property, without the consent of the public body owning or leasing said property.

505. Solid Waste Collection

505.01 Purpose and Application. The Sanitary Board of the Western Lake Superior Sanitary District (the "District"), which includes the City of Proctor (the "City") within its boundaries, is empowered by its enabling legislation to regulate the disposal of solid waste within its boundaries. Laws of Minnesota 1989, First Special Session, Chapter 1 (the "Score Legislation"). To reduce the volume of solid waste requiring disposal within the State of Minnesota, the Score Legislation requires the District and other governmental agencies in the State of Minnesota responsible for disposal of solid waste to give residents an opportunity to recycle which must include:

- (1) Local recycling center in the District and sites for collecting recyclable materials that are located in areas convenient for persons to use them; and
- (2) Curbside pickup, centralized drop-off, or a local recycling center for at least four kinds of recyclable materials in cities with a population of 5,000 or more persons.

The District has adopted an ordinance relating to mixed municipal solid waste management and recycling which would become effective within the City unless the City adopts an ordinance which: (1) creates a system of licensing collectors; (2) regulates rates for

collection; (3) mandates collection of mixed municipal solid waste; (4) provides residents an opportunity to recycle as required by Minn. Stat., Section 115A.552, subd. 1 and 2; (5) supplies the District copies of all license applications for collectors on a monthly basis; and (6) provides a certified copy of such ordinance to the District within five (5) days following enactment.

The City Council of the City of Proctor supports the goals of the Score Legislation and believes it is in the best interest of its residents to design methods of accomplishing such goals consistent with factors unique to the City.

505.02 Definitions. As used in this ordinance, the following terms shall be defined as follows, unless a different meaning clearly appears from the context:

"Backyard Compost Site" means a site used to compost food scraps or yard waste from a single family or household, apartment building, or a single commercial office.

"Board" means the Sanitary Board of the Western Lake Superior Sanitary District.

"Bulky Items" means items of solid waste which do not fit within a container.

"City" means the City of Proctor.

"City Council" means the City Council of the City.

"Clerk" means the duly appointed Clerk of the City.

"Collector" means the person or entity specifically licensed by the City to collect garbage, rubbish, or other mixed municipal solid waste and recyclable materials and to dispose of same.

"Composting" means the controlled microbial degradation of organic waste to yield a humus-like product.

"Container" means a container for solid waste which meets the requirements set forth in §505.03.

"Demolition Debris" means inert material that includes concrete, brick, bituminous concrete, untreated wood, masonry, glass, rock, and plastic building parts resulting from the demolition of buildings, roads, and other man-made structures. Demolition debris does not include solid waste or asbestos waste.

"District" means the Western Lake Superior Sanitary District.

"Facility" means the land, structures, monitoring devices, and other improvements on the land used for monitoring, treating, processing, storing, or disposing of solid waste, leachate, or residuals from solid waste processing.

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

"Hazardous Substance" means:

(a) Any commercial chemical designated pursuant to the Federal Water Pollution Control Act, under United States Code, Title 33, Section 1321(b)(2)(A);

(b) Any hazardous air pollutant listed pursuant to the Clean Air Act, under United States Code, Title 42, Section 7412; and

(c) Any other substance which constitutes a hazardous waste under Minnesota law or federal law.

Hazardous Substance does not include natural gas, natural gas liquids, liquified natural gas, synthetic gas usable for fuel, or mixtures of such synthetic gas and natural gas; nor does it include petroleum, including crude oil or any fraction thereof which is not otherwise a hazardous waste. Hazardous substance does not include household hazardous waste.

"Hospital Waste" means all solid waste generated by a hospital except infectious waste and pathological waste.

"Household Hazardous Waste" means all those waste chemicals and compounds which would be considered hazardous substances under state law and are generated by residential dwelling units.

"Industrial Solid Waste" means all solid waste generated from an industrial or manufacturing process and solid waste generated from nonmanufacturing activities such as service and commercial establishments. Industrial solid waste does not include office materials, restaurant and food preparation waste, discarded machinery, demolition debris, or household refuse.

"Infectious Waste" means laboratory waste, blood, regulated body fluids, medical sharps, and research animal waste that have not been decontaminated. For purposes of this definition, laboratory waste means waste cultures and stocks of agents that are generated from a laboratory and are infectious to humans; discarded contaminated items used to inoculate, transfer, or otherwise manipulate cultures or stocks of agents that are infectious to humans; wastes from the production of biological agents that are infectious

to humans; and discarded live or attenuated vaccines that are infectious to humans. For purposes of this definition, regulated human body fluids means cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, and amniotic fluid that are in containers or that drip freely from body-fluid soaked solid waste items. For purposes of this definition, research animal waste means carcasses, body parts, and blood derived from animals knowingly and intentionally exposed to agents that are infectious to humans for the purpose of research, production of biologicals, or testing of pharmaceuticals.

"Institutional Facilities" means schools, courthouses, hospitals, "in-house" municipal programs, etc., for collecting recyclable materials.

"Medical Sharps" means:

(a) Discarded items that can cause subdermal inoculation of infectious agents, including needles, scalpel blades, pipettes, and other items derived from human or animal patient care, blood banks, laboratories, mortuaries, research facilities, and industrial operations; and

(b) Discarded glass or rigid plastic vials containing infectious agents.

"Mixed Municipal Solid Waste" means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.

"Owner" and "Occupant" means the person(s) or entity(s) which hold legal or beneficial title to a property and the person(s) or entity(s) which have or exercise possession or occupancy of a property, respectively.

"Pathological Waste" means human tissues and human body parts removed accidentally or during surgery or autopsy intended for disposal. Pathological waste does not include teeth.

"Recyclable Waste" means any materials that are designed as recyclable materials by regulation of the District.

"Recycling Facility" means a site permitted by the Minnesota Pollution Control Agency, used to collect, process, and repair recyclable materials and reuse them in their original form or use them in manufacturing processes.

"Rubbish" means non-putrescible solid wastes, including ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard

clippings, wood, glass, bedding, crockery, or litter of any kind.

"Solid Waste" means all garbage, rubbish, and other discarded solid materials including solid materials resulting from industrial, commercial, agricultural, and residential uses, but does not include recyclable materials, demolition debris, animal waste used as fertilizer, solids or dissolved material in domestic sewage, or other significant pollutants in water resources, such as silt, wastewater effluent, dissolved materials, suspended solids in irrigation return flows, or other water pollutants.

"Unacceptable Waste" means solid waste designated as unacceptable waste by regulation of the District.

"Yard Waste Compost Facility" means a site used for the composting of yard waste which is (1) operated by the District or the City or (2) operated by a private person or entity and permitted by the Minnesota Pollution Control Agency to accept yard waste.

505.03 Waste Disposal.

(1) Commencing January 1, 1992, every person or entity disposing of solid waste in the City shall separate recyclable materials from solid waste. The owner or occupants of each residence or residential unit and the owner or occupant of each non-residential, commercial, or industrial premises authorized to place solid waste in the various waste receiving facilities of the District, including its sanitary landfill, shall separate recyclable materials prior to collection by a collector.

(2) Persons or entities shall place recyclable materials in approved containers (an approved container can be either a bin or a bag at the discretion of the licensed collector) for collection, or, in the alternative, shall deliver recyclable materials to the recycling facility of their choice.

(3) Owners of establishments at which there is public traffic, including, but not limited to, public buildings, hotels, motels, retail stores, theaters, college dormitories, and church social halls, shall provide receptacles for recyclable materials alongside their present public receptacles for solid waste. The owners of these establishments shall not be required to separate items which the general public places in receptacles intended for solid waste.

(4) No person or entity other than the owner or the occupant of a residential, commercial, or industrial structure, or the licensed collector which provided services to such structure, shall collect or gather recyclable materials set out for collection by a licensed collector.

Subdivision 1. Disposal of Yard Waste; Composting. After January 1, 1992, any person disposing of yard waste shall have the option of disposing of such waste by one to the following: (1) disposal in a backyard compost site; or (2) disposal in a yard waste compost facility operated by the City or the District; or (3) disposal in a privately operated yard waste compost facility. Yard waste shall not be placed in the waste receiving facilities of the District. No person or entity shall cause, allow, or permit the burning of yard waste, notwithstanding any permit which such person or entity may obtain from the State of Minnesota. Yard waste may be subject to periodic pickup by a licensed collector. Yard waste collected for the purpose of composting shall not be disposed of in any other manner.

Subd. 2. Disposal of Demolition Debris. Any person disposing of demolition debris shall transport such waste to any site designated by the Minnesota Pollution Control Agency for receipt of said waste.

Subd. 3. Disposal of Bulky Items. Any person disposing of bulky items shall transport such waste to any site designated by the District for receipt of said waste. If such service is provided, bulky items may be subject to periodic collection by a licensed collector.

Subd. 4. Waste Preparation and Storage.

(1) No owner or occupant of any private property or business property shall permit any accumulation of solid waste or any similar material or mixture of material upon such property or upon any adjoining property, alley, street, sidewalk, or highway, except in proper containers as described below.

(2) Every owner or occupant of any private property or business property shall provide in good condition water-tight and rodent-proof containers sufficient to hold all the solid waste which accumulated on such premises during the time between collections. In the case of residential structures containing four or less dwelling units, such containers shall be of a maximum size of thirty-two (32) gallons, shall be provided with handles and a tight and securely fitted cover. All solid waste shall be placed in such containers which shall not be filled in a manner which prevents closure of the container and, in the case of residential structures containing four or less dwelling units, the contents shall not exceed forty-five (45) pounds in weight.

(3) Every owner or occupant shall separate all automobile oil, motor vehicle batteries, and tires from all solid waste and shall transport the same to the facility designated by the District for the handling of such waste. Automobile oil shall be placed in an unbreakable, leak-proof receptacle by the owner or occupant. Motor vehicle batteries shall be transported in a manner which will not allow

release or escape of their contents.

(4) No person or entity shall place solid waste in any container unless specifically authorized by the owner, occupant, or licensed collector which provides collection services for such container. The disposal in a roadside litter receptacle of garbage or rubbish generated within an automobile shall not violate this provision.

(5) Every owner or occupant shall separate all household hazardous waste from all other solid waste. Containers with household hazardous waste shall be handled or transported in a manner which will not allow release or escape of the contents. All household hazardous waste shall be disposed of in accordance with the Household Hazardous Waste Program of the District, as the same shall exist at such time, or in such other manner as shall be specified by the District.

(6) Hospital waste, pathological waste, infectious waste, medical sharps, hazardous substances, and other unacceptable wastes not specifically referred to in this Ordinance shall be disposed of in accordance with state law and as required by the District. Industrial solid waste shall be disposed of in accordance with the Industrial Solid Waste Management Plan of the District, as the same shall exist at such time.

Subd. 5. Mandatory Collection of Waste. It shall be the duty of the owner and occupant of every residential structure containing four or fewer dwelling units to provide for not less frequent than weekly disposal of all mixed municipal solid waste generated by such dwelling units through employment of the services of a licensed collector. Owners of residential structures containing more than four dwelling units or of commercial or industrial establishments shall either employ a licensed collector for the removal of all mixed municipal solid waste from their premises or provide such removal service themselves, provided that such owner shall obtain a license under the Ordinance. The City, for those residential or commercial structures not in compliance with the mandatory collection provisions of this section, may assign collectors on a rotating basis to collect mixed municipal solid waste from said structures. Prior to assignment of collection under this section, written notice of the assignment shall be served upon the owner and/or occupant of the structure in question ten (10) days before commencement of service. If an owner and/or occupant assigned a collector under this section fails to pay the collector for collection of mixed municipal solid waste, the City may require payment by the owner and/or occupant to the collector in the same manner as provided for in §505.11.

Subd. 6. Collection of Recyclable Materials. On or before January 1, 1992, the City Council of the City will designate certain areas of the City in which collectors will provide curbside collection of recyclable materials at least once each month. For areas of the City in which collectors will not provide curbside collection of recyclable materials, the City will

construct and operate at least one structure for the collection and disposal of recyclable materials or designate at least one privately operated location for the collection and disposal of recyclable materials.

Subd. 7. Charges for Collection. On or before January 1, 1992, the City Council of the City shall establish, by Resolution, a schedule of rates for the collection of mixed municipal solid waste. Such schedules of rates shall be fixed based upon the frequency of collection, the character and volume of solid waste collected and removed, distance between residences, and the distance and cost for delivery of solid waste to facilities of the District and create an incentive for persons within the City to reduce the amount of mixed municipal solid waste which requires disposal. The schedule of maximum rates shall require a minimum charge for collection based on a unit of volume per collection; provided, however, that there shall be a volume based charge for additional units of the same additional volume. The minimum charge must be sufficient to pay disposal costs of the minimum volume at the maximum allowable weight for such volume. The incremental cost of additional volume above the minimum charge must increase so that an owner or occupant will have a financial incentive to reduce the volume of mixed municipal solid waste that requires disposal. Each schedule of rate shall provide additional charges for bulky items. These charges may not be included in the minimum charge.

In areas of the City designated by the City Council for curbside collection of recyclable materials where a collector provides mandatory collection of mixed municipal solid waste at a residential structure containing four or fewer dwelling units, there will be no additional charge for collection of recyclable materials.

No collector or any agent thereof shall charge any rate in excess of the maximum rate, fail or refuse to make any collection, or charge rates for collection of solid waste which do not conform to the rules of this section. A copy of the maximum rate schedule shall at all times be kept on file in the offices of the City. The maximum rate schedule for collection shall be reviewed and determined by the City Council once each year. However, the City Council may modify the maximum rate at any time during a calendar year on ninety (90) days prior written notice to all collectors. In addition, such maximum rate schedule may be reviewed by the City Council, pursuant to a written request of any person residing, or any entity located, in the City. The City may also adopt the current maximum rate schedule of the City of Duluth by reference.

505.04. Licensing Collectors of Solid Waste and Recyclable Materials. For the health, safety, and welfare of the residents of the City, the following regulations applicable to all mixed municipal solid waste removal and disposal and handling of recyclable materials are established:

Subdivision 1. Collector's License Required. No person shall engage in the business of collecting or removing garbage, rubbish, other mixed municipal solid waste, and recyclable materials within the City without first obtaining a license to do so.

Charitable, religious, fraternal, and other eleemosynary organizations may collect recyclable materials without compliance with this subdivision.

Subd. 2. License Issuance. Only collectors possessing a valid collector's license issued by the District shall be permitted to collect solid waste within the City of Proctor as set forth within this Ordinance.

505.05. Reporting Requirement. Beginning January 1, 1992, all collectors, owners which provide their own collection services under §505.03 subd. 5 hereof, recycling facilities, institutional facilities, and commercial, retail, and industrial businesses receiving or processing any recyclable materials shall provide quarterly written reports to the City and the District in a form prescribed by the District.

Each quarterly report shall contain, at a minimum, for each type of material received or processed during the quarter:

- (a) Weight by ton;
- (b) Name and location of market to which the material was sold or delivered;
- (c) Average price per ton received; and
- (d) Inventory (in tons) of material in storage.

Each quarterly report shall contain the certification that, based on the inquiry of the person(s) who manage the system or those persons directly responsible for gathering the information, the information is, to the best of their knowledge and belief, true, accurate, and complete.

Each collector or owner which provides its own collection services under §505.03 subd. 8 hereof and any yard waste compost facility shall submit quarterly reports to the City and the District of the tonnage of yard waste collected and disposed.

Each collector shall provide the City and the District with an opportunity to inspect current customer lists.

505.06. Unauthorized Deposit of Solid Waste. Any person who:

- (1) Deposits solid waste, recyclable materials, demolition debris, or yard waste upon any public or private highway, street, road, or right-of-way; deposits solid waste, recyclable materials, demolition debris, or yard waste upon or within any river, creek,

stream, lake waterway, or other body of water of any kind or character; or deposits solid waste, recyclable materials, demolition debris, or yard waste on the property of another; or

(2) Causes, maintains, or permits the accumulation of solid waste which creates an unsanitary condition or permits or encourages the accumulation or breeding of rats, insects, or other vermin; or

(3) Deposits solid waste, recyclable materials, demolition debris, or yard waste within the District in any manner that violates the provisions of this Ordinance; is guilty of the misdemeanor of Unauthorized Deposit of Solid Waste.

505.07. Enforcement and Inspection.

(1) Inspection and evaluation of containers and collectors shall be made by the City Building Official in such frequency as to insure consistent compliance by the owners, occupants, and collectors with provisions of the Ordinance. Each owner, occupant, or collector shall be provided with written and documented notice of any deficiencies, recommendations for their correction, and the date when the correction shall be accomplished. Each owner, occupant, or collector shall be required to allow free access to authorized representatives of the City or to authorized representatives of any other governmental agency at any time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this Ordinance or any other applicable statute, ordinance, or regulation.

(2) The City shall have the right to inspect private property to determine if a container or collector is in accordance with the provisions of the Ordinance.

505.08. Violations and Penalties.

(1) Violation. Any owner, occupant, or collector who fails to comply with the provisions of this Ordinance may be charged with a violation and upon conviction thereof shall be punished therefore as provided by law. A separate offense shall occur for each day of which a violation occurs or continues.

(2) Equitable Relief. In the event of a violation or a threat of violation of this Ordinance, the attorney for the City may take appropriate action to enforce this Ordinance, including but not limited to, application for injunctive relief, action to compel performance, or other appropriate action in District Court, if necessary, to prevent, restrain, correct, or abate such violations or threatened violations.

505.09. Savings Clause. Invalidity of any portion of this Ordinance shall not invalidate

any remaining portion hereof.

505.10. Intent. It is the express intent of this Ordinance, specifically the recycling provisions hereof, to require the recycling of recyclable materials within the City in order to aid the District in meeting the goals specified in Minnesota Statute §115A.551.

It is further the express intent of this Ordinance to recognize that the District has regional authority for the solid waste generated by residents of the City. Therefore, where this Ordinance is in contradiction to the rules and regulations of the District, the rules and regulations of the District shall supersede the specific portions of this Ordinance in contradiction or contravention of the rules and regulations of the District. This Ordinance shall not govern or control the disposal of hospital waste, pathological waste, infectious waste, medical sharps, industrial solid waste, and hazardous substances.

505.11. Regular Emptying: Assessment for Failure. Every can or receptacle required by §505.03 subd. 5 shall be emptied at least once each week, or more often as directed by the Council, at the expense of the owner, agent, lessee, or occupant of the property. If the can or receptacle is not emptied weekly, the Building Official shall cause the same to be emptied, and the cost thereof shall be collected from the owner, agent, lessee, or occupant of the property. Such costs may be certified to the county auditor for collection as a special assessment pursuant to Minnesota Statute §429.101 and this Ordinance.

505.12. List of Delinquent Accounts. On or before June 1 of each year, each licensed collector or his assignee, may transmit to the City Clerk a list of properties to which he has rendered collection and removal service pursuant to this Ordinance in the immediately preceding 17 months which has not been paid or previously assessed pursuant to this Ordinance, together with the amount due with respect to each such property. Such list shall be accompanied by a verified statement that the amounts indicated are, in fact, due and owing and that the licensed collector has made a reasonable attempt to collect such amounts.

In addition, the Building Official shall, on or before October 10 of each year, transmit to the City Clerk a list of properties to which collection and removal service has been rendered pursuant to this Ordinance, in the event the owner of such property has not earlier reimbursed the City for sums expended by it to secure such service.

Upon the receipt of such lists, the City Clerk shall make an assessment roll containing, in columns, the name of the owner of each lot or parcel of land separately assessed, if known to him, together with a description of each such lot or parcel of land and the amount of such assessment.

505.13. Notice of Assessment. On or before July 1 of each year, the City Clerk shall certify the assessment roll to the City Council. The City Clerk shall give twenty (20) days notice by first class mail to the apparent owner of each lot or parcel of land separately assessed stating the amount of the assessment, the description of the property that the assessment roll is on file in the Clerk's office, and the time at which the Council will meet to hear parties aggrieved by such assessment.

505.14. Appeal to Council. At the time stated in the notice of assessment, the Council shall meet, hear, and determine all objections which may be made by any party interested in any assessment made under this Ordinance to the regularity of the proceedings or to the correctness of the amount of such assessment or of the amount levied upon a particular lot or parcel of land. If the proceedings are found to be regular, it shall correct any errors which may have been found in the assessment and shall, thereupon by resolution, confirm such assessment. To each assessment a collection fee subject to City Schedule of Charges and Fees shall be added to reimburse the City its administrative assessment costs. Immediately thereafter, notice of the confirmed assessment and its amount, including the collection fees, shall be sent by the City Treasurer by mail to the apparent owner of each lot or parcel of land assessed. Such notice shall indicate that the assessment is due and payable on or before October 1 of the year when confirmed and that failure to make payment by such date shall render the assessment delinquent.

505.15. Certification of Delinquent Assessments. On or before the 10th day of October of each year, the City Treasurer shall file with the county auditor a certified statement of all assessments delinquent under this Ordinance describing the land affected and giving the amount of the assessment, with 10 percent penalty added. annually, the City Treasurer shall remit to the licensed collectors or their designated agents, all sums together with the interest thereon collected with regard to delinquent accounts submitted to the City Treasurer. Any penalty collected by the City Treasurer on such accounts shall be retained by the City. All accounts, including interest and penalty thereon, collected by the City Treasurer for serviced rendered and paid for by the City shall be retained by the City.

506. Regulation of Conduct

506.01. Disorderly Conduct. Whoever does any of the following in a public or private place, including on a school bus, knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a misdemeanor:

- (1) engages in brawling or fighting; or
- (2) disturbs an assembly or meeting, not unlawful in its character; or

(3) engages in offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, or resentment in others.

A person does not violate this section if the person's disorderly conduct was caused by an diagnosed medical condition.

The provision of Minnesota Statute 609.72 regarding disorderly conduct are adopted by reference.

506.02. Urination and Defecation. No person shall urinate or defecate upon any street, alley, sidewalk, publicly or privately owned parking area, playground, pier, beach, lakeshore, pathway, golf course, or public park, or any area appurtenant to such area. No person shall urinate or defecate in any area open to public view.

506.03. Disorderly Premises. No person within the City of Proctor shall own or keep a dwelling, gaming area, or party or meeting room which attracts people to its locale at times or in such a manner that their arrival, leaving, or activities while in that locale result in an unreasonable disturbance of the usual peace, quiet, comfort, safety, and decency of the area immediately adjacent thereto.

Nor shall any person, as agent or owner, let a building or portion thereof, knowing it is intended to be used for any purpose prohibited above or for any purpose which will likely give rise to an unreasonable disturbance of the usual peace, quiet, comfort, safety, and decency of the area immediately adjacent thereto.

506.04. Regulation of Noise.

Subdivision 1. Noises Prohibited. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably or unnecessarily annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of unlawful acts listed in subd. 2.

Subd. 2. Unlawful Acts. The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this Ordinance, but said enumeration shall not be deemed to be exclusive.

(a) Horns, Audible Signaling Devices, Etc. No person shall sound any audible signaling device on any vehicle except as a warning of danger.

(b) Exhaust. No person shall discharge the exhaust or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motorboat, motor vehicle, snowmobile, or other recreational vehicle except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.

(c) Defective Vehicles or Loads. No person shall use any vehicle so out of repair or so loaded as to create any unnecessary grating, grintling, rattling, or other noise.

(d) Loading, Unloading, Unpacking, Opening of Boxes. No person shall create loud and excessive noise in loading, unloading, unpacking any vehicle, or the opening and destruction of bales, boxes, crates, or containers.

(e) Radios, Phonographs, Paging Systems, Etc. No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for the production or reproduction of sound in a distinct and loudly audible manner as to disturb the peace, quiet, and comfort of any person residing in the neighborhood at any time with louder volume than is reasonably necessary for convenient hearing of the person or persons who are in the room, vehicle, chamber, or immediate vicinity in which such machine or device is being operated. Operation of any such set, instrument, phonograph, machine, or other device in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at the property line if the source is located outside a structure or building shall be prima facia evidence of a violation of this section.

(f) Jake Brakes on Semi-tractor/Trailers. No person shall use, operate, or permit the use of any jake brake within the City of Proctor; provided that signage to that effect is posted on the major thoroughfares within the City utilized by said vehicles.

(g) It is unlawful for any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical sound making device or instrument from within the motor vehicle so that the sound is:

- (1) Plainly audible at a distance of 100 feet or more from the motor vehicle;
or
- (2) Louder than necessary for the convenience hearing by person inside the vehicle in areas adjoining churches, schools or hospital;

The provisions of this section shall not apply to any law enforcement motor vehicle equipped with any communication device necessary in the performance of law enforcement duties or to any emergency vehicle equipped with any communication

device necessary in the performance of any emergency procedures.

(h) The provisions of this section do not apply to motor vehicles used for business or political purposes which in the normal course of conducting such business use sound making devices.

(i) The provisions of this subsection shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, from regulating the time and manner in which such business may be operated.

Subd. 3. Penalties. Violation of this section shall be deemed a petty misdemeanor punishable by a fine subject to City Administrative Fine Schedule, or may be punishable pursuant to Chapter 506A of the City Code.

506.05. Obstructing a Public Officer.

Subdivision 1. No person shall intentionally do an act which he should reasonably expect will obstruct or interfere with, or induce another to obstruct or interfere with, a peace officer or other public official in discharging or attempting to discharge a duty of his office. For purposes of this section, the duties of a peace officer shall include, but not be limited to, the following:

- (a) Apprehending a criminal or suspected criminal.
- (b) Serving any legal process, or executing or serving an arrest warrant or search warrant.
- (c) Transporting a criminal or suspected criminal.
- (d) Investigating a crime which has been committed or conduct which he reasonably believes may constitute a crime.
- (e) Directing vehicular or pedestrian traffic or controlling a crowd of people.

Subd. 2. No person shall flee from a police officer or police vehicle in disregard of any visible or audible notice to halt given by or from such police officer or police vehicle when such person knows or reasonably should know the same to be a police officer or police vehicle. For purposes of this Subdivision, the term "flee" shall include, but is not limited to, fleeing on foot and/or fleeing via motorized or non-motorized cycle or vehicle.

Subd. 3. No person shall physically resist an arrest by a peace officer or aid another in physically resisting an arrest by a peace officer, regardless of whether or not such arrest is lawful.

Subd. 4. No person shall resist, obstruct, interfere with, or induce another to resist, obstruct or interfere with, a lawful citizen's arrest.

Subd. 5. Violations Subdivisions 1, 2, 3, and/or 4 of this Ordinance shall be considered a misdemeanor.

506A. Administrative Offenses.

Section 506A.01. Purpose and Intent.

Administrative offense procedures established pursuant to the Section are intended to provide the public and the City of Proctor with an informal, costs effective, and expeditious alternative to traditional criminal charges for violations of certain City Code provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as is provided for thereafter, the individual may withdraw from participation in the procedure in which event the City may bring criminal charges in accordance to law. Likewise, the City of Proctor in its discretion may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedure, but does not pay the monetary penalty, which may be imposed, the City of Proctor will seek to collect the costs of administrative offense procedures as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation.

Section 506A.02. Administrative Offense Defined.

An administrative offense is a violation of a provision of the City Code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Section 506.08 entitled "Offenses and Penalties" hereinafter.

Section 506A.03 Notice.

Any offer of the City of Proctor Police Department or any other person employed by the City, authorized in writing by the City Council of the City of Proctor, and having authority to enforce the City Code, shall upon determining that there has been a violation, notify the violator

in writing, or in the case of a vehicular violation, attach to the vehicle a notice of the violation. Said written notification may be delivered personally or by certified mail. Said notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

Section 506A.04 Payment.

Once such notice is given, the alleged violator may, within fifteen (15) days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation. The administrative penalty may be paid in person or by mail and payment shall be deemed to be an admission of the violation. If payment is made by mail it shall be deemed timely made if postmarked within said fifteen (15) day period.

Section 506A.05 Hearing.

Any person contesting an administrative offense pursuant to this Section may, within twenty (20) days of the time of the receipt or mailing of the written notice of violation, request an administrative hearing to contest the fact that a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed. Failure to pay the administrative penalty for the violation cited may result in the person being cited for a criminal violation.

Section 506A.05a Hearing Officer.

An individual designated in writing by the City Administrator shall be the hearing officer for purposes of this section. The hearing officer is authorized to hear and determine any controversy relating to the administrative offenses provided for in this section. The process is intended to replace any existing administrative procedures previously established by ordinance with regard to violations enumerated herein.

Section 506A.06 Failure to Pay.

In the event a party charged with an administrative offense fails to pay the penalty provided by this section, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes, code, or ordinance. If the penalty is paid or if any individual is found not to have committed the administrative offense by the hearing officer, no such criminal charge may be brought by the City for the same violation.

Section 506A.07 Disposition of Penalties.

All penalties and administrative fees collected pursuant to this Section shall be paid to the City of Proctor and deposited in the General Fund.

Section 506A.08 Offenses and Penalties.

Offenses, which may be charged as administrative offenses and penalties and administrative fees for such offenses, shall be established by resolution of the City Council from time to time. Copies of such resolution shall be Maintained in the Office of the City Administrator. Provided, however, that such fees shall be identical to the fine for the equivalent State Citation

Section 506A.09 Subsequent Offenses.

In the event a party is charged with a subsequent administrative offense within a twelve (12) month period of paying an administrative penalty for the same or substantially similar offense, the subsequent administrative penalty shall be increased by twenty-five percent (25%) above the then existing administrative penalty for the same offense.

507. Drug Paraphernalia

507.01. It is unlawful for any person or any wholesale or retail store or establishment to knowingly or intentionally sell, barter, exchange, deliver, or give drug paraphernalia to anyone within the City of Proctor. Any violation of this section is a misdemeanor, punishable by a fine subject to City Administrative Fine Schedule.

507.02. It is unlawful for any person age 18 years or older to intentionally sell, barter, exchange, deliver, or give drug paraphernalia to a person under 18 years of age who is at least 3 years his junior within the City of Proctor. A violation of this section is a misdemeanor punishable by a fine subject to City Administrative Fine Schedule and/or ninety (90) days in jail.

507.03. "Drug Paraphernalia" means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under this chapter or the Uniform Controlled Substances Act, which are knowingly or intentionally used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, (3) testing the strength, effectiveness, or purity of a controlled substance, or (4) enhancing the effect of a controlled substance.

508. Lost, Stolen, Abandoned Property

508.01. Sale at Public Auction After Sixty Days. If the owner of any lost, stolen, or abandoned property in the possession of the City cannot be found within sixty (60) days after the date of its coming into the possession of the City, the Chief of Police or any duly authorized person acting under his discretion shall cause such property to be sold at public auction to the highest bidder. Notice of the time and place of the holding of such auction shall be published once a week for two consecutive weeks in the official newspaper of the City.

508.02. Owner may claim proceeds within six (6) months of sale, disposition of unclaimed proceeds. If the owner of property sold under the provisions of this article or his legal representatives shall, at any time within six (6) months after such money has been deposited in the City treasury, furnish satisfactory evidence of his ownership thereof to the City Treasurer, the City Treasurer shall pay to such person the amount so deposited. If such money is unclaimed within such time, the same shall belong to the City and shall be credited to the Police Department Forfeited Funds Account in the general fund. (See also §207.01, et seq., Unclaimed Property.)

509. Civil Defense

509.01. Policy and Purpose.

Subdivision 1. Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage, or other hostile action or from fire, flood, earthquake, or other natural causes and in order to insure that preparations of this City will be adequate to deal with such disasters and, generally, to provide for the common defense and to protect the public peace, health, and safety and to preserve the lives and property of the people of this City, it is hereby found and declared to be necessary:

- (a) To establish a local organization for civil defense;
- (b) To provide for the exercise of necessary powers during civil defense emergencies;
- (c) To provide for the rendering of mutual aid between this City and other political subdivisions of this state and of other states with respect to the carrying out of civil defense functions.

Subd. 2. It is further declared to be the purpose of this Ordinance and the policy of the City that all civil defense functions of this City be coordinated to the maximum extent practicable with the comparable functions of the federal government, of this state, of the county, of other states and localities, and of private agencies of every type, to the end that the most effective preparations and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

509.02. Definitions.

Subdivision 1. "Civil Defense" means the preparations for the carrying out of all emergency functions other than functions for which military forces are primarily responsible to prevent, minimize, and repair injury and damage resulting from disasters caused by enemy attack, sabotage, or natural causes. These functions include, without limitation, fire fighting services, police services, medical health services, rescue engineering, warning services, communications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plat protection, temporary restoration of public utility services, utilization of best available fallout shelters, and other functions related to civilian protection, together with all other activities necessary or incidental to preparation for and carrying out of the foregoing functions.

Subd. 2. "Civil Defense Emergency" means an emergency declared by the Governor under Minnesota Statutes §12.31 or an emergency proclaimed by the Mayor under §6 of this Ordinance.

Subd. 3. "Civil Defense Forces" means any personnel employed by the City and any other volunteer or paid member of the local civil defense agency engaged in carrying on civil defense functions in accordance with the provisions of this Ordinance or any rule or order thereunder.

509.03. Organization.

Subdivision 1. There is hereby created within the City government a civil defense agency which shall be under the supervision and control of a director of civil defense, hereinafter called the director. The director shall be the Chief of Police or his designee and shall serve as director. The director shall have direct responsibility for the organization, administration, and operation of the civil defense agency subject to the direction and control of the Council. The civil defense agency shall be organized into such divisions and bureaus consistent with state and local civil defense plans as the director deems necessary to provide for the efficient performance of local civil defense functions during a civil defense emergency. The civil defense agency shall perform civil defense functions within the City and, in addition, shall conduct such functions within the City as may be required pursuant to the provisions of the Minnesota Civil Defense Act of 1951 as amended or this Ordinance.

Subd. 2. There is hereby created within the civil defense agency a civil defense advisory committee, hereinafter called the "committee." Members of the committee shall be appointed by the Council to represent City departments and other groups concerned with civil

defense. The mayor shall be chairman and the director shall be secretary of the committee. The committee shall advise the director and the City Council on all matters pertaining to civil defense. Each member shall serve without compensation and shall hold office at the pleasure of the Council.

509.04. Powers of Director.

Subdivision 1. The director shall represent the City on any regional or state organization for civil defense. He shall develop proposed mutual aid agreements with other political subdivisions within or outside the state for reciprocal civil defense aid and assistance in a civil defense emergency too great to be dealt with unassisted, and he shall present such agreements to the Council for its action. Such arrangements shall be consistent with the state civil defense plan; and during a civil defense emergency, it shall be the duty of the civil defense agency and civil defense forces to render assistance in accordance with the provisions of such mutual aid arrangements. Any mutual aid arrangements with a political subdivision of another state shall be subject to the approval of the Governor.

Subd. 2. The director shall make such studies and surveys of the manpower, industries, and facilities and to plan for their most efficient use in time of civil defense emergency.

Subd. 3. The director shall prepare a comprehensive general plan for the civil defense of the City which will include a community shelter plan utilizing the established fallout shelters and shall present such plan to the Council for its approval. When the Council has approved the plan by resolution, it shall be the duty of all municipal agencies and all civil defense forces of the City to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The director shall coordinate the civil defense activities of the City to the end that they shall be consistent and fully integrated with the civil defense plans of other political subdivisions within the state.

Subd. 4. In accordance with the state and City civil defense plan, the director shall institute such training programs and public information programs and shall take all other preparatory steps including the partial or full mobilization of civil defense forces in advance of actual disaster as may be necessary to the prompt and effective operation of the City civil defense plan in time of a civil defense emergency. He may, from time to time, conduct such practice air-raid alerts or other civil defense exercises as he may deem necessary.

Subd. 5. The director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the City to the maximum extent practicable. The officers and personnel of all such departments and agencies shall, to the

maximum extent practicable, cooperate with and extend such services and facilities to the local civil defense agency and to the Governor upon request. The head of each department and agency, in cooperation with and under the direction of the director, shall be responsible for the planning and the programming of such civil defense activities as will involve the utilization of the facilities of this department or agency.

Subd. 6. The director shall, in cooperation with St. Louis County, organize and recruit any personnel that may be required on a volunteer basis to carry out the civil defense plans of the City and the state. To the extent that such emergency personnel are recruited to augment a regular City department or agency for civil defense emergencies, they shall be assigned to such department or agency for purposes of administration and command. The director may dismiss any civil defense volunteer at any time and require him to surrender any equipment and identification furnished by the City.

Subd. 7. Consistent with the civil defense plan, the director shall provide and equip emergency hospitals, casualty stations, ambulances, canteens, evacuation centers, and other facilities or conveyances for the care of the injured or homeless persons.

Subd. 8. The director shall carry out all orders, rules, and regulations issued by the Governor pertaining to civil defense.

Subd. 9. The civil defense director shall direct and control the general operations of all local civil defense forces during a civil defense emergency in conformity with controlling regulations and instructions of state civil defense authorities. The heads of departments and agencies shall be governed by his orders in respect thereto.

Subd. 10. Consistent with the civil defense plan, the director shall provide and equip at some suitable place in the City an emergency operating center and, if required by the local civil defense plan, auxiliary centers to be used during a civil defense emergency as headquarters for direction and control of civil defense forces. He shall arrange for representation at the center by municipal departments and agencies, public utilities, and other agencies authorized by federal or state authority to carry on civil defense activities during a civil defense emergency. He shall arrange for the installation at the emergency operation center of necessary facilities for communication with and between heads of civil defense divisions, the stations and operating units of municipal services, and other agencies concerned with civil defense and for communication with other communities and emergency operating centers within the surrounding area and with the federal and state agencies concerned.

Subd. 11. During the first ninety (90) days of a civil defense emergency, if the legislature is in session or the Governor had coupled his declaration of the emergency with a call

for a special session of the legislature, the director may, when necessary to save life or property, require any person, except members of the federal or state military forces and officers of the state or any other political subdivision, to perform services for civil defense purposes as he directs; and he may command, for the time being, any motor vehicles, tools, appliances, or any other property, subject to the owner's right to just compensation as provided by law.

509.05. General Provisions on Civil Defense Workers.

Subdivision 1. No person shall be employed or associated in any capacity in the civil defense agency who advocates or has advocated a change by force or violence in the constitutional form of government of the United States or in this state or the overthrow of any government in the United States by force or violence or who has been convicted of or is under indictment for information charging any subversive act against the United States. Each person who is appointed to serve in the civil defense agency shall, before entering upon his duties, take an oath in writing before a person authorized to administer oaths in this state or before any officer of the state department of civil defense or the local director.

The oath shall be substantially in the form prescribed by Minnesota Statutes §12.43.

Subd. 2. Civil defense volunteers shall be called into service only in case of a civil defense emergency or a natural disaster for which the regular municipal forces are inadequate or for necessary training and preparation for such emergencies. All volunteers shall serve without compensation.

Subd. 3. Each civil defense volunteer shall be provided with such suitable insignia or other identification as may be required by the director. Such identification shall be in a form and style approved by the federal government. No volunteer shall exercise any authority over the persons or property of others without his identification. No person except an authorized volunteer shall use the identification of a volunteer or otherwise represent himself to be an authorized volunteer.

Subd. 4. No civil defense volunteer shall carry any firearm while on duty except on written order of the Chief of Police.

Subd. 5. Personnel procedures of the City applicable to regular employees shall not apply to volunteer civil defense workers but shall apply to paid employees of the civil defense agency.

509.06. Emergency Regulations.

Subdivision 1. When used in this section, the term "civil defense emergency"

includes, in addition to the meaning given in §509.02 subd. 2, disasters caused by fire, flood, windstorm, or other natural causes.

Subd. 2. Whenever necessary to meet a civil defense emergency or to prepare for such an emergency for which adequate regulations have not been adopted by the Governor, the Council may, by resolution, promulgate regulations consistent with applicable federal or state law or regulation, respecting: protection against nuclear missiles; the sounding of attack warning; the conduct of persons and the use of property during emergencies; the repair maintenance, and safeguarding of essential public services; emergency health, fire, and safety regulations, trial drills, or practice periods required for preliminary training; and all other matters which are required to protect public safety, health, and welfare in civil defense emergencies.

Subd. 3. Every resolution of emergency regulations shall be in writing and signed by the Mayor, shall be dated, shall refer to the particular civil defense emergency to which it pertains if so limited, and shall be filed in the office of the City Clerk, where a copy shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulation and its availability for inspection at the Clerk's office shall be conspicuously posted at the front of the City Hall or other headquarters of the City and at such other places in the affected area as the Mayor shall designate in the resolution. Thereupon, the regulation shall take effect immediately or at such later time as may be specified in the resolution. By like resolution, the Council may modify or rescind any such regulation.

Subd. 4. The City Council may rescind any such regulation by resolution at any time. If not sooner rescinded, every such regulation shall expire at the end of thirty (30) days after its effective date or at the end of the civil defense emergency to which it relates, whichever occurs first. Any ordinance, rule, or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent that such conflict exists.

During a civil defense emergency, the City is, notwithstanding any statutory or charter provision to the contrary, empowered through its governing body acting within or without the corporate limits of the City to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of such disaster. The City may exercise such powers in the light of the exigencies of the disaster without compliance with time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds including, but not limited to, publication of ordinances and resolutions, publication of calls for bids, provisions of civil service laws and rules, provisions relating to low bids, and requirements for budgets.

Subd. 5. During a civil defense emergency, the Mayor is authorized to contract on behalf of the City for services or for the purchase of merchandise or materials where the amount of the contract or purchase does not exceed \$2,000.00. The Mayor may take such action without prior approval of the Council and without compliance with regular purchasing and bidding procedures, but all claims resulting therefrom shall be audited and approved by the Council as in the case of other purchases and contracts.

509.07. Conformity and Cooperation With Federal and State Authority.

Subdivision 1. Every officer and agency of the City shall cooperate with federal and state authorities and with authorized agencies engaged in civil defense and emergency measures to the fullest possible extent consistent with the performance of their other duties. The provisions of this Ordinance and of all regulations made thereunder shall be subject to all applicable and controlling provisions of federal and state laws and of regulations and orders issued thereunder and shall be deemed to be suspended and inoperative so far as there is any conflict therewith.

Subd. 2. The City Council may appoint any qualified person holding a position in any agency created upon federal or state authority for civil defense purposes as a special policeman of the City with such police powers and duties within the City incident to the functions of his position not exceeding those of a regular policeman of the City, as may be prescribed in the appointment. Every such policeman shall be subject to the supervision and control of the Chief of Police and such other police officers of the City as the Chief may designate.

509.08. Participation in Labor Disputes or Politics. The civil defense agency shall not participate in any form in political activity nor shall it be employed directly or indirectly for political purposes nor shall it be employed in legitimate labor disputes.

509.09. Penalty. Any person who violates any regulations adopted thereunder relating to acts, omissions, or conduct other than official acts of City officers or employees is guilty of a misdemeanor, and upon conviction may be punished by a fine subject to City Administrative Fine Schedule.

PROCTOR CITY CODE

600 - Business Licensing

601. General Provisions

601.01. Person Defined. As used in §601 - §609, "person" means any natural person, partnership, corporation, or association.

601.02. Business License.

Subdivision 1. License Required. No person, partnership, corporation, or association shall engage in or operate any of the following businesses without having obtained a license therefore, except as otherwise provided by this chapter:

- (1) Coin operated device;
- (2) Cigarette sales;
- (3) Public dancing;
- (4) Taxicab or bus (repealed);
- (5) Filling station;
- (6) Public show, game, or exhibition;
- (7) Home occupations.

Subd. 2. Scope. The provisions of §601.01 - §601.09 shall apply to all licenses issued under §602 - §609, except as provided otherwise.

601.03. Applications. Every application for a license to engage in any business listed in §601.01 subd. 1 shall be made to the City Clerk on forms supplied by the City and shall state the applicant's full name, DOB, sex and address, the name of the business if different, the address of the premises on or from which the business is to be operated, any other business operated from or on the same premises, and such other information as may be required by this Code or by the Council. All applications shall be accompanied by payment in full of the license fee. The license fee shall be refunded if the license is denied, unless otherwise specifically provided by this chapter.

601.04. Granting of License. Each completed application shall be presented to the Council by the City Clerk. The Council shall either approve or deny each application.

601.05. Term. Except as otherwise provided by this chapter, all licenses shall be for a one year term and shall expire on June 30 of each year.

601.06. Pro-Rated Fee. Except as otherwise provided by this chapter, when a license is issued for less than a full year, the fee shall be pro-rated at the rate of one-twelfth (1/12) of the annual fee for each month or fraction of a month remaining in the license year.

601.07. Prior Convictions. No person shall be denied a license because of a prior conviction unless that conviction has been determined by the Council to be related to the business for which the license is sought, as provided by M.S. Ch. 365. No person shall be denied a license because of an arrest or arrests not followed by conviction or admission of guilt.

601.08. Zoning. No license shall be issued for any premises unless located in an area where the business for which the license is sought is permitted by the Zoning Ordinance.

601.09. Display. Except as otherwise specifically provided by this chapter, every license shall be kept conspicuously posted on the premises on or from which the business is operated and shall be exhibited to any person on request.

601.10. Transfers. No license shall be transferred to another person or premises unless specifically provided for by ordinance and approved by the Council.

601.11. Suspension and Revocation. The Council may suspend for a period not to exceed sixty (60) days or revoke any license for violation of any provision of this chapter or any applicable state law or regulation, except as provided below. No license shall be suspended or revoked unless the licensee has been given ten (10) days' written notice and a public hearing. The notice shall state the time and place of the hearing and the nature of the charges against the licensee. The Council may, without any advance notice or hearing, suspend any license for a period not to exceed fifteen (15) days pending a hearing on revocation.

601.12. Home Occupation License. Home occupations are licensed by the City pursuant to 1002.01 (6) of the Proctor City Code. (For fees regarding business licenses, see individual sections covering the listed businesses, beginning at §602. Additional fees may be referenced in the Schedule of Fees found in the Appendix.)

Chapter 601A, Animal Kennels

SECTION 1. DEFINITIONS. The following words, terms, phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) Owner means any person who owns, harbors or keeps or has custody of a dog, or the parents or guardians or a person under eighteen (18) years of age who owns, harbors, keeps or has custody of a dog.
- (b) Kennel means any place a person keeps more than three (3) dogs for the purpose of boarding.

SECTION 2. KENNEL LICENSES.

- (a) Kennels shall only be permitted in “S” zones. As such, a home occupation permit shall be required in addition to meeting all other conditions herein.
- (b) The number of dogs allowed with a kennel license is to be determined by conditional use permit as provided herein.
- (c) No person shall maintain a kennel in the City without securing a license therefor. The fee for the license shall be as set forth in the City’s fee schedule.
- (d) Prior to issuance of a kennel license a hearing before the Planning and Zoning Commission requesting a conditional use permit must be held. Notice must be given to all affected property owners 350 feet of the outside dimensions of the parcel where the kennel is contemplated, and published in the City’s official newspaper at least ten (10) days before the public hearing. The Planning and Zoning Commission will make a recommendation to the City Council in the request.
- (e) Kennel licenses do not confer any property rights upon the licensee, and the issuance of said licenses do not assume that future licenses will be granted. Licensees will need to independently assess whether any improvements made in relation to City requirements will be amortized during the initial time period of the license. Licenses will be issued for a set number of dogs, which shall not be exceeded. Licensees who wish to add a dog/dogs shall reapply for a kennel license. Licensees who relocate to another area of the City shall re-apply for a kennel license. Licenses are not assignable to other parties.
- (f) The term for a kennel license shall be three (3) years.
- (g) Licensees authorize City staff to perform periodic, random inspections of

the kennel for the purpose of determining compliance with the conditions of their license.

- (h) No party, person, corporation, or other entity will be allowed more than one (1) private kennel license.
- (i) Kennel licenses in effect on residential property at the time of adoption of this ordinance that do not meet the requirements of this ordinance are considered legal; nonconforming licensees may continue to keep up to the number of dogs authorized by the kennel license at the time of ordinance adoption. Adding more dogs to an existing license would require meeting the requirements of this chapter.

SECTION 3. CONDITIONS FOR ISSUANCE OF A KENNEL LICENSE.

The following conditions are mandatory for the issuance of a conditional use permit and a kennel license:

- (a) Outdoor animal exercise shall be conducted within the confines of the property, and limited to leashed animals under the direct supervision of their owners or commercial kennel staff.
- (b) Indoor housing facilities must be structurally sound with ample heat, light, soundproofing and ventilation. The applicant must submit a soundproofing inspection certifying that the structure will keep the sound of the dogs undetectable past the boundaries of the property.
- (c) Dogs kept outside must have continual access so animals can get in and out of shelter and protect them from the elements.
- (d) If dogs are confined by chains, such chains must be attached so as not to become entangled with chains of other dogs.
- (e) Individual animal enclosures must be of a size to allow each dog to turn around fully, stand, sit and lie in a comfortable condition.
- (f) The temperature of indoor housing facilities shall not be less than fifty (50) degrees Fahrenheit for dogs not accustomed to lower temperatures.
- (g) Disposal facilities are provided to minimize virus infestation, odors and disease hazards.
- (h) Adequate storage and refrigeration is provided to protect food supplies against contamination and deterioration.

- (i) The City Council reserves the right to issue additional conditions on a case-by-case basis in order to maintain the public repose.
- (j) All applicable County and State laws pertaining to the operation of a commercial kennel business are hereby incorporated by reference.

602. Coin Operated Devices

602.01. Definitions.

Subdivision 1. Owner. "Owner" means any person who installs or permits to be installed in his place of business any coin operated device for the use or patronage of the public or persons in or about said place.

Subd. 2. Public Place. "Public place" means any room, space, store, or building of a public or quasi-public character, wherein the public may enter at large or by membership.

Subd. 3. Coin Operated Device. "Coin operated device" means any machine which upon insertion of a coin, token, or slug in any slot or receptacle attached to said device or connected therewith, operates or may be operated by the public generally for use as a game, entertainment, or amusement. "Coin operated device" includes but is not limited to so-called pinball machines, motion picture machines, and the device commonly known as "shuffle-board," but does not include so-called juke boxes or machines operated by coin to play music.

602.05. Gambling.

Subdivision 1. Devices Prohibited. No use is permitted for any gambling device or any machine which contains an automatic pay-off device for the return of money, coins, tokens, or which provides for such pay-off by any other means; provided that this provision shall not prohibit the use of any machine which returns slugs or tokens which may be used only in the machine itself, which machine does not constitute a gambling device as defined by Minnesota Statute 609.75. No person shall own, operate, maintain, or keep for operation any device the licensing of which is forbidden by this subdivision.

Subd. 2. Gambling Prohibited. The owner of any coin operated device shall not permit the operation of such device for the making of side bets or gambling in any form.

602.06. Transfers.

Subdivision 1. Persons. No license may be transferred from one person to another.

Subd. 2. Location. The owner of a licensed coin operated device may move such device from one location to another.

Subd. 3. Sales. Whenever the owner of a licensed coin operated device shall sell, exchange, transfer, or assign such device, he shall report the sale or other transaction to the City Clerk, who shall present such report to the Council.

602A. Lawful Gambling

602A.01. Purpose. The purpose of this ordinance is to closely regulate and control the conduct of gambling.

602A.02. Provision of State Law Adopted. The provisions of Minnesota Statutes, Chapter 349, relating to the definition of terms, licensing and restrictions of gambling are adopted and made a part of this Section as if set out in full.

602A.03. License or Permit Required. No person shall directly or indirectly operate a gambling device, conduct a bingo operation, or conduct a raffle without a license to do so from the State Gambling Control Board, or if exempt from state licensing, without a permit from the City as provided in this section. One time events, including events conducted only annually and not requiring a license from the State Gambling Board, shall be exempt from this requirement.

602A.04. Persons Eligible for a License or Permit. A license or permit shall be issued only to entities eligible to engage in charitable gambling pursuant to Minnesota Statutes, Chapter 349.

602A.05. Eligible Premises. Gambling devices shall be operated and raffles conducted by a licensed organization only upon premises which it owns or leases, except that tickets for raffles may be sold off the premises. Leases shall be in writing and shall be for a term of at least twelve (12) months. No lease shall provide that rental payments be based on a percentage of gambling receipts. A copy of the lease shall be filed with the Clerk-Administrator.

602A.06. Local Gambling Permit Fee. An annual gambling permit fee is to be paid to the City prior to the issuance of a permit. The fee due is the amount stated in the City fee schedule as periodically set by resolution of the Council, subject to the limitations imposed on such a fee by State law.

602A.07. Application Procedure. Application for a permit shall be made upon a form prescribed by the City Council. No person shall make a false representation in an application. The Council shall act upon an application within 180 days from the date of application, but shall not issue a permit until at least thirty (30) days after the date of application.

602A.08. Contributions. Each organization conducting lawful gambling within the City shall contribute at least ten percent (10%) of its net profits as indicated on the Gambling Monthly Summary and Tax Return derived from pull tabs operations in the City to a fund administered and regulated by the City without costs to the fund, for disbursement by the City for lawful purposes as defined in Minn. Stat. 349.12, Subd. 11. The City's use of such funds shall be determined at the time of adoption of the City's annual budget or at the time of amendments thereto. The contributions required herein are due to the City at the same time that the Gambling Monthly Summary and Tax Return is due.

602A.09 Conduct of Gambling.

Subd. 1. Gambling Manager. All operation of gambling devices and the conduct of raffles shall be under the supervision of a single gambling manager to be designated by the organization. The gambling manager shall be responsible for gross receipts and profits from gambling devices and raffles and for their operation. The gambling manager shall be responsible for using profits for a proper and lawful purpose.

Subd. 2. Bond. The gambling manager shall provide a fidelity bond in the sum of \$10,000.00 in favor of the organization conditioned on the faithful performance of his or her duties.

Subd. 3. Qualifications of Gambling Manager. The gambling manager shall be an active member of the organization and shall qualify under State law.

602A.10. Reporting Requirements.

Subd. 1 Gross Receipts. Each organization licensed or permitted to operated gambling devices shall keep records of its gross receipts, expenses and profits for each single gathering or occasion at which gambling devices are operated or a raffle is conducted. All deductions from gross receipts for each single gathering or occasion shall be documented with receipt of other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of profits shall be itemized as to payee, purpose, amount and date of payment.

Subd. 2. Separation of Funds. Gross receipts from the operation of gambling devices and the conduct of raffle shall be segregated from other revenues of the organization, and placed in a separate account. The person who accounts from gross receipts, expenses and profits from the operation of gambling devices of the conduct of raffles shall not be the same person who accounts for other revenues of the organization.

Subd. 3. Monthly Reports. Each organization licensed and permitted to operated gambling devices or to conduct raffles shall report monthly to its membership, and to the Clerk-Administrator, its gross receipts, expenses and profits from gambling devices or raffles, and the

distribution of profits. The licensee or permit holder shall preserve such records for three (3) years.

602A.11. Prizes. Total prizes awarded in or from any single game, tickets, or tip board operation used as a part of a lawful gambling or bingo operation, and the total prizes awarded in any one year of operation of a lawful gambling or bingo operation shall not exceed the maximum prizes allowed by State law. In no situation shall the total prizes in any single operation of a paddle wheel or tip board or pull tab exceed the maximum prize allowed by State law.

602A.12. Bingo. Nothing in this section shall be construed to authorize the conduct of bingo without acquiring a separate bingo license or permit. Bingo operations shall be conducted in accordance with Minnesota Statutes, Chapter 349 and the regulations promulgated by the Minnesota Gambling Control Board.

602A.13. Penalties.

Subd. 1. Criminal Penalty. Violation of any provision of this Section shall be a misdemeanor.

Subd. 2. License Suspension and Revocation. Any permit may be suspended or revoked by the Council for any violation of this Section. A permit shall not be suspended or revoked until the procedural requirements or Subdivision 3 of this Subsection have been complied with, provided that in cases where probable cause exists as to a violation, the City may temporarily suspend upon service of notice of the hearing provided for in Subdivision 3. Such a temporary suspension shall not extend for more than two (2) weeks.

Subd. 3. Suspension and Revocation Procedure. Except as otherwise provided, a permit shall not be revoked or suspended under subdivision 2 of this Subsection until notice of an opportunity to be heard has been given the permit holder. The notice shall be personally served and shall state the Code provision reasonably believed to have been violated. The notice shall also state the permit holder may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permit holder requests a hearing, one shall be held on the matter by the Council at least one (1) week after the date on which the request is made. If, as a result of the hearing, the Council finds that a violation exists, then the Council may suspend or terminate the permit.

603. Shows, Games and Exhibitions

603.01. License Required.

Subdivision 1. Generally. No person shall exhibit any public show, circus, merry-go-round, caravan, theatrical, or other performance or exhibition for which pay or compensation of any kind shall be demanded or received without first obtaining a license

therefore.

Subd. 2. Exception. No license shall be required for any public performance, show, or entertainment for or in connection with any religious, charitable, fraternal, or veterans organizations or literary purpose located within the City of Proctor or for any show, performance, or entertainment consisting exclusively of amateur performers.

603.02. License Term. A license required under §603.01 may be issued for such term, not exceeding one year, as the Council may approve.

603.03. Fees.

Fees are subject to City Schedule of Charges and Fees.

603.04. Security. All licenses when deemed necessary by the Council as a condition of their license shall provide security by means of security personnel approved by the Council.

604. Cigarette Sales (Repealed)

605. Garbage Collection

605.01. License Required. No person shall engage in the business of collecting and/or removing garbage, rubbish, trash, ashes, or other waste without a license as required under §505.04.

605.02. Regulations.

Subdivision 1. Leakage. Each vehicle shall be tightly covered at all times except during loading and unloading. No person shall load, drive, or cause to be loaded or driven on any thoroughfare any vehicle containing garbage so as to permit its contents to fall, spill, or leak therefrom.

Subd. 2. Cleaning. The owner or persons in possession or control of any such vehicle shall cause it to be cleaned at least once a week while in use and to be kept clean when it is not in use.

606. Peddlers, Solicitors, and Transient Merchants

606.01. Definitions.

Subdivision 1. Peddler. "Peddler" means any person with no fixed place of business who goes from house to house, from place to place, or from street to street carrying or transporting goods, wares, or merchandise and offering or exposing the same for sale, or making sales and deliveries to purchasers.

Subd. 2. Solicitor. "Solicitor" means any person who goes from house to house, place to place, or from street to street soliciting, taking, or attempting to take orders for any goods, wares, or merchandise including books, periodicals, magazines, or personal property of any nature whatsoever for future delivery.

Subd. 3. Transient Merchant. "Transient Merchant" means any person, firm, or corporation who engages temporarily in the business of selling and delivering goods, wares, or merchandise within the City and who, in furtherance of such purpose, hires, leases, uses, or occupies any building, structure, vacant lot, motor vehicle, trailer, or railroad car. Such terms shall also include all persons, principals, agents, or employees who transiently or temporarily engage in the business of assembling and trucking or assembling and transporting in any manner whatsoever any goods, wares, or merchandise for the purposes of selling and delivering the same in wholesale lots or quantities and at wholesale prices to any retail dealer.

606.02. License Required.

Subdivision 1. Generally. Except as provided in subd. 2, no peddler, solicitor, or transient merchant shall sell or offer for sale any goods, wares, or merchandise within the City without having first obtained a license therefor. Each peddler, solicitor, or transient merchant shall secure a separate license.

Subd. 2. Exceptions. The requirements of this Ordinance do not apply to any sale under court order, to any bona fide auction sale, to any sale at wholesale to a retail dealer, or to sales by any religious, charitable, patriotic, philanthropic, or non-profit organization.

606.03. Application.

Subdivision 1. Information. In addition to the information required by §601.03, each application shall state the names and addresses of all persons associated with the applicant in his/her business and shall have each person complete and sign an informed Consent Form authorizing the City of Proctor Police Department to conduct a criminal background check. The applicant shall state the type of business for which a license is sought, the length of time for which a license is sought, a general description of the thing or things to be sold or for which

orders are to be taken, the proposed method of delivery, and the place of residence of the applicant for the preceding five years.

Subd. 2. Approvals. Each application shall bear the written approval of the Chief of Police after an investigation of the criminal background and moral character check of the applicant(s) and employee(s). If any foodstuffs are to be sold, the application shall also bear the approval of the public health office.

606.04. Term. A license required by §606.02 may be issued for such term as the Council may approve, not exceeding one year.

606.05. Fee. The fee for a peddler's, solicitor's, or transient merchant's license shall be subject to the City Schedule of Charges and Fees.

606.06. Refunds. No refund shall be made on the unused portion of a license, except as authorized by resolution of the Council.

606.07. Display. Each peddler or solicitor shall carry his license with him at all times while peddling or soliciting. Each transient merchant shall conspicuously post the license in his place of business. Each licensee shall exhibit his license to any officer or citizen upon request.

606.08. Practices Prohibited. No peddler, solicitor, or transient merchant shall call attention to his business or to his merchandise by crying out, by blowing a horn, by ringing a bell, or by any loud or unusual noise.

607. Taxicabs and Buses (Repealed)

607A. Municipal Towing and Impoundment Ordinance.

Subdivision 1. Impoundment Authority. Any police officer or other duly authorized person may remove and impound any vehicle when such vehicle is found standing in violation of state statutes or other provisions of this chapter when it is reasonably believed to be an unattended stolen vehicle or when the driver of such vehicle has been taken into custody with regard to any violation of this Code or state statute and such removal and impoundment is reasonably needed in the investigation of a crime.

Subd. 2. Reclaiming Vehicles. Any impounded vehicle may be reclaimed by the duly identified owner thereof only upon payment of the removal, impounding, and storage fees assessed against it.

Subd. 3. Towing and Impoundment Ordinance Definitions. Except as is hereinafter provided, words and phrases shall have the meaning as ascribed to them by Article I of this chapter:

- (a) Chief of Police - The Chief of Police of the City of Proctor or such person or persons as he shall designate.
- (b) Accident - Any occurrence causing any damage to any motor vehicle which results from the motion of one or more vehicles.
- (c) Disabled Vehicle - Any vehicle involved in an accident, any vehicle illegally standing or stopping when the owner or person in control of vehicle is not present, and any vehicle when the owner or person in control of it is not able or is not permitted to drive, if peace officers at the scene determine that there is an apparent need to move such vehicle by wrecker.
- (d) Emergency Towing Service - The business of offering service to disable vehicles and other vehicles by means of motor vehicle at the request of the Chief of Police.
- (e) Towing Rotation List - Any list of licensed towing services located within the City of Proctor maintained by the Chief of Police as provided for in this article.

Subd. 4. Towing Licenses Required. No person shall engage in offering emergency towing service within the City without being licensed in accordance with this article unless summoned by the owner or operator of the disabled vehicle or his agent.

Subd. 5. License Application Process.

- (a) Any applicant desiring to engage in or continue in the business of an emergency towing service in the City shall file with the City Clerk a written application upon a form for that purpose which shall be signed by the applicant or his authorized agent.
- (b) Such application shall contain the name, address of the principal place of business, telephone number of the towing service, the number and types of wreckers to be operated, the license numbers of all vehicles to be used to provide emergency towing service, and the name, address and telephone number of the

true owner of the company concerned.

- (c) Proof of all insurance required by this article shall be filed with every application.
- (d) The application shall also contain an agreement on the part of the licensee to abide by all of the provisions and requirements of this chapter relevant to the class of license for which he applies.
- (e) The Clerk may at any time require additional information of the licensee or applicant relevant to his application.

Subd. 6. Fees.

- (a) The annual fee for emergency towing service license shall be subject to the City Schedule of Charges and Fees.
- (b) In addition, an annual inspection fee may be charged for each vehicle proposed to be used for towing service under this article at the discretion of the City of Proctor.
- (c) The fees specified are payable at the time of application, and no refund of fees shall be made except that the annual license fee for the towing service shall be refunded if a license application or renewal application is rejected. No proration of fees shall be made except for licenses issued after September 30 for which the license fee for that license only shall be prorated.

Subd. 7. License Issuance, Refusal, Revocation.

- (a) New or renewal licenses shall be issued prior to the expiration of the calendar year provided all required application criteria have been met. Licenses shall be valid one year from the date of issuance.
- (b) Licenses issued under this chapter are subject to revocation under the following grounds:
 - (1) Filing false information on an application.
 - (2) Failing to inform the City Clerk of changes in required information within ten (10) days of such change.
 - (3) Failure to have an insurance policy as required in this article in force.

- (4) Evading or attempting to evade the towing service fee limitations of this article by providing services or performing acts not reasonably necessary under the circumstances.
 - (5) Violation by the licensed applicant or by any employee thereof of any provision of this article.
 - (6) Use by the licensee of any trade name for his towing service other than the one registered with the City Clerk or operating any towing service vehicle without the name of the proper towing service posted in the directed manner on such vehicle or with the name of another towing service appearing in place of the proper name.
 - (7) Two (2) or more moving violations or one (1) driving while under the influence (or .10 b/a or more) by a licensee or his employees while furnishing towing services within one (1) year.
 - (8) Soliciting business at the scene of an accident.
 - (9) Providing service which manifests a substantial lack of care or competence, or both, in the provision of towing service.
 - (10) Failure to respond to the scene of an accident at the request of the Chief of Police or failure to respond to the scene of an accident within 20 minutes of being summoned by the Chief of Police.
 - (11) Three (3) consecutive failures or refusals to tow a disabled vehicle at the request of the Chief of Police.
 - (12) Failure to clean up debris left at the scene of an accident when responding to the Chief of Police's request to tow a disabled vehicle at such scene.
 - (13) Failure to allow a rightful claimant of a towed vehicle to regain control of it within one hour of receipt of a request therefor, whether in person, in writing, or by telephone, providing that appropriate payments are tendered.
- (c) Licenses subject to revocation under subpart (b) of this subdivision shall be reviewed by the Chief of Police and a report and recommendation thereon shall be submitted by the Chief to the City Public Safety Commission.
- (d) In addition, any licensee who has been the subject of suspension or revocation within five (5) years of a new or renewal application for a license under this chapter may be denied said new or renewed license by the City Clerk upon his/her

review of the application.

- (e) Any licensee whose license has been recommended for suspension or revocation by the Chief of Police or had his renewal for license denied by the City Clerk shall be entitled to a hearing before the Public Safety Committee of the City Council by filing a letter requesting a hearing within ten (10) days of receiving notice of the revocation, suspension, or refusal to issue. The decision of the committee shall be in writing and filed with the City Clerk and served upon the aggrieved applicant not later than sixty (60) days following the filing of the letter requesting the hearing before the committee.

Thereafter the aggrieved party shall have ten (10) days to appeal the committee's decision to the City Council which shall, upon receipt of a written letter of appeal, hold a hearing to reconsider the license. Said hearing shall be held at the next scheduled Council meeting.

Upon completion of the hearing, the City Council shall either sustain, reverse, or modify the actions previously taken. Said decision shall be final.

Subd. 8. Insurance. Each license applicant shall present proof of insurance coverage naming the City as an additional insured in the following amounts:

- (a) Comprehensive general liability insurance insuring against liability imposed by law for bodily injury or death in the sum of \$100,000.00 for any one person and in the sum of \$300,000.00 for two or more persons for the same occurrence and for damages to property in the sum of \$100,000.00.
- (b) Workers' compensation insurance and employer's liability insurance as required by law.
- (c) Automobile liability and property damage insurance and basic economic loss benefits or a Personal Injury Protection Endorsement (PIP), including coverage for non-owned and hired vehicles, in limits as for comprehensive general liability coverage above.
- (d) Garagekeeper's liability coverage of at least \$25,000.00.

Every policy referred to in subd. (2) above shall contain an endorsement providing for thirty (30) days notice to the City Clerk of the City of Proctor in the event of any material change or cancellation of such policy.

Subd. 9. Off-Street Parking Required. All wrecker services shall provide sufficient off-street parking to accommodate all vehicles to which they render and intend to render service, and no wrecker services shall permit vehicles to which they render or intend to

render service to be parked on any street.

Subd. 10. Wrecker Vehicle Inspection.

- (a) Any vehicle intended to be used for the offering of wrecker service shall be submitted to persons inspecting on behalf of the City to determine compliance with the following standards:
 - (1) Every such vehicle shall have a manufacturer-rated capacity of not less than one ton and be equipped with brake-lock system and/or wheel shocks.
 - (2) Each such vehicle shall be equipped with a power operated winch, winchline, and boom with a factory-rated lifting capacity or tested capacity of not less than eight thousand pounds, single-line capacity.
 - (3) Each such vehicle shall carry as standard equipment a tow bar, towing dollies or a roll-back car hauler, safety chains, a fire extinguisher, a "state of the art" car door opener, a wrecking bar, a broom, a shovel, and flares.
 - (4) Each such vehicle and all of its equipment shall be in safe and good working condition.
- (b) Any vehicle intended to be used as a heavy duty wrecker for providing emergency wrecker service shall be equipped as in subd. (10) above except:
 - (1) Each such vehicle shall have a manufacturer-rated capacity of not less than two and one-half tons.
 - (2) Each such vehicle shall be equipped with a power operated winch, winchline, and boom with a factor-rated lifting capacity or tested capacity of not less than thirty-two thousand pounds, single or double line capacity.
 - (3) No towing dollies need be carried, but must be available.
- (c) Every vehicle proposed for use in offering wrecker services shall have the name and telephone number of the company owning such vehicle displayed.
- (d) Any vehicle proposed for use in offering towing services shall have emergency lights complying with standards of the State of Minnesota.

Subd. 11. Powers and Duties of the Chief of Police. The Chief of Police shall be

empowered to investigate all applicants for licenses under this article and to inspect or have inspected all vehicles proposed to be used in conformity with the provisions of this article. In addition, the Chief of Police shall have the power and duty to enforce all provisions of this article and to take such action with regard to suspensions and revocations as are indicated in this article.

Subd. 12. Emergency Towing Service. An emergency towing service shall provide the following minimum services:

- (a) Such service shall provide services with a wrecker or wreckers which meet the vehicular requirements of this chapter.
- (b) Such service shall provide twenty-four hour a day, seven day a week service.
- (c) Such service shall come at all times when summoned by the Chief of Police to remove a disabled vehicle and, when summoned, shall remove such vehicle on all occasions.
- (d) Such service vehicles shall arrive at the scene of a disabled vehicle when summoned by the Chief of Police within a reasonable time after being summoned, such time not to exceed twenty (20) minutes.
- (e) Such services shall, upon the request of any peace officer, store any vehicle inside a building which is reasonably weather-proof and secure for as long as is necessary to complete any police investigation of such vehicle.
- (f) If the Chief of Police directs that any vehicle be towed to any location other than a storage location normally used by the wrecker service providing such service, such wrecker service shall deposit such vehicle as directed; provided that if services provided pursuant to such direction would justify additional charges under this article, the Chief of Police shall pay such charges.

Subd. 13. Towing Rotation List.

- (a) The Chief of Police shall call only emergency towing services as provided herein when the police department requires towing services in the course of duty. When emergency wrecker services are to be provided, the Chief of Police shall call the first service on the rotation list. When a service has been called, its name shall be placed last on the rotation list.
- (b) The Chief of Police shall keep records of all calls made for emergency wrecker services under the provisions of this article which shall be public record.

- (c) In case of emergency when the Chief of Police shall determine that the public convenience and necessity requires it, the Chief of Police may depart from the strict rotation of emergency wrecker lists for the duration of such emergency and call any licensed wrecker service at his discretion. A record of such departure together with the reason therefor shall be maintained with the record referred to in subparagraph (b) above.
- (d) In circumstances and situations where the owner of a vehicle subject to emergency towing under this subdivision, subparts (a)-(b) presents the Chief of Police or his official designee with valid proof of towing insurance from an automotive club or insurer at the site where towing is required, the Chief or his designee shall allow the owner to contact a towing service honoring the towing insurance held by the owner. If the owner's attempt to contact a towing service honoring the aforementioned insurance fails, the Chief or his designee shall then utilize the provisions of subparts (a)-(b) to facilitate the required tow.

Subd. 14. Driving Wrecker to the Scene of Accident. No persons shall drive a wrecker, licensed or unlicensed, to the scene of an accident or collision on the streets of the City unless such person has been called to the scene by the Chief of Police or has been requested by the owner or operator of a disabled vehicle or his agent.

Subd. 15. Soliciting Towing Business at the Scene of Accident Prohibited; Presence at Scene is Evidence of Violation. No person shall solicit in any manner, directly or indirectly, on the streets of the City the business of towing any vehicle which is a disabled vehicle on the street regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading, or purchasing such vehicle.

Subd. 16. Fees.

- (a) No licensed emergency towing service shall charge in excess of \$70.00 per tow plus applicable tax relative to the towing of any motorcycle, ATV, snowmobile, automobile or light truck towed pursuant to this chapter plus \$90.00 per tow plus applicable tax using a flat bed type of truck.
- (b) Provided, any emergency towing service may charge additional reasonable fees for rendering services in addition to towing, to include the use of any accessory equipment required to perform the services requested.
- (c) In addition, there shall be no regulation of fees charged by towing services licensed under this chapter relative to the towing of any vehicles other than described above at subpart (a) of this subdivision.

- (d) No licensed emergency towing service shall charge in excess of the City Schedule of Charges and Fees relative to the impoundment and/or storage of motorcycles, ATVs, snowmobiles, automobiles or light trucks towed and stored under the provisions of this ordinance. (\$6.00 outside, \$15.00 inside.) Provided after 4 days of continuous storage, the towing service may increase the storage fees to \$15.00 per day outside, \$20.00 per day inside.

Subd. 17. Storage Lot Facilities.

- (a) All licensed emergency towing services required by this chapter shall maintain a storage lot located within the city limits of the City of Proctor. Any vehicles towed pursuant to this chapter shall be stored within the confines of that lot.

Provided, vehicles towed pursuant to subd. 13(d) may be stored in accordance with the contract of towing insurance applicable.

- (b) Any storage lot utilized by each sub-emergency towing service which is located within the city limits of the City of Proctor shall comply with the zoning requirements of the zone in which it is located.
- (c) Any storage lot which is located within the city limits of the City of Proctor shall be effectively screened from adjacent residential developments to prevent adverse visual or noise impact upon such neighborhoods.

608. Filling Stations

608.01. Definition. "Filling station" means any place, building, pump, or device maintained and used on private premises within the City for the purpose of selling or disbursing gasoline or other motor fuels for use in vehicles of any kind.

608.02. License Required. No person, firm, or corporation shall engage in the business of keeping, maintaining, or operating any filling station without first obtaining a license therefor.

608.03. Fee. The annual fee for a filling station shall be \$5.00 per pump.

608.04. Transfers. A filling station license may be transferred, if approved by the Council, if the licensee desires to change his place of business or has sold or disposed of his business. A request for a transfer shall be in writing and signed by both the licensee and the transferee.

608.05. Eligibility. A filling station license shall be issued only if the premises are in compliance with all applicable fire code and building code provisions.

608.06. Inspections. Every filling station shall permit the fire chief, his agents, or other properly designated officers to enter and inspect the premises at various and reasonable times without a warrant for the purpose of enforcing all applicable fire safety regulations.

608.07. Operation. No filling station or other person in charge of operating a filling station shall fill or allow to be filled with fuel the tank or tanks of any motor vehicle while the engine of such vehicle is running or is in motion; and no owner or other person driving, operating, or in charge of a motor vehicle shall fill, allow, or cause to be filled with fuel the tank or tanks of such motor vehicle while the engine is running.

609. Plumbing (Repealed)

610. Public Dancing

610.01. Adoption by Reference. The provisions of Minnesota Statute §624.42 through §624.53 regarding public dancing are adopted by reference. No person shall conduct a public dance unless he has been issued a public dance license.

610.02. Term. Dance licenses may be issued for a one-year term or for a one-day term. In addition to the information required by §610.03, each application shall state whether a one-year or a one-day license is requested.

610.04. Street Dances.

Subdivision 1. Permit Required. Any person, association, organization, or business entity requesting to hold a public dance, music festival, or music celebration featuring live or recorded music upon any street, alleyway, sidewalk, or other property owned by the City of Proctor by virtue of license, fee, title, easement, or equity shall apply to the City of Proctor for a permit for such an event. Applications for permits shall be maintained at City Hall.

Subd. 2. Hours. No public dance, music festival, or music celebration as described above at subd. 1 shall be permitted to begin before noon, and any music or entertainment presented in connection with such events shall terminate at 12 a.m.

Subd. 3. Areas Allowed. Any public dance, music festival, or music celebration

for which a permit is required as set forth in subd. 1 shall be restricted to areas of the City of Proctor zoned commercial, industrial or open space\recreational.

Subd. 4. Other Requirements. All applicants for a permit as set forth in subd. 1 of this Ordinance shall, no later than twenty (20) business days prior to the date of the event, submit a formal permit application to the City Administration upon a permit form provided by the City and available at City Hall. Any completed application submitted by a permittee shall include specific information regarding:

- (a) Date(s) of the event;
- (b) Time(s) of the event;
- (c) Location;
- (d) Permittee's proposal for traffic and crowd control, police protection, and cleanup;
- (e) Expected number of patrons;
- (f) The name, policy number, and liability limits of any insurer providing liability insurance coverage for the event, together with the name, address, and telephone number of the insurance agent procuring the policy on behalf of the permittee. Such liability insurance shall provide coverage in an amount no less than the liability limits set forth in Minn. Stat. §466.04, subd. 1, as amended from time to time.

Additionally, any monetary deposits or insurance policies procured by the permittee as required by this Ordinance shall be delivered to the City Administrator no later than seven (7) calendar days prior to the event.

Subd. 5. Insurance and Deposits. All permittees shall be required to provide evidence of a general liability policy in the amount as set forth in subd. 4. In addition, if the permittee sells, barter, trades, or in any way dispenses alcoholic beverages at said event, the permittee must also provide evidence of Dram Shop insurance in the minimum amount required by state law. Any such policies of insurance shall name the City of Proctor as an additional insured.

A \$500.00 cleanup deposit shall also be posted by the permittee and shall be refundable upon timely satisfactory cleanup. The on-duty Proctor police officer shall be the agent of the City for purposes of determining whether the cleanup has been completed. It shall be the duty of the permittee to contact said officer and inspect the area with him/her upon completion of cleanup.

The permittee shall also secure and erect barricades prior to any such event as required

by the Chief of Police and shall be responsible for timely removal thereof at the conclusion of the event.

Subd. 6. Public Safety. The permittee shall provide officers as follows:

Two officers for any event with anticipated attendance of 0-300 patrons with one additional officer for each additional 200 patrons.

The officers hired by the permittee shall be retained by the permittee under the following priority:

- (1) Off-duty Proctor officers;
- (2) Officers from a jurisdiction sharing mutual aid agreements with the City of Proctor; or
- (3) As approved by the Proctor Chief of Police.

Provided, all officers hired under priority 3 shall be licensed, full-time peace officers from a jurisdiction within the State of Minnesota.

Any and all selling or dispensing of alcoholic beverages at any event regulated hereunder shall conform to State and City liquor laws and ordinances, to be enforced by the applicable policing unit.

Subd. 7. Fee. The permit application fee hereunder shall be per City Schedule of Charges and Fees.

601A Special Event Permit Application (available on City website)

611. Charitable Gambling

611.01. State Licensee Reporting Requirements. All charitable gambling licensees holding licenses issued by the State of Minnesota pursuant to M.S.A. §349.213, said licenses being issued for bingo, tipboards, paddleboards, raffles, pulltabs, and ticket jars shall be required to submit a copy of any and all financial statements, reports, and documents required by the State of Minnesota to the City Clerk of the City of Proctor within thirty (30) days of the licensee's submission of said statements, reports, and documents to the State of Minnesota.

SECTION 1. PURPOSE, FINDINGS and CONCLUSIONS

- A. Purpose. purpose of this ordinance is to control and regulate certain land uses that have a direct and detrimental effect on the character of the City of Proctor's residential and commercial neighborhoods.
- B. Findings.** The City Council of the City of Proctor makes for the following Findings regarding the effect of sexually-oriented businesses are located.
- (1.) Sexually-oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending licensed daycare homes, persons using public parks, and children and other persons attending public schools;
 - (2.) Sexually-oriented businesses can contribute an increase in criminal activity in the area where such businesses are located, taxing local law enforcement services;
 - (3.) Sexually-oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the value of the residential housing in the area in which such businesses are located.
 - (4.) The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually-oriented businesses. The presence of such businesses is perceived by other as an indication that the area is desecrating and the result can be devastating as other businesses and residences move out of the vicinity. Declining real estate values, which can result from the concentration of such business, erode the City's tax base.
- C. Authority. This City has the authority under to regulate the location of this type of business.
- D. Conclusions.** In order to minimize the detrimental effect that sexually-oriented businesses have on adjacent land uses, the City Council adopts the following ordinance, recognizing that it has a great interest in the present and future character of the city's residential and commercial neighborhoods.

SECTION 2. DEFINITIONS

- A. **Adults-only bookstore.** An establishment having as a substantial or significant

portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as defined below, or an establishment with a segment or section devoted to the sale or display of such material, for sale to patrons therein. It shall be presumed that an establishment is an "adult only bookstore" if ten percent (10%) or more of its floor space is devoted to such materials.

- B. **Adults-only motion picture theater/video store.** An enclosed building used regularly and routinely for presenting, selling, or renting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation by patrons therein. It shall be presumed that an establishment is an "adults only motion picture theater/video store" if ten percent (10%) or more of its floor space is devoted to such materials.
- C. **Massage parlor.** A massage parlor which restricts minors by reason of age, or which provides the service of "massage," if such service is distinguished by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.
- D. **Nudity.** The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
- E. **Adult Rap parlor.** A conversation/rap parlor which excludes minors by reason of age, and which provides the service of engaging in listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.
- A. **Adult Sauna.** An establishment or place primarily in the business of providing (I) a steam bath or hot air bathing, and/or (ii) massage services which excludes minors by reason of age where such service(s) is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for patrons.
- B. **Sexual conduct.** Acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks, or, if such person be a female, her breast.

- C. **Sexual excitement.** The condition of human male or female genitals when in a state of sexual stimulation or arousal.
- I. **Sadomasochist abuse.** Flagellation or torture by or upon a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.
- J. **Adult entertainment center.** An enclosed building or a part of an enclosed building, wherein an admission is charged for entrance into the facility, or for food, alcoholic beverages or other beverages intended for consumption within the facility, wherein may be observed or which contains one or more coin-operated mechanisms which when activated permit a customer to view one or more live persons unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
- K. **Adult cabaret.** A building or portion of a business used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.
- L. **Adult health/sport club.** A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.
- M. **Adult steam room/bath house facility.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.
- N. **Sexually-oriented business.** An adult bookstore, adult theater, adult massage parlor, adult conversation/rap parlor, adult sauna, adult entertainment center, adult cabaret, adult health/sport club, adult steam room/bathhouse facility, or any other business whose primary business activity is characterized by emphasis on matters depicting, describing, or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined here.

SECTION 3. LOCATION RESTRICTIONS

- A.** Adult use only bookstore, adult theaters, adult massage parlors, adult conversation/rap parlors, adult saunas, adult entertainment centers, adult cabarets, adult steam room/bathhouse facilities, and other sexually-oriented businesses may be located or maintained within commercially zoned areas only.
- B.** Adults-only bookstores, adult theaters, adult massage parlor, adult conversation/rap parlor, health/sport club, adult steam room/bathhouse, and other sexually-oriented businesses shall not:
- (1.) be operated or maintained within 1000 feet of a residential zone.
 - (2.) be operated or maintained within 1000 feet of a church, licensed daycare facility, public library, educational facility which serve persons age 17 or younger, place of worship, public park or elderly housing facility.
 - (3.) be operated or maintained within 2000 feet of another such sexually-oriented business.
 - (4.) in regard to distance limitations set forth herein, be measured in a straight line from the primary structure of said premises in commercially-zoned districts or from the demarcation lines of residential zones.
 - (5.) be located in the same building or upon the same property as another such use.

SECTION 4. REGULATED USES

- A. Windows.** Notwithstanding any other provision of this code, a sexually-oriented business:
- (1) shall not display merchandise or pictures of the products or entertainment in window areas or any area where they can be viewed from the road frontage.
 - (2) shall leave windows covered or opaque.
 - (3) shall not place a sign in any window, notwithstanding other ordinances regulating signs on commercial structures.
- B. Hours of Operation.** Notwithstanding any other provisions of this code, a sexually-oriented business:
- (1) may operate between 10:00 a.m. and 12:00 p.m.

(2) shall be closed on Sundays and holidays as defined by the City Code herein.

C. Physical Contact. Notwithstanding any other provisions of this code, a sexually-oriented business:

(1) employing dancers or other live entertainment shall not allow physical contact between the dancers/entertainers and the patrons of the business.

(2) employing dancers or other live entertainers shall maintain a distance of at least four (4) feet at all times between the dancers/entertainers and the patrons of the business.

D. Gratuities. Notwithstanding any other provision of this code, a sexually-oriented business:

(1) shall not allow its dancers or other live entertainers to solicit payments / gratuities from the patrons of the business.

(2) shall not allow the patrons of the business to make direct payment/gratuities to its dancers or other live entertainers.

SECTION 5. PENALTY.

A violation of this ordinance shall be a misdemeanor under Minnesota law.

SECTION 6. SEVERABILITY.

If any sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each sub-section, sentence, clause or phrase thereof irrespective of the fact that nay one or more sections, sub-section, sentences, clauses, or phrases be declared invalid.

SECTION 7. LICENSING

A. Basic Provisions for Licensing.

(1) License Required. No person or corporation, shall directly or indirectly deal in or operate in this City an adult use only bookstore, adult theaters, adult massage parlors, adult conversation/rap parlors, adult saunas, adult entertainment centers, adult cabarets, adult steam room/bathhouse facilities, or other sexually-oriented businesses without a license to do so as provided in this Ordinance.

B. License Process.

- (1) Application. Every application for a license under this section shall state the name of the applicant, his age, representations as to his character with such references as the Council may require, his citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the Council may require from time to time. In addition, the application shall be verified and filed with the City Clerk. No person shall make a false statement in an application.
- (2) License Fee. The annual fee for a license under this chapter shall be found on the City Schedule of Charges and Fees.
- (3) Payment of Fee. Each application for a license issued pursuant to this chapter shall be accompanied by a certified check or money order for the license fee. All fees shall be paid into the general fund. If a license is rejected, a full refund of the fee shall be made.
- (4) Transfers. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without having been first considered by the City.

C. Denial of License. No license shall be granted to or held by any person who:

- (1) Is under 21 years of age;
- (2) Is an alien or non-resident of the State of Minnesota;
- (3) Is not of good moral character;
- (4) Is not the proprietor of the establishment for which the license is issued.
- (5) Is not current on real property taxes, assessments and city-owned utilities relating to the licensed premises.
- (6) In addition, the City may refuse to renew the license of and shall refuse to issue a new license to a person who, within five (5) years of the license application, has been convicted of a willful violation of a federal, state law, or local ordinance concerning the type of businesses covered by this Ordinance.

(6.) Inappropriate Licensee and Revocation.

- (1) Conviction/Revocation. The City Council shall not grant any licenses to any premises where a licensee has been convicted of violating this chapter or any state law concerning the type of businesses covered by this Ordinance, where any license to operate hereunder has been revoked for cause unless one year's time has elapsed after conviction or revocation. A plea of guilty shall constitute a conviction.
- (2) Suspension/Revocation Process. The violation of any provision or condition of this chapter or any other ordinance or state law or regulation concerning the type of businesses covered by this Ordinance is grounds for revocation or suspension of the license. A license granted under this Ordinance may be revoked or suspended by the Council after written notice to the licensee and a public hearing held by the Council. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The City may suspend any license pending a hearing on revocation or suspension. No suspension shall exceed sixty (60) days. Repeated violations (more than two) by the same licensee, its heirs or assigns, may be subject to revocation of said license through the hearing process.

E. Enforcement and Inspection.

- (1) Enforcement. It shall be the duty of all police officers of the City to enforce the provisions of this Ordinance and state law, to search premises and seize evidence of violation, reserve the same as evidence against the person alleged to be in violation, and to prepare the necessary processes and papers therefor.
- (2) Inspections. Any business which is the subject of a license issued under this Ordinance shall be open at all reasonable hours for inspection by any peace officer, or other properly designated officer of the City. Refusal to permit such inspection shall be a violation of this Code.

F. Licensee Responsibility. Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of order.

SECTION 8. INAPPLICABILITY OF MINN. STAT. §617.242

Section 617.242 of the Minnesota Statutes does not apply to or in the City of Proctor. Said section is also inapplicable to or in the City of Proctor as to any portion of the operations of sexually-oriented businesses that are not regulated by this ordinance but which may otherwise

have been subject to it.

PROCTOR CITY CODE

700 - Liquor and Beer

701. Municipal Liquor Store

701.01. Liquor Store Established.

Subdivision 1. Off-Sale. A municipal liquor dispensary is hereby established to be operated within this municipality for the sale of liquor for use as a beverage and containing more than 3.2 percent of alcohol by weight in sealed or closed receptacles or containers to be consumed off or away from the premises.

Subd. 2. On-Sale. (Reserved)

701.02. Location and Operation.

Subdivision 1. Location. The said liquor store or stores shall be at such place or places as the Council shall determine by motion and may be either leased or owned by the municipality.

Subd. 2. Operation. Such store or stores shall be in the charge of a person known as the "manager" who shall be selected by the Council and who shall be paid such compensation as the Council shall determine. Said manager shall have full charge of the operation of such store or stores and shall have authority to purchase such supplies and merchandise as may be necessary and shall pay over to the Clerk-Treasurer, at regular intervals to be determined by the Council, all funds which shall come into his possession in the operation of such establishment. Additional help may be employed by the Council as may appear necessary at a rate of compensation under rules to be determined by the Council. All employees, including the manager, shall hold their positions at the pleasure of the Council. No minor person shall be employed in the liquor store or stores.

701.03. Dispensary Fund. A liquor dispensary fund is hereby created into which all revenues received from the operation of the dispensary shall be paid; provided that the initial costs of rent, fixtures and stock may be paid for out of the general fund of the municipality, but such amount shall be reimbursed to the said general fund out of the first monies coming into the liquor fund not needed to carry on the business. Any surplus accumulating in this fund may be transferred to the general fund by resolution of the Council and expended for any municipal

purpose.

701.04. Hours of Operation.

Subdivision 1. General. The municipal store or stores shall at all times observe the following on the hours of operation.

Subd. 2. Off-Sale. No "off-sale" shall be made before 8:00 a.m. or after 8:00 p.m. on any day. No "off-sale" shall be made on Sundays, Thanksgiving Day, or Christmas Day, December 25th, but on the evenings preceding such days. If the sale of liquor is not otherwise prohibited on such evenings, "off-sale" may be made until 10:00 p.m.; except that no such "off-sale" shall be made on December 24th after 10:00 p.m.

701.05. Regulation.

Subdivision 1. Gambling. No person on the premises of the municipal liquor store shall keep, possess, or operate on such premises or in any rooms adjoining or connecting therewith any slot machine, dice, or any other gambling device or permit the same to be so kept. No gambling shall be permitted on such premises; nor shall any person of known immoral character or any disorderly person be permitted on such premises. Charitable or other regulated gambling, as allowed by state law and local ordinance, may be permitted.

Subd. 2. Other Business. No other business than the sale of liquor and related items, as previously set forth in this Ordinance, shall be carried on by the store or by any person employed therein during the time so employed.

Subd. 3. Intoxicated Persons. No liquor shall be sold to any person who is in an intoxicated condition.

Subd. 4. Underaged Persons. No liquor shall be sold to any person under the age of 21 years.

Subd. 5. Health Inspection. The premises occupied by the liquor store shall be duly inspected by the health officer of the county as required by law.

Subd. 6. Loitering. No person shall be permitted to loaf or loiter about the store habitually.

Subd. 7. Oversight, Operation and Control. The City Council shall review the operation, profitability, and business of the Municipal Liquor Store on at least a quarterly basis. Any adjustments in said store's operation or profitability made by the City Council shall be acted upon by the City Administrator and the Manager of the Liquor Store.

702. General Liquor Licensing

702.01. 3.2 Beer: Non-intoxicating Malt Liquor; Wine Licenses

Subdivision 1. Definitions.

- (a) The provisions of Minnesota Statute §340 et seq., applicable to the sale of non-intoxicating malt liquor are adopted herein by reference.
- (b) "3.2 Beer: Non-intoxicating Malt Liquor." As used herein, the term "3.2 beer or non-intoxicating malt liquor" means any beverage containing alcohol of more than one-half of one percent by volume and not more than three and two-tenths percent by weight.
- (c) "Wine." Shall be defined by Chapter 340A of the Minnesota Statutes.
- (d) "Premises." As used herein, "premises" means an establishment for the sale of 3.2 beer and/or non-intoxicating malt liquor.
- (e) "Temporary." As used herein, the term "temporary" means a period not to exceed three days. Sales made pursuant to any "temporary" license shall meet all other requisites of this chapter.

Subd. 2. License Required.

- (a) Licenses. No person, firm, partnership, corporation, or association, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale, or otherwise or keep or offer for sale any wine or non-intoxicating malt liquor within the City without first having received a license as hereinafter provided.

Licenses shall be of three kinds: (1) regular "on-sale", (2) temporary "on-sale", and (3) "off sale."

- (b) Regular On-Sale. Regular "on-sale" licenses shall be granted only to bona fide

clubs, retail establishments holding wine or non-intoxicating malt liquor licenses, exclusive "on-sale" liquor stores, drug stores, restaurants, and hotels where food is prepared and served for consumption on the premises. "On-sale" licenses shall permit the sale of wine or non-intoxicating malt liquor for consumption on the premises only.

- (c) Temporary On-Sale. Temporary "on-sale" licenses shall be granted only to bona fide clubs and charitable, religious, and non-profit organizations for the sale of wine or non-intoxicating malt liquor for consumption on the premises only.
- (d) Off-Sale. "Off-sale" licenses shall permit the sale of wine or non-intoxicating malt liquor at retail in the original package for consumption off the premises only.

Subd. 3. License Applications.

- (a) Applications. Every application for a license to sell wine or non-intoxicating malt liquor shall be made on forms to be supplied by the City setting forth the name of the applicant, his age, representations as to his character with such references as may be required, his citizenship, the location where such business is to be carried on, the type of license applied for, the business in connection with which the proposed license will operate, if any, whether the applicant is the owner and operator of such business, the time the applicant has been in that business at that place, and such other information as the Council may require from time to time. The application shall be verified by the oath of the applicant. It shall be unlawful to make any false statement in an application.
- (b) Certification/Affidavit. Prior to the issuance of a wine non-intoxicating malt liquor license of the types described in §703.02 Subd. 1, as applicable, each license applicant shall provide the City Clerk with a notarized affidavit in a form and manner set forth and provided by the City of Proctor, which shall state:
 - (i) That said applicant's gross annual sales of non-intoxicating malt liquor will not equal or exceed \$10,000.00 for the year for which the license is sought; or
 - (ii) That said applicant's gross annual sales of non-intoxicating malt liquor will equal or exceed \$10,000.00 for the year for which the license is sought.
 - (iii) If a wine license is sought, that applicant is and shall remain in compliance with Chapter 340A of the Minnesota Statutes.
- (c) Security. In the event that an applicant for a non-intoxicating malt liquor license

submits a notarized statement under subd. 2 above which states that the gross non-intoxicating malt liquor sales of the applicant will equal or exceed \$10,000.00 for the license year, the applicant shall file with the City Clerk a liability insurance policy in the amount of \$50,000.00 coverage for one person and \$100,000.00 coverage for more than one person. Said policy must comply with the provisions of Minnesota Statute §340.11 subd. 21 regarding liability insurance policies.

- (d) Auditing Right. The City of Proctor reserves the right to conduct an annual independent audit of the records and books of each licensed applicant regarding the information contained in the notarized statement filed pursuant to subd. 1 herein. Said audit may be conducted after the liquor committee of the Proctor City Council has considered the matter and recommended to the City Council that such an audit be undertaken. The City Council may or may not order an audit based upon the liquor committee's recommendations.
- (e) Penalties. Any licensee's designated representative who misrepresents his annual gross non-intoxicating malt liquor sales or projected sales under subd. 1 as described in the required affidavit (§703.03) filed with the City Clerk shall be guilty of a misdemeanor.

Subd. 4. Form of Affidavit.

AFFIDAVIT OF LICENSEE

Name of Licensee _____
Person signing this statement _____
Relationship or position of person signing this statement with
Licensee _____

Under oath, I state and affirm that the gross wine or non-intoxicating malt liquor sales for the previous license year amount to the total sum of _____ Dollars (\$ _____).

I further state and affirm that, upon good faith analysis of present and past trends regarding said gross wine or non-intoxicating malt liquor sales, that said gross wine or non-intoxicating malt liquor sales for the current license year, 20__, will/will not (strike one inapplicable term) equal or exceed Twenty-Five Thousand and no/100ths Dollars (\$25,000.00), said 20__ gross beer sales being presently estimated to equal approximately _____ Dollars (\$ _____) OR under oath, I state and affirm that I shall comply with the requirements of Chapter 340A of the Minnesota Statutes as those statutes pertain to wine licenses.

Further your affiant saith not.

Licensee's Designated Representative

Subscribed and sworn to before me
this ___ day of _____, 20__.

Notary Public

702.02. Intoxicating Liquor.

Subdivision 1. Basic Provisions for Licensing.

- (a) The provisions of Minnesota Statute §340A, et set. applicable to the sale of intoxicating liquor are adopted herein by reference. The term liquor herein means "intoxicating liquor" as defined in Chapter 340A.
- (b) License Required. No person or corporation, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in this City any intoxicating liquor without a license to do so as provided in this Ordinance.
- (c) Off-Sale Prohibited. There shall be no off-sale of any intoxicating liquor by any person or corporation within the City of Proctor except as allowed under §701 of this Code (municipal liquor store).
- (d) On-Sale Licenses. There shall be allowed "on-sale" licenses as enumerated within Minnesota Statute §340A, et seq., said licenses to be limited in their issuance to only restaurants or hotels with seating capacities of thirty guest seats or more, except as provided in Subdivision 2 herein, pertaining to "restaurant licenses" and "developmental licenses", respectively.

Subd. 2. Restaurant Licenses.

- (a) For purposes of the issuance of a "Restaurant" Liquor License within the purview

of the instant section, "Restaurant" means an establishment other than a hotel or motel; under the control of a single proprietor or manager; having appropriate facilities for the serving of meals in a formal atmosphere (consisting of a full menu as distinguished from exclusively "fast food" items such as pizza, hamburgers, and other sandwiches) and where, in consideration of payment therefor, meals are regularly served at tables, with reusable utensils and dishware, to the general public; which employs an adequate staff to provide the usual and suitable service to its guests; the principal part of the business (meaning at least 60 percent of the gross income from sales during each calendar quarter) being the serving of foods and which shall have seating facilities for seating not less than 30 guests at one time and have an appraised value of at least \$200,000.00 as to the building or portions of the building associated with liquor sales.

- (b) Sale. Sell. Sold. "Sale," "sell," and "sold" mean all barters and all manners or means of furnishing alcoholic beverages to persons, including such furnishing in violation or evasion of law.
- (c) Adjustment of Dollar Amounts. The dollar amounts in this section shall be adjusted annually by the same percentage as the consumer price index ("CPI").

Subd. 3. Developmental Licenses.

- (a) For purposes of the issuance of a "Developmental" Liquor License within the purview of the instant section, "Developmental" means a licensed establishment coupled with a restaurant and an entertainment, lodging or recreation facility designed for family entertainment; or a business(es) located within a commercial development in which the business(es) employs at least one hundred and fifty full time employees outside of the licensed establishment.

Subd. 4. License Process.

- (a) Application. Every application for a license to sell liquor shall state the name of the applicant, his age, representations as to his character with such references as the Council may require, his citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the Council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the Commissioner of Public Safety and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.
- (b) Liability Insurance. Prior to the issuance of a liquor license, the applicant shall file with the City Clerk a liability insurance policy which shall comply with the provisions of Minnesota Statute §340A, et seq., relating to liability insurance

policies and shall include the minimum limits of coverage specified herein.

702.03. Club Licensing.

Subdivision 1. The regulatory provisions of Minnesota Statute §340A, et seq., are hereby adopted by reference as they apply to club licenses.

Subd. 2. State Permit Required. It shall be unlawful for any private club as defined by state law, directly or indirectly or upon any pretense or by any device, to allow the consumption or display of intoxicating liquor or the serving of any liquid for the purpose of mixing with intoxicating liquor without first securing a permit from the Commissioner of Public Safety. This requirement shall include the consumption and display of non-intoxicating malt liquor for which a permit shall also be necessary under this Ordinance.

Subd. 3. Inspections. Any private club allowing the consumption or display of intoxicating liquor shall be open at all reasonable hours for inspection by the Commissioner of Public Safety, his designated agents, and any peace officer, health officer, or other properly designated officer of the City. Refusal to permit such inspection shall be a violation of this Code.

Subd. 4. One Day Permits. Any private club, as defined by state law, may apply for a one-day permit for the consumption and display of intoxicating liquor by filing an application for such permit with the Commissioner of Public Safety and a copy thereof with the City Clerk. Any permit fee specified by state law shall be remitted to the Commissioner.

702.04. Liquor Licensing Procedure.

Subdivision 1. Definitions.

- (a) "On-sale" means the sale of any product licensed hereunder for consumption on the premises where sold.
- (b) "Off sale" means the sale of any product licensed hereunder for consumption off the premises where sold.

Subd. 2. Fees.

- (a) Municipal Liquor Store. There shall be no fee collected by the City of Proctor

from its municipal liquor store for the granting of its franchise or right to operate.

(b) 3.2 Beer: Non-Intoxicating Malt Liquor.

- (i) "On-Sale." The annual fee for an "on-sale" license shall be as set forth in the City Schedule of Charges and Fees.
- (ii) "Off-Sale." The annual fee for an "off-sale" license shall be as set forth in the City Schedule of Charges and Fees.
- (iii) "Temporary". The fee for a "temporary" license shall be as set forth in the City Schedule of Charges and Fees.

(c) Intoxicating Liquor.

- (i) "Off-Sale." There shall be no "off-sale" intoxicating liquor licenses issued by the City of Proctor.
- (ii) "On-Sale." The annual fee for an "on-sale" license shall be as set forth in the City Schedule of Charges and Fees.
- (iii) "Temporary." The fee for a "temporary" license shall as set forth in the City Schedule of Charges and Fees.

(d) Club Licenses.

- (i) "On-Sale." The annual fee for an "on-sale" club license shall be as set forth in the City Schedule of Charges and Fees. This license fee shall be in addition to any permit fee charged by the Commission of Public Safety.
- (ii) "Off-Sale." No "off-sale" club licenses shall be issued by the City of Proctor.
- (iii) One-Day "On-Sale." The license fee for a one-day "on-sale" club license issued under this chapter shall be as set forth in the City Schedule of Charges and Fees.
- (iv) Sunday "On-Sale." Sunday "on-sale" liquor licenses may be granted by the City Council as per this chapter. The annual fee for Sunday "on-sale" licenses for restaurants, hotels, and private clubs holding regular "on-sale" or club licenses shall be as set forth in the City Schedule of Charges and Fees.

Subd. 3. Application Process.

- (a) Payment of Fee. Each application for a license issued pursuant to this chapter

shall be accompanied by a certified check or money order for at least one-half of the license fee. In the event that the applicant pays only one-half of the license fee at the time of making said application, the other one-half of the fee shall be paid no later than June 1 of that year. All fees shall be paid into the general fund. If a license is rejected, a full refund of the fee shall be made.

- (b) Pro Rata Fee. Every license except a temporary license is issued for a period of one year and shall expire on the 1st day of January or July, in the event that the second half of the license fee has not been paid for that year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific date on which a special event to which the sale in incident is being held, and such date shall be stated on the license.
- (c) Refunds. No part of the fee paid for any license issued under this Ordinance shall be refunded except in the following instances upon application to the Council within thirty (30) days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the licensee because of:
 - (1) Destruction or damage of the licensed premises by fire or other catastrophe.
 - (2) The licensee's illness.
 - (3) The licensee's death.
 - (4) A change in the legal status of the municipality making it unlawful for the licensed business to continue.
 - (5) Change in owner - pro rata - in the event of a change in ownership of the underlying real property and/or business entity upon which the license is premised and issued.
- (d) Transfers. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without having been first considered by the Liquor Control Committee. Following the Liquor Control Committee's consideration of any proposed transfer, the Committee shall make a recommendation to the City Council. The Council shall consider the Committee's recommendation and approve or reject the

transfer.

- (e) Pre-Approval Investigation. The Liquor Control Committee shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the Committee shall recommend that the City Council grant or refuse the application in its discretion. No license shall be granted to any applicant or premises on which taxes, assessments, or other financial claims of the City or its Utilities are delinquent and unpaid. Following the recommendation of the Committee, the City Council shall vote on said recommendation.

- (f) Application Deadline. All applications, including renewals, shall be filed on or before the first Friday in December. Applicants filing applications, including renewals, after the deadline or whose applications are still incomplete after the deadline, shall be required to pay an additional fee as set forth in the City Schedule of Charges and Fees, commencing on the first business day after the deadline. Provided, however, that any application, including renewals, not filed and/or still incomplete as of the last regularly scheduled City Council meeting of that year shall not be accepted for filing or considered accepted. In the event that a request is made for the issuance of a new license, and the above-referenced deadline of the first Friday in December has passed, an additional fee shall be as set forth in the City Schedule of Charges and Fees

- (g) Non-enclosed Premises: Any application granted for the inclusion of non-enclosed premises in the licensed premises will be granted upon such terms and conditions as the council may specify in granting such application relating to the limits of such use including provisions relating to:
 - 1. Barriers to be maintained delineating the unenclosed area such as requiring planters, walls or fences;
 - 2. Proposed lighting;
 - 3. Types of chairs and/or tables used and/or means to secure the same;
 - 4. Personnel required to supervise the proposed area;
 - 5. Items required by applicable fire, health, building and life safety codes;
 - 6. Maximum number of persons who may be present at any one time;
 - 7. Means and methods used to restrict consumption to the licensed area and prevent removal or consumption of beverages outside licensed areas;

8. The type of beverage containers used;
9. Sanitary facilities provided, their location and number;
10. Days and times that the non-enclosed area would be used by the licensee;
and
11. Outdoor music, entertainment and all other activities proposed.

In the event that application is made herein at any time other than the time at which the license is renewed or initially granted, the council may impose an additional fee per City Schedule of Charges and Fees.

Subd. 4. Denial of License. No license shall be granted to or held by any person who:

- (a) Is under 21 years of age;
- (b) Is a manufacturer of non-intoxicating malt liquor or intoxicating liquor or is interested in the control of any place where said liquor is manufactured;
- (c) Is an alien or non-resident of the State of Minnesota;
- (d) Is not of good moral character;
- (e) Is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him a local license to sell intoxicating liquor at such place;
- (f) Is not the proprietor of the establishment for which the license is issued.
- (g) In addition, the City may refuse to renew the license of and shall refuse to issue a new license to a person who, within five (5) years of the license application, has been convicted of a willful violation of a federal, state law, or local ordinance concerning the manufacture, sale, distribution, or possession for sale or distribution of an intoxicating liquor or non-intoxicating malt liquor.

Subd. 5. Inappropriate Licensee/Location.

- (a) Conviction/Revocation. The City Council shall not grant any licenses to any premises where a licensee has been convicted of violating this chapter or any state liquor law or where any license to operate hereunder has been revoked for cause

unless one year's time has elapsed after conviction or revocation. A plea of guilty shall constitute a conviction.

- (b) Distance from Schools and Churches. No license shall be granted for any place within 200 feet of any school or church. In applying this restriction, the distance shall be measured between the main front entrances following the route of ordinary pedestrian travel.

Subd. 6. Suspension/Revocation Process. The violation of any provision or condition of this chapter or any other ordinance or state law or regulation relating to the sale, use, or possession of non-intoxicating malt liquor or intoxicating liquor by a non-intoxicating malt liquor licensee or his agent is grounds for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this Ordinance may be revoked or suspended by the Council after written notice to the licensee and a public hearing held by the Liquor Control Committee. Upon completion of the hearing, the Committee's recommendation shall be voted upon by the City Council. No additional hearings shall be held by the City Council. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The City may suspend any license pending a hearing on revocation or suspension. No suspension shall exceed sixty (60) days. Repeated violations (more than two) by the same licensee, its heirs or assigns, may be subject to revocation of said license through the hearing process.

Subd. 7. Regulation of Hours and Conduct.

- (a) Hours of Operation. On any licensed premises, no sale of any non-intoxicating malt liquor or intoxicating liquor shall be authorized under this chapter before 10:00 a.m. Sunday nor after 2:00 a.m. on Monday provided that the licensee is permitted to engage in such sales after 1:00 a.m. pursuant to Chapter 340A of the Minnesota Statutes. No such sale shall be authorized between the time set for the cessation of consumption and 8:00 a.m. on any other day.

No licensee or his agent shall allow another person to consume alcohol on a licensed premises from that period thirty (30) minutes after sales are ceased by this Ordinance until the next time sales are authorized or allowed by law. A person in charge of a licensed premises shall not allow alcoholic beverages in glasses, cups, or other containers used for consumption of alcohol nor in open or uncorked cans or bottles following the expiration of the above-stated thirty (30) minute grace period. Bottles and containers stored behind the bar with sealed lids, tappers, or spout stoppers shall be considered corked.

All patrons of such establishments shall be required to leave the licensed premises no later than thirty (30) minutes after the time set for the cessation of consumption. All employees of the licensed premises (to include bartenders), members of musical performance groups removing equipment after their last scheduled show at a licensed establishment and janitors employed by a licensee shall be required to leave the premises no later than one hour after the time set for cessation of consumption.

(b) Sales to Certain Persons Prohibited. No sales by a licensee hereunder shall be made:

I. To a person under the age of 21 years;

ii To a person in an intoxicated condition; or

ii To any other person who is prohibited by federal, state, or other local law, ordinance provision, or other regulation from purchasing or possessing the same.

(c) Certain Activities Prohibited.

(i) No person on the premises shall engage in gambling or be allowed to do the same except that charitable or other gambling as allowed by state law and local ordinance, may be permitted.

(ii) No underage person (person under 21) shall be allowed to consume non-intoxicating malt liquor or intoxicating liquor on a licensed premises.

(iii) No person under the age of 21 shall misrepresent his or her age for the purpose of inducing any licensee to serve him or her non-intoxicating malt liquor or intoxicating liquor in violation of this chapter.

(iv) No sales by a licensee hereunder shall be allowed on Sundays unless a Sunday "on-sale" liquor license is purchased.

There shall be Sunday retail on-sale licenses and Sunday club licenses. Such shall be issued only to a restaurant, hotel, or club as defined in this chapter. Restaurants and hotels so licensed shall have facilities for serving not less than thirty (30) guests at one time. Any establishment which receives a Sunday on-sale license (including a club permit) may serve intoxicating liquors between the hours of 10:00 a.m. Sundays and 1:00 a.m. on Mondays. Such licenses issued to hotels and restaurants must be utilized by such establishments in conjunction with the serving of food.

(v) Interest of Manufacturers or Wholesalers. No manufacturer or wholesaler of non-intoxicating malt liquor shall have any ownership of or interest in any establishment licensed to sell at retail contrary to the provisions of Minnesota Statute §340.031. No retail licensee and manufacturer or wholesaler of non-intoxicating malt liquor shall be party to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of non-intoxicating malt liquor, and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

(vi) No person shall consume, mix, or prepare intoxicating liquor for barter, display, or sale in any public place or business unless licensed under this chapter.

(vii) Liquor Dealer's Stamp. No licensee shall sell non-intoxicating malt liquor while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he is licensed under the laws of Minnesota to sell intoxicating liquors.

(viii) Intoxicating Liquor. No licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption and display permit shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this Ordinance. No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption and display permit.

Subd. 8. Enforcement and Inspection.

(a) Purpose. Because the City finds that there is a connection between high risk and illegal conduct related to the illegal sale and possession of alcoholic beverages within the City; and, since the City further believes it is in the best interests of its citizens for the City to regulate the sale and distribution of alcoholic beverages in a manner which will help to prevent illegal sales and the sale and possession of alcoholic beverages by minors and underage adults (those under the drinking age), the City believes that it is in the best interests of its citizens and the general public that the City adopt an Ordinance providing for compliance checks and administrative penalties for licensees who sell, barter or dispense intoxicating (and non-intoxicating beverages) in violation of the provisions of Minnesota Statutes Chapter 340A and applicable law.

(b) Definitions and Interpretations. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The term "shall" means

mandatory and the term “may” means permissive. The following terms shall have the definitions given to them:

1. Intoxicating and Nonintoxicating Liquor. Alcoholic beverages as referred to in this ordinance are intended to refer to both intoxicating and nonintoxicating liquors as those terms are defined by Minnesota Statute and in this Chapter.

2. Sale. A sale shall mean any transfer of goods for money, trade, barter, or other consideration.

3. Underage Adult. Any natural person who is an adult but who has not yet reached the legal age for the consumption of intoxicating or nonintoxicating beverages as defined by then existing Minnesota Statutes.

4. Minor. Minor shall mean any natural person who has not yet reached the age of eighteen (18) years.

5. Compliance Checks. Compliance checks shall mean the system the City uses to investigate and ensure that those authorized to sell alcoholic beverages are following and complying with the requirements of applicable state laws and city ordinances with regard to the sale of alcoholic beverages. Compliance checks may involve the use of individuals (including minors) under the age of twenty-one (21) as authorized by this ordinance.

(c) Responsibility.

1. Enforcement. It shall be the duty of all police officers of the City to enforce the provisions of this Ordinance and state law regarding intoxicating liquors, to search premises and seize evidence of violation, reserve the same as evidence against the person alleged to be in violation, and to prepare the necessary processes and papers therefor.

2. Inspections. Any private club allowing the consumption or display of intoxicating liquor shall be open at all reasonable hours for inspection by the Commissioner of Public Safety, his designated agents, and any peace officer, health officer, or other properly designated officer of the City. Refusal to permit such inspection shall be a violation of this Code.

3. Licensees Responsible. All licensees shall be responsible for the actions of their employees in regard to the sale of alcoholic beverage on the licensed premise, and for purposes of this ordinance the sale of such an item by an employee shall be considered a sale by the license holder. Additionally, every licensee shall be

responsible for the conduct of his place of business and shall maintain conditions of sobriety and order.

4. Violations and Penalties. Notwithstanding the above, the clerk or employee specifically involved in a compliance check violation or determined to have violated this ordinance will be personally liable to pay an administrative fee in addition to any fees or license suspensions or revocations imposed upon the employer or license holder. It is hereby determined that the following penalty schedule is adopted:
 - a. A first offense violation will result in a \$200 administrative fee to the merchant license holder and a \$200 penalty fee to the individual clerk or bartender involved in the violation. The administrative fee assessed the merchant license holder will be waived if the merchant license holder was not the individual clerk or bartender involved directly in the violation and if the merchant license holder can provide proof within fourteen days of the date of the violation that the employee involved in the violation had attended RBS (responsible beverage service) staff training prior to the alleged offense as approved by the City.
 - b. A second offense violation within twenty-four (24) months of the first violation will result in a \$300 administrative penalty to any clerk or bartender previously cited within 24 months and a \$300 administrative penalty to any merchant/licensee whose clerk was previously cited for a violation of this ordinance within a 24 month period. If the clerk or bartender cited has not been previously cited in the preceding 24 month period the administrative fee of the merchant/licensee will be reduced to \$150 if the merchant license holder can provide proof that his/her employees have attended staff ID training as approved by the City within fourteen (14) days of the determination of a violation. Failure to comply with this mandate may result in an additional suspension or revocation of any license issued by the City.
 - c. A third offense violation within twenty-four (24) months will result in a \$400 administrative penalty to any clerk or bartender cited with two prior violations of this ordinance and will result in a \$400 administrative penalty to any merchant/licensee whose clerk was previously cited for a violation of this ordinance within a 24 month period. If the clerk or bartender cited has not been previously cited in the preceding 24 month period the administrative fee of the merchant/licensee will be reduced to \$300 if the merchant license holder can provide proof that his/her employees have attended staff ID training as approved by the City within fourteen (14) days of the determination of a violation. Failure to comply with this mandate may result in an additional suspension or revocation of any license issued by the City.
 - d. A fourth offense violation within a twenty-four (24) month period by a licensee

will result in a \$1,000 penalty fee to the merchant/license holder. The merchant/license holder will also be required to provide proof that his/her employees have attended staff ID training as approved by the City within fourteen (14) days of determination of violation. Failure to comply with these mandates may result in an additional suspension or revocation of any license issued by the City.

- e. In each instance where the clerk or bartender involved in a violation is also the merchant license holder, the individual cited will receive only the penalty prescribed for the merchant license holder.

All administrative fees imposed by this ordinance are deemed payable within sixty (60) days of the date of citation or no later than thirty (30) days after the date of any written decision determining that a violation has occurred for all appeals. Failure to pay any administrative fee imposed within the time limits set herein will result in a license suspension until the date of payment.

5. Citation Process and Right to a Hearing. Upon discovery of a violation of this ordinance or pursuant to a compliance check, the involved clerk or bartender and the licensee shall be issued a citation by City Police. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense. All fees imposed by this ordinance will be payable to the City Administrator of the City of Proctor. No administrative fee may be imposed until the clerk or bartender and the licensee has received written notice of the violation by personal service or by certified mail sent to the location of the alleged violation and the cited parties have been afforded an opportunity for a hearing. Any cited party that requests a hearing in writing within twenty (20) days of the date of mailing of the written notice of violation will be afforded an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing and will be completed within ten (10) days of the hearing.

6. Right to Obtain a Transcript. If a hearing is requested, the hearing will not be recorded and will only be transcribed if all financial arrangements are made in advance with a certified court reporter by the person requesting the hearing. Furthermore, any person requesting that the hearing be transcribed agrees to provide the City with a copy of the transcript at no cost to the City.

7. Compliance Checks and Inspections. All licensed premises shall be open to inspection by City Police or other authorized city officials during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging underage youth to enter the licensed premises to attempt to purchase alcoholic beverage. No minor or underage adult used in compliance checks shall attempt to use a false identification or theatrical makeup which misrepresents their age. All minors and underage adults lawfully engaged in a compliance check shall answer all

questions about their age truthfully when asked by the licensee and shall produce any identification which he or she is asked to produce. In all instances, the minors or underage adults shall be accompanied by City Police or authorized city officials to the location of the compliance check.

A. Mandatory Keg Registration. As of the date of the adoption of this ordinance all off-sale licensed establishments will be required to register and mark for identification all kegs sold to the public. The information that will be required for registration includes, but is not limited to, any registration number located or placed on the keg, the name and address and drivers license number of the individual to whom the keg was sold, the day in which the keg was sold, the brand of beer in the keg and the keg size. Merchants/Licensees will be required to maintain this information on all kegs sold within the City of Proctor for a minimum of one (1) year. In addition, the merchant/licensee will be required to make this information available to the City Police officers upon demand during normal hours of operation. Merchant license holders will be required to mark the kegs sold in a manner in which to allow them to specifically identify them. Failure to comply with this provision will result in an administrative penalty of \$300 for a first offense and \$500 for a 2nd or any subsequent offense.

8. Exceptions and Defenses. Nothing in this ordinance shall prevent the providing or use of alcoholic beverages to underage adults or minors as part of a lawfully recognized religious, spiritual, or cultural ceremony or by a parent or guardian of a minor or underage adult in the household of the parent or guardian. It shall also be an affirmative defense to the violation of this ordinance for a person to have reasonable relied on proof of age as described by law.

9. 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 an invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

10. Judicial Review. Any person who maintains they are aggrieved by a decision pursuant to this ordinance may have the decision reviewed in the district court consistent with Minn. Stat. §462.361.

703. Public Consumption of Alcohol

703.01. Public Consumption.

Subdivision 1. Violations. No person shall consume non-intoxicating malt liquor or intoxicating liquor on a public street, highway, sidewalk, in a public park, or upon any other publicly owned property.

Subd. 2. Permits. The public body governing and controlling the public property may, upon notice to the Proctor Police Department, permit such consumption in limited areas maintained for that purpose.

Subd. 3. Temporary and/or One Day License Holders. Persons consuming non-intoxicating malt liquor or intoxicating liquor in public areas for which a valid "temporary" or "one day" license has been issued pursuant to §702.01 subd. 2 (c) or §702.03 subd. 4 of this chapter, shall be exempt from the provisions of this Ordinance; provided that all other requisites of this chapter have been complied with.

Subd. 4. Penalties. Any violation of this subdivision shall constitute a petty misdemeanor with a fine subject to the City Administrative Fine Schedule.

800 - Traffic and Motor Vehicles

801. Traffic Regulation

801.01. Designation of Through Highways. The Council may by resolution designate through highways by erecting stop signs at the entrances thereto or may designate any intersection as a stop intersection by erecting like signs at one or more entrances to such intersection. Every driver of a vehicle shall stop at such sign or at a clearly marked stop line before entering an intersection, except when directed to proceed by a police officer or a traffic control signal.

801.02. Exhibition Driving/Inattentive Driving.

- (a) No person shall turn, accelerate, decelerate, or otherwise operate a motor vehicle on any public or private roadway within the City in a manner which causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, throwing of sand or gravel, or in a manner simulating a race, impeding traffic, or with an unnecessary exhibition of speed. Unreasonable throwing of sand or gravel by tires is prima facie evidence of a violation of this section. Violations shall be cited as exhibition driving under this code provision.
- (b) No person shall be so engaged or occupied while driving a motor vehicle so as to interfere with the safe driving of such vehicle. Violations shall be cited as inattentive driving under this code provision.

- (c) Violations under parts (a) and (b) of this code section shall constitute petty misdemeanors.

801.03. Train Whistles. No railroad company or corporation or employee of any railroad company or corporation shall blow or cause to be blown a steam whistle or whistle of any locomotive or steam engine within the City. The foregoing restriction shall not apply in the case of an alarm, in case of fire, or as a warning to any person or object upon or in dangerous proximity to the track; provided, further, that said whistles may be blown in a modified or modulated tone to signal towermen, to call for semaphore signals, and as a safety precaution in backing cars or locomotives.

801.04. Non-Motorized Vehicles and Devices.

Subdivision 1. Prohibited Areas. No person shall use, operate, or ride roller skates, rollerblades, rollerskis, scooters, or similar non-motorized vehicles or devices upon the following public streets, roadways, highways, and alleys located within the City of Proctor:

Subd. 2. Prohibited Areas

1. Boundary Avenue;
2. Second Avenue (Lavaque Road) from U.S. Highway 2 to the Hermantown City Limits;
3. U.S. Highway 2;
4. Third Avenue from Fourth Street to Seventh Street;
5. Second Street from Boundary Avenue to Ninth Avenue and from the sidewalk Second Avenue and Highway 2;
6. Ugstad Road;
7. Fifth Street;
8. Fifth Avenue on the west side of Proctor;
9. Fourth Street West; and
10. All public sidewalks within the City.

Said devices shall be permitted on all other public roadways, highways, and alleys located within the City subject to the provisions of subd. 2.

Children eight (8) years of age or younger are prohibited from operating or riding said devices on any streets within the city limits of the City of Proctor, except that they may cross Highway 2 at Second Street.

Any individual operating or riding said devices must yield to pedestrians. Any individual operating or riding said devices may cross streets or roadways only at crosswalks.

The above-stated prohibitions and restrictions shall not apply to bicycles which are regulated by Minnesota state law.

Tricycles and skateboards shall be prohibited on all public streets, roadways, highways, and alleys located within the City of Proctor.

Subd. 3. Penalty-Petty Misdemeanor. The penalty for violation of the prohibitions set forth above at subd. 1 and 2 shall be subject to the City Administrative Fine Schedule.

801.05. Driving Over Sidewalks.

Subdivision 1. Prohibition. No person shall drive any vehicle over the gutter, curb, or sidewalk of any improved street, avenue, or alley in the City, except at such places where a driveway or crossing has been provided in accordance with City procedures.

Subd. 2. Damages. Any damages caused to a public sidewalk, gutter, or curb due to driving over said curb, sidewalk, or gutter shall be the responsibility of the abutting property owner. Costs of repair of said sidewalk, curb, or gutter may be recovered by the City by the procedure set forth in §301.03.

Subd. 3. Exception. The foregoing restriction on driving over sidewalks shall not apply from October 1 through April 30 where there is adequate area to park a motor vehicle without interfering with the use of public streets or sidewalks, and such parking is necessary to provide adequate right-of-way on a public street. Said exception shall be exercised only after notice to the City Police Department and approval of such parking arrangement by the Police Department. Any damages caused as a result of said parking are the responsibility of the adjacent property owner as set forth in §801.05 subd. 2.

801.06. Weight Limits. It is hereby prohibited to drive a motor vehicle upon the following streets, alleys, and highways within the City with a greater per axle weight of four

tons:

- (1) On Oak Street from Boundary Avenue to Second Avenue on Second Avenue from Highway 2 to Anchor Street and including Amund's Lane from Second Avenue to 2nd Avenue, on Anchor Street from Second Avenue to First Avenue, on Sixth Street from Boundary Avenue to Highway 2, on First Avenue from Alice Street to First Street, on Fourth Avenue from Sixth Street to Old Highway 2 which are on the east side; and also on the west side of Sixth Avenue from Second Street to First Street Alley, on Eighth Avenue from Second Street to Almac Drive, and Almac Drive from Eighth Avenue to Ugstad Road.
- (2) On Alice Street from Boundary Avenue to Second Avenue, on Grove Street from Boundary Avenue to westerly of First Avenue, on First Avenue from Third Street to Ninth Street which are on the east side; and also on the west side of Seventh Avenue from First Street Alley to Fourth Street.
- (3) On First Street from Boundary Avenue to Highway 2, on Sixth Avenue from Second Street to Fourth Street, on Eighth Avenue from Second Street to Fifth Street, on Ninth Avenue from 45 feet southerly of First Street Alley to Fifth Street, on Third Street from Seventh Avenue to Eighth Avenue for the 24 foot wide mat, and on Fourth Street from Boundary Avenue to Second Avenue for the 36 foot wide mat.
- (4) On First Avenue from First to Second Streets, on Fifth Street from Fifth Avenue to Ninth Avenue, and on Ninth Avenue from Fifth to Sixth Streets.
- (5) On Third Avenue from Fifth Street to Tenth Street, on Eighth Street from Second Avenue to Third Avenue, on Third Street from Fifth Avenue to Seventh Avenue, on Third Street from Eighth Avenue to Ugstad Road, on Sixth Street from Ninth Avenue to Ugstad Road.
- (6) Bass Boulevard, Cypress Drive, and Acacia Avenue in Rolling Green Division, Hearthside and Birchwood in Lundholm Division.

802. Parking

802.01. No Parking Areas. It shall be unlawful to park or to permit any vehicle, occupied or unoccupied, to stand motionless at any time in any of the following places:

- (1) Alongside or near any obstruction, street repair, or excavation when such parking or stopping will obstruct traffic.
- (2) At any place designated a loading zone by resolution of the Council unless such stopping or parking is for not more than five minutes and for the purpose of loading or unloading passengers or freight.
- (3) In any place designated a "Bus Stop" by resolution of the Council and so posted.

802.02. Restricted Parking Zones. The Council may from time to time designate certain streets and portions thereof by resolution as restricted parking zones. Upon designation by Council resolution, there shall be erected suitable signs which shall control said zones, and parking in violation of said signage shall be unlawful.

802.03. Time Limit Parking. The Council may from time to time designate certain streets and portions thereof by resolution as areas in which parking beyond a specified continuous period shall not be permitted. Upon such designation there shall be erected appropriate signs specifying the parking restriction.

802.04. School Zones. The Council may from time to time designate certain streets and portions thereof by resolution as "No Parking Zones" during school days. Upon such designation, there shall be erected appropriate signs indicating such parking restriction.

802.05. Winter Parking Regulations. During the period from the fifteenth (15th) day of November and the first (1st) day of April in each year, it shall be unlawful to park any vehicle upon the streets and the alleys of the City between the hours of 2:00 a.m. to 7:00 a.m. If the Chief of Police of the City shall determine that any vehicle parked contrary to the provisions of this section is hindering the removal of snow, the said Chief of Police is hereby empowered and directed to have such vehicle removed from the street or alley by removal, together with any fine and costs imposed upon him for the violation of this section.

802.06. Double and Angle Parking.

Subdivision 1. Angle Parking. Except where angle parking is permitted hereunder, each vehicle shall park with the right hand wheels parallel with and within twelve

(12) inches of the curb. Where angle parking is authorized by the Council and is so marked by an appropriate sign, no part of said vehicle shall extend over the sidewalk, and the vehicle shall not extend into the traveled portion of the street.

Subd. 2. No Curbs. Where no curb exists, motor vehicles shall be parked parallel with and to the right of the main part of the street out of the main traveled portion of the street but not on the boulevard between the public sidewalk and the street.

Subd. 3. Double Parking. No vehicle shall be parked or permitted to remain motionless, whether occupied or unoccupied, to the left of another vehicle parked parallel to the curb or roadway.

802.07. Public Property. No motor vehicle, truck, tractor, or trailer shall be permitted to stand upon any other public property belonging to the City or any public street for a continuous period of more than twenty-four (24) hours, except with prior permission from the Police Department. Said permission shall be granted upon request if the Chief of Police finds that such parking is necessary due to lack of reasonably convenient parking for the property to be served.

802.08. Prima Facie Violation. The presence of any motor vehicle on any street when standing or parked in violation of this Ordinance is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation.

802.09. Trains Obstructing Streets. No railroad company, conductor, engineer, yard or track master, other agents or employees of such company, or any person whatsoever shall obstruct or cause to be obstructed any public street or highway with any locomotive cars, freight, goods, wares, or merchandise or in any way obstruct the clear and free passage for vehicle or foot passage over any street or avenue in the City for a period longer than 10 minutes. Such allowable obstruction by any railroad company shall terminate immediately upon the giving of a proper warning of an approach of any fire, police, or ambulance vehicle.

No such person or company shall make, cause, or allow to be made any flying switch or make or unmake trains upon or across any such street.

802.10. Semi-Truck Parking Regulations: General.

Subdivision 1. No person shall park a semi-trailer, semi-truck, semi-tractor, or

road tractor on any public street, roadway, or alleyway in any area within the City of Proctor zoned "S" Suburban or "R-1-a," "R-1-b," "R-2" or "R-3" nor within fifty (50) feet thereof, except for the purpose of unloading or loading passengers or freight and then only for a period no longer than is necessary for the loading or unloading; provided, that this section shall not apply to the parking of vehicles owned by public bodies or utilities which are providing emergency repair service.

Subd. 2. Parking Upon Private Property in "O/R," "S," "R-1-a," "R-1-b," R-1-c" "R-2" or "R-3" Districts.

A semi-truck, semi-tractor, truck tractor, or road tractor may be parked by the owner thereof upon real property owned or leased by said truck owner in the above-referenced zones only upon an improved designated private parking area which meets the zoning and building requirements of the Proctor City Code.

A semi-trailer may be parked by the owner thereof upon real property owned or leased by said trailer owner in the above-referenced zones only upon an improved designated private parking area which meets the zoning and building requirements of the Proctor City Code and only where the total abutting land owned by the trailer owner upon which the trailer is parked equals one-half acre or more in area.

Subd. 3. Parking in Commercial and Manufacturing Districts.

- (a) A semi-trailer, semi-truck, semi-tractor, truck tractor, or road tractor may be parked by the owner thereof upon private property within the City of Proctor for a maximum period of 48 hours. This prohibition shall include parking in all commercial (c) and manufacturing (m) districts within the City.
- (b) No on-street parking of said vehicles shall be allowed at any time within any zoning districts of the City except for the purposes of loading and unloading, said parking to be limited to a maximum period of two hours unless prior authorization for a longer period is obtained from the Proctor Chief of Police.
- (c) Provided, those businesses located within the City of Proctor which require semi-trucks and/or trailers for their ongoing business shall be permitted to park vehicles essential to business and owned or leased by that business upon private property in (c) and (m) districts within the City. Each such business shall apply for a permit covering the business and the semi-trucks and/or trailers required by that business. Each permit must be approved on an annual basis by majority vote of the City Council.

Truck or trailer terminal or dispatch facilities shall not be eligible for permits hereunder but are to be regulated by §1002.11, "I" District, subd. 2, Permitted Uses."

- (d) Temporary parking of construction vehicles meeting the descriptions herein may be allowed for periods in excess of forty-eight (48) hours by the Chief of Police by obtaining a construction parking permit from the Proctor Police Department prior to the commencement of construction. Such permit will only be granted when the Department is presented a building permit from the City Building Official for the project in question. There shall be no charge for the permit granted under subparts (c) and (d) hereunder.

Subd. 4. Penalties. Violations of this Ordinance shall constitute a petty misdemeanor punishable by a fine subject to the City Administrative Fine Schedule. Each day of violation shall be treated as a separate offense.

802.11. Semi-Truck Parking Regulations: Keys in Ignition. No person shall leave a semi-tractor, semi-truck, truck tractor, or road tractor, except a truck which is engaged in loading or unloading, unattended on any street, alley, used car lot, or unattended parking area, including private parking areas, without first stopping the engine, locking the ignition, and removing all ignition keys from the vehicle; provided, however, that any violation of these provisions shall not mitigate the offense of stealing such motor vehicle, nor shall such violation be used to effect a recovery in any civil action for theft of such motor vehicle, the insurance thereon, or have any other bearing in any civil action.

802.12. Commercial Parking Lots. Commercial parking lots shall be permitted only as provided herein.

Subdivision 1. No one may operate or permit to operate any commercial parking lot within the City of Proctor in any area zoned residential or suburban or any variation of same, except for the South St. Louis County Fairgrounds.

Subd. 2. A license to operate a commercial parking lot shall be required in any area zoned industrial or commercial subject to approval by the Planning and Zoning Commission and subject to approval by the City Council of the City of Proctor.

Subd. 3. That the City may, at any time, and in its sole discretion, require certain insurance provisions for the protection of customers and users of said commercial parking lot or lots.

Subd. 4. That the annual licensing fee, which shall include all inspection charges to insure compliance with the insurance and zoning and public health and safety regulations shall be:

Subd. 5. Commercial Parking Lot shall be defined as any sole proprietorship, partnership, limited partnership, limited liability corporation, corporation, or any unit of government owning or operating on a daily or longer period of time any parking facility for the temporary storage of motorized vehicles, except the following shall not be deemed to be a commercial parking lot: any parking facility owned or operated by the City of Proctor or any of its duly authorized subdivisions, any private residential homeowner who stores his or her own vehicles upon his or her private property, any business located within the corporate limits of the City of Proctor and provides free parking for its patrons, customers, clients, or patient, any private residential homeowner who may, periodically, retain storage space for up to five non-homeowner owned vehicles for less than 210 days per year.

Subd. 6. The penalty for violation of this ordinance shall be a fine subject to City Administrative Fine Schedule. Each day any person or entity is in violation of this ordinance shall constitute a new and separate offense under this ordinance. Conviction of violating this ordinance shall constitute good cause to deny a license to an applicant or to terminate a licensee's permit to operate such facility.

Subd. 7. The licensee shall operate said facility in compliance with all local, state, and federal regulations and such regulations as the City of Proctor may, in its sole discretion, enact.

803.02. Operation of Bicycles.

Subdivision 1. Speed. No bicycle shall be ridden faster than is reasonable and proper under the circumstances and shall be operated with due regard for the safety of the operator and other persons upon the streets and highways of the City.

Subd. 2. Sidewalks. No bicycle shall be permitted to operate upon any public sidewalk of the City.

Subd. 3. Time. No bicycle shall be permitted to operate upon any street or highway of the City between 30 minutes after sunset and 30 minutes before sunrise without a headlight visible under normal atmospheric conditions from the front thereof for not less than 300 feet indicating the approach or presence of the bicycle firmly attached to said bicycle and properly lighted or without a yellow or red light or reflector attached to and visible from 200 feet

from the rear thereof.

804. Abandoned Vehicles. (Repealed)

804A. Parking of Unlicensed Vehicles.

804A.01. Definition. The term "unlicensed vehicle" shall mean any automobile, motorcycle, moped, truck, semi-tractor, or other wheeled or tracked vehicle originally designed and manufactured for use on public streets or highways, no matter how modified or altered, not having current license plates and/or registration tabs displayed upon said vehicle.

804A.02. Violations. It shall be a violation of this Ordinance by the owner of the unlicensed vehicle in question, and/or the lessee, owner, or manager of any parcel of real property located within the City, to allow or have parked upon said property any unlicensed motor vehicle which is visible to motorists, pedestrians, or the general public. All visible unlicensed motor vehicles stored upon such premises shall be secured in a garage or storage building and not stored out of doors.

804A.03. Exceptions.

Subdivision 1. Temporary Storage. This Ordinance shall not apply to the temporary storage of unlicensed motor vehicles. The term "temporary" shall mean a period of not more than 30 days.

Subd. 2. Motor Vehicle Towing and Repair Facilities.

- (a) Requirements. Additionally, motor vehicle towing and/or repair facilities operating in commercial or manufacturing zones within the City may store unlicensed motor vehicles upon their business premises for a period of not more than 120 days. Such storage shall conform to the screening, fencing, and related aesthetic requirements of the zone in which the business is located.
- (b) Special Circumstances. Upon written application to the Building Inspector, businesses qualifying for such an exception may obtain an extension of time for the storage of specific unlicensed motor vehicles where special circumstances prevent the business from licensing or disposing of a motor vehicle. Each such permit shall be reviewed by the Building Inspector and be approved or denied. Permits that are denied may be appealed pursuant to §1003.01 subd. 5 of the City Code.

Subd. 3. Penalties. Violations of this Ordinance shall be subject to a fine based on the City Administrative Fine Schedule. Each day of violation shall be deemed to constitute a separate offense.

805. Snowmobiles

805.01. Definition. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice or a natural terrain, steered by wheels, skies, or runners.

805.02. Applicability. The provisions of this chapter shall apply to the operation of snowmobiles upon streets and highways of the City.

805.03. Age.

Subdivision 1. Under Fourteen. No person under the age of fourteen (14) shall operate a snowmobile upon any street or make a crossing of any street while operating a snowmobile. No owner of a snowmobile shall permit such snowmobile to be operated contrary to the provisions of this paragraph.

Subd. 2. Fourteen to Eighteen. No person between the ages of fourteen (14) and eighteen (18) shall operate a snowmobile upon any street or make a crossing of any street while operating a snowmobile unless such person has in his immediate possession either a valid snowmobile safety certificate which has been issued to him by the Minnesota Department of Natural Resources or a receipt signed by an authorized snowmobile safety instructor showing that such person has completed the snowmobile safety training course required for issuance of such safety certificate. No owner of a snowmobile shall permit such snowmobile to be operated contrary to the provisions of this paragraph.

805.04. Yielding. Every person operating a snowmobile upon a street shall come to a complete stop before entering any intersection and shall yield the right of way to all oncoming traffic which constitutes an immediate hazard.

805.05. Hours of Operation. No person shall operate a snowmobile on any street, alley, or other public roadway within the City of Proctor between the hours of 1:00 a.m. and 6:00 a.m., Monday through Friday, or between the hours of 2:00 a.m. and 6:00 a.m. on Saturday and Sunday.

805.06. Sidewalks. No person shall operate a snowmobile upon or along any public sidewalk or make a crossing of any public sidewalk while operating a snowmobile except at such places where a driveway or crossing has been provided according to law.

805.07. Towing. No person operating a snowmobile upon a street shall tow any person or object behind such snowmobile except when such person or object is situated upon a conveyance which is attached to such snowmobile by means of a rigid hitch.

805.08. Speed. No person shall operate a snowmobile on any street at a speed in excess of 20 miles per hour.

805.09. Equipment.

Subdivision 1. Lights. No person shall operate a snowmobile on any street in the nighttime unless at the time of such operation the headlamp of such snowmobile is on.

Subd. 2. Pennants. No person shall operate a snowmobile on any street unless such snowmobile is equipped with a pennant flag of red or blaze material of a size not less than 12 inches by 12 inches by 9 inches at a height not less than 6 feet from the ground level.

Subd. 3. Helmets. No person shall operate or ride upon a snowmobile or ride upon a sled or other conveyance being towed by a snowmobile on any street without wearing a helmet meeting the specifications and requirements established by the Chief of Police.

805.10. Licensing. No person shall own, operate, or transport any snowmobile within the City unless such snowmobile has been registered in accordance with law and the registration number is affixed to such snowmobile as required, except snowmobiles in transit by a manufacturer, distributor, or dealer.

805.11. Owner Responsibility.

Subdivision 1. Owner Liable. A person registered as owner of a snowmobile may be found guilty of a violation of this chapter if a snowmobile bearing his registration number is operated contrary to the provisions hereof. The registered owner may not be so fined if the snowmobile was reported as stolen to the Police Department at the time of the alleged unlawful act and the registered owner demonstrates that the snowmobile was stolen or if the registered owner furnishes to the law enforcement officers, upon request, the identity of the

person in actual physical control of the snowmobile at the time of such violation.

Subd. 2. Exception. Section 805.11 subd. 1 does not apply to any person who rents or leases a snowmobile if such person keeps a record of the name and address of the person or persons renting or leasing such snowmobile, the registration number thereof, the departure date and time, and the expected time of return thereof. Such record shall be preserved for at least six months and shall be prima facie evidence that the person named therein was the operator thereof at the time stated.

Subd. 3. Operator Liable. The provisions of this section do not prohibit the responsibility of the operator at the time of the alleged violation.

805.12. Police. The Chief of Police is hereby given, with the approval of the Council, authority to appoint special policemen to assist in the enforcement of this chapter and related laws.

806 - - Prohibition on Feeding Certain Animals

Subdivision 1. Prohibition. No person shall feed deer within any area of the City of Proctor. For the purpose of this Section, feeding shall mean provision of one-half cubic foot or more of grain, fruit, vegetables, nuts, hay or other edible material, either on the ground or at a height of less than five (5) feet above the ground in a manner that attracts deer on a regular basis. Living food sources, such as fruit trees and other live vegetation, shall not be considered as deer feeding. This prohibition shall not apply to veterinarians, City animal wardens and park maintenance staff or county, state or federal game officials who in the course of their duties have deer in their custody or under their management.

Subd. 2. Penalty. Violation of this Section shall be a misdemeanor, and shall be subject to 506A of this Code.

806.01. Hunting Deer by Bow and Arrow

806.01 Definitions

Subd. 1. “Bow and arrow” means a bow and arrow or a bow and arrow drawn, held or released by a mechanical device.

Subd. .2. “Hunt” or “hunting” means the pursuing, stalking, chasing, driving or tracking of deer while in possession of a bow and arrow.

806.02. Prohibitions Against Hunting; Discharge of Bow and Arrow. Except as hereinafter provided, it shall be unlawful to hunt or to discharge any bow and arrow within the

City.

Subd. 1. Hunting or the discharging of a bow and arrow is permitted within the following area of the City as herein regulated upon securing a permit to do so from the City. Application for such permit shall be obtained from the Chief of Police or his or her designated representative. The permitted areas are as designated on the map attached hereto as Exhibit "A".

Subd. 2. The application for the permit shall be in writing, accompanied by a fee as set forth in the City Fee Schedule payable to the City of Proctor, addressed to the Chief of Police and shall state:

- a. The purpose for requesting the permit;
- b. The length of time for which the permit is requested which shall not be greater than the bow hunting deer season established by the State of Minnesota.
- c. The type of bow and arrow to be discharged.
- d. The legal description of land on which the hunter desires to hunt and the name of the owner or at least one of the owners if multiple ownership upon whose property the application desires to discharge the weapon
- e. The signature of the owner or owners of the property granting approval and consent for hunting thereon.
- f. Other information as may be deemed necessary by the City;
- g. Proof of a valid license to hunt with a bow and arrow issued by the appropriate authority; and
- h. Each application shall be on a form prescribed by the City, and shall also require the under to indemnify and hold harmless the City from any and all claims, suits, or allegations of negligence.

Subd. 3. The granting of the permit shall be solely in the discretion of the City and shall be invalid unless executed by the Chief of Police or his or her designated representative. Any person obtaining a permit shall have the permit on his or her person while carrying a bow and arrow in the above described permitted area.

Subd. 4. Any person employing a bow and arrow and who is engaged in the hunting of deer shall, in addition to complying with this section comply with all the rules and regulations relating to the hunting with bows and arrows as established by the laws of the state.

Subd. 5. No bow and arrow shall be discharged in any of the following areas

within the permitted hunting areas:

- a. Within any platted subdivision or industrial park in the City.
- b. Within 200 feet of any dwelling or other building occupied by or for human habitation or the storing of animals.
- c. Within 200 feet of any property owned by Independent School District No. 704, Proctor Schools, except those portions on the attached map.
- d. No hunting of bears with a bow and arrow shall be allowed within the City.
- e. Any hunter that is successful in taking a deer with a bow and arrow within the City shall report that fact to the Chief of Police or his or her designated representative within 24 hours after taking the deer.
- f. A hunter may hunt within the permitted areas only on the land described on the application made by the hunter for a permit under this section.
- g. A hunter shall discharge an arrow only from an elevated location of no less than four (4) feet off the ground.
- h. A hunter shall be required to harvest a doe prior to harvesting a buck.

806.03. The provisions of this section shall not apply to the discharge of any bow and arrow when discharged within a “bow and arrow” range.

Subd. 1. The provisions of this section shall not prohibit the use of any bow and arrow in the lawful defense of the person, property, family or in the defense or enforcement of the laws of the City, county, state, or the United State.

Subd. 2. The provisions of this section shall not prohibit the use of any bow and arrow for archery practice.

806.04. Chief of Police to Report.

Subd. 1. Annually in February during the term of this section, the Chief of Police shall provide a report to the Council with respect to the operation and effect of this section.

Subd.2. This report shall include the number of deer taken, a description of any incidents, conflicts or problems that occurred with respect to this section during th preceding bow-hunting season, and any recommendations for the modifications or the continuation of this section.

806.05 Hunting Deer by Bow and Arrow

Penalty. Violation of this Section shall be a misdemeanor, and shall be subject to 506A of this Code.

900 -- Nuisances and Offenses

901. Nuisances

901.01. Public Nuisance Defined. Whoever by his act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance which is a misdemeanor:

- (1) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- (2) Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way or waters used by the public; or
- (3) Is guilty of any other act or omission declared by law or this Ordinance to be a public nuisance and for which no sentence is specifically provided.

901.02. Public Nuisances Affecting Health. The following are hereby declared to be nuisances affecting health:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (2) All diseased animals running at large;
- (3) All ponds or pools of stagnant water;
- (4) Carcasses of animals not buried or destroyed within 24 hours after death;
- (5) Accumulations of manure, refuse, or other debris;
- (6) 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;

- (7) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- (8) All noxious weeds and any other weeds growing to a height of more than twelve inches and any weeds which have gone or about to go to seed.
- (9) Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities;
- (10) All public exposure of persons having a contagious disease;
- (11) Any offensive trade or business as defined by statute not operating under local license.

901.03. Public Nuisances Affecting Morals and Decency. The following are hereby declared to be nuisances affecting public morals and decency:

- (1) All gambling devices, slot machines, and punch boards;
- (2) Betting, bookmaking, and all apparatus used in such occupations;
- (3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, house of ill fame, bawdy houses and housing kept for purposes of consumption or sale of illegal drugs and other intoxicating substances;
- (4) All places where intoxicating liquor, illegal drugs or intoxicating substances are manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking or consuming intoxicating liquor, illegal drugs or intoxicating substances or where intoxicating liquor, illegal drugs or intoxicating substances are kept for sale or other disposition in violation of law and all other property used for maintaining such a place;
- (5) Any vehicle used for the illegal transportation of intoxicating liquor, illegal drugs or intoxicating substances or for promiscuous sexual intercourse or any other immoral or illegal purpose.

901.04. Public Nuisances Affecting Peace and Safety. The following are declared to be nuisances affecting public peace and safety:

- (1) All snow and ice not removed from public sidewalks by adjacent property owners 12 hours after the snow or other precipitation causing the conditions has ceased to

- fall;
- (2) All hedges, shrubs, bushes, or other obstructions having a height greater than 30 inches and within 75 feet of any intersection or alleyway and all tree limbs which prevent persons from having a clear view of all traffic approaching an intersection.
 - (3) All wires and limbs of trees which are less than fifteen feet above the surface of a sidewalk, street, or alley;
 - (4) All tree limbs which touch or interfere with electrical power lines;
 - (5) All unnecessary noises and annoying vibrations.
 - (6) All bushes, shrubs, hedges, and other obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this Code or other applicable law.
 - (7) Radio aerials or television antennae erected or maintained in a dangerous manner;
 - (8) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather obstructing traffic and the free use of the street or sidewalk;
 - (9) All hanging signs, awnings, and other similar structures over streets and sidewalks or so situated so as to endanger public safety or not constructed and maintained as provided by this Ordinance;
 - (10) The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
 - (11) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
 - (12) All dangerous, unguarded machinery in any public place or so situated or operated on private property as to attract the public;
 - (13) Waste water cast upon or permitted to flow upon streets or other public property;
 - (14) Accumulations of discarded or disused machinery, household appliances, motor vehicle parts and/or bodies to include wrecked, junked, and abandoned vehicles incapable of operation as a motor vehicle without alteration or repair and/or motor vehicles without valid and current licenses, garbage or rubbish, or other materials in a manner which renders the premises or property to be unsightly, offensive, or in a manner conducive to the harboring of rats, mice, snakes, or

other vermin, the growth of vegetation, or in a manner creating fire, health, or other safety hazards.

The terms garbage and rubbish shall be defined as follows:

"Garbage" means animal and vegetable wastes and other wastes or putrescible matter including but not limited to grease, wrappings, shells, grounds, bones, entrails, and similar materials resulting

from the handling, preparation, cooking, service, and consumption of food, and other animal wastes.

"Rubbish" means waste products which are composed wholly or partly of such materials as garbage, sweepings, swill, cleanings, trash, refuse, or litter; industrial solid wastes or domestic solid wastes; organic wastes or residue of animals, fruit, or other vegetable or animal matter from kitchen, dining room, market, food establishment, or any place dealing or handling meat, fowl, fruit, grain, or vegetables; offal, animal excreta, or the carcass of animals; tree or shrub trimmings or grass clippings; brick, plaster, wood, metal, roofing materials, pipe, or other waste matter resulting from the demolition, alteration, or construction of buildings or structures; accumulated waste materials, cans, used containers, boxes and packing materials, junk vehicles, ashes, tires, junk, Christmas trees, rocks, sod, dirt, glass, jars, bottles, auto parts, cement, brick, leaves, burn barrels, household appliances, furniture, toys, floor coverings, fabric, drain oil, solvents and fluids, or other such substances which may become a nuisance.

The prohibition contained herein relative to motor vehicles shall not apply to short term storage, dismantling, and/or repair of motor vehicles in commercial districts by persons engaged in motor vehicle repair.

- (15) Any racing car or stock car not in compliance with §901.051 of this Ordinance.
- (16) Any well, hole, or similar excavation which 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;
- (17) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- (18) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance;
- (19) The depositing of garbage or refuse on a public right-of-way or on adjacent

private property;

- (20) The use, possession, or sale of items commonly referred to as smoke bombs, stink bombs, spray string or any and all similar products, in public or on public property.
- (21) All other conditions or things which are likely to cause injury to the person or property of anyone.

901.05. Enforcement. The Building Official and/or the Chief of Police (or his designee) shall enforce the provisions of this Ordinance. Absent circumstances where a search warrant is first required before a City official may enter private property or a private structure as determined by the City Attorney, said officials shall be authorized to enter any property or structure within the City for the purpose of enforcing and ensuring compliance with this nuisance ordinance. An owner or authorized person in possession of a premises or property shall, at the request of the enforcement official, provide access to all interior portions of a building in order to permit the official to make a complete inspection.

901.051. Racing Cars and Stock Cars. Operating, parking, storing, repairing, servicing, and maintaining of racing cars and stock cars shall be regulated as follows:

Subdivision 1. Definitions. The following words and terms wherever they occur in the Ordinance are defined as follows:

- (a) Person: Person means a natural person, firm, association, partnership, corporation, and any agent of any of the aforesaid.
- (b) Racing Car: Racing car means any motor vehicle designed or intended for operation on a speedway, race track, or other facility used or designated for high speed contests between two (2) or more vehicles or for timing of speed.
- (c) Stock Car: Stock car means any motor vehicle of standard design and construction which is modified, adapted, or altered in any manner to increase the speed or safety and designed or intended for operation on a speedway, race trace, or other facility used or designed for high speed contests between two (2) or more vehicles or for timing of speed.

Subd. 2. Parking and Storage. No person shall park, keep, place, store, or permit the parking or storage of a stock car or racing car on a public street or alley or on any private lands or premises which he owns, occupies, or controls for more than seventy-two (72) hours unless it shall be within a building on such private premises.

901.06. Abatement.

Subdivision 1. Authority to Abate.

- (a) The City is authorized to abate nuisances in accordance with the procedures set forth in this ordinance.
- (b) Abatement may include, but shall not be limited to, removal, cleaning, extermination, cutting mowing, grading, sewer repairs, grease traps and grate cleaning, draining, securing, boarding unoccupied structures, barricading or fencing, removal and demolition of dangerous structures or portions of dangerous structures and removal or demolition of abandoned buildings.

Subd. 2. Abatement Procedure.

Unless the Building Official determines that the nuisance condition constitutes an emergency as described in subdivision 3 of this ordinance, the City may abate the nuisance by the procedure described below:

- (a) Service of Abatement Order. Whenever a Building Official determines that a public nuisance is being maintained or exists on premises within the City, the officer shall serve a written order upon the owner and occupant of the premises, and any and all lien holders of record, that such nuisance be terminated and abated. The order shall be served in person or by certified or registered mail. If, after a reasonable and good faith effort, such service of the order cannot be made, the following method of service shall be considered adequate: (I) posting a copy of the order on a conspicuous place on the premises, (ii) mailing the order to the address of the record property owner as reflected in current County Auditor records, (iii) mailing the order to the last known address of any lien holders of record if the addresses of such lien holders is known or appear in documents which have been recorded in the County real estate records for the subject property, and (iv) publishing the order once a week for two (2) consecutive weeks in a newspaper of general circulation in the City.

Upon completion of posting and service of the notice and order as set forth above, the Building Official shall prepare an affidavit which sets forth the time, date, place and manner of such posting and service and the names and addresses of the persons so served.

- (b) Additional Notice Required for Demolition of Buildings. Additionally, if the abatement order requires, exclusively or as an option, the demolition of a building, the owner of the property shall provide full disclosure of the contents of the order to all interested parties, including renters and potential renters, and the Building Official shall place a placard on a conspicuous place on the building which sets forth the contents of the order and conspicuously states that defacing or removal of the placard shall constitute a misdemeanor.
- (c) Contents of Abatement Order. The order shall contain the following: (i) a description of the real estate sufficient for identification and which shall include the legal description, (ii) a description and location of the nuisance and the basis upon which it is declared a nuisance, (iii) the specific remedial action required to abate the nuisance, (iv) the abatement deadline, to be determined by the Building Official, allowing a reasonable time for performance of the acts required; (v) a statement that the order may be appealed and a hearing before the City Planning and Zoning Commission obtained by filing a written request with the City Administrator before the appeal deadline which shall be designated in the order or thirty (30) calendar days from the date of service of the order, whichever comes first; (vi) a statement that, if the remedial action is not taken nor a request for a public hearing filed with the City Administrator within the time specified, the City will enter the property and abate the nuisance; and (vii) a statement that the owner of the property shall be personally liable for all costs incurred by the City in connection with the abatement, including, but not limited to, the costs of the abatement, administrative costs and attorneys' fees, and that if said costs remain unpaid, the City may assess the costs against the subject real property as provided for in Minn. Stat. § 429.101, and any amendments thereto, and § 901.06, Subd. 4 of this Ordinance.
- (d) Setting a Hearing Date. In the event that a timely appeal is filed with the City Administrator, the City Administrator shall, within two (2) weeks, schedule, a date for a public hearing before the Planning and Zoning Commission.
- (e) Notice of Hearing Date. The City Administrator shall, by first class mail, mail notice of the date, time, place and subject of the hearing to the appeal applicant at the address provided by the applicant in the appeal application. Said notice shall also be served upon all other owners and lien holders of record in the

manner as provided in subdivision 2(a) above. The City Administrator shall also, to the extent reasonably possible, notify all adjoining property owners and occupants within 350 feet of the subject property. Said notice shall also be published once in a newspaper of general circulation in the City at least one week prior to the hearing.

- (f) Hearing Before Planning and Zoning Commission. The Planning and Zoning Commission shall convene a public hearing at which time the owner and occupier of the subject property and/or their counsel or designated representative, shall have the opportunity to present evidence and testimony to support the appeal of the abatement order. The Planning and Zoning Commission may receive evidence and testimony from the Building Official and any other parties who wish to be heard. Upon receiving the evidence and testimony, the Planning and Zoning Commission shall make a written recommendation to the City Council which may confirm, modify, revoke, alter or cancel the order of the Building Official.
- (g) City Council Determination. The City Council shall review the recommendations of the Planning and Zoning Commission and may confirm, modify, revoke, alter or cancel the order of the Building Official. If the City Council determines that abatement is required, the Council shall, by resolution, fix a reasonable time within which the nuisance must be abated and shall provide that, if the nuisance is not eliminated within the time specified, the City shall enter the subject property, abate the nuisance and thereafter charge the abatement costs to the owner and/or assess the costs of the abatement against the subject real property as provided in § 901.06, Subd. 4. The Council shall thereafter give a copy of the resolution to the Building Official, who shall cause said resolution to be served upon all known and record owners, occupiers and lien holders as provided in subdivision 2(a) above.
- (h) Abatement. If the remedial action is not accomplished to abate the nuisance within the time specified in the Building Official's order, or, if an appeal is timely filed, if the remedial action is not accomplished within the time specified by the City Council resolution, the City may enter the property, abate the nuisance and charge the abatement costs to the owner and/or assess the abatement costs against the subject real property as provided in § 901.06, Subd. 4.

Subd. 3. Emergency. When the Building Official or police officer

determines that a nuisance constitutes a serious and imminent danger to the public safety or health, the officer may summarily abate the nuisance after a reasonable attempt to notify the owner or occupant of the property. The officer shall immediately thereafter notify in writing the owner or occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail.

Subd. 4. Costs of Abatement. The owner of the premises on which a nuisance has been abated by the City shall be personally liable for the abatement costs incurred by the City. Abatement costs may include specifically, but not exclusively, the costs of the abatement; the costs of investigation, including title searches, inspections and testing; the costs of notification, including service costs; filings costs; publication fees; attorneys' fees, witness fees and appraisers' fees; and administrative costs. The City Clerk shall prepare a bill for the abatement costs and mail it to the owner. Such charges for abatement of a public health nuisance as defined by §901.02 or a public safety nuisance as defined by §901.04 may, if unpaid after thirty (30) days, be certified to the County Auditor for collection as a special assessment, pursuant to Minnesota Statute §429.101, and any amendments thereto.

Subd. 5. Penalty. In addition to the civil abatement procedures set forth in this chapter, any person violating the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000.00 per violation, or imprisonment for not more than 90 days, or both. Each day of noncompliance shall constitute a separate violation.

Subd. 6. Enforcement Provisions Not Exclusive. The abatement provisions set forth in this section are supplementary to other City Code and Minnesota statutory provisions and do not limit the authority of the City to enact or enforce other ordinances or statutes under the laws of Minnesota with respect to the same subject.

901.061. Separability.

Subdivision 1. Should any section, subdivision, clause, or other provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole, nor of any part thereof, other than the part so declared to be invalid.

901.062. Racing Cars and Stock Cars. Operating, parking, storing, repairing, servicing, and maintaining of racing cars and stock cars shall be regulated as follows:

Subdivision 1. Definitions. The following words and terms wherever they occur in the Ordinance are defined as follows:

- (a) Person: Person means a natural person, firm, association, partnership, corporation, and any agent of any of the aforesaid.
- (b) Racing Car: Racing car means any motor vehicle designed or intended for operation on a speedway, race track, or other facility used or designated for high speed contests between two (2) or more vehicles or for timing of speed.
- (c) Stock Car: Stock car means any motor vehicle of standard design and construction which is modified, adapted, or altered in any manner to increase the speed or safety and designed or intended for operation on a speedway, race track, or other facility used or designed for high speed contests between two (2) or more vehicles or for timing of speed.

Subd. 2. Parking and Storage. No person shall park, keep, place, store, or permit the parking or storage of a stock car or racing car on a public street or alley or on any private lands or premises which he owns, occupies, or controls unless it shall be within a building on such private premises.

Subd. 3. Repair, Service or Maintaining. No person shall service, repair, replace parts, or do maintenance work on a stock car or racing car on a public street or on any private land or premises unless it shall be within a building on such private premises.

Subd. 4. Operation. No person shall drive or operate a stock car or racing car upon the streets and alleys within the limits of the City.

Subd. 5. Penalty. Any person violating the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000.00 for each violation. Each day of noncompliance shall constitute a separate violation. In addition, the civil abatement procedures set forth in section 901.06 and 903 of this Ordinance may also be applicable to this section.

901.41. The Burning of Solid Fuels.

- a. "Solid fuel-fired heating device" means a device designed for solid fuel combustion so that usable heat is derived for the interior of the

building, and includes solid fuel-fired stoves, solid fuel-fired cooking stoves, and combination fuel furnaces or boilers which burn solid fuel. Solid fuel-fired heating devices do not include natural gas-fired fireplace logs or traditional indoor fireplaces.

- b. "Stacks or Chimneys" means any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device; especially the part of such a structure extending above a roof.
- c. "Person" means an individual, partnership, corporation, company or other association.
- d. "Public Nuisance", whoever by his act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor, and which is also subject to Chapter 506A of the City Code for treatment as an administrative offense.

Subd 2. Permits. Any person installing a solid fuel-fired heating device must comply with all City Code requirements pertaining to building permits.

Subd 3. Other requirements Upon the Effective Date of this Ordinance.

- a. All wood-burning units installed or purchased within the City limits of Proctor, Minnesota, are required to meet emission standards currently required by the Environmental Protection Agency (EPA) and Underwriters Laboratories (UL) listing.
- b. All outdoor wood burning units or solid fuel-fired heating devices are subject to the City of Proctor's public nuisance ordinances as described in this chapter of the City Code.
- c. Any dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities may be declared a public nuisance by a properly designated authority. Additionally,
- d. Minimum stack height of any indoor or outdoor solid fuel-fired heating device shall have a minimum height of 23 feet from ground level. Construction of all stacks or chimneys must be of masonry or insulated metal with a minimum 6" flue.
- e. Any existing stack height or irregularly installed stack shall be

removed or replaced within a period of six (6) months from date of notice.

- f. All stacks or chimneys must be so constructed to withstand high winds or other related elements, and shall have a screen affixed to the top to prevent debris from escaping.
- g. Structures located in "R-1-a," "R-1-b," "R-1-c" "R-2" or "R-3" Districts shall have a minimum stack height of three (3) feet above the roof of the adjoining properties' highest roof elevation.

Subd. 4. Duties of City Officers. The City Building Official, Police Department or other designated official shall enforce the provisions of this ordinance. Emission standards shall be enforced by the EPA. Any violation of this ordinance shall be considered a misdemeanor and be punishable by existing laws, including, but not limited to, Chapter 506A of the City Code for treatment as an administrative offense.

902. Hazardous Buildings and Excavations

902.01. Abatement of Nuisances: Buildings.

Subdivision 1. Any building, structure or property erected, altered, maintained, repaired, or used in violation of the laws of this state (M.S.A. §462.12 - §462.17 and M.S.A. 463.15, et. seq., and any amendments thereto) or any ordinance of the City of Proctor shall be deemed a nuisance and may be abated as provided in §901.06 above or as provided in the Minnesota Hazardous and Substandard Buildings Act, Minn. Stat. §463.15, et. seq. and any amendments thereto.

Subd. 2. Any abandoned or hazardous building declared a nuisance under this chapter shall be subject to the notice requirements set forth in §901.06 Subd. 2(a) unless the nuisance constitutes an emergency threat to the health, safety, and well-being of the citizens, in which case the nuisance may be abated pursuant to §901.06 Subd. 3.

Subd. 3. The provisions of §901.06 Subd. 4 shall also apply to abatement of hazardous or abandoned buildings and structures.

Subd. 4. Structures or buildings causing imminent danger to life, safety, or health may be abated by the City Building Official and/or the Chief of Police (or his designee) as set forth at §901.06 Subd. 3.

903. Contaminated Soils (Repealed)

903. Common Excavation, Drainage,
Contaminated Soils, and Wetlands

903.01. Common Excavation and Drainage Alterations.

Subdivision 1. Prohibitions. No person shall engage in the common excavation of soils, rock, gravel, or the like upon any parcel of land located within the City of Proctor so as to permanently interrupt, alter, or disturb the existing and/or natural drainage of ground water upon said parcel. Provided, that upon submission of such excavation plans to the City of Proctor prior to commencement of such excavation and the approval of said plans by the City, the planned excavation may be undertaken and the existing and/or natural drainage of the site may be altered, interrupted, or disturbed in accordance with the plans.

Subd. 2. Plan Review Fee. All plans reviewed pursuant to subd. 1 shall be subject to the payment of an excavation permit fee to be paid to the City Clerk prior to review of the plans by the City .

Subd. 3. Temporary Interruption. Nothing in this Ordinance shall prohibit the temporary interruption, alteration, or disturbance of ground water drainage within the City of Proctor. By definition, the term "temporary" shall mean that the drainage is altered, interrupted, or disturbed for no more than a period of seven days.

Subd. 4. Wetlands Considerations. Any excavations or drainage alterations which may impact upon any wetlands, as defined by this Ordinance, shall be reviewed in accordance with §903.04 of this Ordinance.

903.02. Contaminated Soils.

Subdivision 1. Definitions.

- (1) "Contaminant" means any toxic or non-toxic, flammable or non-flammable, corrosive, or otherwise dangerous substance, whether such substance is naturally occurring or manufactured. Normal farming practices shall be excluded from the provision of this Ordinance.
- (2) "Soil" means any substance of the earth; the term specifically includes earth, sand, gravel, boulders, and rock.

- (3) "Material" means any processed or man-made substance or thing; it specifically includes all types of man-made ground cover such as cement, concrete, blacktop, and wood. It also specifically includes any item which has been used to store, transport, or dispense a contaminant.
- (4) "Spill or leak" means any discharge of any volume of any contaminant, whether such discharge is intentional or accidental.
- (5) "Person" means any human being, any municipality, or any other governmental or political subdivision or public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

903.03. General Provisions.

Subdivision 1. Activities Prohibited.

- (a) No person shall cause, permit, or allow land or property, whether or not under his or her ownership or management, to be used for the storage, dumping, depositing, and/or incinerating of any contaminated soil or any type of contaminated material. This provision shall not apply to storage of a contaminant in a container approved by the authority having jurisdiction over the storage of that substance and labeled as to its contents.
- (b) No person shall cause, permit, or allow any amount of any contaminant, to be spilled or leaked onto soil or material, whether or not under his/her ownership or control.

Subd. 2. Violations.

- (1) A person violating the provisions of §903.02 of this Ordinance shall be guilty of a misdemeanor resulting in a payment of a fine only, except that the City Attorney, on his or her discretion, may seek injunctive relief depending on the exigency of the situation.
- (2) Each day that a violation of this Ordinance continues may be treated as a separate offense.

Subd. 3. Conditional Use Permit. The Proctor City Council, upon due consideration and recommendation by the Planning and Zoning Commission, may grant a Conditional Use Permit

allowing the landfarming and/or incineration of contaminated soils with the City of Proctor. Any such Conditional Use Permit application shall first be reviewed by the Wetlands Technical Panel (see §903.04 subd. 13 (a) and the Planning and Zoning Commission pursuant to §1002.15 (Conditional Uses).

903.04. Wetland Protection.

Subdivision 1. Findings and Intent.

- (a) Wetlands help maintain water quality, serve to reduce flooding and erosion, act as sources of food and habitat for a variety of fish and wildlife, and are an integral part of the community's natural landscape. Wetlands provide the aesthetic benefits of open space and can be used to provide a natural separation of land uses. It is the intent of this Ordinance to establish a policy of sound stewardship through coordination of regulations which conserve, protect, enhance, and result in the no net loss of these environmentally sensitive resources. In addition, it is the intent of the City of Proctor to promote the restoration of degraded wetlands.
- (b) The intent of this Ordinance is to avoid alteration and destruction of wetlands. When this is not feasible, mitigation must be provided to recreate the lost or altered wetlands value and function.

Subd. 2. Purpose. The purpose of this Ordinance is to assure the general health, safety, and welfare of the residents through preservation and conservation of wetlands and sound management of development by:

- (1) Establishment of wetlands and regulations that are coordinated with flood protection and water quality programs.
- (2) Requiring sound management practices that will protect, conserve, maintain, enhance, and improve the present quality of wetlands within the community.
- (3) Requiring measures designed to maintain and improve water quality in streams and watercourses.
- (4) Protecting and enhancing the scenic value of wetlands.
- (5) Restricting and controlling the harmful effects of land development of wetlands.
- (6) Allowing only development that is planned to be compatible with wetland protection and enhancement.

- (7) Providing standards for the alteration of wetlands when alteration is allowed.
- (8) Mitigating the impact of development adjacent to wetlands.
- (9) Educating and informing the public about the numerous benefits and features of wetlands and the impacts of urbanization.
- (10) Obtaining protective easements over or acquiring fee title to wetlands as appropriate.

Subd. 3. Delineation of Wetlands. Wetlands shall be subject to the requirements established herein, as well as restrictions and requirements established by other applicable City ordinances and regulations. The Wetlands Protection Regulations shall not be construed to allow anything otherwise prohibited in the zoning district where the wetland area is located.

A wetland is land that meets the definition of "wetlands" set forth in this Ordinance.

If an applicant questions whether a wetland exists or disputes its delineation, the applicant shall have the burden to supply detailed information for review supporting the applicant's position. The applicant shall provide appropriate technical information, including but not limited to topographical survey and soil data, deemed necessary for the City to determine the exact wetland boundary. Data for wetland determination shall be certified by a registered engineer, surveyor, or a qualified wetland consultant. The applicant may appeal the Planning Commission's determination of the wetland boundary and type to the City Council.

This Ordinance establishes three wetland types and one body type:

- (1) Wetlands, Ag/Urban. Wetlands that have been influenced by agricultural or urban (residential, commercial, or industrial) land uses are called Ag/Urban. Influences include: over nutrification, soil erosion and sedimentation, and water quality degradation. As a result of these influences there is a loss of plant species such as reed canary grass and reduction in wildlife habitat.
- (2) Wetlands, Natural. Natural wetlands are still in their natural state and typically show little sign of impact from surrounding land usage. The vegetative community of these wetlands are characterized by a diversity of plant species with mixed dominance of species. Other key factors include: presence of natural indicator species, good wildlife habitat, and being aesthetically pleasing.
- (3) Wetlands, Pristine. Wetlands that exist in a natural state and have special and unusual qualities worth protecting at a high level are call Pristine. These qualities

include: rare or unusual species present and habitat for rare wildlife species.

- (4) Utilized. Utilized water bodies created for the specific purpose of surface water runoff retention and/or water quality improvements. These water bodies are not to be classified as wetlands even if they take on wetland characteristics. Wetland alteration permits shall not be required to undertake work on these water bodies.

Subd. 4. No Net Loss. To achieve no net loss of wetland, except as provided elsewhere in this Ordinance or authorized by a wetland alteration permit issued by the City, a person may not drain, grade, fill, burn, remove healthy native vegetation, or otherwise alter or destroy a wetland of any size or type. Any alteration to a wetland, permitted by a wetland alteration permit, will be fully mitigated so that there is no net loss of wetlands.

Subd. 5. Standards. The following standards apply to all lands within and abutting a wetland:

- (1) Septic and soil absorption system must be a setback minimum of one hundred fifty (150) feet from the ordinary high water mark of the wetland.
- (2) The lowest ground floor elevation is three (3) feet above ordinary high water mark of the wetland.
- (3) Docks or walkways shall be elevated six (6) to eight (8) inches above the ordinary high water mark or six (6) to eight (8) inches above the ground level, whichever is greater.
- (4) Access across a wetland shall be by means of a boardwalk and only upon approval of a wetland alteration permit.

Subd. 6. Wetland Alteration. An applicant for a wetland alteration permit shall adhere to the following principals in descending order of priority:

- (1) Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;
- (2) Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
- (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;
- (4) Reducing or eliminating the impact over time by preservation and maintenance

operations during the life of the activity; and

- (5) Compensating for the impact by replacing or providing substitute wetland resources or environments.

A wetland alteration permit shall not be issued unless the proposed development complies with the provisions of the Mitigation Section of this Ordinance as well as the standards, intent, and purpose of this Ordinance. If the City determines that the required calculations in a particular instance are needlessly burdensome because of the area and nature of a proposal, it may agree to a substitute analysis.

Subd. 7. Permit Required. Drainage, grading, filling, burning, removal of healthy native vegetation, or otherwise altering or destroying a wetland of any size or type requires a wetland alteration permit. Activity in a wetland requiring a wetland alteration permit includes but is not limited to:

- (1) Construction of new streets and utilities;
- (2) Creation of ponds or dams and alteration of the natural drainageways of water courses. This shall only be allowed as part of a mitigation project or to restore or improve the function and value of the wetland.
- (3) Installation of boardwalks.
- (4) Creation of sedimentation and water quality improvement basins in part of a mitigation project or used to restore or improve the function and value of the wetland. These basins may not be created in "pristine" wetlands and may only be created in "natural" wetlands if the City determines that there is no reasonable alternative.
- (5) Discharge of storm water runoff in a manner that impacts the wetland.

Subd. 8. Filling. When a wetland alteration permit is issued allowing filling in a wetland, the following standards shall be followed:

- (1) Filling must be consistent with the Proctor Flood Plain Ordinance.
- (2) Filling shall not cause total natural nutrient stripping capacity of the wetland to be diminished to an extent that is detrimental to any area river, lake, or stream.
- (3) Only fill free of chemical pollutants and organic wastes may be used.
- (4) Filling shall be carried out so as to minimize the impact on vegetation.

- (5) Filling in wetland areas will not be permitted during waterfowl breeding season or fish spawning season unless it is determined by the City that the wetland is not used for waterfowl breeding or fish spawning.
- (6) Filling in wetland areas will be required to be mitigated in accordance with the requirements of this Ordinance.

Subd. 9. Dredging/Excavation/Grading. When a wetland alteration permit is issued allowing dredging, excavating, or grading in a wetland, the following standards shall be followed:

- (1) The dredging will not have a net adverse effect on the ecological and hydrological characteristics of the wetland.
- (2) It shall be located as to minimize the impact on vegetation.
- (3) It shall not adversely change water flow.
- (4) The size of the dredged area shall be limited to the minimum required for the proposed action.
- (5) Disposal of the dredged material is prohibited within the wetland area.
- (6) Disposal of any dredged material shall include proper erosion control and nutrient retention measures.
- (7) Dredging in any wetland area is prohibited during waterfowl breeding season or fish spawning season unless it is determined by the City that the wetland is not used for waterfowl breeding or fish spawning.
- (8) Dredging in wetland areas will be required to be mitigated in accordance with the requirements of this Ordinance if the activity results in a loss of functional wetland. Dredging to create water quality improvement basins may be allowed by the City where reasonable alternatives are not available or where the wetland is of low quality and designed for this purpose by the Proctor Flood Plain Ordinance.

Subd. 10. Storm Water Runoff. When a wetland alteration permit is issued allowing storm water runoff to discharge directly into a wetland, the following standards shall be followed:

- (1) An increase over the natural volume of storm water runoff from a development may be allowed when necessary for use of property, but only when it will not

have a net adverse effect upon the ecological and hydrological characteristics of the existing wetlands. The restrictions on runoff set out below shall not be exceeded. Since the total increase in runoff which can be permitted is limited, the City, when considering wetland alteration permit applications, shall consider, in addition to the following, apportionment of increased runoff opportunity to all wetland property within the surrounding wetland area.

- (2) Storm water runoff from a development may be directed to the wetland only when free of debris and substantially free of chemical pollutants and silt and only at rates which do not disturb vegetation habitat or increase turbidity. Sheet flow and other overland drainage of runoff shall be encouraged.
- (3) The allowed total increased runoff, in combination with the total fill allowed, shall not cause total natural flood storage or nutrient stripping capacity of the wetland to be reduced in a manner inconsistent with requirements established by the Proctor Flood Plain Ordinance.

Subd. 11. Mitigation.

- (a) Mitigation Intent. Where wetland alteration is approved and mitigation is required, mitigation must result in an improvement to the wetland function and value of the replacement property. Mitigation plans must address water quality and improvement and maintenance of pre-existing hydrological balance and wildlife habitat. The wetland function and value will include improvement of water quality, maintaining hydrological balance, and provision of wildlife habitat. Mitigation will be performed at ratios required by state law to achieve replacement of the wetland function and value. Mitigation will not always be based solely on an acre to acre replacement but may be based on replacement of habitat units (HU) through the use of habitat evaluation procedures. When significant improvements in the wetland value and function result, acre for acre surface area replacement may not be required.
- (b) Mitigation Standards. Mitigation of wetlands for function and value should be restored, created, and enhanced to have the following characteristics:
 - (1) Relatively stable water levels subject to natural fluctuations.
 - (2) Pretreatment of inflow water to improve quality.
 - (3) High level of upland/lowland intermingling.

- (4) A ratio of open water to aquatic vegetation between 1:1 and 1:2.
- (5) High degree of intermingling of open water and aquatic vegetation.
- (6) High level of plant species diversity.
- (7) Restoration of native plant species in upland and lowland areas.
- (8) Undisturbed upland/lowland edge (i.e., buffer).
- (9) Meandered wetland edge.
- (10) Irregular bottom contours - mix of shallow and deep water.
- (11) Shallow side and bottom slopes - preferable 10:1 to 30:1 around and within wetland; steeper slopes may be used to provide open water and greater vegetation variability.

(c) Mitigation Techniques.

- (1) Mitigation will be performed at a ratio required by state law.
- (2) Mitigation should always result in an improvement to the wetland function and value. The wetland function and value will include improvements of water quality, maintaining hydrological balance, and provisions of wildlife habitat.
- (3) Mitigation will not always be based solely on an acre to acre replacement but may be based on replacement of habitat units (HU) through the use of habitat elevation procedures (appendix) at a ratio of 2:1. When significant improvements in the wetland value result, direct surface area replacement on a 2:1 basis may not be required. The City Council will determine when wetland impact will be allowed and the nature of mitigation which will be acceptable.
- (4) Mitigation shall provide a buffer strip as set forth in this Ordinance.
- (5) Mitigation shall maintain or enhance the wetland hydrological balance through the following:
 - Restoration of deteriorated wetlands
 - Flooding of previously drained wetland basins

- Creation of new wetlands
 - Enhancement of existing wetlands
- (6) Mitigation shall provide for pretreatment of water prior to its entering the wetland to improve water quality if required by the City.
 - (7) Mitigation, through the buffer strip, shall provide landscaping for nesting and food for wildlife habitat. The buffer strip landscape shall provide for wildlife cover and utilize a diversity of native flora (i.e., trees, shrubs, grasses, herbaceous plants) to encourage wildlife diversity and provide visual variety.
 - (8) Wetland mitigation should be undertaken on-site. If this is not feasible, mitigation should occur locally within the sub-watershed. If this is not possible, mitigation should occur outside the sub-watershed elsewhere in the City. If mitigation cannot be accomplished on-site or if the City deems it necessary to perform mitigation off-site, the applicant shall be responsible for contributing into the City's wetland mitigation fund. The mitigation performed off-site shall meet the above requirements.
 - (9) The City may determine that the public interest is best served by requiring off-site wetland mitigation. When this situation arises or when the applicant is unable to restore wetlands on-site, the City will require payment into this dedicated Wetland Mitigation Banking Fund. This fund shall be used solely to create new and/or expand and improve existing wetlands according to the priorities outlined in this Ordinance. The City Council shall establish the fee structure on an annual basis. Fees shall be based upon the average price for similar property elsewhere in the City.

(d) Construction Management and Long Term Wetland Maintenance.

- (1) The permit holder shall follow the City's best management practices to minimize direct impacts due to erosion and construction practices and to safeguard wildlife habitat.
- (2) The permit holder shall conduct a monitoring program and evaluation until construction is completed. A letter of credit or performance bond from the permit holder shall be held to ensure compliance similar to any other public improvement. The City will ensure that the permit holder is delivering the wetland that was promised. The permit holder shall

demonstrate compliance with the designed wetland as-built plans.

Where feasible, the City shall require the permit holder to satisfy long term management requirements.

Subd. 12. Application and Issuance of Permit.

- (a) Wetlands Technical Panel. The City Council, City Administrator, Building Official, and/or the Planning and Zoning Commission may refer any proposed building permit, subdivision application, Conditional Use Permit, common excavation or drainage permit, or any other such situation which may be deemed by the referring person or body to adversely impact wetlands within the City of Proctor to the Proctor Wetlands Technical Panel for review. The Wetlands Technical Panel shall consist of a technical professional employee of the Minnesota Board of Water and Soil Resources, a technical professional employee of the South St. Louis County Soil and Water Conservation District, and an employee of the City of Proctor designated by the Proctor City Council. All matters referred to the Wetlands Technical Panel shall be considered by the Panel and a recommendation made thereon to the Proctor Planning and Zoning Commission.
- (b) Permit Process. The applicant for a wetland alteration permit shall furnish the information required by the City including, but not limited to, a site plan, topographical data, hydrological data, and habitat evaluation procedures for the review of a wetland alteration permit application. The Wetlands Technical Panel shall use discretion regarding the level and complexity of information required to review the request. A wetland alteration permit shall not be issued without having been first reviewed the Wetlands Technical Panel and the Planning and Zoning Commission and approved by the City Council, following the review and hearing procedures set forth for Conditional Use Permits. The applicant shall have the burden of proving that the proposed use or activity complies with the purposes, intent, and other provisions of this Ordinance.

The City Council may establish reasonable conditions which are specifically set forth in the permit to ensure compliance with requirements contained in this Ordinance. Such conditions may, among other matters:

- Limit the size, kind, or character of the proposed work;
- Require the construction of other structures;

- Require replacement of vegetation and wetland function and value;
- Establish required monitoring procedures and maintenance activity;
- Stage the work over time;
- Require the alteration of the site design to ensure buffering;
- Require the provision of a performance security.

Subd. 13. Inspection of Work. The City may cause inspection of work for which a wetland alteration permit is issued, at the applicant's expense, to be made periodically during the course of such work and shall cause final inspection to be made following the completion of the work.

Subd. 14. Expiration and Renewal of Permit.

- (a) Unless otherwise specified by the City Council, the person issued a wetland alteration permit shall begin and complete the development authorized by the permit within one (1) year after the date the City Council approves the permit application.
- (b) The permittee shall provide written notice to the City twenty-four (24) hours prior to the commencement and completion of the development project. No project shall be deemed to have been completed until approved by the City after receipt of notice of completion.
- (c) If the permittee fails to commence work on the development within the time specified in this section, the permit shall be void. The City Council may renew a void permit at its discretion. If the City Council does not renew the permit, the holder of the void permit may make original application for a new permit.
- (d) The permittee may make written application to the City Council for an extension of the time to commence work, but only if the permittee submits the application prior to the date already established to commence work. The application of an extension shall state the reasons the permittee requires an extension.

Subd. 15. Exemptions. Activities exempted by Minnesota Statutes 103G.2241 from State Wetlands Protection shall be exempted from the provisions of this Ordinance. However, certificates of exemption must be obtained from the City and filed with the County Recorder prior to starting work. The statutory exemptions include, but are not limited to:

- (1) Activities necessary to repair and maintain existing public or private drainage systems as long as wetlands that have been in existence for more than twenty (20) years are not drained.
- (2) Activities authorized under and conducted in accordance with an applicable general permit issued by the United States Army Corps of Engineers under Section 404 of the Federal Clean Water Act, United States Code, Title 33, Section 1344, except that nationwide permit in Code of Federal Regulations, Title 33, Section 330.5, paragraph (a), clause (14), limited to when a new road crosses a wetland, and all of clause (26).
- (3) Placement, maintenance, repair, enhancement, or replacement of utility or utility-type service, including the transmission, distribution, or furnishing, at wholesale or retail, of natural or manufactured gas, electricity, telephone, or radio service or communications if :
 - The impacts of the proposed project on the hydrological and biological characteristics of the wetland have been avoided and minimized to the extent possible; and
 - The proposed project significantly modifies or alters less than one-half (1/2) acre of wetland.
- (4) Activities associated with routine maintenance of utility and pipeline rights-of-way; provided, the activities do not result in additional intrusion into the wetland.
- (5) Alteration of a wetland associated with the operation, maintenance, or repair of an interstate pipeline.
- (6) Activities associated with routine maintenance of existing public highways, roads, streets, and bridges; provided, the activities do not result in additional intrusion into the wetland and do not result in the draining or filling, wholly or partially, of a wetland.
- (7) Emergency repair and normal maintenance and repair of existing public works; provided, the activity does not result in additional intrusion of the public works into the wetland and does not result in the draining or filling, wholly or partially, of a wetland.
- (8) Normal maintenance and minor repair of structures causing no additional intrusion of an existing structure into the wetland, and maintenance and repair of private crossings that do not result in the draining or filling, wholly or partially, of a wetland.

- (9) Development projects and ditch improvement projects in the state that have received preliminary or final plat approval or infrastructure that has been installed or having local site plan approval, conditional use permits, or similar official approval by the City or other approving governmental body or agency after August 1, 1987.

Subd. 16. Variances. Variances from the requirements of this Ordinance may be granted in accordance with the variance provisions of §1002.17 of the Proctor City Code.

Subd. 17. Enforcement Procedures.

- (a) Violation of this Ordinance or of the terms of a permit issued thereunder shall be a misdemeanor punishable by ninety (90) days in jail and/or a Seven Hundred Dollar (\$700.00) fine.
- (b) Any person who alters a wetland in violation of this Ordinance shall apply for a wetland alteration permit and shall pay a filing fee double the regular fee. The City Council may require the violator to restore the wetland or take other mitigative measures.
- (c) Wetland reviews conducted by the City shall be coordinated with State of Minnesota Wetland Protection statutes and rules.
- (d) Notice of requested wetland alteration permits shall be mailed to all property owners located within 500 feet of the requested activity. Notification requirements established by State of Minnesota Wetland Protection statutes and official rules shall be coordinated with City approval.

Subd. 18. Definitions.

- (1) Buffer Strip means an area of nondisturbed ground cover abutting a wetland left undisturbed to filter sediment, materials, and chemicals.
- (2) Class A Wetlands means wetland types 3, 4, 5, 6, 7, and 8. In cases of wetlands adjoining public water designated as lake or pond, this class shall also include type 2 wetlands. A type 2 wetland shall also be deemed Class A wetland when adjoining a stream designated as public water to the extent that it encroaches upon the 100-year floodplain of the stream.
- (3) Class B wetlands means type 2 wetlands not adjoining public water designated as lake or pond nor within the 100-year floodplain of a stream designed as public

water.

- (4) Habitat Evaluation Procedures (HEP) is a species-habitat data management system for impact assessment developed by the U. S. Fish and Wildlife Service. Its purpose is to document predicted impacts to fish and wildlife from proposed land and water resource development projects. Habitat quality for selected key species is described by an index, the Habitat Suitability Index (HSI).
- (5) Habitat Suitability Index (HSI) is a fish or wildlife species-specific index value rating the ability of key habitat components to supply essential life requirements for the species. Index value ranges between 0 to 1.0.
- (6) Habitat Units (HU). Habitat Suitability Index (HSI) multiplied by the area of habitat being evaluated. HUs are used for comparing habitat quality from one wetland to the next or for measuring the effectiveness of mitigation. HUs integrate both quality and quantity of habitat.
- (7) Principal Structure. The main building as distinguished from an accessory building or structure.
- (8) Utilized. Utilized water bodies created for the specific purpose of surface water runoff retention and/or water quality improvements. These water bodies are not to be classified as wetlands even if they take on wetland characteristics. Wetland alteration permits shall not be required to undertake work on these water bodies.
- (9) Vegetation, Native. Native vegetation is the pre-settlement group of plant species native to the North American continent which were not introduced as a result of European settlement.
- (10) Wetlands means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definitions, wetlands must have the following three attributes:
 - (1) Have a predominance of hydric soils;
 - (2) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
 - (3) Under normal circumstances support a prevalence of such vegetation.
 - (4) Wetlands do not include types 3, 4, and 5 wetlands, as defined in U. S.

Fish and Wildlife Service Circular No. 39, (1971 edition), not included within the definition of public water, that are 22 or more acres in size.

- (11) Wetlands, Ag/Urban. Wetlands that have been influenced by agricultural or urban (residential, commercial, or industrial) land usage are called Ag/Urban. Influences include: over nurturification, soil erosion and sedimentation, and water quality degradation. As a result of these influences there is a loss of plant species diversity, overcrowding and domination by invasive species such as reed canary grass, and reduction of wildlife habitat.
- (12) Wetlands, Natural. Natural wetlands are still in their natural state and typically show little sign of impact from surrounding land usage. The vegetative community of these wetlands are characterized by a diversity of plant species with mixed dominance of species. Other key factors include: presence of natural indicator species, good wildlife habitat, and being aesthetically pleasing.
- (13) Wetlands, Pristine. Wetlands that exist in a natural state and have special and unusual qualities worth protecting at a high level are call Pristine. These qualities include: outstanding vegetation community, native species population, rare or unusual species present, and habitat for rare wildlife species.
- (14) Wetland Types means classifications of wetlands as defined in U. S. Department of Interior, Fish and Wildlife Service, Circular 39, "Wetlands of the U. S. 1956."
- (15) Wetland Watershed means that area of land from which water drains into a Class A or Class B wetland.

904. Abandoned Personal Property.

904.01 Definitions.

- (1) **Abandoned Property.** Wrecked or derelict property having no value other than nominal salvage value, if any, and which has been left unprotected from the elements and/or is visible from any other property and shall include wrecked, inoperative or partially dismantled trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture, and any other similar articles which has no value other than nominal salvage value, if any. Abandoned property does not mean or include an abandoned motor vehicle;
- (1) **Public Property.** Lands and improvements owned by the United States government, the state of Minnesota, the county of St. Louis, or the city of

Proctor, lying within said city, and includes buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way and other similar property;

- (2) Enforcement officer. The building official of the City of Proctor and the Chief of Police of the City of Proctor or their designees or any member or members of their staff authorized by the said building official of Chief of Police to enforce the provisions of this Chapter.

904.02 Unlawful Storage of Abandoned Property.

No person shall place or leave or cause to be placed or left any abandoned property on public property within the city; nor shall any person place, leave, keep or store or cause or permit to be placed, left, kept or stored any abandoned property on private property within the city except as permitted by Chapter 1002 of this Code.

904.03 Procedure for Removal of Abandoned Property from Public Property.

Whenever the enforcement officer shall ascertain that an article or articles of abandoned property is present on public property within the city, he shall cause a notice and order to be placed upon such article in substantially the following form:

NOTICE AND ORDER TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY.

This property, to-wit: (setting forth brief description) is unlawfully upon public property known as (setting forth brief description of location) in violation of (setting forth the Section violated) of the Proctor City Code and must be removed within seven (7) days from the date of this notice, otherwise it shall be presumed to be abandoned property and will be removed and destroyed by order of the city of Proctor, and the salvage value of said article, if any, shall be retained by the City to cover the costs of said removal and destruction.

Signed: (setting forth name, title, address and telephone number of enforcement officer).

Dated: _____.

Such notice and order shall not be less than eight inches by ten inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the enforcement officer shall make reasonable effort to

ascertain the name and address of the owner of the property, and if such is reasonably available to the enforcement officer, he shall, by first class mail, mail a copy of such notice to the owner on or before the date of posting.

Following such notice and/or posting of the notice and order, the enforcement official shall prepare an affidavit which sets forth the date, time, place, manner and address of such notice and/or posting.

If at the end of seven days after posting such notice and order the owner or any person interested in the abandoned article or articles described in such notice and order has not removed the article or articles from public property or shown reasonable cause for failure so to do, the enforcement officer may cause the article or articles of abandoned property to be removed and destroyed and the salvage value, if any, of such article or articles shall be retained by the city to be applied against the cost of removal and destruction thereof.

904.04. Procedure for Removal of Abandoned Property from Private Property.

Whenever the enforcement officer shall ascertain that an article or articles of abandoned property are present on private property within the city, the enforcement officer shall cause a notice and order to be posted upon a conspicuous place upon the property in substantially the following form:

NOTICE AND ORDER TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY.

The following property, to-wit: (setting sufficient description for identification) located at (setting forth brief description of location) is improperly stored and is in violation of (setting forth Section violated) of the Proctor City Code and must be removed within seven (7) days from date of this notice and order, otherwise it shall be presumed to be abandoned property and will be removed and destroyed by order of the city of Proctor and the salvage value of said article(s), if any, shall be retained by the city. Said removal and destruction of said article(s) by the City shall occur unless a written appeal of this order and notice is filed with the Proctor City Administrator within seven (7) days from the date of this notice and order, in which case, you will be mailed written notice of the date, time and place of a public hearing before the City Planning and Zoning Commission where you will be given the opportunity to be heard and present evidence to support your appeal. Upon conclusion of the Planning and Zoning Commission Hearing, the Commission will prepare and forward a written recommendation to the Proctor City Council which may confirm, revoke, alter or cancel the order of the enforcement official. Dated this: (setting forth of posing of order). Signed: (setting forth name, title, address and telephone number of enforcement officer).

Such notice and order shall not be less than eight inches by ten inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the enforcement officer shall, by first class mail, serve a copy of the notice and order to the owner of the real property upon which the abandoned property is located as reflected in the current County Auditor's records.

The enforcement officer shall also prepare an affidavit which sets forth the date, time, place and manner of the posting and serving of the notice and order.

If at the end of seven days after posting and serving such notice and order the owner or any person interested in the abandoned article or articles described in such notice and order has not removed the article or articles and complied with the regulation cited in the notice, and if a timely appeal has not be filed with the City Administrator, the enforcement officer may enter the applicable property and cause the article or articles of abandoned property to be removed or destroyed and the salvage value, if any, of such article or articles shall be retained by the city to be applied against the cost of removal and destruction thereof.

904.05. Hearing Procedure.

In the event that a timely appeal is filed with the City Administrator, the City Administrator shall, within two (2) weeks, schedule a date for a public hearing before the Planning and Zoning Commission.

The City Administrator shall, by first class mail, serve notice of the date, time, place and subject of the hearing to the appeal applicant at the address provided by the applicant in the appeal application.

Thereafter, the Planning and Zoning Commission shall convene the public hearing as scheduled, at which time the owner or interested person in the subject real property or articles, and/or their counsel or designated representative, shall have the opportunity to present evidence and testimony to support the appeal of the enforcement official's notice and order. The Planning and Zoning Commission may receive evidence and testimony from the enforcement official and any other parties who wish to be heard. Upon receiving the evidence and testimony, the Planning and Zoning Commission shall make a written recommendation to the City Council.

The City Council shall review the recommendations of the Planning and Zoning Commission and may confirm, modify, revoke, alter or cancel the order of the enforcement official. If the City Council determines that removal or abatement of the abandoned property is required, the Council shall, by resolution, fix a reasonable time within which the abandoned property must be removed or abated

and shall provide that if the abandoned property is not removed or abated within the time specified, the City shall enter the subject property, remove and destroy the abandoned property and retain the scrap value, if any, to cover the costs of the removal and destruction. The Council shall thereafter give a copy of the resolution to the enforcement official who shall cause the resolution to be posted on the affected real property and mailed to the property owner in the same manner as provided in Section 904.04.

905. Abandoned & Inoperative Motor Vehicles.

905.01. Declaration of public nuisance

The presence, accumulation, or improper storage of abandoned and junk motor vehicles on real property and the public streets and highways of this city is hereby found to create an unsightly condition tending to reduce the value of real property, to invite plundering, to create fire and safety hazards, and to constitute an attractive nuisance creating a hazard to the health and safety of minors. The accumulation and outside storage of such motor vehicles is further found to promote blight and deterioration in the community and may violate the zoning regulations of the city in many instances. It is further found that such abandoned and junk motor vehicles are often in the nature of rubbish, litter and unsightly debris. Therefore, the accumulation and storage of such motor vehicles on real property, except as hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such, which remedy shall be in addition to any other remedy provided in this or other ordinances of this city or by state law.

905.02. Definitions.

For purposes of this chapter, the following definitions shall be applicable:

“Abandoned vehicle”: means any motor vehicle unattended in the same position 72 hours after being given notice (placard) and/or issued a traffic ticket or citation. Any vehicle left unattended for more than 72 hours on any public street or public ground or left unattended for more than 72 hours on a private property without the consent of the property owner is deemed abandoned and constitutes a public nuisance. A vehicle shall not be deemed abandoned under this subsection if left unattended on private property completely outside of public view. A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ, or court order is in effect.

”Enforcement officer”: The building official or the building official’s designee or the Chief of Police or the Chief of Police designee or any police officer of the city.

”Junked motor vehicle”: means any motor vehicle is apparently inoperable; is partially dismantled, wrecked or discarded or any motor vehicle which is otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects, has an approximate fair market value equal only to the approximate value of the scrap in it.

”Motor vehicle accessories”: means any part or parts of any motor vehicle.

”Placard”: a printed or handwritten poster for giving notice. See Section 905.05, Subd. 5, Notice to Remove.

”Private property”: means any real property not owned by the federal government, state, county, city vocational school district, school district or other political subdivisions.

”Public property”: means any real property owned by the federal government, state, county, city, vocational school district, school district or other political subdivision.

”Removal”: means the physical relocation of a motor vehicle from one location to another location.

”Street”: means any public highway, road or alley and shall mean the entire width between the boundary lines of any public way where any part thereof is open to the public for purposes of vehicular travel.

”Unattended”: shall mean unmoved from its location with no obvious sign of continuous human use.

”Unregistered motor vehicle”: means any motor vehicle that is not currently registered with a state motor vehicle division, any motor vehicle on which registration is currently suspended, any motor vehicle which improperly displays license plates, any motor vehicle which displays license plates or any motor vehicle which displays false license plates.

”Vehicle”: shall mean a motorized vehicle within the meaning of Chapter 168 and 168B of the Minnesota Statutes, whether or not such vehicle is registered under Minnesota law.

905.03. Abandoned Vehicle

For purposes of this article, the following irrefutable presumptions shall apply:

- (1) A vehicle shall be presumed unattended if it is found in the same position 72 hours after being placarded and/or issued a traffic ticket or citation;
- (2) Any vehicle left unattended for more than 72 hours on any public street or public ground or left unattended for more than 72 hours on private property without the consent of the property owner is deemed abandoned and constitutes a public nuisance. A vehicle shall not be deemed abandoned under this subsection if left unattended on private property completely outside of public view;
- (3) Any vehicle remaining unclaimed in any impound facility for more than ten days after certified mail notice has been sent to the owners and lien holders of record shall be deemed abandoned.

905.03 (subd. 1) Abandonment of vehicles prohibited.

No person shall leave unattended any vehicle within the city for such time and under such circumstances as to cause the vehicle to reasonably appear to be abandoned.

905.03 (subd. 2) Exception.

This section shall not apply to a vehicle stored in an enclosed building, stored on premises licensed for the storage of impounded and/or junked vehicles or parked in a paid parking lot or space where the required fee has been paid.

905.03 (subd. 3) Enforcement Officers.

This article may be enforced by any or all of the following procedures:

- (a) The building official or the building official's designee or the Chief of Police or the Chief of Police designee and any law enforcement officer may issue citations for violation of this section;
- (b) An action for collection of a forfeiture may be commenced by issuance of a summons and complaint;
- (c) Upon observing an abandoned vehicle, the building official or law enforcement officer shall cause a notice (placarded) pursuant to Section 905.05 Subd. 4 giving notice that the motor vehicle is abandoned. After the placard has remained on such abandoned motor vehicle for 72 hours, a

directed tow may be ordered.

905.04. Unregistered Vehicles

Unregistered motor vehicles prohibited on streets. No person shall cause any unregistered motor vehicle to be located upon any street within the city.

905.04 (subd. 1) Enforcement Officer

Any law enforcement who discovers any unregistered motor vehicle located upon any street within the city may cause the motor vehicle to be removed to a suitable place of impoundment or immobilized. Upon removal or immobilization of the motor vehicle, the officer shall by first class mail on the day of impounding or immobilization notify the last registered owner of said vehicle of the impoundment or immobilization. The enforcement official shall also prepare an affidavit setting forth the date, time, place and reason for the impoundment or immobilization and the name and address of the persons so notified. The Chief of Police or his designee will be forwarded a copy of the report.

905.04 (subd. 2) Exemptions.

A person charged with violating section 905.04 of this chapter may not be convicted if she/he produces in court or in the office of the arresting officer satisfactory evidence that, at the time of the issuance of the citation: (a) a complete application for registration of the motor vehicle, under MN Stats. § 169.79, when required, accompanied by the required fee had been delivered to the state department of transportation or deposited in the mail properly addressed with postage prepaid; or (b) the motor vehicle was exempt from registration.

905.04 (subd. 3) Responsibility for costs.

The owner of any unregistered motor vehicle is responsible for all costs of towing, storing and disposing of the motor vehicle. Costs not recovered from the sale of the motor vehicle may be recovered in a civil action by the city against the owner.

905.05 Junked Vehicles

905.05 (subd. 1) Purpose.

Findings of fact.

The City Council finds that the storage of non-operating vehicles outside of licensed salvage yards or private garages is a public nuisance. The City Council finds that nonoperating vehicles are eyesores, damage property values, create

attractive hazards to children and provide shelter for rats and other pests.

905.05 (subd. 2) Storage prohibited.

No person owning or having custody of any junked motor vehicle or of any motor vehicle accessories shall store or allow any such vehicle or accessories to remain on any private or public property within the city, and no person owning or leasing any private property in the city shall store or allow any such vehicles or accessories to remain on his/her property. Junked motor vehicles and motor vehicle accessories which are stored or allowed to remain on private property or public property in violation of this section are hereby declared to be public nuisances and may be abated or removed as provided below.

905.05 (subd. 3) Storage permitted.

Section 905.05 Subd. 2 shall not apply to any motor vehicle or any motor vehicle accessories which are stored and kept entirely out of the public view in a building enclosed on all sides and roofed. This section shall also not apply to a duly licensed business or commercial enterprise operated and conducted pursuant to law when such parking or storing of vehicles is necessary to the operation of the business or commercial enterprise.

905.05 (subd. 4) Enforcement Officer.

This article may be enforced by any or all of the following procedures:

(a) The building official or the building official's designee or the Chief of Police or the Chief of Police designee and any law enforcement officer may issue citations for violation of this section;

(b) An action for collection of a forfeiture may be commenced by issuance of a summons and complaint;

(c) Upon observing a junked vehicle, the enforcement officer shall provide notice that the vehicle is junked through the following methods:

(1) "Public property": the enforcement officer shall placard and/or issue a traffic ticket or citation to give notice that the motor vehicle is abandoned. In addition to the posting, the enforcement officers shall also serve, by first class mail on the day of posting or on the day immediately following, a copy of the written notice to the last registered owner of said vehicle. The enforcement official shall also prepare an affidavit setting forth the date, time, place and manner of the posting and service and the name and address of the persons so served. The return of such a mailing shall not

invalidate the notice unless due to error on the part of the enforcement officer.

After the placard has remained on such abandoned motor vehicle for 72 hours, a directed tow may be ordered.

(2) "Private property": the enforcement officer shall notify the owner of record and to the owner or persons in lawful possession of the real property upon which the vehicle is located, that the vehicle is deemed an abandoned vehicle by first class mail. If the vehicle remains an abandoned vehicle for a period of five (5) days after such notice has been sent, the enforcement officer shall placard the motor vehicle as abandoned. The enforcement official shall also prepare an affidavit setting forth the date, time, place and manner of the posting and service and the name and address of the persons so served. The return of such a mailing shall not invalidate the notice unless due to error on the part of the enforcement officer.

After the placard has remained on such abandoned motor vehicle for 72 hours, a directed tow may be ordered.

905.05 (subd. 5) Notice to remove.

(a) Whenever the enforcement officer ascertains that an abandoned or junked motor vehicle is present on real property within the City, he shall cause a notice (placarded) pursuant to Section 905.05 Subd. 4 and order to be placed upon such abandoned or junked vehicle and upon a conspicuous place on the property where said vehicle is located using substantially the following words:

NOTICE AND ORDER TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED MOTOR VEHICLE AND TO THE OWNER OR PERSON(S) IN LAWFUL POSSESSION OR CONTROL OF THIS LAND.

This vehicle (setting forth a brief description), located at (setting forth a brief description of the location) is improperly stored, and its present storage will be in violation of Section 905.05 of the Proctor City Code on (setting forth 72 hours from the date of this notice and order) unless such vehicle is removed and stored within a building pursuant to Section 905.05 Subd. 3.

Failure to remove or store said vehicle is a misdemeanor. In addition, if you fail to remove and store said vehicle as provided herein within 72 hours from the date of this notice and order, said vehicle shall be removed and disposed of by the City

in accordance with the provisions of Minnesota Statutes, Chapter 168B. Said vehicle shall be removed and disposed of by the City in accordance with the provisions set forth in Minnesota Statutes, Chapter 168B unless a written appeal of this notice and order is filed with the Proctor City Administrator within 72 hours from the date of this notice, in which case, you will be mailed written notice of the date, time and place of a public hearing before the City Board of Adjustment where you will be given the opportunity to be heard and present evidence to support your appeal.

Upon conclusion of the Board of Adjustment Hearing, the Board will prepare and forward a written recommendation to the Proctor City Council which may confirm, revoke, alter or cancel the notice and order of the enforcement official. Dated this: (setting forth of posing of order).

Signed: (setting forth name, title, address and telephone number of enforcement officer).

Dated: _____.

(b) The notice set forth in subsection (5) of this Section shall not be less than eight inches by ten inches and shall be sufficiently weatherproofed to withstand normal exposure to the elements;

905.06. Hearing Procedure.

In the event that a timely appeal is filed with the City Administrator, the City Administrator shall, within four (4) weeks schedule a date for a public hearing before the Board of Adjustment.

The City Administrator shall, by first class mail, serve notice of the date, time, place and subject of the hearing to the appeal applicant at the address provided by the applicant in the appeal application. Said notice shall also be published once in a newspaper of general circulation within the city at least one week prior to the hearing.

Thereafter, the Board of Adjustment shall convene a public hearing as scheduled, at which time the owner or any interested person in subject motor vehicle(s), and any person in lawful possession the subject motor vehicle(s), and/or their counsel or designated representative, shall have the opportunity to present evidence and testimony to support the appeal of the enforcement official's notice and order. The Board of Adjustment may receive evidence and testimony from the enforcement official and any other parties who wish to be heard. Upon receiving the evidence and testimony, the Board of Adjustment shall make a written

recommendation to the City Council.

The City Council shall review the recommendations of the Board of Adjustment and may confirm, modify, revoke, alter or cancel the order of the enforcement official. If the City Council determines that removal and proper storage of the subject motor vehicle(s) is required, the Council shall, by resolution, fix a reasonable time within which the motor vehicle(s) must be removed and stored in accordance with Section 905.05 Subd. 3 , shall provide that if the motor vehicle(s) is not so removed and stored within the time specified, the City shall remove and dispose of said vehicle(s) in accordance with Section 905.08 herein. The Council shall thereafter give a copy of the resolution to the enforcement official who shall cause said notice to be posted on the affected motor vehicle(s) and mailed to the last registered owner of said vehicle property and to the owner or persons in lawful possession of the real property upon which said vehicle(s) is located.

905.07. Failure to remove.

Failure by the owner of the motor vehicle or owner or person in lawful possession of the real property upon which the vehicle is located to remove or store the motor vehicle within the time specified in the notice or, if an appeal is timely filed, within the time specified in the City Council resolution, shall constitute a misdemeanor.

905.08. Abatement, removal and disposition.

Abatement and removal by city. If the registered owner of any motor vehicle which is in violation of this Chapter, or if the owner or person in lawful possession or control of the property upon which such vehicle is located, shall fail, neglect or refuse to remove or house such vehicle in accordance with the notice of the enforcement officer or, if the notice was timely appealed, the resolution of the City Council, the motor vehicle shall be deemed abandoned and the enforcement officer may remove, impound and dispose of such vehicle in the manner, and according to the procedure that abandoned and junk vehicles may be removed, impounded and disposed of by the City as set forth in Minnesota Statutes Chapters 168 and 168B.

905.09. Entry for removal or abatement.

Any person, at the direction of the enforcement officer, is hereby expressly authorized to enter upon private property for the purpose of enforcing the provisions of this ordinance. It is unlawful for any person to interfere with or

hinder such person so authorized to enter upon private property in the performance of these duties.

905.10. Prohibition on streets, highways, or rights-of-way.

It is unlawful for any person to park or leave an inoperative vehicle in the right-of-way of public streets, provided that a reasonable time, not to exceed 24 hours from the time of disability, is permitted for the removal or servicing of a disabled motor vehicle. Thereafter, the City may remove, impound and dispose of such vehicles in accordance with the procedures set forth in Minnesota Statutes, Section 168B.

905.11. Restoration of vehicles.

Notwithstanding provisions of this Chapter to the contrary, one motor vehicle that is being kept for restoration purposes may be stored on each residential parcel of land if:

(1) The motor vehicle is kept under a tarp or is kept behind opaque visual screening; and

(2) Substantial and verifiable progress is made toward the restoration of the vehicle beginning within 30 days after it is parked on the lot and continuing thereafter until the restoration is completed.

906. Trapping.

906.01 Purpose. The purpose of this ordinance is to preclude the potential harm that may be inflicted upon people, particularly children, and to prevent the maiming, unselective catching, and destruction of wild animals and birds and domestic animals that come in contact with traps.

906.02 Definitions. As used in this ordinance, the terms below have the meanings described.

(a) Trap: Any mechanical device or snare which seeks to hold, capture or kill an animal.

(b) Trapping: The setting or laying or otherwise using of a trap in the city limits of Proctor.

906.02 Violations. Trapping in all areas within the City of Proctor, including park areas is prohibited.

906.03 Penalty. Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law, and shall be subject to the City Administrative Fine Schedule pursuant to Chapter 506A of the City Code.

906.04 Exceptions.

(a) The provisions of this ordinance do not apply to the use of any trap specifically designed to kill rats, mice, gophers, or moles.

(b) The provisions of this ordinance do not apply to the use of cage type live traps employed for the control of nuisance animals as long as such traps are tended each 12 hours.

(c) The provisions of this ordinance do not apply to the representatives of the city, county or state who may, in the course of their duties, be required to use a trap to trap, snare, kill or otherwise restrain the free movement of any wildlife, animal, or bird for humane or authorized purposes.

(d) The provisions of this ordinance do not apply to teachers trapping for educational programs or scientists for the purpose of studying animals, wildlife, or birds which will be returned to their natural environment uninjured.

907 Predatory Offenders

The City Council of the City of Proctor Does Ordain:

Predatory offenders residency – prohibited conduct.

(1) Findings and intent:

(1) Repeat predatory offenders present an extreme threat to the public safety. Predatory offenders are likely to use physical violence and to repeat offenses, and most predatory offenders commit numerous offenses, have many more victims than are reported, and are prosecuted for only a fraction of their crimes. This makes the cost of predatory offender victimization to society at large incalculable.

(2) It is the intent of this Chapter to serve the City's compelling interest to promote, protect and improve the health, safety, and welfare of Proctor citizens by creating areas around locations where children regularly congregate in concentrated numbers wherein certain predatory offenders are prohibited from establishing temporary or permanent residence;

(b) Definitions. The following words, terms and phrases shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning;

(1) "Designated predatory offender". Any person who is convicted of any offense involving sexual contact with a minor for which registration as a predatory offender is required under Minnesota Statutes Section 243.166, a successor statute, or a similar statute from another state, and has been categorized as a Level III predatory offender under Minnesota Statutes Section 244.052, a successor statute, or similar statute from another state in which that person's risk assessment indicates a high risk of re-offense;

(2) "Permanent residence". A place where a person abides, lodges, or resides for 14 or more consecutive days;

(3) "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 nonconsecutive days in any month and which is not the person's permanent residence;

(4) "School". A public or nonpublic elementary or secondary school;

(5) "Licensed child care center". A group child care center currently licensed by the St. Louis County, Minnesota public health and human services department;

(6) "Public playground". A publicly owned, improved outdoor 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;

(c) Predatory offenders prohibition; penalties; exceptions.

(1) Prohibited location of residence. It is unlawful for any designated predatory offender to establish a permanent or temporary residence within 2,000 feet of any school, licensed child care center or public playground;

(2) 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 or temporary residence to the nearest outer property line of the school, licensed child care center, or public playground;

(3) Penalties. A person who violates this Section shall be punished by a fine of not exceeding \$1,000 or confinement for a term not exceeding 90 days, or by both such

fine and confinement. Each day a person maintains a permanent or temporary residence in violation of this ordinance constitutes a separate violation;

(4) Exceptions. A designated predatory offender residing within a prohibited area as described in Section 34-17(c)(1)-(2) does not commit a violation of this Section if any of the following apply:

(A) The designated predatory offender registered the residence pursuant to Minnesota Statutes sections 243.166 and 243.167, or a successor statute, prior to the effective date of this Chapter;

(B) The designated predatory offender was a minor when he/she committed the offence and was not convicted as an adult;

(C) The person is a minor;

(D) The school, licensed child care center or public playground within 2,000 feet of the person's permanent or temporary residence was opened after the designated predatory offender reported and registered the residence pursuant to Minnesota Statutes sections 243.166 and 243.167, or a successor statute;

(E) The residence is also the permanent residence of the designated predatory offender's parents, grandparents, siblings or spouse;

(F) The residence is a property purchased or leased by the Minnesota Department of Corrections prior to June 10, 2010.

1000 - Land and Building Regulations

1001. Subdivision Regulations

1001.01. Definitions. For the purpose of this chapter, the terms below are defined as follows:

- (1) Subdivision or Subdivide. The term "subdivision or subdivide" means the subdivision of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development or, if a new street is involved, any division of a parcel of land; provided that a division of the land for agricultural purposes into lots or parcels of five acres or more and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the process of subdividing or to the land subdivided.
 - (2) Streets and Alleys. The term "street" means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, drive, or however otherwise designated. The following shall be types of streets:
 - (a) Arterial streets and highways are those which are used primarily for fast or heavy traffic.
 - (b) Collector streets are those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.
 - (c) Minor streets are those which are used primarily for access to the abutting properties.
 - (d) Marginal access streets are minor streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.
 - (e) Alleys are minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.
 - (3) Engineer. The term "engineer" means the City Engineer or engineering consultant of the Council.
 - (4) Pedestrian/Bicycle Ways. The term "pedestrian/bicycle ways" means paved ways for the exclusive use of pedestrians and/or bicycle riders.

1001.02. Procedure.

Subdivision 1. Pre-application.

- (1) Previous to the filing of an application for conditional approval of the preliminary plat (preliminary subdivision plan or general subdivision plan), the subdivider shall submit to the Planning Commission plans and data as specified in §1001.07. This step does not require formal application, fee, or filing of the plat with the Planning Commission.
- (2) Within 15 days of submission, the Planning Commission shall inform the subdivider that the plans and data as submitted or as modified do or do not meet the general objectives of these regulations. When the Planning Commission finds the plans and data do not meet the general objectives of these regulations, it shall express its reasons therefor. Approval under this subdivision does not constitute approval of any type of preliminary or final plat.

Subd. 2. Conditional Approval of Preliminary Plat.

- (1) On reaching conclusions informally as recommended in subd. 1 above regarding the general program and objectives, the subdivider shall cause to be prepared a preliminary plat, together with improvement plans and other supplementary material as specified in §1001.05.
- (2) Twelve copies of the preliminary plat and supplementary material specified shall be submitted to the Planning Commission with written application for conditional approval at least 25 days prior to the meeting at which it is to be considered. The Planning Commission shall give notice of public hearing on the preliminary plat by at least ten days published notice in the official newspaper and shall submit copies of the preliminary plat and supplementary material specified to the Public Utilities, Flood Control Commission, Police Department, and Fire Department for a report upon the features of the plat of concern to each department, and to the City Engineer for his report upon the accuracy of the surveys, the adequacy of the monuments, the proposed street improvements, other special features of concern, and to check the plat boundary survey with the county surveyor to determine the coinciding of the plat boundary lines with the boundary line of adjoining plats, tracts, or other subdivision lines or markers.
- (3) The Planning Commission shall hold the hearing and receive testimony from persons interested in the plat and either during the hearing or at its conclusion shall review other data submitted in response to the requests in Paragraph (2) above.
- (4) Following: (a) review of the preliminary plat and other material submitted for

conformity thereof to these regulations; (b) testimony at the hearing and agency response; and (c) recommended changes deemed advisable and the kind and extent of improvements to be made, the Planning Commission shall, within 40 days of initial submission, act thereon as submitted or modified and shall make recommendations in regard to the plat and its reasons therefor.

- (5) The action of the Planning Commission shall be noted on three copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider, one retained by the Planning Commission, and one sent to the City Council for its action.
- (6) Conditional approval of a preliminary plat shall not constitute approval of the final plat (subdivision plat). Rather, it shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the preparation of the final plat which will be submitted for approval of the Planning Commission and for recording upon fulfillment of the requirements of these regulations and conditions of the conditional approval, if any.

Subd. 3. Final Plat.

- (1) The final plat shall conform substantially to the preliminary plat as approved and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these regulations.
- (2) Applications for approval of the final plat shall be submitted in writing to the Planning Commission at least 15 days prior to the meeting at which it is to be considered.
- (3) The Planning Commission shall make recommendations to the City Council which shall act to approve or disapprove the plat. Such

action shall be taken within 60 days of initial application for final plat approval.
- (4) Five copies of the final plat and other exhibits required for approval shall be prepared as specified in §1001.07, and shall be submitted to the Planning Commission within six months after approval of the preliminary plat; otherwise, such approval shall become null and void unless an extension of time is applied for and granted by the Planning Commission.

1001.03. Design Standards.

Subdivision 1. Application. All plats shall comply with the design standards set forth in this section.

Subd. 2. Community Unit Development. The design standards of this section may be modified in the case of a plan utilizing an unusual concept of development which meets the requirement of and has gained approval under §1002.15 subd. 5, the Community Unit Development Section. The Community Unit Development provision is intended to encourage original and imaginative subdivision design which preserves the natural amenities of the site and provides for the general welfare of the City. All modification of the subdivision regulations shall conform with the Community Unit Development requirements of the zoning chapter.

Subd. 3. Dedication of Lands for Public Purposes. The developer shall dedicate a reasonable portion of the subdivision to the public for use as public streets, roads, sewers, electric, gas and water facilities, storm water drainage and holding areas for ponds, and similar utilities and improvements. In addition, the developer shall dedicate a reasonable portion of the subdivision to the public or preserve the same for public use at the option of the Council as parks, playgrounds, trails, or open space; provided, however, that the City may chose, at its option, to accept an equivalent amount in cash from the developer for all or part of the portion required to be dedicated for such public use based upon the fair market value of the land no later than at the time of final approval. Any cash payments received hereunder shall be placed in a special fund which shall be used only for the purposes of acquisition of additional open spaces described above or maintenance thereof. In determining what is a reasonable portion of the subdivision to be dedicated, the Council shall consider all relevant factors relating to the subdivision, including the additional burden to be placed upon City's public facilities as set forth herein.

Subd. 4. Natural Features. Existing natural features which would add value to the subdivision and the City such as trees, steep slopes, watercourses, historic spots, and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design of the subdivision.

Subd. 5. Streets. The Council shall not approve any plat unless all streets shown thereon are designed and located as to accommodate the probable volume of traffic thereon, afford adequate light and air, facilitate fire protection, provide access of fire fighting equipment to buildings, and provide a coordinated system of streets conforming to the City street plan and shall specifically comply with the following:

- (1) In the case of subdivision for commercial, industrial, and public purposes, no street giving access upon a major street shall be located closer than 100 feet along the same side of such major street, to any other driveway, or public or private street in the same or another subdivision.

- (2) Local streets shall be so planned as to discourage through traffic.
- (3) Cull-de-sacs shall normally not be longer than 400 feet, including a turnaround which shall be provided at the closed end with an outside curb radius of at least 40 feet and a right of way radius of not less than 50 feet.
- (4) Alleys shall not be provided in residential districts but shall be included in commercial and industrial areas where needed for loading and unloading or access purposes.
- (5) The minimum distance between center lines of parallel or approximately parallel streets intersecting a cross street from opposite directions shall be 125 feet.
- (6) Intersections of more than two streets at one point shall be avoided.
- (7) Dead-end streets shall be prohibited unless provided with a turnaround or cull-de-sac arrangement.
- (8) Right of way requirements may be increased for specific thoroughfares if existing or anticipated traffic flow warrants it or if drainage easements parallel such thoroughfares. Such increased width will be set by the Council after recommendation of the Planning Commission and engineer.

STREET DESIGN STANDARDS

	Major Streets	Collector Streets	Local Streets	Cul-de-Sacs	Pedestrian/ Bike Ways
Right of Way Width	80	70	50	50	10
Paving Width	44	40	28	28	8
Maximum Grade Subject to approval of City Engineer	3%	4%	5%	5%	
Maximum Angle for Intersection	90°	80°	70°	70°	"
Minimum Curb Radius	35'	12'	12'	12'	"

Horizontal Alignment
(Minimum Radii of
Center Line)

--SUBJECT TO APPROVAL OF CITY ENGINEER --

Vertical Curves (Minimum Sight Distance)	500	350	200	100
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Subd. 6. Blocks. Blocks shall ordinarily not exceed one 1,000 feet in length. Where it is necessary for blocks to exceed this length, pedestrian ways and/or easements may be required near the center of the block.

Subd. 7. Lots. The lot and yard sizes shall conform with the requirements of the City zoning regulations, §1002, and the lot shall be designed in accord with the following design standards:

- (1) Every lot shall be provided with access adequate for the use of public safety vehicles and other public and private street system, improved in accordance with this Ordinance, and connected to the general street system.
- (2) Side lines of lots shall be approximately right angles to straight streets and on radial lines on curved streets. Some variation from this rule is permissible, but pointed or very irregular lots shall be avoided unless it is clearly evident that such variation shall improve the overall neighborhood design.
- (3) Double frontage lots shall be avoided.
- (4) When a tract is subdivided into larger than required building lots and there is no covenant preventing resubdivision of the lots, such lots or parcels shall be so arranged as to permit a logical location and opening of future streets and resubdividing with provisions for adequate utility connections for each subdivision.

Subd. 8. Easements. Shall be required at a minimum of 20 feet. Where a subdivision is traversed by a water course, there shall be provided a storm water easement or drainage right-of-way of width sufficient for the purpose.

Subd. 9. Water and Sewer Systems. The water supply and sewage disposal systems for

the subdivision shall meet the design standards and requirements of the City and all regulations promulgated by the Minnesota Department of Health.

Subd. 10. Commonly-Owned Conservation Areas. The developer may include areas within the plat which are to be commonly-owned and which are to be set aside and not improved in order to preserve the natural features thereof. The City, in its discretion, may permit the developer to deviate from the minimum lot size requirements after consideration of the commonly-owned conservation areas. Provided, however, that the aggregate deviation from the minimum lot size permitted by virtue of commonly-owned conservation areas shall not exceed the size of such commonly-owned conservation areas.

1001.04. Improvements.

Subdivision 1. General. All of the required improvements specified in this section shall be constructed in accordance with the City standards for construction and all other applicable City, county, and state regulations.

Subd. 2. Monuments and Markers. Concrete monuments shall be set at the intersection of all lines forming angles in the boundary of the subdivision. Iron or steel markers shall be set at the beginning and ending of all curves along street property lines, at all points where lot lines intersect curves, either front or rear, at all angles in property lines of lots, and at all other lot corners.

Subd. 3. Streets. The streets shall be graded if required by the Planning Commission to the grades and dimensions shown on plans and profiles and approved by the Planning Commission and shall include the following improvements:

- (1) Suitable drainage structures, culverts, storm sewers, ditches, and related installations shall be provided to insure adequate drainage of all points along the streets.
- (2) Concrete curbs and gutters shall be required on all streets.
- (3) The base course shall consist of latest Minnesota Department of Highways approved material having a thickness of not less than eight inches. The Council shall have the right to determine whether this thickness is adequate for the type of street that has been proposed.
- (4) "Blacktop" paving, as specified by the engineer, shall be required on all streets.
- (5) Street shoulders shall be constructed which are uniformly and thoroughly

compacted by rolling and level with tops of curbs.

Subd. 4. Sidewalks. Paved sidewalks shall be installed along all streets.

Subd. 5. Storm Drainage. The construction of a storm drainage system shall conform to the following requirements:

- (1) Drainage ditches or channels shall have a minimum gradient of 1 percent.
- (2) Open watercourses shall have adequate capacity and erosion control to insure safe and healthful disposal of storm water.
- (3) When top soil has been removed from the surface of a lot on a slope where erosion will cause a displacement of loose material, the subdivider shall be required to seed or provide other means to prevent the wash from damaging adjacent property or accumulating on street surfaces.

Subd. 6. Water Supply. Where public water supply is available, as determined by the Planning Commission, the subdivider shall connect to such public water supply and construct a system of water mains with a connection for each lot. Where public water is not available:

- (1) The subdivider shall supply acceptable evidence of the availability of water. The subdivider may be required to make one or more test wells in the area to be platted if such evidence is deemed not acceptable. Copies of well logs from said test wells which are obtained shall include the name and address of the well driller and shall be submitted with the plan to the Council.
- (2) If a private water supply is permitted, individual private wells shall be located at least 25 feet from property lines, 50 feet from all septic tanks, approximately 100 feet from all tile disposal fields and other sewage disposal facilities, 10 feet from all cast iron sewer lines, 30 feet from any vitrified sewer tile lines, and shall not be located within any floor plan.

Subd. 7. Sewers. Where the municipal sewer system is reasonably accessible to the subdivision, the subdivider shall provide the subdivision with a complete sanitary sewer system to be connected to the municipal sanitary sewer. Where the municipal sewer system is not reasonably accessible to the subdivision and in the judgment of the Planning Commission, extension of the municipal sewage system to the subdivision will not take place in the foreseeable future, private sewage disposal systems on individual lots consistent with all City, county, and state regulations applicable thereto.

Subd. 8. Utilities. Every lot in a subdivision shall be capable of being served by utilities, and easements acceptable to the utility companies shall be provided. Electric, gas, and other utility distribution lines shall be installed within public rights of way or within properly designated easements. To the fullest extent possible, underground utility lines shall be encouraged but not installed beneath existing or proposed paved areas.

Subd. 9. Trees. Trees shall be planted or existing trees maintained along the streets. The location and types of trees must meet the approval of the Planning Commission.

Subd. 10. Street Signs. Street name signs of a type adopted or approved by the Planning Commission shall be installed at each street intersection by the subdivider on a location specified by the engineer.

1001.05. Pre-application Plans and Data. The following information shall be submitted prior to the submission of the preliminary plat:

- (1) General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required below. This information shall include, but is not necessarily limited to, data on existing covenants, land characteristics, available community facilities and utilities, and information describing the subdivision proposal such as number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park areas, other public areas, proposed protective covenants, and proposed utilities and street improvements.
- (2) Location map shall show the relationship of the proposed subdivision to existing community facilities which serve or influence it. Include development name and location, main traffic arteries, public transportation lines, shopping centers, elementary and high schools, parks and playgrounds, principal places of employment, other community features such as railroad stations, airports, hospitals and churches, title, scale, north arrow, and date.
- (3) Sketch Plan on topographic survey shall show in simple sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be a free-hand pencil sketch made directly on a print of the topographic survey. In any event, the sketch plan shall include either the existing topographic data showing prevalent water flows, general slopes of the lands and anticipated wetlands.

1001.06. Preliminary Plats.

Subdivision 1. Data for Preliminary Plats. The following information shall be submitted as a basis for the preliminary plat and shall include existing conditions as follows, except when otherwise specified by the Planning Commission:

- (1) Boundary lines: bearings and distances.
- (2) Easements: location, width, and purpose.
- (3) Streets on and adjacent to the tract: name and right-of-way width and location; type, width, and elevation of surfacing; any legally established center-line elevations; walks, curbs, gutters, culverts, etc.
- (4) Mailbox location in cull-de-sacs: in the event that the planned improvement contains cul-de-sac(s), the location of all mailboxes to be installed in the cul-de-sac(s) must be identified, and all of said mailboxes shall be gang mailboxes. The mailboxes shall be installed in the location(s) depicted on the preliminary plat.
- (5) Utilities on and adjacent to the tract: location, size and invert elevation of sanitary, storm, and combined sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone pole, and street lights; if water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to and size of nearest ones, showing invert elevation of sewers.
- (6) Ground elevations on the tract, based on a datum plane approved by the City Engineer: for land that slopes less than approximately 2 percent, show spot elevations at all breaks in grade, along all drainage channels or swales, and at selected points not more than 100 feet apart in all directions; for land that slopes more than approximately 2 percent, either show contours with an interval of not more than 5 feet if ground slope is regular and such information is sufficient for planning purposes or show contours with an interval of not more than 2 feet if necessary because of irregular land or need for detailed data for preparing plans and construction drawings.
- (7) Subsurface conditions on the tract, if required by the Planning Commission: location and results of tests made to ascertain subsurface soil, rock and ground water conditions, depth to ground water unless tests pits are dry at a depth of five feet, location and results of soil percolation tests if individual sewage disposal systems are proposed.
- (8) Other conditions on the tract: water courses, marshes, rock outcrop, wooded areas, isolated preservable trees one foot or more in diameter, houses, barns, shacks, and other significant features. No plat will be approved for a subdivision which covers an area subject to periodic flooding or which contains extremely poor drainage facilities and which make adequate drainage of the streets and lots

impossible.

- (9) Other conditions on adjacent land: approximate direction and gradient of ground slope, including any embankments or retaining walls, character and location of buildings, railroads, power lines, towers, and other nearby non-residential land uses or adverse influences, owners of adjacent unplatted land; for adjacent platted land refer to subdivision plat by name, recordation date, and number and show approximate percent built-up, typical lot size, and dwelling type.
- (10) Photographs, if required by the Planning Commission: camera locations, directions of views and key numbers.
- (11) Zoning on and adjacent to the tract.
- (12) Proposed public improvements: highways or other major improvements planned by public authorities for future construction on or near the tract.
- (13) Key plan showing location of the tract.
- (14) Title and certificates: present tract designation according to official records in office of appropriate recorder, title under which proposed subdivision is to be recorded with names and addresses of owners, notation stating acreage, scale, north arrow, datum, benchmarks, certification of registered civil engineer or surveyor, date of survey.
- (15) Commonly-Owned Conservation Areas. Location, dimensions, and notable natural features.
- (16) Wetlands. Any and all wetlands required to be delineated by state or federal law must be identified on the preliminary plat.

Subd. 2. Form of Preliminary Plat. The preliminary plat shall be at a scale of 200 feet to 1 inch or larger (preferred scale of 100 feet to 1 inch). It shall show all existing conditions required in subd. 1 above and shall show all proposals including the following:

- (1) Streets: names, right-of-way and roadway widths, approximate grades and gradients, similar data for alleys, if any.
- (2) Other rights-of-way or easements: location, width, and purpose.
- (3) Location of utilities, if not shown on other exhibits.
- (4) Lot lines, lot numbers, and block numbers.

- (5) Sites, if any, to be reserved or dedicated for parks, playgrounds, or other public uses.
- (6) Sites, if any, for multi-family dwellings, shopping centers, churches, industry or other non-public uses, exclusive of single-family dwellings.
- (7) Minimum building setback lines.
- (8) Site data, including number of residential lots, typical lot size, and acres in parks, etc.
- (9) Title, scale, north arrow, and date.

Subd. 3. Other Preliminary Plans. When required by the Planning Commission, the preliminary plat shall be accompanied by profiles showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision, typical cross sections of the proposed grading, roadway, and sidewalk, and preliminary plan of proposed sanitary and storm water sewers with grades and sizes indicated. All elevations shall be based on a datum plane approved by the City Engineer.

Subd. 4. Protective Covenants. Proposed protective covenants whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development shall be submitted with the preliminary plat.

1001.07. Final Plats.

Subdivision 1. Final Plat Data and Form. The final plat shall be drawn in ink on tracing cloth, or modern day replacement, on sheets 30 inches wide by 18 inches long and shall be at a scale of 100 feet to 1 inch or larger. Where necessary, the plat may be on several sheets accompanied by an index sheet showing the entire subdivision. For large subdivisions the final plat may be submitted for approval progressively in contiguous sections satisfactory to the Planning Commission. Additionally, the applicant shall provide to the Planning Commission at least five (5) 11' by 17' paper copies of the final plat prior to approval and one signed and recorded paper copy with recording information thereon after approval and recording have been accomplished. The final plat shall show the following:

- (1) Primary control points, approved by the City Engineer, or descriptions and "ties" to such control points to which all dimensions, angles, bearings, and similar data on the plat shall be referred.
- (2) Tract boundary lines, right-of-way lines of streets, easements, and other rights-of-

way, and property lines of residential lots and other sites; with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves.

- (3) Name and right-of-way width of each street or other right-of-way.
- (4) Location, dimensions, and purpose of any easements.
- (5) Number to identify each lot or site.
- (6) Purpose for which sites, other than residential lots, are dedicated or reserved.
- (7) Location of description of monuments.
- (8) Reference to recorded subdivision plats of adjoining platted land by record name, date and number.
- (9) Certification by surveyor or engineer certifying to accuracy of survey and plat.
- (10) Certification of title showing that applicant is the land owner.
- (11) Statement of owner dedicating street, rights-of-way, and any sites for public uses.
- (12) Title, scale, north arrow, and date.

Subd. 2. Street Cross Sections. There shall be submitted with the final plat street cross sections and profiles drawn to City standard scales and elevations and shall be based on a datum approved by the City Engineer. The profiles and cross sections shall be approved by the City Engineer.

Subd. 3. Other Data. Such other certificates, affidavits, endorsements, or deductions as may be required by the Planning Commission in the enforcement of these regulations. (For fees, see §1003.01 subd. 2.)

Subd. 4. Deadline for Recording. The final plat and any and all necessary exhibits shall be properly recorded with the County Recorder's Office within six months after approval thereof; otherwise, such approval shall become null and void unless an extension of time is applied for and granted by the Planning Commission.

1001.08. Variance.

Subdivision 1. Hardship. Where the Planning Commission finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the general community plan or these regulations.

Subd. 2. Conditions. In granting variances, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

Subd. 3. Multiple Hearings. Whenever multiple hearings relating to the same property take place on the same date as hearings required under this chapter, the applicant shall be obligated to pay only the highest applicable application fee.

1001.09. Inspection. When the plans of street and other improvements have been approved as provided in this chapter, the subdivider shall first notify the Clerk of his intention to proceed with the construction or installation of said streets and improvements; notification shall be made at least one week before any such construction or installation shall commence so as to give the City officials an opportunity to inspect the site prior to commencement of work and to inspect installation or construction of said streets and improvements during the course of work being performed. In order to defray a part of the costs incurred by the City in inspecting the installation of the improvements required by this chapter, the subdivider shall, before he proceeds with any construction or installation, present a certified check or money order made payable to the Council in an amount equal to 1-1/2 percent of the engineer's estimate of the cost of the improvements.

1001.10. Maintenance. Prior to any street or other improvement being accepted by the City as hereinafter provided, the subdivider shall post a maintenance bond and/or other security naming the City as obligee in an amount deemed adequate by the Council to insure maintenance of said improvements for a period of a least 12 months from the date of acceptance by the City.

1001.11. Acceptance. After streets and improvements have been installed and constructed pursuant to the requirements contained in this chapter and in the event that the subdivider desires to have the City accept said streets or improvements, the subdivider shall notify the proper City officials that the construction or installation has been completed and shall supply the City with a minimum of five copies of the as-built plan on which the street or improvement in question has been constructed or installed. The five copies of the plan shall show thereon the signatures of all agencies and individuals who have approved the plan and contain a notice thereon as to where and when the plan was recorded in the county register of deeds office. The portion of street or improvement which the subdivider desires to have the City accept shall be shaded or colored in

yellow on each of the five copies. The plan shall also clearly designate the number of lineal feet of said street or improvement which the subdivider desires to be accepted by the City.

1001.12. Conveyance of Property by Metes and Bounds. No land within the City shall be conveyed by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961, or to a plat not approved under City subdivision regulations; nor shall such conveyance be recorded in the office of the county recorder, except for those exceptions set forth in Minnesota Statute §462.358 subd. 4b paragraphs (1) through (6). Provided, however, that where the Council finds compliance with the foregoing restriction will create unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the Council may waive such compliance by adoption of a resolution to that effect and the conveyance may then be made and filed or recorded.

1001.13. Building Permits. No building permit shall be issued by the City for work on any land or lot which is described and/or conveyed in violation of §1001.12 or any other provision of this chapter or Minnesota Statute §462.358. (See §1003.01, et seq., regarding applicable codes and fees.)

1002.01. Definitions. For the purpose of this chapter, certain terms used herein are defined as follows:

- (1) Accessory Use or Structure. A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.
- (2) Attachment. An extension of or increase to the floor area or height of an existing building or structure meeting building code standards.
- (3) Boardinghouse. A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for five or more persons, but not exceeding fifteen persons.
- (4) Dwelling. Any building or portion thereof which is designed for or used for residential purposes. For the purposes of this subpart, a dwelling shall have an outside width of 20 feet at its narrowest point and shall be placed upon a permanent foundation which complies with all applicable manufacturer's specifications, building or other codes, and the City Code.

Manufactured homes meeting the width and foundation requirements set forth above and that otherwise fully comply with applicable codes shall be considered dwellings. Mobile homes shall be defined as those manufactured homes which do not meet the minimum width requirements of this definition. Mobile homes shall be regulated

by other provisions of the City Code limiting their placement to mobile home parks or other such specialized uses.

- (a) One-Family. Detached residential dwelling unit designed for and occupied by one family only.
- (b) Two-Family. A detached residential building containing two dwelling units designed for occupancy by not more than two families.
- (c) Multiple-Family. A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.
- (4) Family. One or more persons related by blood, adoption, or marriage, living and cooking together as a single house-keeping unit, exclusive of household servants. A number of persons but not exceeding two living and cooking together as a single housekeeping unit though not related by blood, adoption, or marriage shall be deemed to constitute a family.
- (5) Filling Station, Gas Station, or Service Station. Any building, structure, or land used primarily for the dispensing, sale, or offering for sale at retail of any automobile fuels, oils, and accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories.
- (6) Home Occupations.
 - (A) Permit Required. No person required to obtain a permit as provided herein shall engage or conduct a home occupation in any dwelling unit within the City of Proctor not otherwise zoned for said use without first obtaining a permit to do so.
 - (B) Permit Requirements. Home occupations shall require a permit if any of the following circumstances would occur more than 90 days each year.
 - (i) Customers visiting the premises.
 - (ii) Manufacture of products on the premises.
 - (iii) More than one vehicle associated with the home occupation which is classified as a light commercial vehicle.
 - (iv) A vehicle(s) used in the home occupation, and parked on the premises, which exceeds a three-quarter ton payload capacity.

(C) Definitions used in this Code:

- (i) "Home occupation" means the use of dwelling unit for gainful employment through the manufacture of or providing the sale of goods and/or services.
- (ii) "Dwelling unit," except as hereinafter specifically limited, means any living unit contained within a dwelling and occupied by a person or family as a residence.

(D) It is the intent of this Ordinance to permit in dwelling units only those home occupations that are compatible with other permitted uses and character of residential neighborhoods. No home occupation shall be permitted in any building containing more than one dwelling unit or where the owner(s) of the building do not reside therein. Only one permit per dwelling unit shall be generally allowed, provided that the City Council may allow a resident's request for no more than two such permits in a single dwelling unit if the combined operation of the two permitted uses does not otherwise violate the provisions herein.

(E) Application and Permit Fee. All applicants for a permit for home occupations shall file with the City Clerk a written application for each such permit on forms to be prescribed by the City. The application shall be submitted by the City Clerk to the Fire Chief, the Building Inspector, and such other City inspectors as may be appropriate. The approval or disapproval of the Fire Marshal and all City inspectors shall be delivered to the City Clerk within 15 working days from the date the application is received by the Clerk. The appropriate permit fee shall accompany each application. All permits shall be reviewed by the Planning Commission. The Commission's recommendations on each such permit shall be submitted to the City Council for the Council's consideration.

The annual permit fee shall be subject to the City Schedule of Charges and Fees and in addition to the annual permit fee, any additional costs incurred by the City in processing any application shall be borne by the applicant and shall be paid prior to the issuance of the permit. All applications for renewal shall be submitted to the City Clerk, together with applicable fee, not later than the 1st day of December prior to the effective renewal date. Any annual renewal inspection required of the permitted premises by the City Building Official shall be performed immediately after the renewal application is received by the City. The permit shall run from January 1 of each calendar year, regardless of when the permit was obtained, until December 31 of each calendar year.

(F) Regulation and Performance Standards.

- (i) No one other than a member of the immediate family occupying the dwelling unit shall be employed on the licensed premises at any time.
- (ii) Sign. Home Occupations shall be permitted one sign which shall not exceed five (5) square feet in size. If the sign is double faced, both faces of the sign may contain a graphic message, but the total area of any face of the sign shall not exceed five (5) square feet. The sign may be located upon the dwelling in which the occupation is conducted, or it may be placed in the front yard of the premises with a minimum set back from the front property line of fifteen (15) feet.
- (iii) No home occupation shall be conducted in an accessory building except in an attached or detached garage.
- (iv) No home occupation shall create substantial additional traffic. More than 20 vehicles coming to the licensed dwelling unit for service or products in any one day shall constitute substantial additional traffic.
- (v) Any need for parking shall be met off the street and other than in the required front yard. Any planned use of backyards for parking shall be detailed in the application for permit.
- (vi) No home occupation shall cause an increase in sewer, electric, or water usage to the extent that the combined total use for the licensed dwelling unit exceeds the normal average for comparable residences within the City.
- (vii) There shall be no storage of any kind of equipment, materials, supplies, or products used or manufactured under the permit which are visible from the outside of any buildings on the licensed premises.
- (viii) No use of the licensed premises shall result in a change in fire rating of the dwelling unit or the fire district in which the licensed dwelling unit is located.
- (ix) All licensed dwelling units shall retain their residential look,

appearance, and character; and the appearance of any such dwelling unit shall not be altered so as to change its residential look, appearance, and character. No home occupations shall be conducted in the licensed dwelling unit which alters the residential character of the dwelling unit, either by the use of colors, materials, construction, lighting, or the use of advertising signs (other than those specifically permitted).

- (x) No home occupation shall be conducted in the licensed dwelling unit which results in the emission of sounds, odors, noises, vibrations, heat, glare, or electrical disturbances which constitute a nuisance to other property owners within the City.
- (xi) An area equivalent to no more than twenty (20) percent of the gross floor space of the dwelling unit, including the basement and garage, shall be used in the conduct of a home occupation.

In calculating the gross floor space devoted to a home occupation, the following rules shall apply:

- (a) Any room located in the dwelling unit or an attached garage in which such home occupation is carried out shall be included in its entirety in the calculation; and
 - (b) If such home occupation is carried on in a detached accessory building, only those portions actually devoted to the home occupation shall be included in the calculation.
- (xii) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
 - (xiii) There shall be no fire, safety, or health hazards.
 - (xiv) A home occupation shall not include the repair of internal combustion engines, body shops, machine shops, welding, ammunition manufacturing, or other objectionable uses as determined by the City. Machine shops are defined as places where raw metal is fabricated using machines that operate on more than one hundred twenty (120) volts of current.

- (xv) The City Council may add any additional requirements that it deems necessary to insure that the operation of home occupation will be compatible with nearby land uses.
- (G) Hours of Operation. No home occupation, except family day care homes, shall receive the public in any licensed dwelling unit before 7:00 a.m. or after 9:00 p.m. of any day.
- (H) Revocation. Every permit granted hereunder may be revoked by the City Council for a violation of any provision of this Ordinance or of any ordinance, law, statute, or regulation; provided, however, no such revocation shall become effective until the permittee has been given ten days notice by mail or personal service of the Council's intent to revoke said permit. If within said ten day period the permittee shall request a hearing on a proposed revocation, the revocation shall not become effective until the Planning Commission has held a hearing regarding the matter and made its recommendations to the City Council. After revocation, no permit shall be granted for the same dwelling unit during the three month period following the effective date of any such revocation.
- (I) Penalties. Any person violating any provision of this Ordinance shall upon conviction thereof be guilty of a misdemeanor.
- (7) Lot. Land occupied or to be occupied by a building and its accessory buildings or by a dwelling group and its accessory buildings, together with such open space as are required under the provisions of this chapter for a building site in the district in which such lot is situated and having its principal frontage on an improved street.
- (8) Lot, Corner. A lot abutting upon two or more streets at their intersection.
- (9) Lot, Double Frontage or Through Lot. A lot having a frontage on two streets as distinguished from a corner lot.
- (10) Lot Frontage. The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage and yards shall be provided as indicated under Yards in this section.
- (11) Lot Depth. The depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

- (12) Lot Width. The width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80 percent of the required lot width except in case of lots on turning circle cul-de-sacs, where the 80 percent requirement shall not apply.
- (13) Lot of Record. A parcel of land which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of St. Louis County or a parcel of land described by metes and bounds the description of which has been recorded in the office of the Register of Deeds of St. Louis County or of the county auditor.
- (14) Mobile Home Park. A contiguous parcel of land which has been developed for the placement of no less than 25 mobile homes and is and shall continue under single ownership by an individual, firm, trust, partnership, or public or private association or corporation who shall be responsible for maintenance, operations, and control.
- (15) Motor Court or Motel. A building or group of buildings used primarily for the temporary residence of motorists or travelers.
- (16) Non-Conforming Use. A use or structure lawfully in existence on November 3, 1975, and not conforming to the regulations for the district in which it is situated.
- (17) Parking Area. An open unoccupied space used or required for use for parking of vehicles exclusively and in which no gasoline or vehicular accessories are sold or no other business is conducted and no fees are charged.
- (18) Parking Lot. An open surfaced area used exclusively for the temporary storage of motor vehicles and within which motor fuels and oils may be sold, but no vehicles are to be equipped, repaired, rented, or sold.
- (19) Parking Space. A surfaced area, enclosed or unenclosed, having a width of not less than seven feet and an area of not less than one hundred eighty square feet exclusive of driveways permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a surfaced driveway which affords a satisfactory ingress or egress for vehicles.
- (20) Parking Space, Off-Street. For the purposes of this chapter, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three

or more automobiles shall have individual spaces marked and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another.

For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all regulations of the City.

- (21) Sign. Signage within the City of Proctor shall be governed and regulated by Proctor City Code 1002.131, the Proctor Sign Ordinance.
- (22) Structure. Any building or edifice, or any constructed addition to a building or edifice that changes its external dimensions or anything not collapsible, which is placed or built in or on the ground, shall be considered a structure. Every structure shall be subject to setback requirements prescribed by the City Code. Required permits shall be obtained for structures before they are placed. Temporary storage bins or units and the like are not considered structures.
- (23) Structural Alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances.
- (24) Variance. A variance is a change of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area, size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance; nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.
- (25) Yard. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used. The following apply to the areas specified:

- (a) Front. A yard existing across the front of a lot between the side yard lines and being the minimum horizontal distance between the street line and the main building or any projections thereof other than projections permitted in this chapter. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.
 - (b) Rear. A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear of the main building or any projections thereof, other than the projections of uncovered steps, uncovered balconies, or uncovered porches, and the rear lot line. On all lots the rear yard shall be at the opposite end of the lot from the front yard.
 - (c) Side. A yard between the main building and the side line of the lot and extending from the front lot line to the rear yard and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereto.
- (26) Outdoor advertising display means a sign which advertises goods, products, facilities, or services not on the premises where the sign is located or which directs persons to a different location from where the sign is located.

1002.02. Establishment of Districts.

Subdivision 1. Official Zoning Map. The City is hereby divided into zones or districts as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map of the City of Proctor, Minnesota," together with the date of the adoption of this chapter.

If, in accordance with the provisions of this chapter and Minnesota Statutes 462, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered at Council direction with an entry on the Official Zoning Map as follows: "On (date), by official action of the City Council, the following change(s) were made in the Official Zoning Map. (Brief description of nature of change)." which entry shall be signed by the Mayor and attested by the City Clerk. No amendment to this chapter which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the

office of the City Clerk shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

Subd. 2. Replacement of Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Council may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map as part of the Zoning Ordinance of the City of Proctor, Minnesota." Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

Subd. 3. Rules for Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (3) Boundaries indicated as approximately following City limits shall be construed as following such City limits;
- (4) Boundaries indicated as following railroad lines shall be construed as to be midway between the main tracks;
- (5) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- (6) Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- (7) Where physical or cultural features existing on the ground are at variance with

those shown on the Official Zoning Map or in other circumstances not covered by subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries;

- (8) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

Subd. 4. Application for District Regulations. The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, including but not limited to the following:

- (1) No building, structure, or land shall hereinafter be used or occupied and no building or structure or part thereof shall hereinafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- (2) No building or other structure shall hereafter be erected or altered:
 - (a) To exceed the height or bulk;
 - (b) To accommodate or house a greater number of families;
 - (c) To occupy a greater percentage of lot area;
 - (d) To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this chapter.
- (3) No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- (4) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.
- (5) All territory which may hereafter be annexed to the city shall be considered to be in the "S" Residential District until otherwise classified.

Subd. 5. Districts Enumerated. For the purpose of this chapter, the City is hereby

divided into districts, of which there shall be ten in number, as follows:

- (1) "O/R" Open Space--Recreational District.
- (2) "S" Suburban District.
- (3) "R-1-a" One Family Residential District
- (4) "R-1-b" One Family Residential District.
- (5) "R-1-c" One Family Residential District.
- (6) "R-2" Two Family Residential District.
- (7) "R-3" Apartment Residential District.
- (8) "C-1" Retail District.
- (9) "C-2" Commercial District.
- (10) "I" Industrial District.

1002.03. Height and Area Requirements.

Subdivision 1. Standards. The height and area requirements for the district regulated by this chapter shall be those set out in the following schedule:

- (1) For buildings less than three stories in height. For three story buildings, side yards of 10 feet are required.
- (2) No side yard required except that a side yard of not less than seven feet shall be provided on the side of lot abutting a residential district.
- (3) No side or rear yard required; except, that a side yard of not less than 7 feet and a rear yard of not less than 25 feet shall be provided on the side or rear of a lot abutting a residential district.
- (4) Whenever any building on a "I" District adjoins or abuts a residential district, such building shall not exceed three stories or 40 feet in height, unless it is set back one foot from the required side and rear yard lines for each foot of additional height above 40 feet.
- (5) Front and rear yard requirements in "R-3" District are a minimum of 35 and 25

feet, respectively, except for three story buildings which shall have requirements of 40 and 30 feet, respectively.

- (6) If average depth of the lot is less than 250 feet, the minimum front yard depth required is 10 percent of the average lot depth, but not less than 10 feet.
- (7) No lot of record containing 7,500 square feet or less shall be used except for a single family dwelling or a permitted non-dwelling use.
- (8) To be computed so as to include any highway easements or parts thereof within the original parcel of land.
- (9) The Planning Commission shall make findings on each of these requirements as seen in light of the individual development, the site, and surrounding developments.

Subd. 2. Allowable Percentage of Lot Coverage. All structures placed upon a lot within the city of Proctor shall conform to the following allowable percentage of lot coverage standards:

<u>District</u>	<u>Percentage</u>
O/R	N/A
S	N/A
R-1	35 %
R-1-a	35 %
R-1-b	35 %
R-1-c	35 %
R-2	35 %
R-3	50 %
C-1	50 %
C-2	50 %
C-3	50 %
I	75 %

- (a) "R" Zones. Provided, that in any "R" Zone, no accessory structure shall exceed 1,200 square feet on any lot; provided further, that in no event shall any lot located in an "R" Zone have more than three accessory structures located upon it. An exception shall be that within "R-2" and "R-3" Zones, multiple family structures shall be allowed one single-stall motor vehicle garage per dwelling unit. In addition to such single-stall garage, there may also be allowed two additional accessory structures in "R-2" and "R-3" Zones.
- (b) "S" Zones. Provided, that in any "S" Zone, no accessory structure shall exceed

5,000 square feet on any lot; provided further, that in no event shall a lot have more than four accessory structures in total placed upon it. Only one of the accessory structures located upon such lot may exceed 1,200 square feet in size.

DISTRICT	MINIMUM LOT AREA PER FAMILY	MINIMUM LOT FRONTAGE (in feet)
O/R Open Space- Recreation	N/A	N/A
S Suburban	5 acres	250
R-1-a Residential	14,000 sq. ft.	75
R-1-b Residential	7,500 sq. ft.	60
R-1-c Residential	32,670 sq. ft.	3/4 acre (150 ft.)
R-2 Residential	1F 7,500 sq. ft. 2F 3,750 sq. ft.	60
R-3 Residential	1F 7,500 sq. ft. M.F. 1,500 sq. ft. (7) 2F 3,750 sq. ft. Eff. 380 sq. ft.	90
C-1 Commercial	As in R-3	

C-2 Commercial	None allowed	
C-3 Commercial	None allowed	(9)
I Industrial	None allowed	

DISTRICT	MINIMUM DEPTH OF FRONT YARD (in feet)	MINIMUM WIDTH OF EITHER SIDE YARD (in feet)	MINIMUM DEPTH OF REAR YARD (in feet)
O/R Open Space- Recreation	N/A	N/A	N/A
S Suburban	50	25	50
R-1-a Residential	35	8	25
R-1-b Residential	35	6	25
R-1-c Residential	35	6	25
R-2 Residential	35	6	25
R-3 Residential	35 (5)	6 (1)	25 (5)
C-1 Commercial		None (2)	25

C-2 Commercial		None (2)	25
C-3 Commercial	(9)	(9)	(9)
I Industrial	See (6)	None (3)	None (3)

DISTRICT	MAXIMUM HEIGHT OF BUILDINGS		ALLOWABLE PERCENTAGE OF LOT COVERED BY STRUCTURES
	STORIES	FEET	
O/R Open Space- Recreation	2.5	35	N/A
S Suburban	2.5	35	N/A
R-1-a Residential	2.5*	35	35 %
R-1-b Residential	2.5*	35	35 %
R-1-c Residential	2.5*	35	35 %
R-2 Residential	2.5*	35	35 %
R-3 Residential	3.0	45	50 %
C-1 Commercial	3.0	45	50 %
C-2	3.0	45	50 %

Commercial

C-3 Commercial 2.5 35 50 %

I Industrial 4.0 60 (4) 75 %

*In all R-1 and R-2 Districts, no accessory structure shall exceed 18 feet in height.

GENERAL SETBACK REQUIREMENTS

Dwellings, Primary Structures

A: All dwellings, primary structures

DISTRICT	MINIMUM LOT AREA PER FAMILY	MINIMUM LOT FRONTAGE (in feet)	MINIMUM FRONT YARD DEPTH (in feet)	MINIMUM SIDE YARD WIDTH (in feet)	MINIMUM REAR YARD DEPTH (in feet)	MAXIMUM HEIGHT OF BUILDINGS	
						STORIES*	FEET*
O/R (Allowed as "C"-use §1002.13 subd. 4)	10 Acres	250	50	25	50	2.5	35
S	5 Acres	250	50	25	50	2.5	35
R-I-A	14,000 sq. ft. **	75***	35	8	25	2.5	35
R-1-B	7,500 Sq. ft.	60***	35	6	25	2.5	35
R-1-C	32,670 Sq. ft.	3/4 Acre*** (150 feet)	35	6	25	2.5	35
R-2	1F--7,500 sq. ft. 2F--3,750 Sq. ft.	60	35	6	25	2.5	35
R-3	1F--7,500 sq. ft. 2F--3,750 sq. ft. MF--1,500 sq. ft. EFF--380	60	35 (5)	6 (1)	25 (5)	3.0	45

	sq. ft.						
C-1	Same as R-3	N/A	5	5 (2)	25	3.0	45
C-2	Same as R-3	N/A	5	5 (2)	25	3.0	45
I	Not allowed		5 (6)	5 (3)	(3)	4.0	60 (4)

* See §1002.03 subd. 2 (4) for standards, restrictions, etc. regarding antennas, etc.

** Except Scott's/McGovern Addition as set forth on Zoning Map; 9,000 square feet where city water available

*** Except single lot, where owner of lot does not own other adjacent lots as of date of adoption of Zoning Ordinance, 33 foot frontage will be buildable. Does not apply where lot is sold or transferred prior to building. See §1002.03 subd. 6.

NOTES

- (1) For buildings less than three stories in height. For three story buildings, side yards of 10 feet are required.
- (2) The side yard setback is as set forth, except that a side yard of not less than seven feet shall be provided on the side of lot abutting a residential district.
- (3) No rear yard required and the side yard setback is as set forth; except, that a side yard of not less than 7 feet and a rear yard of not less than 25 feet shall be provided on the side or rear of a lot abutting a residential district.
- (4) Whenever any building on a "M-I" District adjoins or abuts a residential district, such building shall not exceed three stories or 40 feet in height, unless it is set back one foot from the required side and rear yard lines for each foot of additional height above 40 feet.
- (5) Front and rear yard requirements in "R-3" District are a minimum of 35 and 25 feet, respectively, except for three story buildings which shall have requirements of 40 and 30 feet, respectively.
- (6) If average depth of the lot is less than 250 feet, the minimum front yard depth required is 10 percent of the average lot depth, but not less than 10 feet.
- (7) No lot of record containing 7,500 square feet or less shall be used except for a single family dwelling or a permitted non-dwelling use.

- (8) To be computed so as to include any highway easements or parts thereof within the original parcel of land.
- (9) The Planning Commission shall make findings on each of these requirements as seen in light of the individual development, the site, and surrounding developments.

SPECIFIC SETBACK REQUIREMENTS
Standards for Structures, Accessory Buildings

B: Structures and Accessory Buildings

STRUCTURES AND ACCESSORY BUILDINGS	ZONE APPLICABLE	FRONT YARD SETBACK	SIDE YARD SETBACK	REAR YARD SETBACK
Alleys, impact of	All			½ alley width may be used as part of required setback
Alley, lack of	O/R, S, all Residential		May use one side yard, minimum 9', for driveway. Other side yard must be minimum of 5'	
Apartments, Duplexes	R-2, R-3 only		Follow rules for single family zones	
Carport, canopy	All residential		5' setback from side lot line	
Corner lots*	All residential			
(a) Dwellings	R-1-A		25'	
	R-1-B - R-3		15'	

STRUCTURES AND ACCESSORY BUILDINGS	ZONE APPLICABLE	FRONT YARD SETBACK	SIDE YARD SETBACK	REAR YARD SETBACK
(b) Detached accessory buildings (includes attached garage, front wall)	R-1-A R-1-B - R-3		25' 20'	
(c) Educational, religious structure	R-1-A R-1-B - R-3		35' 25'	
Deck or porch	All			
(a) Open		May project 10' into required front yard		
(b) Closed (maximum 40 sq. ft.)		May project 4' into front yard		
Double lots (frontage)	All	Setback required on all lots with frontage		
Dwelling in "C" District (adjacent to or above commercial business)	C		If abuts "R" District, must follow abutting "R" requirement for side yard	
Fire escapes, etc.	All			May project 5' into rear yard setback
Garage, lack of, see alley, lack of				

STRUCTURES AND ACCESSORY BUILDINGS	ZONE APPLICABLE	FRONT YARD SETBACK	SIDE YARD SETBACK	REAR YARD SETBACK
Non-Conforming lots	Residential (see also §1002.03 subd. 6)			
(a) R-1-A		Lots less than 60' frontage: minimum side yard setback, 5'		
(b) R-1-B - R-2		Lots less than 50' frontage: if garage on premises, minimum <u>aggregate</u> side yard, 12'		
Projecting sills, eaves, etc. General rule: cannot project beyond a required line running along any street/road	All residential	Minimum of 18" from front yard setback	Minimum of 18" from required side yard setback (see rear yard for accessory structures)	Minimum of 18" from rear yard for main structure. Accessory structures: 2'6" minimum side yard set back measured from closest point of structure to side lot line
Rear yards, General Rules	All residential	Rear yard must be set back 60' from front property line	5' setback required from eaves of accessory structure to side lot line	See §1002.03 subd. 2 for maximum heights: 20', R-3, C-1, and above; 18', R1 and R2. Also, accessory structure must be:

STRUCTURES AND ACCESSORY BUILDINGS	ZONE APPLICABLE	FRONT YARD SETBACK	SIDE YARD SETBACK	REAR YARD SETBACK
				10' from main structure 5' from rear lot line 5' from any other structure If no accessory structure in rear yard, parking area cannot exceed 90% of required rear lot.
Walls, fences**, etc.: See §1002.03 subd. 7 and 8	All			
Filling station pumps	C, I	Pumps or islands may be in required front yard setback, but must be a minimum of 15 feet from road; 50 feet from any "R" District		

*See also §1002.03 subd. 7 (2), walls, hedges

**Cannot exceed 2½ feet in height along front except by variance in R Zone. See §1002.03 subd. 7 (9), 6 foot general restriction in height for commercial districts.

Subject to conditional use permit provided in 1002.15 of the City Code if requested setback is to be less than 5'.

Subd. 3. Exceptions for Height.

- (1) The height regulations prescribed in this article shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator penthouses, air conditioning penthouses, skylights, smokestacks, conveyors, storage elevators and facilities, and flag poles.
- (2) Public, semi-public, or public service buildings, hospitals, institutions, or schools, where permitted, may be erected to a height not exceeding 60 feet and churches and temples not exceeding 75 feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located.
- (3) The limitation on number of stories shall not apply to buildings used exclusively for storage purposes; provided, that such buildings do not exceed the height in feet permitted in the district in which they are located.
- (4) Antenna Structures. Said structures shall include any and all device or apparatus exceeding six feet in height from the ground or roof of the structure mounted to, constructed, erected, or maintained for the purpose of sending or receiving radio waves, television signals, microwave signals, or other such forms of energy utilized in wireless communication.

Said antennas shall be considered accessory uses in all zoning districts within the City of Proctor subject to the following restrictions and standards:

- (I) With the exception of commercial broadcast and non-broadcast antennas maintained, owned, operated, and erected by commercial entities or non-profit organizations licensed and/or regulated by the Federal Communications Commission (FCC) for the purpose of broadcasting for commercial purposes or the receipt of broadcast signals for commercial purposes, shall exceed 75 feet as measured from the ground upon which said structure is anchored or immediately adjacent.
- (ii) Provided, antenna structures erected for satellite television reception or residential reception of commercial television shall not exceed a height 15 feet above the highest point of the tallest building located upon the same parcel of land as said structure. In no case shall said antenna structures, when ground mounted, exceed 30 feet in height from the ground adjacent to the structure.
- (iii) Satellite Television Receive Antennas, Citizens' Band Antennas, Residential Television Reception Antennas.

- (a) In any commercial, industrial, or multi-family residential zone, such antenna structures may be located anywhere on the lot or buildings thereon.
 - (b) In a non-commercial or single family zone, subject to the provisions contained herein, such antenna structure shall be located only in the rear yard of any lot. If usable signals cannot be obtained from such rear yard, the antenna structure may be located on the side yard.
 - (c) In the event that usable signals cannot be received by locating the antenna structure on the rear or side yard of the property, such structure may be placed in the front yard or on the roof of the dwelling structure, provided that a special use permit is obtained prior to such installation. Such permit shall be issued upon a showing by the applicant that usable signals are not receivable from any location on the property other than the location selected by the applicant. No fee shall be assessed, and no public hearing shall be required for the issuance of such permit.
- (iv) Amateur Radio Antennas. Antenna structures owned, operated, erected, and maintained by residents of the City of Proctor for purposes of amateur radio reception and transmission and licensed therefor by the FCC shall not exceed the height limitations set forth above at clause (4) (I) and shall be placed in the priority set forth at clauses (vi) (a), (b), and (c).
- (v) Standards.
 - (a) In all zones, all non-commercial antenna structures shall be located and designed to reduce visual impact from surrounding properties at street level and from public streets.
 - (b) Antenna structures shall meet all manufacturer's specifications. The mast or tower shall be made of corrosive-resistant materials. The miscellaneous hardware, such as brackets, turnbuckles, clips, and similar type equipment subject to rust or corrosion, shall be protected with a zinc or cadmium coating by either galvanizing or sherardizing process after forming. These finishes are selected to guard against corrosion and to protect the elements against electrolytic action due to the use of adjoining dissimilar metals.
 - (c) Any part of the antenna structure, including but not restricted to the reflector, probe, guy wires, and signal clearness from any

electric lines, which conform to the latest edition of the National Electrical Safety Code. No attachment of any type shall be made from or to power poles owned, operated, maintained, or controlled by the Proctor Public Utility by any person owning, maintaining, using, or erecting any antenna.

- (d) Every antenna structure must be adequately grounded for protection against a direct strike of lightning with an adequate ground wire.
- (e) Guy wires and satellite antenna structures shall be considered accessory structures and shall meet setbacks for accessory structures except where it is part of a public utility.
- (f) All non-commercial antenna structures shall be required to meet the required setbacks for structure in the zone located. In addition, antennas so erected shall maintain a setback from the property line equal to 20 feet of setback for every 50 feet of antenna height (40 percent setback requirement).

Further, all antenna structure installations shall be setback from high voltage electric power lines so that there is a one to one setback ratio relative to the height of the antenna structure.

(vi) Commercial Broadcast and Non-Broadcast Antennas.

For the purposes of this Ordinance, the term commercial means a use of the antenna structure adjunct to or connected with any for-profit or not-for-profit enterprise in any manner, to include FCC regulated broadcasting entities.

(vii) Site Location Process for Commercial Antennas.

For commercial antennas, as defined at clause (vi), installing of commercial antennas shall follow the requirements of Code §1002.15 relating to conditional use permits.

(viii) Permits and Regulations.

All antenna structures above-described at clauses (4) (I-vii) shall be erected or installed within the City of Proctor as follows:

- (a) Applicants for installation of said antenna structures shall pay the applicable building permit fee required by the fee ordinances

(§1002.131 subd. 4) and shall have the plans and specifications for the proposed structure reviewed by the Building Inspector.

- (b) All commercial broadcast and non-broadcast FCC regulated installations shall be subject to approval by the FCC, if required.

Subd. 4. Exceptions for Front Yard.

- (1) The purpose of this ordinance is to render front yards setbacks relatively consistent in neighborhoods where structures do not comply with the required front yard setback. When forty (40) percent or more of the frontage on one side of the street have structures thereon, which structures have observed, with a variation of six (6) feet or less, deviation from the required front yard setback, a proposed improvement shall be allowed to be constructed, provided:
 - (a) The setback shall not be less than fifty (50) percent of the setback required by ordinances; and
 - (b) The setback shall not be less than the lesser of the setbacks on the two adjoining lots.
- (2) On lots having double frontage, the required front yard shall be provided on both streets.
- (3) An open, uncovered porch or paved terrace may project into a required front yard for a distance of not more than 10 feet. An enclosed vestibule or fixed canopy with a floor area of not more than 40 square feet may project into a front yard for a distance not to exceed 4 feet.
- (4) Filling station pumps and pump islands may be located within a required yard; provided, that they are not less than 15 feet from any street line and not less than 50 feet from the boundary of any residential district.
- (5) The ordinary projections of sills, belt courses, cornices, eaves, awnings, overhangs, and ornamental features may extend to a distance not to exceed 18 inches into a required front yard.
- (6) In the "I" District, if a lot is less than 250 feet in average depth, the required front yard shall be 10 percent of the average depth of such lot; provided, that in no event shall the front yard be reduced to less than ten feet.

Subd. 5. Exceptions for Side Yards.

- (1) On a corner lot the minimum depth of the yard between the side street property line and the structure shall be not less than that shown in the table below:

<u>Structure Use</u>	<u>Zoning</u>	<u>Districts</u>
	"R-1-a"	"R-1-b" thru "R-3"
For Dwellings	25'	15'
Detached accessory buildings and front wall of attached garage	25'	20'
Educational, religious, institutional, and recreational buildings	35'	25'

Provided, however, that the buildable width of a lot of record on date of adoption shall not be reduced to less than 60 feet.

- (2) No accessory building shall project beyond a required line along any street.
- (3) Where dwelling units are erected above commercial establishments, no side yard is required except when required for the commercial building on the side of a lot adjoining a residential district.
- (4) A porte-cochere, carport, or canopy may project into a required side yard; provided, that every part of such porte-cochere, carport, or canopy is unenclosed, except for necessary structural supports and not less than 5 feet from any side lot line.
- (5) For the purpose of side yard regulations, a two-family dwelling, multiple dwelling, or two dwelling shall be considered as one building occupying one lot.
- (6) Where a lot of record on date of adoption is less than 60 feet in width, no side yard shall be less than 5 feet.
- (7) The ordinary projections of sills, belt courses, cornices, eaves, awnings, overhangs, and ornamental features may extend to a distance not to exceed 18 inches into a required side yard.
- (8) Where no garage facilities are provided and the alley is not developed for access at the time the dwelling is constructed in an "R-1-b" or "R-2" District, there shall

be provided one side yard of a minimum of 9 feet for a driveway and the other side yard shall have a minimum width of 5 feet.

- (9) On the lots in the "R-1-b" or "R-2" Districts having a frontage of 50 feet or less upon which a garage is provided, the aggregate of the side yards may be 12 feet.

Subd. 6. Exceptions for Rear Yard.

- (1) Where a lot abuts upon an alley, one-half of the alley width may be considered as part of the required rear yard.
- (2) An accessory building may not occupy in excess of 30 percent, and unenclosed parking spaces may not occupy in excess of 90 percent, of the area of a required rear yard; but no accessory building or private swimming pool shall be closer than 10 feet to the main building, or any dwelling no closer than 5 feet to any rear lot line, nor closer than 2 feet 6 inches to any side property line, nor closer than 60 feet to the front property line, except where an improved alley does not exist at the rear of the yard.

Provided, that the measurement from the accessory building to the side property line, which cannot be closer than 2 feet 6 inches, shall be measured from that portion of the accessory building closest to the side property line.

- (3) The ordinary projections of sills, belt courses, cornices, and ornamental features may extend to a distance not to exceed 18 inches into a required rear yard.
- (4) Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard may project for a distance not to exceed 5 feet when these are so placed as not to obstruct light and ventilation.

Subd. 7. Exceptions for Lot Area Per Family. Where a lot of record on date of adoption was held under separate ownership from adjoining lots and has less area or width than required by this article, such lot may nonetheless be used for a one-family dwelling or for any non-dwelling use permitted in the district if it has a width of 33 feet or more. Other area requirements shall be complied with to the maximum extent possible.

Subd. 8. Fences, Walls, and Hedges.

- (1) Standards. All fences, walls, and other screening, which is not natural growth or foliage and which is erected within the City of Proctor, shall be subject to all the requisites of the Proctor City Code with respect to construction standards,

building code fees, site plans, and the like. Fences shall be constructed so as to have the most improved side of the fence facing the public.

- (2) Intersections in Residential Districts. On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2-1/2 feet and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 50 feet from the point of the intersection.
- (3) Fences, Walls, and Hedges. Notwithstanding other provisions of this chapter, fences, walls, and hedges may be permitted in any required yard or along the edge of any yard; provided that no fence, wall, or hedge along the sides or front edge of any front yard shall be over 2-1/2 feet in height; further provided that no fence, wall, or hedge shall be placed or constructed within 5 feet of an alley right-of-way.
- (4) Fences in Side and Rear Yard. No fence, hedge, or wall, other than a retaining wall, along a side line of a lot in a residential district shall be higher than 6 feet unless any part above such a height has at least 50 percent of the surface uniformly open and unobstructed or unless the adjoining lot is not in a residential district.
- (5) Residential Fences. Fences constructed in any of the following residential districts:

R-1-a, R-1-b, R-1-c, R-2, R-3

shall not be constructed of barbed wire. This regulation shall apply to any fence in a side yard, rear yard, or front yard. Barbed wire may be allowed in "C" or "M" districts only as set forth at 11 (a) of this subdivision.

- (6) Fences Restricting Access from the Front to the Rear Yard. Those instances where a fence exists as an enclosure which restricts access from the front to the rear yard, a gate or other such means of recognizable ingress shall be provided. The location of such ingress points shall be positioned at any point paralleling the front lot line, between the side lot property line and the principal structure.
- (7) Electric Fences. Fences in "S," Suburban, and "O/R," Open Space Districts, shall conform to the restrictions set forth above for residential zones; provided that electric fences shall be permitted in the "S" or "O/R" district when related to farming.

(8) Construction and Maintenance.

- (a) Every fence shall be constructed in a substantial work-manlike manner and of substantial material reasonable suited for the purpose for which the fence is proposed to be used. No constructed fence may have boards, planks, or panels larger than 12 inches in width.
- (b) All fences, except hedge fences, in front yards shall be constructed of chain link or wood fencing. Such materials as wire mesh, hog wire, welded wire, and straight wire will not be allowed in front yards. Fencing for the remainder of the yard may be constructed of chain link, wood, hog wire, or welded wire. No fences likely to cause harm to persons will be permitted.
- (c) Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger or constitute a nuisance, public or private. Any such fence which is, or has become, dangerous to the public safety, health, or welfare is a public nuisance, and the Building Official shall commence proper proceedings for the abatement thereof.
- (d) Link fences, wherever permitted, shall be constructed in such a manner that no barbed ends shall be at the top.

(9) Commercial and Industrial District Fences. Fences in all commercial and Industrial districts shall not exceed 6 feet in height except that:

- (a) Boundary line fences abutting other zoning districts shall conform to those conditions applying to the most restrictive district.
- (b) Fences which are erected primarily to secure a particular given area may have arms not to exceed 36 inches in length located a minimum of 7 feet and a maximum of 8 feet above the ground surface. The term "arms" shall be defined as those supports extending above the main fencing upon which barbed or electric wire may be placed.

(10) Special Purpose Fences. Fences for special purposes and fences differing in construction, height, or length may be permitted in any district in the City of Proctor by issuance of a Conditional Use Permit approved by the Planning Commission and the City Council. Findings shall be made that the fence is necessary to protect, buffer, or improve the premises for which the fence is intended.

An amortization period of 60 days shall be established for the removal of all non-conforming fences stipulated in §1002.03 subd. 7.

(11) Harmful Fencing. Hazardous fences and walls such as barbed wire, electrical fences [except as allowed in (7)], fences with security arms and walls with protruding sharp edges, and other fences designed for or likely to cause harm to persons are declared hazardous and are prohibited in the City except as follows:

- (a) Security fences, as defined in (9 b) with top barbs will be permitted in the City for security reasons on commercial and Industrial property, but only if a special permit is issued by the Building Official.
- (b) Fencing on non-residential property required for screening exterior storage may exceed the limitations herein, but only by a special permit issued by the Planning Commission. See subd. 7 (10) above regarding Conditional Use Permits. The permit process to be used is that set forth at §1002.15 subd. 2

Subd. 9. Accessory Buildings. No accessory building shall be erected in any required yard, and no separate accessory building shall be erected within 5 feet of any other building.

Subd. 10. Access. Every building hereafter erected or moved shall be on a lot adjacent to a public street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

1002.031 "O/R" Open Space/Recreational District.

Subdivision 1. Generally. The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the "O/R" Open Space/Recreational District.

Subd. 2. Permitted Uses. A building or premises in the "O/R" Open Space/Recreational District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair, or destroy critical environmental features:

- (1) Management and utilization of forest resources;
- (2) Non-intrusive livestock grazing or other farm operation; each such farm parcel shall measure at least 20 acres in size;
- (3) Compatible recreational uses;

- (4) Services, utilities, and ancillary structures intended to serve the principal permitted use.

Subd. 3. Conditional Use Permit Process.

- (1) In addition to the uses permitted above at subd. 2, said District shall also be governed by the conditional use permit process at §1002.15, et seq., of this Code.
- (2) Planning Commission Review. The Planning Commission, in determining the acceptability and approval of any "O/R" District conditional use permit, shall follow the procedures outlined in §1002.15 and shall require that any such conditional use protect and preserve the Open Space/Recreational character and appeal of the property; no such use shall be allowed which will be likely to directly or indirectly pollute, impair, or destroy critical environmental features.
- (3) Conditional Uses Permitted. The only conditional uses permitted in the "O/R" District shall be as follows:
 - (a) Cemetery;
 - (b) Non-intrusive recreation development;
 - (c) Campground (public or commercial);
 - (d) Riding stable;
 - (e) Hospital, clinic, or other medical treatment facility;
 - (f) Community building or recreation area;
 - (g) Golf course.
 - (h) Single family residence occupied by owner, renter, or manager of any allowed conditional use or O/R use. Said residence shall comply with all zoning regulations applicable to the "S" District.

Subd. 4. Minimum Parcel Size. Each parcel within the "O/R" District shall be a minimum of ten acres except as otherwise required herein.

1002.04. "S" Suburban District.

Subdivision 1. Generally. The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the "S" Suburban District.

Subd. 2. Permitted Uses. A building or premises in the "S" Suburban District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair, or destroy critical environmental features:

- (1) One-family dwelling.
- (2) Church or other place of worship or Sunday School.
- (3) Public school, elementary and high school, parochial school, or private school having a curriculum similar to that ordinarily given in public schools and having no rooms regularly used for housing or sleeping purposes, except staff quarters, when located on the premises for the school.
- (4) Universities and colleges.
- (5) Publicly owned or operated forest reserve, park, playground, or community building, seasonal camp or cabin, buildings to be located not less than 200 feet from an "R" District.
- (6) Hospital or institution of an educational, religious, charitable, or philanthropic nature; provided, that such buildings shall occupy not more than 10 percent of the total area of the lot and shall be set back from all yard lines a distance of not less than two feet for each foot of building height.
- (7) Home occupation.
- (8) Accessory building or use, customarily incident to the above uses; provided, that any such accessory building shall be erected at the same time or after the construction of the principal building.
- (9) and (10) Signs.

All signage in the "S" District is governed by the Proctor Sign Ordinance, §1002.13.

Subd. 3. Conditional Uses. See §1002.15.

1002.05. "R-1-a" One Family Residential District.

Subdivision 1. Generally. The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the "R-1-a" One Family Residential District.

Subd. 2. Permitted Uses. A building or premises in the "R-1-a" One-family Residential District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair, or destroy critical environmental features:

(1) One-family dwelling.

(2) Agricultural uses primarily for home consumption, such as domestic gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards, and apiaries, including a greenhouse, but not including a salesroom or roadside stand.

(3) Publicly owned or operated forest reserve, park, playground, or community building, museum, library, or art gallery; provided, that any such building shall be located not less than 25 feet from any side lot line.

(4) Church or other place of worship or Sunday School; provided, that any such building shall be located not less than 25 feet from any side lot line.

(5) Public school, elementary and high, university, college, parochial school, or private school having a curriculum similar to that ordinarily given in public schools; provided, that any such building shall be located not less than 40 feet from any side or rear lot; and provided further, that there shall be no rooms regularly used for housing or sleeping purposes, except staff quarters when located on the premises for the school.

(6) Home occupation.

(7) Accessory building or use, including a private garage, customarily incident to the above uses but not involving the conduct of a business; provided, that any such accessory building shall be erected at the same time or after the construction of the principal building.

(8) and (9) Signs.

All signage in the "R-1-a", "R-1-b", and "R-2" Districts is governed by the Proctor Sign Ordinance §1002.13.

Subd. 3. Conditional Uses. See §1002.15.

1002.06. "R-1-b" One-Family Residential District.

Subdivision 1. Generally. The regulations set forth in this section or set forth elsewhere in this chapter when referred to in this section, are the regulations in the "R-1-b" One-Family Residential District.

Subd. 2 Permitted Uses. The use regulations in the "R-1-b" One-Family Residential District are the same as those in the "R-1-a" One-family Residential District.

1002.06A. "R-1-c".

"R-1-c" shall follow the restrictions and requirements of "R-1-b" zones except as to height and area requirements described.

1002.07. "R-2" Two-Family Residential District.

Subdivision 1. Generally. The regulations set forth in this section or set forth elsewhere in this chapter when referred to in this section are the regulations in the "R-2" Two-Family Residential District.

Subd. 2. Permitted Uses. A building or premises in the "R-2" Two-Family Residential District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair, or destroy critical environmental features:

- (1) Any uses permitted in the "R-1-a" One-Family Residential District.
- (2) Two-family dwelling provided such dwelling is under one roof and not of an add-on design such as a renovated garage.

1002.08. "R-3" Apartment Residential District.

Subdivision 1. Generally. The regulations set forth in this section or set forth elsewhere in this chapter when referred to in this section are the regulations in the "R-3" Apartment Residential District.

Subdivision 2. Permitted Uses. A building or premises in the "R-3" Apartment Residential District shall be used only for the following purposes; provided, however, that no use

shall be allowed which will be likely to directly or indirectly pollute, impair, or destroy critical environmental features:

- (1) Any use permitted in the "R-2" Two-Family Residential District.
- (2) Multiple dwellings containing 7 (seven) or fewer units per building.
- (3) Attached single family dwellings.
- (4) Signs. All signage in the "R-3" District is governed by the Proctor Sign Ordinance §1002.131.
- (5) Accessory building or uses customarily incidental to any of the uses in this subdivision; provided, that any such accessory building shall be erected at the time or after the construction of the principal building.

Subd. 3. Conditional Uses. See §1002.15.

- (1) Multiple dwelling with eight (8) or more units per building.
- (2) Day care center, rooming house, boardinghouse, bed and breakfast, and/or tourist home.
- (3) Religious, educational, charitable institution of a philanthropic nature, but not a penal or mental institution.
- (4) Hospital, sanitarium, chiropractic, medical and/or dental clinic, or other similar facility; except a criminal, mental, animal hospital, nor hospital, clinic, or group home for the mentally impaired, physically impaired, or chemically impaired (see §1002.15 subd. 4, Conditional Uses).
- (5) Nursing, rest, or convalescent home.
- (6) Private club, fraternity, sorority, or lodge, excepting one the chief activity of which is a service customarily carried on as a business.
- (7) Professional Offices. Professional offices shall include offices of attorneys, public accountants, engineers, architects, real estate agents, insurance agents, or other similar professions requiring advanced educational training and/or licensure by the State of Minnesota.

This provision does not apply to offices located within a residential structure subject to the home occupation provisions of this chapter.

(8) Accessory building or uses customarily incidental to any of the uses in this subdivision; provided, that any such accessory building shall be erected at the time or after the construction of the principal building.

(9) Light retail

1002.09. "C-1" Retail District.

Subdivision 1. Generally. The regulations set forth in this section or set forth elsewhere in this chapter when referred to in this section are the regulations in the "C-1" Retail District.

Subd. 2. Permitted Uses. A building or premises in the "C-1" Commercial District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair, or destroy critical environmental features:

- (1) Any use permitted in the "R-3", except single family dwelling.
- (2) Apartment complex and condominiums.
- (3) Automobile and/or boat parking lot or storage.
- (4) Bank, credit union, or savings and loan.
- (5) Medical, dental, chiropractic, or other health care clinic, including pharmacies.
- (6) Retail sales and service establishments.
- (7) Movie theater; dance, play, or stage theater; dinner theater; gymnasiums, health clubs.
- (8) Convenience stores, including self-service gasoline, kerosene, or diesel fuel pumps or premises. Provided, all plans and specifications of the store have been approved by the Building Official and the Fire Chief and all applicable licenses, fees, and permits have been obtained. Provided further, that no motor vehicle repair work, body work, painting, or any other activity relating to the repair or reconditioning of motor vehicles shall be allowed at said store.
- (9) Hotels and motels.
- (10) Restaurants.

- (11) The storage and repair of motor vehicles by a public entity.
- (12) Outdoor advertising signs or off-site signs and signs which direct attention of the general public to a business, product, service, or commodity which is conducted, sold, or offered other than on the premises on which the sign is located.

Subd. 3. Conditional Uses.

- (A) In addition to the uses permitted above at subd. 2, the following uses may be permitted pursuant to a conditional use permit as allowed under §1002.15 of this Code.
- (B) Planning Commission Review. The Planning Commission, in determining the acceptability and approval of any conditional use permit, shall follow the procedures outlined in §1002.15 and shall require that any such conditional use protect and preserve the character and appeal of the property; no conditional use shall be allowed which is likely to substantially impact the surrounding properties in an adverse fashion.
- (C) Permitted Conditional Uses. The following may be permitted in the "C-1" Retail District as conditional uses:
 - (1) Self-service establishments such as self-service Laundromats, car washes, and dry cleaners.
 - (2) Retail amusement and video game operations, hobby centers.
 - (3) Photographic, art, television, recording, radio, or other type of studios.
 - (4) Mortuaries or funeral homes.
 - (5) An attached single family dwelling unit which is incidental to any use permitted or allowed under a conditional use permit in the "C-1" Retail District.
 - (6) Service station, motor vehicle repair facility, body shop, or paint shop. Provided, the inspection, plan review, licensing, and permitting provisions applicable to subd. 2 (8) of this section shall apply to any such use.
 - (7) Light, non-intrusive repair facilities such as sewing machine repair, small appliance repair, electronics repair, and computer repair.
 - (8) Hardware store.

- (9) Retail sales, service, and display of furnaces, hot water heaters, air conditioners, humidifiers, and related appliances, to include the light fabricating of ductwork and accessory sheet metalwork used in the installation of such appliances. In addition, wholesale sales of such appliances and fabricated products are permitted as ancillary to the retail sales permitted hereunder.
- (10) Outdoor advertising signs or off-site signs and signs which direct the attention of the general public to a business, product, service, or commodity which is conducted, sold, or offered other than on the premises on which the sign is located.
- (11) Printing and finishing of textiles and fibers into fabric goods.

Subd. 4. Height and Area Regulations. The height and area regulations set forth in §1002.03 shall apply in the "C-1" District; and, in addition, every building or portion thereof used for dwelling purposes shall comply with the side yard and lot area per family requirements of the "R-3" Apartment Residential District.

Subd. 5. Landscaping Requirements.

- (1) All exposed surfaces shall be covered with vegetation, wood chips, crushed rock, or similar cover.
- (2) Trees, shrubs, and other vegetative growth, existing or planted, must be located around the site in planters and/or in the required yards.
- (3) Off-street parking areas must be screened with vegetative growth, wood fencing, or other suitable materials.
- (4) All objectionable views must be screened with trees, shrubs, wood fencing, or other suitable materials. This requirement is mandatory where "C-1" uses abut a residential district.

Subd. 6. Buffer Area Between "C-1" and Residential Zones. There shall be a buffer area of not less than fifty feet (50') between any and all zones designated as "C-1" zones and zones designated as "R" zones. The uses otherwise permitted as of right or by conditional use in "C-1" zones shall not be allowed in said buffer area. Said buffer area shall be arranged or designed in a way to minimize the disturbance created by the uses therein to adjacent "R" districts.

1002.10. "C-2" Commercial District.

Subdivision 1. Generally. The regulations set forth in this section or set forth elsewhere in this chapter when referred to in this section are the regulations in the "C-2" Commercial District.

Subd. 2. Permitted Uses. A building or premises in the "C-2" Commercial District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair, or destroy critical environmental features:

- (1) All uses allowed in C-1 except that no conditional uses shall be issued for an attached single family dwelling unit as allowed in §1002.09 subd. 3 (C) (5).
- (2) Wholesale supply and/or display.
- (3) Bowling alley; indoor rifle, pistol, or archery range.
- (4) Light repair and light fabricating; including but not limited to outdoor advertising and display shop, household appliance, dry cleaning, pressing, wholesale catering, wholesale baking, small engine repair.
- (5) Automobile, light truck, boat, and/or motor, lawn and garden repair sales and display.
- (6) Veterinary clinic and/or hospital.
- (7) Commercial laundry or car wash (non-self serve).
- (8) Trade or business school, not including industrial technical school.
- (9) College or university.
- (10) Publishing, job printing, blue-lining.
- (11) Wholesale furniture sales, furniture repair and refinishing, business or office supplies sales;
- (12) Shopping center or mall.
- (13) Mini storage facility.
- (14) Accessory buildings incidental to uses (1) to (13).

Subd. 3. Conditional Uses.

- (A) In addition to the uses permitted above at subd. 2, the following uses may be permitted pursuant to a conditional use permit as allowed under §1002.15 of this Code.
- (B) Planning Commission Review. The Planning Commission, in determining the acceptability and approval of any conditional use permit, shall follow the procedures outlined in §1002.15 and shall require that any such conditional use protect and preserve the character and appeal of the property; no conditional use shall be allowed which is likely to substantially impact the surrounding properties in an adverse fashion.
- (C) Conditional Permitted Uses.

The following may be permitted in a "C-2" Commercial District as conditional uses:

- (1) Retail lumber yard; retail plumbing, electrical, or other building supply sales and service.

Subd. 4. Buffer Area Between "C-2" and Residential Zones. There shall be a buffer area of not less than fifty feet (50') between any and all zones designated as "C-2" and zones designated as "R" zones. The uses otherwise permitted as of right or by conditional use in "C-2" zones shall not be allowed in said buffer area. Said buffer area shall be arranged or designed in a way to minimize the disturbance created by the uses therein to adjacent "R" districts.

- (1) Dying; painting; plumbing; electrical; tinsmithing automotive, light truck, and/or smaller-sized tire sales and service; ornamental iron fabrication; other light fabrication; upholstery; other general light service and repair of a similar nature.
- (2) Industrial technical school.
- (3) Wholesale nursery or greenhouse.
- (4) Licensed contractor's shop or garage; provided, no heavy equipment shall be stored nor repaired within such premises located in a C-2 zone.
- (5) Open air or cooperative produce market.

- (6) Outdoor advertising signs (off-site signs) and signs which direct the attention of the general public to a business, product, service, or commodity which is conducted, sold, or offered other than on the premises on which the sign is located.

Subd. 5. Landscaping Requirements.

- (1) All exposed surfaces shall be covered with vegetation, wood chips, crushed rock, or similar cover.
- (2) There shall be trees, shrubs, and other vegetation, existing or newly planted, located on the site.
- (3) Off-street parking areas should be screened with vegetation, wood fencing, or other suitable materials.

1002.11. "I" Industrial District.

Subdivision 1. Generally. The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the "I" Industrial District.

Subd. 2. Permitted Uses. A building or premises in the "I" Industrial District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair, or destroy critical environmental features:

- (1) All uses permitted in C-2 as permitted or conditional uses; except, those C-2 uses set forth in §1002.10 subd. 2 shall not be permitted uses in the "I" zone.
- (2) Truck stop or center.
- (3) The manufacturing of the following products:
 - (a) Ice manufacture, including dry ice.
 - (b) Pharmaceutical products.
 - (c) Clay stone and glass products.
 - (d) Concrete products (except central mixing and proportioning plant).
 - (e) Pottery and porcelain products.

- (f) Bakery products, wholesale (manufacturing permitted).
 - (g) Beverage blending and bottling (all types).
 - (h) Confection, wholesale (manufacturing permitted).
 - (i) Dairy products.
 - (j) Gelatin products.
 - (k) Glucose and dextrine.
 - (l) Ice cream, wholesale (manufacturing permitted).
 - (m) Macaroni and noodle manufacture.
 - (n) Malt products manufacture (except breweries).
 - (o) Meat and fish products, packaging, and processing (no slaughtering).
 - (p) Agricultural or farm implements.
 - (q) Aircraft and aircraft parts.
 - (r) Aluminum extrusion, rolling, fabrication, and forming.
 - (s) Automobile, truck, trailer, motorcycle, and bicycle assembly.
 - (t) Boat manufacture (vessels less than five tons).
 - (u) Bolts, nuts, screws, washers, and rivets.
 - (v) Container (metal).
 - (w) Culvert.
 - (x) Firearms.
 - (y) Foundry products manufacture (electrical only).
 - (z) Heating, ventilating, cooking, and refrigeration supplies and appliances.
- (aa) Machinery manufacture.

- (bb) Nails, brads, tacks, spikes, and staples.
- (cc) Needle and pin.
- (dd) Plumbing supplies.
- (ee) Safe and vault.
- (ff) Sheet metal products.
- (gg) Silverware and plated ware.
- (hh) Stove and range.
- (ii) Tool, die, gauge, and machine shops.
- (jj) Tools and hardware products.
- (kk) Vitreous enameled products.
- (ll) Bedding (mattress, pillow, and quilt).
- (mm) Carpet, rug, and mat.
- (nn) Hat bodies of fur and wool felt manufacture (including men's hats).
- (oo) Hosiery mill.
- (pp) Knitting, weaving, printing, finishing of textiles and fibers into fabric goods.
- (qq) Rubber and synthetic treated fabrics (excluding all rubber and synthetic processing).
- (rr) Yarn, threads, and cordage.
- (ss) Basket and hamper (wood, reed, rattan, etc.).
- (tt) Box and crate.
- (uu) Cooperate works (except cooperate stock mill).
- (vv) Furniture (wood, reed, rattan, etc.).

- (ww) Pencils.
- (xx) Pulp goods, pressed or molded (including paper-mache products).
- (yy) Shipping container (corrugated board, fiber, or wire bound).
- (zz) Trailer, carriage, and wagon.
- (aaa) Veneer.
- (bbb) Wood products.
- (ccc) Button manufacture.
- (ddd) Leather goods manufacture, but not including tanning operations.
- (4) The compounding, processing, and packaging of:
 - (a) Cosmetics and toiletries (compounding only).
 - (b) Ink manufacture (mixing only).
 - (c) Perfumes and perfumed soap (compounding only).
 - (d) Soap, wash or cleaning, powder, or soda (compounding only).
 - (e) Chocolate, cocoa, and cocoa products, processing and packaging.
 - (f) Coffee, tea, and spices, processing and packaging.
 - (g) Condensed and evaporated milk processing and canning.
 - (h) Flour, feed, and grain (packaging, blending, and storage only, with no high-rise storage elevator in excess of three stories).
 - (I) Fruit and vegetable processing (including canning, preserving, drying, and freezing).
 - (j) Grain blending and packaging, but not milling.
 - (k) Margarine (compounding and packaging only).
- (5) Other commercial operations as follows:

- (a) Creamery and dairy operations.
- (b) Planing and millwork.
- (c) Animal pound.
- (d) Building materials (cement, lime, sand, gravel, lumber, and the like), storage and sales.
- (e) Semi-tractor/trailer garage and repair shop.
- (f) Cleaning and dyeing of garments, hats, and rugs.
- (g) Coal and coke storage and sales.
- (h) Contractor's shop and storage.
- (i) Fur finishing.
- (j) Storage, repair, and/or sales of buses, heavy trucks, heavy equipment, and/or farm implements.
- (k) Industrial technical school, including internal combustion engines.
- (l) Laboratories, research, experimental, including combustion type motor testing.
- (m) Laundries.
- (n) Market, wholesale.
- (o) Printing, publishing, and engraving.
- (p) Produce and storage warehouse.
- (q) Tire retreading and vulcanizing shop.
- (r) Air, truck, rail, or other transfer terminal or yard, including airport.
- (s) Wholesale houses and distributors.
- (t) Bulk fuel and petroleum products storage facility.

- (i) The storage of such products for wholesale or retail sale by the owner of said facility where the express business and intent of the owner is to sell said products in bulk quantity sufficient to differentiate said business from convenience stores (as defined in §1002.09 subd. 2 (15) and from services stations, et seq. (as defined in §1002.10 subd. (9) shall be limited to the "I" District.
- (ii) This permitted use shall allow the owner of the facility the right to dispense, exchange, barter, and/or sell bulk fuel products at the facility in question. No other products may be dispensed, exchanged, bartered, or sold at retail or wholesale from said facility.
- (iii) Mixing and/or blending of fuels is permitted at said facility, but no manufacturing, distilling, or refining of any fuel or petroleum-based product is permitted under this subsection.
- (iv) Any storage tanks erected, placed, or constructed to facilitate the uses set forth above, whether above or below ground, shall be located a minimum of 250 feet from and "S" or "R" District and at least 100 feet from the property line of any abutting parcel of land now owned by the bulk fuel facility regulated hereunder, regardless of the zoning district.

Subd. 3. Landscaping Requirements.

- (1) All exposed surfaces shall be covered with vegetation, wood chips, or similar cover.
- (2) Trees, shrubs, and other vegetative growth, existing or planted, must be located around the site in planters and/or in the required yards.
- (3) Off-street parking areas must be screened with vegetative growth, wood fencing, or other suitable materials.
- (4) All objectionable views must be screened with trees, shrubs, wood fencing, or other suitable materials. This requirement is mandatory where "I" uses abut a residential district, open area, or major street. This requirement is optional, at the Planning Commission's discretion, where the "I" use abuts commercial or industrial uses.

Subd. 4. Buffer Area Between "I" and Residential Zones.

There shall be a buffer area of not less than fifty feet (50') between any and all zones designated as "I" and zones designated as "R" zones. The uses otherwise permitted as of right or by

conditional use in "I" zones shall not be allowed in said buffer area. Said buffer area shall be arranged or designed in a way to minimize the disturbance created by the uses therein to adjacent "R" districts.

1002.12. Off-Street Parking and Loading Requirements.

Subdivision 1. Required Parking Spaces. In all districts there shall be provided, at the time any building or structure is erected or structurally altered, off-street parking spaces in accordance with the following requirements:

- (1) Bowling alley: Five parking spaces for each alley.
- (2) Business, professional, or public office building, studio, bank, medical or dental clinic: Three parking spaces plus one additional parking space for each 400 square feet of floor area over 1,000 square feet.
- (3) Church or temple: One parking space for each eight seats in the main auditorium.
- (4) College or high schools: One parking space for each eight seats in the main auditorium or three spaces for each classroom, whichever is greater.
- (5) Community center, library, museum, or art gallery: Ten parking spaces plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet.
- (6) Dance hall, assembly, or exhibition hall without fixed seats: One parking space for each 100 square feet of floor area used therefor.
- (7) Dwellings three stories or less: One parking space for each dwelling unit.
- (8) Fraternity or sorority: One parking space for each six beds.
- (9) Furniture or appliance store, hardware store, wholesale establishments, machinery or equipment sales and service, clothing or shoe repair or service shop: Two parking spaces plus one additional parking space for each 300 square feet of floor area over 1000 square feet.
- (10) Golf Club: One parking space for every 400 square feet of clubhouse area.
- (11) Hospital: One parking space for each four beds.
- (12) Hotel: One parking space for each three sleeping rooms or suites plus one space for each 200 square feet of commercial floor area contained therein.

- (13) Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse, or similar establishment: One parking space for each two employees on the maximum working shift, but no less than one space for every 1,000 square feet of floor area.
- (14) Mortuary or funeral home: One parking space for each 50 square feet of floor space in slumber rooms, parlors, or individual funeral service rooms.
- (15) Multiple dwelling over three stories or apartment hotel: Two parking spaces for each three dwelling units or suites.
- (16) Private club or lodge: One parking space for every 400 square feet of floor area.
- (17) Restaurant, night club, café, or similar recreation or amusement establishment: One parking space for each 100 square feet of floor space.
- (18) Retail store, billiard parlor, or personal service establishment, except as otherwise specified herein: One parking space for each 200 square feet of floor area.
- (19) Rooming or boardinghouse: One parking space for each two sleeping rooms.
- (20) Sanatorium, convalescent home, home for the aged, or similar institution: One parking space for each six beds.
- (21) Seasonal camp or cabin: One parking space for each two beds or for each cabin or sleeping unit, whichever is greater.
- (22) School, except high school or college: One parking space for each ten seats in the auditorium or main assembly room or one space for each classroom, whichever is greater.
- (23) Sports arena, stadium, or gymnasium (except school): One parking space for each five seats or seating spaces.
- (24) Theater or auditorium (except school): One parking space for each five seats or bench seating spaces.
- (25) Tourist home, cabin, or motel: One parking space for each sleeping room or suite.
- (26) In all other cases, the required parking spaces shall be determined by the Planning Commission prior to issuance of any permits or licenses.

Subd. 2. Rules for Computation of Parking Spaces. In computing the number of parking spaces required by this article, the following rules shall govern:

- (1) "Floor Area" shall mean the gross floor area of the specific use.
- (2) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.
- (3) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the Planning Commission.
- (4) Whenever a building or use is enlarged to the extent of 50 percent or more in floor area or in the area used, such building or use shall then and thereafter comply with the parking requirements set forth in this section for the entire use.
- (5) In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

Subd. 3. Parking Spaces to be Located on Same Lot, Exception: All parking spaces required by this article shall be located on the same lot with the building or use served, except, that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from an institutional building served and not to exceed 500 feet from any other non-residential building served. In any case, where the required parking spaces are not located on the same lot with the building or use served or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form and execution by the City Attorney, and shall be filed with the application for a building permit.

Subd. 4. Sharing of Parking Spaces. Up to 50 percent of the parking spaces required for (a) theaters, public auditoriums, bowling alleys, dance halls, night clubs, or cafes and up to 100 percent of the parking spaces required for a church or school auditorium may be provided and used jointly by (b) banks, offices, retail stores, repair shops, service establishments, and similar uses not normally open, used, or operated during the same hours as those listed in (a); provided, that written agreement thereto is properly executed and filed as specified in the preceding section.

Subd. 5. Location of Required Parking Spaces in Front Yards. Off-street parking space may be located within the required front yard of any "C" or "I" District, but no parking lot

shall be located nearer than 50 feet to any "O/R," "S," or "R" District, and no off-street parking shall be permitted in the required front yard of any "R" District. This section does not prohibit parking in a driveway designed primarily for access to the dwelling or the garage.

Subd. 6. Required Loading Space. There shall be provided at the time any building is erected or structurally altered, except as otherwise provided in this chapter, off-street loading space in accordance with the following requirements:

- (1) Office space and hotels: One space for each 5,000 to 50,000 square feet of gross floor area in the "C-1" and "C-2" Districts, one space for each 20,000 to 50,000 square feet of gross floor area in the "I" District, two spaces for each 50,000 to 200,000 square feet of gross floor area in any district, and one additional space for each 75,000 square feet of gross floor area above 200,000 square feet in any district.
- (2) Retail or service establishments or wholesale commercial use: One space for each 2,000 to 20,000 square feet of gross floor area in the "C-1" and "C-2" Districts, one space for each 4,000 to 20,000 square feet of gross floor area in the "I" District, two spaces for each 20,000 to 100,000 square feet of gross floor area in any district, and one additional space for each 75,000 square feet of gross floor area above 100,000 square feet in any district.
- (3) Industrial use: One space for each 5,000 to 25,000 square feet of gross floor area in the "I" District and one additional space for each 75,000 square feet of gross floor area in the "I" District.
- (4) No building or part thereof in the "C-1" and "C-2" Districts erected prior to date of adoption which is used for any of the purposes specified above shall hereafter be enlarged or extended unless off-street loading space is provided for both the original structure and the addition in accordance with the provisions of this article.
- (5) No building or part thereof in the "I" District erected prior to date of adoption which is used for any of the purposes specified above shall be hereafter be enlarged or extended to provide a gross floor area of 25,000 square feet or more unless off-street loading space is provided in accordance with the provisions of this article.

Subd. 7. Use of Major Recreational Equipment. For purpose of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwelling, tent trailers, and the like and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No such equipment shall be used for living,

sleeping, or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.

Subd. 8. Parking and Storage of Certain Vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any zoned property other than in completely enclosed buildings or as allowed under §804A, Unlicensed Vehicle Ordinance.

Subd. 9. Buffer Area Between Commercial or Industrial Zones and Residential Zones. There shall be a buffer area of not less than twenty-five feet (25') between any and all zones designated as either "C" or "I" zones and zones designated as "R" zones. The uses otherwise permitted as of right or by conditional use in "C" or "I" zones shall not be allowed in said buffer area. Said buffer area shall be arranged or designed in a way to minimize the disturbance created by the uses therein to adjacent "R" districts, and shall be subject to the following additional restrictions:

- (a) Off-street parking areas must be screened with vegetative growth, wood fencing or other suitable materials; and
- (b) All objectionable views must be screened with trees, shrubs, wood fencing, or other suitable materials.

Subd. 10. Grandfathering of Non-Conforming Parking, Downtown Area.

- (a) **Definition.** For purposes of this ordinance, "downtown area" is defines as that area bordered on the South by First Street, on the East by Second Avenue, on the North by Sixth Street, and on the West by Third Avenue Highway 2. The properties include both sides of the streets and avenues included in the border definition.
- (b) Where on May 2, 2005, if a lawful use of land located in the downtown area exists, and the parking related to said use of land does not conform to the City Code a of such date, said parking shall be deemed lawful in the event of a transfer of ownership of said property and a continuation of said use, or of a use which does not require more off-street parking than its use as of May 2, 2005. Provided, however, that uses requiring more off-street parking than the land's use as of May 2, 2005, shall require a conditional use permit.

1002.13. Proctor Sign Ordinance.

Subdivision 1. Purpose. It is the purpose of this article to create the legal language and mechanism for a comprehensive and balanced system of standards, regulations, and procedures governing the erection, use, and display of all advertising street graphics and symbols used to facilitate visual communication of products and services in the City of Proctor.

It is also the purpose of this article to authorize all visual communicative devices which:

- (a) Are compatible with their surroundings.
- (b) Are appropriate to the type of activity to which they pertain.
- (c) Are safely located with respect to vehicular and pedestrian traffic.
- (d) Will preserve and promote the aesthetics of location, area, and community as a whole.
- (e) Will protect the value of land, buildings, and landscapes.

Subd. 2. Intent. The intent of this Ordinance is to protect the health, safety, and public welfare through the control of all signs so as to achieve the following:

- (1) To control signs which violate privacy or which increase the likelihood of accidents by distracting attention or obstructing vision;
- (2) To preserve and protect property values and civic beauty and not allow signs which detract from this objective due to excess size, height, number, visual impact, undesirable location, maintenance, spacing, or illumination;
- (3) To establish standards which will permit businesses a reasonable and equitable opportunity to advertise, but which will avoid excessive visual competition among sign displays; and
- (4) To provide signs which are compatible with their surroundings and appropriate to the type of activity to which they pertain.

Subd. 3. Definitions. Unless the context clearly indicates otherwise, the following terms shall have the meaning set forth herein in connection with the application of this article and as used elsewhere in this Title:

- (1) Abandoned Sign: A sign which becomes vacant or unoccupied for a period of six months or more, or a sign which pertains to an event, time, or purpose which no

longer applies, or a sign which no longer correctly directs a person or advertises a product or activity. A sign which applies to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed to be an abandoned sign unless the property on which the sign is located remains vacant for a period of more than six months.

- (2) Address Sign: A sign identifying street address only, either written or numerical.
- (3) Area Identification Sign: A free-standing, on-premises sign which identifies a residential complex of five or more units, a shopping center or complex consisting of three or more separate business concerns, an industrial complex or park, an office building consisting of three or more separate business concerns and located on the contiguous property.
- (4) Banners and Pennants: Advertising or attention-getting devices which resemble flags, streamers, and similar devices and are made of paper, cloth, or plastic materials.
- (5) Changing Sign (Automatic): A sign including an electrically controlled public service information sign, message center, or reader board where different automatic messages of an informative or commercial nature of interest to the public are shown. The following are examples of this type of sign:
 - (a) Public Service Information Sign: Any sign intended primarily to promote messages of general interest to the community such as time, temperature, date, events, news, etc.
 - (b) Message Center Sign: Any sign which contains a changing message within the copy area that remains on for a specified period of time.
 - (c) Reader Board Sign: Any sign which contains a traveling message, usually in a horizontal manner. The characters of the message remain constant and do not change in hue or intensity as they travel across the copy area of the sign.
- (6) Free-standing Sign: A sign which is either attached directly to the ground or is on pylons, posts, or walls and is completely independent of any building or other structure on the property upon which it is located.
- (7) Flashing Sign: Any illuminated sign which when operated does not maintain a uniform light, intensity, or color at all times.

- (8) Governmental Sign: A sign erected by a local or other unit of government which is used to identify a public building or area, to direct traffic, or to otherwise inform the public.
- (9) Identification Sign: Freestanding signs which indicate the name of a subdivision, neighborhood, or business center.
- (10) Illuminated Sign: Any sign which depends upon any artificial light source either directed at the sign or as an integral component of the sign.
- (11) Informational/Directional Sign: A sign which has the purpose of informing or directing visitors, employees, or delivery vehicles on the premises of a business. Such signs shall not contain any advertising messages.
- (12) Institutional Sign: Any sign displaying the name of a medical clinic, hospital, veterinary facility, dental facility, school, library, public building, church or other religious structure, or nursing home.
- (13) Nameplate Sign: A sign designating the name of a person, business, or other entity which is directly attached and affixed flat to the wall of the building housing the individual, business, or entity.
- (14) Non-conforming Sign: Any advertising device or sign which was designed, converted, or adopted for a use prior to the adoption of provisions prohibiting such advertising device or sign in such location.
- (15) On-Premises Sign (Business Sign): Any sign used to direct the attention to a business, service, or commodity conducted upon the premises on which the sign is located and/or which refers to goods or services produced, offered for sale, or obtained on such premises.
- (16) Outdoor (Off-Site) Advertising Sign: A sign, including all supporting structures, poles, and supports which directs the attention of the general public to a business, product, service, or commodity which is conducted, sold, or offered other than on the premises on which the sign is located.
- (17) Political Campaign Sign: Signs, posters, or banners which pertain to an upcoming election of a candidate and/or political issue.
- (18) Portable Sign: A sign which is not affixed permanently to the premises on which it is located and is moveable on the premises or from one location to another.
- (19) Real Estate Sign: A sign affixed to a business or lot which advertises the premises on which it is located is for sale, lease, or rental.

- (20) Roof Sign: Any sign which is permanently attached to the roof of a building that extends above the roof of the building to which it is attached.
- (21) Sign: The use of any letter, symbol, art, device, reading matter, either non-illuminated or illuminated, which is visible by the public, is located upon public or private property, and is used to direct the public attention to any business, product, service, commodity, or profession located either on or off the premises on which the sign is located.
- (22) Sign Area; Calculating Surface Area: The area within a single continuous perimeter enclosing the extreme limits of the actual sign surface or, in the case of letters, numerals, symbols attached to a building, the area that is included in the smallest continuous perimeter enclosing the letters, numerals, or symbols. The sign surface area shall be computed using only one side of a double-face or V-type sign structure.
- (23) Temporary: 90 days or less.
- (24) Wall Sign: A sign affixed flush and flat to the wall of a building, dwelling, or other solid structure.
- (25) Window Sign: Any sign affixed to the interior surface of a window of a retail commercial business or service business in an area zoned. Commercial under the Zoning Laws of the City of Proctor which advertises the wares, business, function, price, quality, or quantity of items sold by the business.

Subd. 4. General Provisions.

- (1) Permit Required: The following general provisions are applicable to all signs. It shall be unlawful for any person to erect, alter, replace, or relocate any sign or other advertising structure without first obtaining a permit and paying required fees, except as herein otherwise provided.
- (2) Application: An application for a sign permit shall be made upon blanks obtained from the Proctor Building Inspector and shall state or have attached thereto the following information:
 - (a) The name and address of the applicant, location of the building, structure, or lot on which the sign is to be erected, the position of the sign in relation to nearby buildings or structure, the name of the person that will be erecting the sign, and the written consent of the owner of any land, if different from the applicant, on which the sign is to be erected.

- (b) A drawing of the plans, specifications, and method of construction or attachment to a structure on the ground.
- (c) Said application shall also reference the type of construction standard to be utilized by the applicant in installing the sign, to reference and meet or exceed one of the following alternative standards:
 - (i) Submission of blueprints, scale drawings, or other engineering design documentation reflecting the installation design has been approved by a licensed engineer;
 - (ii) Adherence to national standards as set forth in any nationally recognized and engineer-approved reference guide for the construction of signage. Applicants utilizing such design standards must provide the City with copies of the reference standards relied upon prior to approval of any applications hereunder;
 - (iii) Compliance with the Uniform Sign Code's Construction Standards as amended by the Proctor City Code. (See Appendix A for said standards.)

(3) Fees:

- (a) Initial Sign Fee. Every applicant shall pay a sign permit fee for each sign regulated by the Chapter before being granted a permit. The signage permit shall be the sole and only permit required for signs to be constructed and erected.
- (b) Initial Inspection. All sign installations for which a permit is required shall be subject to inspection by the Building Inspection Department to insure that such signs are safely secured, supported, and braced.

The fee to be charged for any applications relative to this Sign Ordinance shall be in lieu of the fees charged for building permits and inspections.

Any fee charged shall thus be based upon the project cost of the sign, based upon the following scheduled:

<u>Valuation</u>	<u>Fees</u>
\$ 1.00 to \$ 500.00	\$ 5.00

501.00 to 600.00	5.75
Etc. @ \$1.50 per \$100.00 up to \$2,000.00	
2,001.00 to 3,000.00	19.25
3,001.00 to 4,000.00	22.25
4,001.00 to 5,000.00	25.25
5,001.00 to 6,000.00	28.30
6,001.00 to 7,000.00	31.25
7,001.00 to 8,000.00	34.25
8,001.00 to 9,000.00	37.25
9,001.00 to 10,000.00	40.25
10,001.00 to 11,000.00	43.25
11,001.00 to 12,000.00	46.25
12,001.00 to 13,000.00	49.25
13,001.00 to 14,000.00	52.25
14,001.00 to 15,000.00	55.25
15,001.00 to 16,000.00	58.25
16,001.00 to 17,000.00	61.25
17,001.00 to 18,000.00	64.25
18,001.00 to 19,000.00	67.25
19,001.00 to 20,000.00	70.25
20,001.00 to 21,000.00	73.25
21,001.00 to 22,000.00	76.25
22,001.00 to 23,000.00	79.25
23,001.00 to 24,000.00	82.25
24,001.00 to 25,000.00	85.25
25,001.00 to 26,000.00	87.50
26,001.00 to 27,000.00	89.75
27,001.00 to 28,000.00	92.00
28,001.00 to 29,000.00	94.25
29,001.00 to 30,000.00	96.50
30,001.00 to 31,000.00	98.75
31,001.00 to 32,000.00	101.00
32,001.00 to 33,000.00	103.25
33,001.00 to 34,000.00	105.50
34,001.00 to 35,000.00	107.75
35,001.00 to 36,000.00	110.00
36,001.00 to 37,000.00	112.25
37,001.00 to 38,000.00	114.50
38,001.00 to 39,000.00	116.75

39,001.00 to 40,000.00	119.00
40,001.00 to 41,000.00	121.25
41,001.00 to 42,000.00	123.50
42,001.00 to 43,000.00	125.75
43,001.00 to 44,000.00	128.00
44,001.00 to 45,000.00	130.25
45,001.00 to 46,000.00	132.50
46,001.00 to 47,000.00	134.75
47,001.00 to 48,000.00	137.00
48,001.00 to 49,000.00	139.25
49,001.00 to 50,000.00	141.50

In addition to the above, plan checking fees (if applicable) shall be included.

- (4) Revocation of Permit. The Building Inspection Department is hereby authorized to revoke a sign permit upon failure of the holder thereof to comply with any provision of this Chapter, including failure to pay the required inspection fee. Any party aggrieved by such revocation may appeal the action to the Board of Zoning Adjustment within 60 day after the revocation.
- (5) Expiration of Permit. A permit shall expire if the sign is not erected within 360 days after issuance, and no permit fees or inspection fees for such sign shall be refunded.

Subd. 5. On-Premises Signs.

- (1) Exempted Signs. The following signs are exempt from all of the requirements of this Chapter and do not require a permit or permit fee:
 - (a) Informational/Directional signs not exceeding 2 square feet in area.
 - (b) Memorial plaques, cornerstones, and historical tablets.
 - (c) Wall or window occupational signs of marquee, awning, or canopy signs giving the name or profession of a business; provided the sign does not exceed 6 square feet in area.
 - (d) Public signs, street signs, warning signs, railroad crossing signs, signs of public service companies for the purpose of safety or traffic, and on-site directional signs.

- (2) The following allowed signs do not require a permit or permit fee. The structural, design, and other requirements of this Chapter shall apply.
- (a) Informational signs not exceeding 2 square feet.
 - (b) Memorial plaques, cornerstones, and historical tablets.
 - (c) Construction signs designating the architects, lending institutions, engineers, or contractors when placed on a site where a building is to be constructed within 90 days.
 - (d) Temporary window signs.
 - (e) Holiday signs. Signs or displays which contain or depict message pertaining to a national, state, or local holiday and no other matter and which are displayed for a period not to exceed 60 days.
 - (f) Rummage sale signs. Rummage sales may be held and signs displayed; provided, therefore, that all related signs shall be confined to the private property, conform to the applicable provisions of this Ordinance, and be removed at the termination of the sale. Any signs allowed pursuant to the above designations shall not exceed 16 square feet in surface area in any "S" or "R" Zoned District. In all other zones, such signs may not exceed 20 square feet in surface area.
- (3) Prohibited Signs:
- (a) No signs shall be attached to trees or utility poles.
 - (b) No signs shall overhang the public right of way, except in the "C-1" Retail Zoning District and in conformance with other requirements in this chapter.
 - (c) No sign shall be installed which by reason of position, movement, shape, illumination, or color would constitute a traffic hazard by obstructing a driver's vision or by interfering, confusing, or misleading traffic.
 - (d) All other signs not expressly permitted by this chapter.
- (4) Size Limitations. On premises signs in commercial zones for use in connection with commercial structures located on streets or highways with a maximum speed limit of 55 miles per hour or more shall not exceed 200 square feet, or ten percent (10%) of the gross silhouette of the front of the structure, whichever is

less. The Planning and Zoning Commission shall review each application for a sign permit in areas falling within this provision.

Subd. 6. District Regulations for On-Premise Signs.

(1) Residential. In zoning districts "O/R," "R-1-a," "R-1-b," "R-1-c," "R-2," and "R-3" only the following signs shall be permitted to be erected:

(a) Type of Signs. The type of signs allowed is as follows:

- (i) Political campaign signs.
- (ii) Real estate signs.
- (iii) Nameplate signs.
- (iv) Identification signs.
- (v) Institutional signs.
- (vi) Banners and pennants.

(b) Restrictions on Residential Signs. The restrictions on these type of signs are as follows:

- (i) Political campaign banners and pennants and real estate signs shall not exceed 12 square feet in area or be located not less than 5 feet from the property line and shall be removed within ten days after the election or sale or lease of the building respectively by the owner.
- (ii) Nameplate signs shall not exceed 12 square inches in area and be within the building lines of the property.
- (iii) Institutional signs where required shall not exceed 20 square feet or be located less than 5 feet from the property line. This sign may be illuminated.
- (iv) No signs shall be attached to trees or utility poles.
- (v) No sign shall be installed which by reason of position, movement, shape, illumination, or color would constitute a traffic hazard by obstructing a driver's vision or by interfering, confusing, or misleading traffic.

(vi) No permit or permit fee shall be required for the above-stated types of signs.

(2) Retail and Commercial Districts "C-1," "C-2". In zoning districts "C-1," "C-2" only the following signs shall be permitted to be erected:

(a) Types of Signs. The type of signs allowed is as follows:

- (i) All residential signs
- (ii) Changing Sign (Automatic).
- (iii) Message Center Sign.
- (iv) Reader Board Sign.
- (v) On-Premise Sign (Business Sign).
- (vi) Portable Sign.
- (vii) Roof Sign.
- (viii) Wall Sign.

(b) Restrictions on Signs. The restrictions on these types of signs are as follows:

- (i) There shall be no signs having blinking, flashing, or fluttering lights or having a changing brightness or colors.
- (ii) All other illuminated signs may be permitted; provided they do not constitute a traffic or safety hazard to the public.
- (iii) The aggregate square footage of sign surface shall not exceed the sum of 2 square feet per lineal foot of street frontage, but in no case shall the sign area exceed 100 square feet.
- (iv) The sign shall not exceed three feet in height above the roof line of the building.
- (v) The sign shall contain only the name of the business establishment, the principal product, the services sold on the premises, or all three.

- (vi) The changing sign shall become part of the total sign area allowed on the property.
- (3) Industrial District "I". In zoning district "I" only the following permitted uses will be allowed:
- (a) Types of signs. The type of signs allowed is as follows:
 - (I) All signs allowed in "C-1" and "C-2".
 - (b) Restrictions on signs. The restrictions on these types of signs are as follows:
 - (I) Restrictions as stated under "C-1" and "C-2" Commercial.

Subd. 7. District Regulations for Outdoor Advertising Signs (Off-Site Signs). Outdoor advertising signs or off-site signs and signs which direct the attention of the general public to a business, product, service, or commodity which is conducted, sold, or offered other than on the premises on which the sign is located.

For purposes of this subdivision, the term "I-35 Corridor" shall mean that area within the City adjacent to and within 100 feet of the northerly right-of-way boundary of Interstate Highway No. 35. No off-site advertising of any nature shall be permitted along the southerly right-of-way boundary of I-35 or the adjacent properties. For purposes of this subdivision, the term "Highway 2 Corridor" shall mean that area within the City adjacent to and within 100 feet of the right-of-way line of United States Highway No. 2.

Outdoor advertising signs or off-site signs are permitted upon the following conditions and under the following circumstances:

- (1) Location. Outdoor advertising signs or off-site signs shall be allowed on property which is zoned for commercial or industrial uses only as provided herein.
- (2) Size.
 - (a) For outdoor advertising signs or off-site signs located in the Highway 2 Corridor, the maximum sign area for any one face of an outdoor advertising sign or off-site sign shall not exceed 390 square feet, excluding border, trim, and structural supports and extensions.
 - (b) For outdoor advertising signs or off-site signs located in the I-35 Corridor, the maximum sign area for any one face of an outdoor advertising sign or

off-site sign shall not exceed 700 square feet, excluding border, trim, structural supports, and extensions.

- (c) For all such signs, the maximum sign area limitations shall apply to each face of a sign structure. Signs may be placed back to back, side by side, or in a "V" type construction (not to exceed 45 degrees), but not more than two separate advertisements are allowed on each face of an outdoor advertising sign structure. For purposes of calculating the sign area of a back to back or a "V" type constructed sign, only one face of such sign shall be considered.
- (3) Height. The maximum height of an outdoor advertising or off-site sign shall not exceed 50 feet. The height of an outdoor advertising sign or off-site sign shall be measured from the point where the base of the sign meets the ground or from the street grade, whichever is higher, to the top of the outdoor advertising sign or off-site sign.
- (4) Spacing.
- (a) In the Highway 2 Corridor, no outdoor advertising sign may be closer than 500 feet to any other outdoor advertising sign located on the same side of the street or highway.
 - (b) In the I-35 Corridor, no outdoor advertising sign may be closer than 1,000 feet to any other outdoor advertising sign located on the same side of Interstate No. 35.
 - (c) This provision shall not prohibit back-to-back or "V" type construction of outdoor advertising signs. The distance between outdoor advertising signs shall be measured along the nearest edge of the pavement between points directly opposite the center of such outdoor advertising signs along the same side of the street or highway.
 - (d) The spacing requirements of this subparagraph (4) shall apply to any outdoor advertising sign, outdoor advertising display, or off-site sign constructed pursuant to this subdivision or pursuant to any other provision of Chapter 1002 of the Proctor City Code.
- (5) Setbacks. All outdoor advertising signs must be off the highway, street, or other public right of way and must be placed within 100 feet from the street or highway right-of-way line.

- (6) Construction Requirements. All outdoor advertising signs, or off-site signs larger than 32 square feet in sign area shall be constructed to the design standards set forth in subd. 4 (2) (c) above.
- (7) Lighting. Outdoor advertising signs or off-site signs may be illuminated. Illumination of signs shall not be of a flashing type. Changing signs (automatic) are permitted.

Subd. 8. Identification Signs. Identification signs shall be permitted for the purpose of permanent identification. At each principal entrance to such an area, a maximum of one (1) sign, not to exceed twenty (20) square feet of sign area per side with a maximum of two (2) sides, excluding decorative landscaping and sign base, will be permitted on private property. The maximum height on such signs shall be six (6) feet above the natural grade including the base, or two and one-half (2-1/2) feet above natural grade including the base if located within 50 feet of the cross-section of an intersection, in which such case the sign may be located up to the property line. When such signs are proposed and constructed by an individual or firm other than the individual or association who will be responsible for the maintenance, there shall be a covenant or easement prepared to the proponent establishing responsibility for the maintenance for the sign or signs over the entire project or subdivision, to be approved by the City, and to be recorded on the property title(s) prior to issuance of the sign permit.

Subd. 9. Variations for Signage. The variance procedure established in City Code §1002.17 subd. 6 shall apply to all signs covered and regulated by this Ordinance.

Subd. 10. Nonconforming Uses/Signs. Any sign legally existing on the effective date of this chapter which does not conform to the requirements set forth in this Chapter shall become a nonconforming use. Nonconforming signs shall comply with the following requirements.

- (1) Permanent nonconforming or premises signs shall be allowed to continue, and reasonable maintenance of said sign shall be allowed, but said sign shall not be rebuilt, relocated, replaced, or substantially altered without being brought into compliance with all the requirements of this chapter.
- (2) All nonconforming signs shall be subject to the provision of City Code Section 1002.14 regarding nonconforming structures and shall be deemed nonconforming structures.

Subd. 10 Maintenance and Removal of Signs.

- (1) All signs shall be maintained by the owner in a safe condition. A sign shall be repainted whenever its paint begins to fade, chip, or discolor.

- (2) If the Building Inspection Department shall find that any sign is abandoned, unsafe, a detriment to the public, not maintained, or constructed, erected, or maintained in violation of the provisions of this chapter, the Building Official shall give written notice to the sign owner thereof. If the sign owner fails to comply with the standards of this chapter with 30 days after such notice, such a sign shall be removed, and the costs for the removal charged against the property in the manner prescribed for public nuisances. Erection of a sign which requires the issuance of a permit without a lawful permit shall further constitute a petty misdemeanor and fined based upon the City Administrative Fine Schedule.

Subd. 11. Bond Requirements. Every person regularly engaged in the business of erecting advertising and business signs in the City shall, before any sign permits are granted under this Chapter, file with the City Clerk a continuing bond in the penal sum of Ten Thousand Dollars (\$10,000.00) executed by the applicant and a surety company approved by the corporation counsel and conditioned for the faithful observance of the provisions of this chapter.

1002.14. Non-Conforming Uses and Structures.

Subdivision 1. Non-conformities. Within the districts established by this chapter or later amendments there may exist uses of structures, land, or land and structures combined under a prior ordinance or regulation which were lawful at the time but which are prohibited, regulated, or restricted under the terms of this chapter or its amendment. Non-conforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved. Therefore, it is the intent of this chapter to permit these non-conformities to continue until they are removed but not to encourage their survival. It is further the intent of this chapter that non-conformities shall not be enlarged upon, expanded, or extended, nor the use for adding other structures or uses prohibited elsewhere in the same district. A non-conforming use or structure, a non-conforming use of land, or a non-conforming use of structure and land in combination shall not be extended or enlarged by attachment on a building or premises of additional signs intended to be seen from off the premises or by the addition of a nature which would be prohibited generally in the district involved. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawful under this chapter or its amendment and which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition, or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction; provided that work shall be carried on diligently.

Subd. 2. Non-Conforming Lots of Record. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be

erected on any single lot of record on November 3, 1975, or which are made lawful by an amendment of this chapter, notwithstanding the limitations imposed by other provisions of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district; provided, that yard dimensions and requirements other than these applying to area or width or both of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment. Provided, however, that 32 foot wide lots (or those less than 32 feet in width) do not meet requirements to build under any circumstances. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership were of record at the time of November 3, 1975, or at a time of amendment of this chapter and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.

Subd. 3. Non-Conforming Uses of Land. Where on November 3, 1975, a lawful use of land exists which would not be permitted by the regulations imposed by this chapter, the use may be continued so long as it remains otherwise lawful; provided:

- (1) No such non-conforming use shall be enlarged, increased, or extended to occupy a greater area of land than on November 3, 1975;
- (2) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use on November 3, 1975;
- (3) If any such non-conforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located;
- (4) No additional structure not conforming to the requirements of this chapter shall be erected in connection with such non-conforming use of land.

Subd. 4. Non-Conforming Structures. Where a lawful structure exists on November 3, 1975, that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
- (2) Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than 80 percent of its replacement cost at time of destruction due to other causes, it shall not be reconstructed except in conformity with the provisions of this chapter. A building permit to reconstruct such structure or portion of a structure must be applied for within 180 days from when the property was damaged, provided that the structure was damaged to an extent of less than 80 percent of its replacement cost at time of destruction.
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (4) With regard to accessory buildings, it shall be deemed an expansion or enlargement of a non-conformity in the event any addition or enlargement to a non-conforming portion of the accessory building is made; or in the event that repair or rebuilding of the non-conforming portion of the accessory building is made or done which has the effect of adding to or enlarging the non-conforming portion thereof.

Subd. 5. Non-Conforming Uses of Structures or of Structures and Premises in Combination. If lawful use involving individual structures with a replacement cost of \$1,000.00 or more or of a structure and premises in combination exists on November 3, 1975, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
- (2) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building;
- (3) If no structural alterations are made, any non-conforming use of a structure or structure and premises may as a special exception be changed to another non-conforming use; provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally

appropriate or more appropriate to the district that the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this chapter;

- (4) Any structure or structure and land in combination in or on which a non-conforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be reused;
- (5) When a non-conforming use of a structure or structure and premises in combination is discontinued or abandoned for one (1) year, the structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located;
- (6) Where non-conformity use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

Destruction for the purposes of this subsection is defined as damage to an extent of more than 80 percent of the replacement cost at the time of destruction.

Subd. 6. Repairs and Maintenance. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs or non-repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding 10 percent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be; provided that the cubic content existing when it became non-conforming shall not be increased. Such repairs shall be performed only after issuance of proper building permits. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

1002.15. Conditional Uses.

Subdivision 1. Permit from City Council. Subject to the provisions of subd. 2 and subd. 3 below, the Council may, by resolution, grant a special permit for the special uses set out in this section in any district except "I" as herein qualified, which uses are otherwise prohibited by this chapter and shall impose appropriate conditions and safeguards, including a specified period of time for the permit to protect the comprehensive plan and to conserve and

protect property and property values in the neighborhood. The Council may issue such permits only after a hearing and recommendation thereon by the Planning Commission.

Subd. 2. Study and Report by Planning Commission. Before any action is taken either by the Planning Commission or the City Council, the applicant, except the State, any of its political subdivisions, or the federal government, shall pay to the City Clerk a filing fee of \$150.00 for all conditional use permits other than community unit plans. In the case of community unit plans, such fee for conditional use permit application shall be based upon the City Schedule of Charges and Fees plus any charges for Building Inspector's Time and Working Street Foreman's/City Engineer's time for plan alteration review. The purpose of such fees is to help defray the cost of reviewing and hearing such application. Prior to the Planning Commission hearing required above at subd. 1, notice to all affected landowners, as defined at §1002.17 subd. 6, shall be provided.

Subd. 3. Compliance. Any proposed conditional use shall otherwise comply with all the regulations set forth in this chapter for the district in which such use is located and, in addition, shall comply with the following:

- (1) Will not be detrimental to or endanger the public health, safety, morals, comfort, convenience, or general welfare of the neighborhood or the City;
- (2) Will be harmonious with the general and applicable specific objectives of the comprehensive plan of the City and this chapter;
- (3) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area;
- (4) Will not be hazardous or disturbing to existing or future neighboring uses;
- (5) Will be served adequately by essential public facilities and services, including parking, streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems, and schools, or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use;
- (6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- (7) Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any person, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, or odors;

- (8) Will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic on surrounding public thoroughfares;
- (9) Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance;
- (10) Will conform to specific standards of this chapter applicable to the particular use.

Subd. 4. Uses Enumerated. The following are the conditional uses for which the Council may issue a conditional use permit upon finding that the conditions of subd. 3, above, have been met:

- (1) Amusement park, but not within 300 feet of any other "O/R," "S," or "R" parcel.
- (2) Circus or carnival grounds, but not within 300 feet of any other "O/R," "S," or "R" parcel.
- (3) Commercial, recreational, or amusement development for temporary or seasonal periods.
- (4) Hospital, clinic, group home for the mentally impaired, physically impaired, or chemically impaired, or other similar institution; provided, that any hospital or institution permitted in any "R" District shall be located on a site of not less than five acres, shall not occupy more than 10 percent of the total area, and shall be set back from all yard lines at least two feet for each foot of building height.
- (5) Privately operated community building or recreation field.
- (6) Any public or government owned or leased building not permitted in a particular district; provided, that such permit shall run for not less than ten years from date of permit.
- (7) Riding stable.
- (8) Radio or television broadcasting tower or station.
- (9) Tourist or trailer camp; provided, that such tourist or trailer camp shall comply with the applicable provisions of this Code and the laws of the State.
- (10) Day care center, early learning center, nursery school, or the like licensed and regulated by the State of Minnesota. Residential day care homes licensed by St. Louis County shall not require a conditional use or home occupation permit.

- (11) Other conditional uses as set forth in the provisions applicable to each specific zone.

Subd. 5. Protections Required. Whenever a conditional use is granted under this chapter, the following area protections and requirements shall be imposed and observed:

- (A) All materials, supplies, merchandise, or other similar matter not on display for direct sale, rental, or lease shall be stored out of sight of passing pedestrians and/or motorists.
- (B) All conditional uses, except business signs, which are within 50 feet of any "O/R," "S," or "R" District shall be buffered from any adjoining parcels of land by open space of not less than ten feet in depth. In addition, said uses shall have an opaque fence screening the business premises from the "O/R," "S," or "R" properties adjacent to it; the plans for said fence to be approved by the Building Inspector prior to the fence being constructed.
- (C) Other Protections, Constraints. Should the Planning Commission determine it necessary to restrict the hours of operation, type of lighting, storage of units for sale, or any other attributes and activities of the business seeking a conditional use permit, the Planning Commission may, prior to the recommendation of said permit to the City Council, place upon said operation such protections and constraints as are deemed necessary to protect the public health, welfare, safety, peace and quiet, and enjoyment.

Subd. 6. Community Unit Plan (Repealed).

Subd. 7. Manufactured Housing Park. A conditional use permit is required for the construction of a manufactured home park and may be issued by the Council, upon approval by the Planning Commission, on land zoned "S" and "R-1-a"; provided, that the application for such construction conforms to the following requirements:

- (1) The lot size shall comply with lot sizes and specifications in "R-1-b".
- (2) Site Location. Same as for §1002.15 subd. 5 (1).
- (3) Site Design. Same as §1002.15 subd. 5 (2) plus the following additional requirements
- (a) All manufactured homes shall be located at least 65 feet from any manufactured home park property boundary line abutting upon a public

street or highway and at least 50 feet from other park property boundary lines.

- (b) There shall be a minimum distance of 15 feet between the manufactured home stand and abutting internal streets, but in no case shall there be less than 58 feet between units located on opposite sides of a park street.
- (c) Manufactured homes shall be separated from each other and from other buildings and structures by at least 12 feet. Structures such as awnings, porches, etc., which are attached to the manufactured home shall, for the purposes of separation requirements, be considered a part of the manufactured home.
- (d) Manufactured home stands shall be constructed of asphalt or concrete so as to provide adequate support for the placement and tie-down of the manufactured home unit; thereby securing the superstructure against uplift, sliding, rotation, and overturning. Each anchor or tie-down shall be able to sustain a minimum tensile strength of 2,800 pounds. The area between any manufactured home and the ground shall be surrounded by a skirting of sufficient construction so as to be stable and attractive in appearance.
- (e) All fuel oil and petroleum gas containers shall be permanently installed and securely fastened in place and screened or located in an inconspicuous and safe location or manner.
- (f) The minimum width of any such manufactured housing unit shall be 12 feet.

(4) Operation and Maintenance.

- (a) No space shall be rented for residential use of a manufactured home in any such park except for periods of 30 days or more, and no manufactured home shall be admitted to any park unless it meets the requirements of State codes.
- (b) All refuse shall be stored in flytight, watertight, rodent-proof containers which shall be located not more than 150 feet from any manufactured home lot. Containers shall be provided in sufficient number and capacity to properly store all refuse. Collections stands shall be provided for all refuse containers and shall be designed as to prevent spillage and container deterioration and to facilitate cleansing around them. Such refuse areas shall be screened in an attractive manner. All refuse which contains garbage shall be collected as required by the other provisions of the Proctor City Code (see §505.01, et seq.)

- (c) Roadways and sidewalks shall be maintained in a neat and attractive manner, and snow accumulating thereon shall be removed as soon thereafter as it is reasonably practicable in order to insure passage by motor vehicles and pedestrians.
- (d) The park management shall operate the park in compliance with this chapter and in accord with the following restrictions:
 - (i) The park management shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
 - (ii) Rental of lots within the park shall not be restricted to those renters who have purchased their manufactured homes from the owners of the park.
 - (iii) The park management is hereby forbidden to enter a manufactured home on his lot which he does not own without the prior approval of the owner of said manufactured home, except in instances of emergency where the manufactured home, a person, and/or adjacent property may be damaged. Except in instances of emergency where the manufactured home, a person, and/or adjacent property may be damaged.
 - (iv) The park management is hereby forbidden to enter into or upon a rented lot without the prior approval of the lessee, the manufactured home occupying it, and/or adjacent property, or at reasonable times for necessary repairs.
 - (v) Procedures and Approval. Section 1002.15 subd. 5 (3), (4), and (5) shall apply to this section.

Subd. 8. Procedures for Hearing. Prior to any recommendation being submitted by the Planning Commission to the City Council regarding proposed and planned Community Unit Development (subd. 6) or a Manufactured Housing Park (subd. 7), the hearing and notice provisions of §1002.15 subd. 2 shall be complied with by the Commission.

1002.16. Enforcement. It shall be the duty of the Building Inspector to enforce this chapter. In no case shall a permit be granted for the construction or alteration of any building if the building as proposed to be constructed or altered would be in violation of any of the provisions of this chapter. It shall be unlawful to use, occupy, or permit the use or occupancy

of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the Building Inspector stating that the proposed use of the building or land conforms to the requirements of this chapter. Appeal from a decision of the Building Inspector may be made to the Board of Adjustment as provided by this chapter. Electrical installations shall be inspected by the City Electrical Inspector under the direction of the Building Inspector. Water, sewer, and other plumbing connections shall be inspected by the City Plumbing Inspector. Appeals from decisions of the Electrical Inspector or the Plumbing Inspector shall be as set forth in the applicable specialty codes or state law. The Building Inspector, Electrical Inspector, and Plumbing Inspector shall be appointed annually by majority vote of the City Councilors present at the first regular meeting of each year.

1002.17. Board of Adjustment.

Subdivision 1. Board Established. A Board of Adjustment is hereby established and vested with such administrative authority as is hereinafter provided. Such Board shall consist of three citizens of the City serving as Planning Commission members, selected by the chairman thereof as set forth at §1003.01 subd. 5.

Subd. 2. Proceedings of the Board of Adjustment. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

Subd. 3. Hearings, Appeals, and Notice. Appeals to the Board of Adjustment concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the city affected by the decision of the administrative official. Such appeals shall be taken within a reasonable time, not to exceed 60 days or such lesser period as may be provided by the rules of the Board, by filing with the administrative official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from Adjustment a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notices to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

Subd. 4. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the administrative official from whom the appeal is taken, and on due cause shown.

Subd. 5. Powers and Duties. The Board of Adjustment shall have powers and duties:

- (1) Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the enforcement of this chapter.
- (2) Special Exceptions. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board of Adjustment unless and until:
 - (a) A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested;
 - (b) Notice shall be given at least 15 days in advance of public hearing. The owner of the property for which special exception is sought or his agent shall be notified by mail. Notice of such hearings shall be posted on the property for which special exceptions is sought, at the City Hall, and in one other public place at least 15 days prior to the public hearing.
 - (c) The public hearing shall be held. Any party may appear in person, by agent, or by attorney.
 - (d) The Board of Adjustment shall make a finding that is empowered under the section of this chapter described in the application to grant the special exception and that the granting of the special exception will not adversely affect the public welfare.
 - (e) Before any special exception shall issue, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following where applicable:

- (i) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (ii) Off-street parking and loading areas where required, with particular attention to the items in (I) above and the economic, noise, glare, or odor effects of the special exception of adjoining properties and properties generally in the district;
- (iii) Refuse and service areas, with particular reference to the items in (I) and (ii) above;
- (iv) Utilities, with reference to locations, availability and compatibility;
- (v) Screening and buffering, with reference to type, dimensions, and character;
- (vi) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- (vii) Required yards and other open space;
- (viii) General compatibility with adjacent properties and other property in the district.

Subd. 6. Variances. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special condition, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

- (1) A written application for a variance is submitted demonstrating:
 - (a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

- (b) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
 - (c) That the special conditions and circumstances do not result from the actions of the applicant;
 - (d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- (2) Notice of public hearing shall be given as in §1002.19.
 - (3) The public hearing shall be held. Any party may appear in person, by agent, or by attorney.
 - (4) The Board of Adjustment shall make findings that the requirements of this section have been met by the applicant for variance.
 - (5) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - (6) That Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district.

Subd. 7. Reversing Decision of Administrative Official. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end, shall have the powers of the administrative official from whom the appeal is taken. A majority vote of the full

Board shall be necessary to reverse any order or requirement, decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to affect any variation in the application of this chapter.

Subd. 8. Intent. It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the administrative official and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the administrative official and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law. It is further the intent of this chapter that the duties of the Council in connection with this chapter shall not include hearing and deciding questions or interpretation and enforcement that may arise.

1002.18. Schedule of Fees, Charges, and Expenses. The Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the administrative official and may be altered or amended only by the Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. See 1003.01 for a listing of fees; see also Appendix Q, Scheduled of Fees.

1002.18A. Procedures for Appeal of Planning Commission Decisions With Respect to R-2 and Higher Zones.

In those situations where the administrative decision of the City has been accomplished through a hearing and decision of the Planning Commission, to include decisions reached under §1002.22 subd. 2 (C) (Review of Building Permits for R-2 and Higher Zones), the City Council of the City of Proctor shall constitute the proper authority for purposes of an appeal under this chapter, the Planning Commission having been empowered to function as the Building Official in those instances. All of the procedures and policies applicable to appeals to the Board of Adjustment shall apply to any such hearing held before the City Council.

1002.19. Amendments.

Subdivision 1. Notice. No amendment to this chapter shall be adopted until a public hearing has been held thereon by the Planning Commission. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper at least ten days prior to the day of the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to

which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings; provided, a bona fide attempt to comply with this subdivision has been made.

Following said hearing, the Planning Commission shall issue its recommendation to the City Council for Council action thereon. This chapter may be amended only by a two-thirds vote of all Council members.

Subd. 2. Planning Commission Review. An amendment to this chapter may be initiated by the Council, the Planning Commission, or by petition of affected property owners. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for public hearing and study and report and may not be acted upon by the Council until it has received the recommendation of the Planning Commission on the proposed amendment.

1002.20. Provisions of Ordinance Declared to be Minimum Requirements. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

1002.21. Complaints Regarding Violations. Whenever a violation of this chapter occurs or is alleged to have occurred, complaint shall be made in writing to the building and zoning official, who shall investigate the alleged violation. The building and zoning official shall then take action pursuant to this chapter if such violation exists.

The building and zoning official shall be empowered to issue citations for violation of this chapter and the applicable regulatory statutes and codes enforced by and through his office. Where appropriate, the official may also refer matters to the City Administrator or his designee for review by the City Attorney and action thereon if deemed appropriate by the City Attorney.

1002.22. Planning Commission.

Subdivision 1. Planning Commission Established. A Planning Commission is hereby established and vested with such administrative authority as is hereinafter provided. The Planning Commission will be advisory except as to its other powers and duties as are imposed on it by this chapter and by the laws of the State of Minnesota. The Commission shall be composed of five (5) residents of the City of Proctor, only one of whom may be an elected officials of the City, members of the Public Utilities Commission, or employees of the City or its Utilities Commission.

Subd. 2. Planning Commission Duties and Purpose.

(A) Comprehensive Plan. The Planning Commission may adopt and amend from time to time the comprehensive plan of the City and recommend the same to the City Council.

- (1) Prior to adoption, the Commission shall hold a public hearing regarding the proposed comprehensive plan of the City. A notice shall be published once within the official newspaper of the City at least ten days prior to said hearing.
- (2) Additionally, prior to said notice being published, the proposed plan or amendment shall be submitted by the Commission to the City Council.
- (3) Any plan or amendment adopted by the Commission shall be approved by the Commission by resolution. Upon adoption, any plan or amendment shall be certified and submitted to the City Council for approval. The Council may propose amendments to the plan and shall submit the same to the Commission by resolution of the Council for deliberation and/or vote by the Commission.

(B) General Planning and Zoning Functions. The Planning Commission shall conduct monthly or more frequent meetings as required to discuss and consider any issues relating to or concerning planning and zoning matters. In this regard, the Commission shall:

- (1) Conduct public hearings for changes or amendments to Chapter 1002, Zoning et seq, Proctor City Code;
- (2) Serve as members of the following bodies or review and appeal:
 - (a) Building Code Board of Appeals;
 - (b) Board of Adjustment;
 - (c) Design Review Board;
- (3) Indirectly supervise the duties and job performance of the City Building Official as it relates to Chapter 1000 and 1002, the Building Code of Appeals and Board of Adjustment; provided that direct supervision of the Building Official will be performed by the City Administrator;
- (4) Make recommendations to the City Council regarding amendments to the City Zoning Map, Chapter 1002, or related documents;
- (5) Perform those duties set forth in Chapter 1000 Land and Building Regulation of the Proctor City Code;

- (6) Complete all other matters assigned to it by the various chapters and sections of the Proctor Code not otherwise set forth herein.

(C) Specific Duties and Functions.

(1) Special Projects. The Commission shall be provided detailed information by the City Building Official, wherever practicable, regarding any planning and zoning matters, to include proposed construction projects, including the design review, special use permit, or community unit development provisions of the Proctor City Code, Chapter 1000 and 1002.

(2) Construction Involving "R-2" Zones and Above. In each instance involving the construction of a new primary structure other than a single family residence zoned "R-2," or "R-3," requiring a permit of any type, the Building Official will present a report to the Planning Commission for review and approval prior to the issuance of any permit. In each instance involving building construction, substantial alteration, modification, or addition to property zoned Commercial, or Industrial requiring a permit of any type, the Building Official will present a report to the Planning Commission for review and approval prior to the issuance of any permit. In all other instances involving building construction, substantial alteration, modification, or addition to property in such zones, the Building Official or his designee may issue a building permit.

1002.23. Flood Plain Control. The previously adopted Flood Plain Management Ordinance of the City of Proctor is codified at §1002.23 and attached to the City Code as Appendix H and L.

1002.24. Regulation of Sub-Divisions, Transfer of Part of Parcel.

Subdivision 1. Purpose. The purpose of this section is to allow the City to ensure subdivision regulations, restrictions, and ordinances are followed relative to each transfer of real property which may be controlled by Chapter 239 of the Laws of 1983, codified as MSA §272.162.

Subd. 2. Procedure. Pursuant to MSA §272.162, each parcel of land subject to said chapter shall not be presented to and approved by the St. Louis County Auditor for transfer until said transfer and parcel have been reviewed by the City Clerk for the City of Proctor to determine if the transfer is appropriate and conforms with existing City ordinances and regulations.

1003. Building Code

1003.01. Minnesota State Building Code. The Minnesota State Building Code is hereby adopted by reference and shall govern the construction, improvement, and occupancy of buildings within the City in accordance with its terms. Permit fees shall be as set forth in the 1991 Uniform Building Code, Table No. 3-A Building Permit Fees.

Subdivision 1. Codes. As used in this section, the term “Codes” shall mean those certain documents, copies of which are on file with the Proctor Building Official, comprising the building codes as adopted by the State of Minnesota, and said Codes shall be designated and are hereby adopted by the City of Proctor as the codes for the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures in the City of Proctor. Further, said codes shall be utilized by the City Building Official in the issuance of permits and collection of fees hereunder and shall hereby be adopted and be made a part of this ordinance by reference as if fully set out hereby. The adoption by reference shall include all mandatory provisions of the appendices to each relevant code and any subsequent amendments thereto. Provided, however that to the extent that said Codes may be read to provide otherwise, any demolition of a structure, whether primary or accessory, shall require the removal of all foundation walls, basement flooring and/or concrete slab as part of the demolition, unless the owner provided demonstrable evidence that the foundation walls, basement flooring and/or concrete slab shall be utilized in conformance with building codes and City ordinances.

Subd. 1a. Roofing and Roof Structures. All buildings and structures within the City of Proctor shall have and maintain roofing assemblies, roof coverings and roof structures which are constructed, maintained, improved and meet or exceed the minimum requirements as specified and as otherwise required by the Codes.

Subd. 1b. Siding and Visible Address Requirement. All buildings and structures within the City of Proctor shall have and maintain siding material covering the entire exterior wall surface of such structure or building, which siding material shall be constructed, maintained, improved and meet or exceed the minimum requirements as specified and as otherwise required by the Codes. Additionally, every commercial and residential structure shall have a street address posted in such manner that it is clearly visible from the road with the following additional requirements, as applicable:

- a. All owners of primary structures which are located further than 100 feet from the edge of the driving surface of the nearest road or which are not clear year-around from the road because of vegetation, snow conditions, terrain or other obstacles shall display their address number on a signpost. The signpost shall conform with the following standards:
 - (1) The post shall be located within ten feet of the driveway and at a location which is clearly visible year-around from the road. The post must be placed in a location which is at least ten feet from the

edge of the road surface for roads with a defined shoulder or at least four feet from the edge of the road surface for roads without a defined shoulder and, in any case, not farther from the road than the end of the right-of-way.

- (2) On the signpost must be placed a sign which contains the assigned address number horizontally.
- (3) Existing signs which are placed parallel to the road in conformity with the ordinance prior to the adoption of the ordinance may remain in place as long as the sign is in good condition and visible from emergency vehicles.
- (4) New and replacement signs installed after the adoption of this ordinance must contain the assigned address number on both sides of the sign. The sign shall be installed on the sign post from one edge and extend perpendicularly away from the road. The sign shall measure six inches in height and not less than fourteen or more than twenty inches in width. The bottom of the signs shall be placed at a height which is no less than four feet above the level of the road surface. The sign shall contain which numbers not less than four inches tall on a red background. The sign shall contain reflective material.

- b. The occupant of the primary structure shall be responsible for keeping its address numbers clear of snow, dirt, debris or other obstruction.

Subd. 2. Building Permit Required; Fees; Penalties.

- (1) Building Permit Required. Any alteration, modification, improvement, construction, addition, deletion, enhancement or the like affecting any building or structure within the City limits of the City of Proctor shall require the equitable or fee owner of said building or structure, his or her designated representative, or the participating contractor or tradesman, to secure a building permit from the City Building Official prior to the commencement of work on the building or structure. Inspections by the Building Official shall be as set forth in Chapter 3 of the Uniform Building Code. (For sign fees, see Sign Ordinance, §1002.13, City Code.)

Said Board of Appeals shall follow the provisions of the Uniform Fire Code, §2.301 and §2.302, in the establishment of rules and regulations and in conducting appellate hearings.

- (2) Building Permit Fee. Fees for building permits and building inspections shall be as set forth in the following schedule. The amount of the fee shall be based on the value of the work to be performed and shall become the property of the City of Proctor upon payment. The determination of value or valuation for purposes of ascertaining the amount of the building permit and building inspection fees shall be made by the building official. The value to be used in computing the building permit and building inspection fees shall be the total value of all construction work for which the permit is issued. The payment of a fee as provided herein shall not relieve the applicant or holder of the permit from the necessity of obtaining additional permits and the payment of other fees that may be prescribed by law or ordinance.
- (3) Existing Violations. No building permit shall be issued by the City to any person with existing zoning or building code violations.

BUILDING PERMIT FEE SCHEDULE

VALUATION	FEES
\$ 1-\$ 500	\$ 15.00
501- 600	\$ 17.00
601- 700	\$ 19.00
701- 800	\$ 21.00
801- 900	\$ 23.00
901- 1,000	\$ 25.00
1,001- 1,100	\$ 27.00
1,101- 1,200	\$ 29.00
1,201- 1,300	\$ 31.00
1,301- 1,400	\$ 33.00
1,401- 1,500	\$ 35.00
1,501- 1,600	\$ 37.00
1,601- 1,700	\$ 39.00
1,701- 1,800	\$ 41.00

1,801- 1,900	\$ 43.00
1,901- 2,000	\$ 45.00
2,001- 3,000	\$ 54.00

3,001- 4,000	\$ 63.00
4,001- 5,000	\$ 72.00
5,001- 6,000	\$ 81.00
6,001- 7,000	\$ 90.00
7,001- 8,000	\$ 99.00
8,001- 9,000	\$108.00

9,001- 10,000	\$117.00
10,001- 11,000	\$126.00
11,001- 12,000	\$135.00
12,001- 13,000	\$144.00

13,001- 14,000	\$153.00
14,001- 15,000	\$162.00
15,001- 16,000	\$171.00
16,001- 17,000	\$180.00
17,001- 18,000	\$189.00
18,001- 19,000	\$198.00
19,001- 20,000	\$207.00
20,001- 21,000	\$216.00

21,001- 22,000	\$225.00
22,001- 23,000	\$234.00
23,001- 24,000	\$243.00
24,001- 25,000	\$252.00
25,001- 26,000	\$258.50
26,001- 27,000	\$265.00
27,001- 28,000	\$271.50
28,001- 29,000	\$278.00
29,001- 30,000	\$284.50
30,001- 31,000	\$291.00
31,000- 32,000	\$297.50
32,001- 33,000	\$304.50
33,001- 34,000	\$310.50
34,001- 35,000	\$317.00

35,001- 36,000	\$323.50
36,001- 37,000	\$330.00
37,001- 38,000	\$336.50
38,001- 39,000	\$343.00
39,001- 40,000	\$349.50
40,001- 41,000	\$356.00

41,001- 42,000	\$362.50
42,001- 43,000	\$369.00
43,001- 44,000	\$375.50
44,001- 45,000	\$382.00
45,001- 46,000	\$388.50
46,001- 47,000	\$395.00
47,001- 48,000	\$401.50
48,001- 49,000	\$408.00
49,001- 50,000	\$414.50

50,001- 51,000	\$419.00
51,001- 52,000	\$423.50
52,001- 53,000	\$428.00
53,001- 54,000	\$432.50
54,001- 55,000	\$437.00
55,001- 56,000	\$441.50
56,001- 57,000	\$446.00
57,001- 58,000	\$450.50
58,001- 59,000	\$455.00
59,001- 60,000	\$459.50
60,000- 100,000	\$459.50

for the first \$60,000.00, and \$4.50 for each additional \$1,000.00 or fraction thereof, plus surcharge of .0005 times valuation.

- (3) Failure to Obtain Building Permit Prior to Commencing work; Penalty. Whenever any work for which a permit is required has been commenced without first obtaining said permit, the fee specified shall be doubled. The building official may waive up to 90 percent of the additional fee if the building official

determines, in his or her discretion, that the violation was de minimus and unintentional, except that in all circumstances the minimum additional fee shall be five (5) dollars. The payment of such fee shall not exempt any person from compliance with all other laws and ordinances nor from any penalty prescribed by law or ordinance.

(4) Other Fees.

- (a) Plan Review Fee. In the event the Building Official deems it necessary to conduct a detailed plan review of the drawings, blueprints, and plans of a proposed project prior to issuance of a permit, the Building Official shall assess and collect from the owner(s), the contractor, or their designated representative a plan review fee. For residential structures, said plan review fee shall be to 50% of the building permit cost. For commercial structures, said plan review fee shall be 65% of the building permit cost. In the event circumstances exist requiring extended plan review time, then the Building Official may assess additional costs based upon the City Schedule Charges and Fees.

The plan review fees specified in this section are separate fees from the permit fees specified in section 1003.01, subd. 2 (2), and are in addition to permit fees and other fees.

- (b) Variance (Board of Adjustment) Fee. The fee for the processing and determination of a request for a variance shall be subject to the City Schedule of Charges and Fees.
- (c) Rezoning Fee. The fee for the processing and determination of a request for rezoning shall be subject to the City Schedule of Charges and Fees.
- (d) Platting/Subdivision Review Fee. The fee for the processing and determination of a request for plat and/or subdivision approval or amendment shall be subject to City Schedule of Charges and Fees.
- (e) Special Use Permits/Conditional Use Permits/Community Unit Development Fee. Any project, development, or proposed construction requiring a special use permit, conditional use permit shall be subject to the City Schedule of Charges and Fees.
- (f) Building Code Board of Appeals Fee. The fee for processing and determination of any matter before the Building Code Board of Appeals, or the City Council sitting in that capacity pursuant to §1002.18A, shall be subject to the City Schedule of Charges and Fees.

(g) Housing Code Inspection Fee. See §1003.01 subd. 6.

(I) Request for vacation of Alleys or Streets. Any request for vacation of an alley or street shall be subject to the City Schedule of Charges and Fees.

Subd. 3. Procedures for Code Violations. Upon receipt of citizen complaints or upon receipt of any information from any source which indicates a building or structure fails to conform to the standards adopted above at subd. 1 of this section, the City Building Official shall personally view the property complained of and shall meet with the property owner(s) to discuss the situation. If the property owner(s) is/are unavailable or unknown, notice shall be posted by the City Building Official upon the property asking the owner(s) to contact the Inspector's office within ten days. In the event the owner(s) refuse(s) to abate or repair the problem within 20 days or does not contact the official within the ten days following posting, the Building Official shall cause a citation for any code violation found to be issued by the Proctor Police Department. Questions involving matters appropriate for resolution by the Building Code Board of Appeals shall be referred to that body by the Building Official.

Subd. 4. Penalties. Each day of violation shall constitute a separate and distinct offense and be subject to the penalties set forth infra at §101.06

Subd. 5. Building Code Board of Appeals. There shall be established a Building Code Board of Appeals in conformance with the Uniform Building Code (§204), adopted by reference herein at subd. 1. Said Board shall consist of the

members of the Proctor Planning Commission. The Board shall adopt rules and regulations as set forth in §204 of the Uniform Building Code.

Subd. 6. Housing Code Inspection Fees. In the event the Building Official is requested or required to inspect any structure for compliance with the ICBO Housing Code, the fee for any such inspection shall be per the City Schedule of Charges and Fees.

Plumbing Permit Fee

Subject to the City Schedule of Charges and Fees.

1003.02. Licenses Required.

Subd. 1. Contractor's License Required. Any residential building contractor and/or remodeler, as those terms are defined within Minnesota Statute §326.83, shall be required to present to the Building Official of the City of Proctor proof of current compliance with the State of Minnesota's residential contracting licensure procedure, to include presentation to the

Building Official of a current and valid license. No building permit shall be issued by the City to any contractor or remodeler for any project unless the licensing requirements of the statute are met or the project is exempt from the licensing requirements of the statute.

Subd. 2. Plumbing, Electrical License Required. Any plumbing or electrical contractor, plumber, or electrician as those terms are defined by Minnesota Statute §326.01, et seq., therein, shall be required to present to the Building Official of the City of Proctor proof of current compliance with the State of Minnesota's plumbing and electrical licensure procedure, to include presentation to the Building Official of a current and valid license including providing the City with proof of the bond as required by Minn. Stat. §326.40. No building permit shall be issued by the City to any plumber or electrician for any project involving improvements to commercial or rental property, or for residential properties being improved for resale unless the licensing requirements of the statute are met; the exemptions from such licensing requirements provided for by statute shall not be applicable if such exemptions are inconsistent with this Ordinance (including population exceptions).

1003A. Tree Ordinance

1003A. Tree Ordinance.

Subdivision 1. Purpose. It is the purpose of this Ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the City of Proctor.

Subd. 2. Authority and Power. There is hereby created and established a City Tree Board for the City of Proctor, which shall consist of the members of the Proctor Beautification and Tree Committee.

A. City Tree Inspector. The Foreman of the City Street Department, or his designee, shall serve as the City Tree Inspector and shall report to the City Tree Board.

Subd. 3. Applicability. This Ordinance provides full power and authority over all trees, plants, and shrubs located within street rights-of-way, parks, and public places of the City; and to trees, plants, and shrubs located on private property that constitute a hazard or threat as described herein.

Subd. 4. Landscaping. In new subdivisions or when the development of commercial property occurs, the City Tree Inspector will review landscaping plans and may

require trees to be planted in any of the streets, parking lots, parks, and other public places abutting lands henceforth developed and/or subdivided.

Subd. 5. Tree Planting, Maintenance, and Removal.

A. Utilities. No street trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility.

B. Topping. It shall be unlawful as a normal practice for any person, firm, or City department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this Ordinance at the determination of the Beautification and Tree Committee. No person shall plant, remove, cut above the ground, or disturb any trees on any park, or other public place without first filing an application and procuring a permit from the City Tree Inspector. The person receiving the permit shall abide by the standards set forth in this Ordinance.

Subd. 6. Tree Protection. Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the City Tree Inspector shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove, or otherwise control such condition within reasonable time to be specified in such notice.

The City Tree Inspector shall have as one of his/her duties the location, selection, and identification of any trees which qualify as "Landmark Trees." A tree may qualify for a Landmark Tree if it meets one or more of the following criteria:

- (a) Species rarity.
- (b) Old age.
- (c) Association with a historical event or person.
- (d) Scenic enhancement.

Subd. 7. Private Trees. The City Tree Inspector or his/her official designee has the authority to enter onto private property whereon there is located a tree, shrub, plant, or plant part that is suspected to be a public nuisance.

Subd. 8. Penalties, Claims, and Appeals.

A. Violations. Any person who violates any provision of this Ordinance or who fails to comply with any notice issued pursuant to provisions of this Ordinance, upon being found guilty of violations, shall be subject to a fine based on the City Administrative Fine Schedule for each separate offense. Each day during which any violation of the provisions of this Ordinance shall occur or continue shall be a separate offense. If, as a result of the violation of any provision of this Ordinance, the injury, mutilation, or death of a tree, shrub, or other plant located on City-owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture.

B. Assessment of Claim. In the event that a nuisance is not abated by the date specified in the notice, the City Tree Inspector is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was located. In additions, the owner of the property upon which the nuisance was located shall be subject to prosecution.

1004. Proctor Trust Fund

1004.01. Recitals. The City Council of the City of Proctor, Minnesota, in full recognition of the needs of the citizens of the City of Proctor business development, recreational, and health activities for the benefit of the public, determines that the establishment of a Public Charitable Trust Fund for the purpose of receiving and administrating funds for business development, recreational, and health purposes may provide substantial benefits to the citizens of Proctor and substantially improve the quality of life for the residents of the City of Proctor Business Development, Recreation, and Health Public Charitable Trust Fund is in the public interest.

1004.02. Establishment of Trust Fund. There is hereby established a perpetual and permanent public charitable trust fund for the City of Proctor, Minnesota, for recreational,

business development, and health to be officially called and known as "The City of Proctor Business Development, Recreation, and Health Public Charitable Trust Fund," hereinafter referred to as the "Trust Fund."

1004.03. Purposes of the Trust Fund. The purpose of the Trust Fund is exclusively to receive and to administer funds for business development, recreational, and health purposes for the benefit of the residents of the City of Proctor, Minnesota; and to that end, to take and hold by bequest, devise, gift, grant, purchase, lease, or otherwise any property, real, personal, tangible or intangible, or any undivided interest therein, without limitation as to amount or value; to sell, convey, or otherwise dispose of any such property and to grant, loan, invest, reinvest, or deal with the principal or the income thereof in such manner as, in the judgment of the Board of Trustees of said Fund, will best promote the purposes of the Trust Fund.

1004.04. Establishment of Board of Trustees.

1004.04. Establishment of Board of Trustees. There shall be and hereby is established a Board of Trustees for the purposes of administering the funds of the Trust Fund in accordance with the purposes herein set forth. The Board of Trustees shall consist of five persons, as follows: the Mayor of the City of Proctor, Minnesota, the City Administrator of said City, and three other members appointed by the City Council of the City of Proctor, Minnesota; one of whom shall be a member of the banking profession to the extent practicable, one of whom shall be a member of the Proctor business community to the extent practicable, and one of whom shall be a current member of the Proctor Park and Receptions Board or Commission to the extent practicable. The Mayor and the City Administrator shall serve on said Board of Trustees so long as they hold public office. The three remaining members of the Board of Trustees shall each serve on said Board for terms of one, two, and three years respectively, and thereafter each member and his successor in office shall serve for three year terms. No member shall serve on the Board for more than nine consecutive years. The City Council may, by resolution, require that the members be bonded in an amount determined by the Council in its discretion at the sole expense of the City. The City Attorney of the City of Proctor shall be the designated attorney for the Board of Trustees.

1004.05. Powers of Board of Trustees. The Board of Trustees shall have the power and authority to do any act or thing incidental to or connected with the foregoing purposes or in advancement thereof.

1004.06. City of Proctor shall be Trustee of Funds; Accounting. The City of Proctor, a municipal corporation, shall be at all times considered the Trustee of all funds received by the Trust Fund, to be administered by the City of Proctor by and through the Board of Trustees as above established. An annual accounting of all funds received by the Trust Fund and paid out therefrom, the income thereon, and the expenses relating to the Trust Fund shall be included in the annual City of Proctor audit. The City of Proctor shall at all times be considered the owner of all funds received by the Trust Fund, to be held in trust for the uses and purposes hereinafter stated and described.

1004.07. Limitations on Power of Board of Trustees. The Board of Trustees shall not engage in any activities, acts, or actions which would make any investments of the funds of the Trust Fund in any manner subject to tax under §49.44 of the Internal Revenue Code of 1954 or any like or corresponding provisions of any subsequent federal tax laws; and the Board shall not engage in any activities, acts, or actions which might destroy the tax deductibility of gifts, bequests, or devises by donors to the Trust Fund, it being the intent of the City Council that all such bequests, devises, and gifts made and transferred to the Trust Fund by any donor shall be deductible for income tax and death tax purposes. If required, said Trust, through its Board, shall apply for charitable status for tax purposes.

1004.08. Loans and Grants for Business Development, Health Care Improvement, or Recreational Development. Monies received, created by investment, sale, or otherwise, or held and maintained by the Trust for business development, health care improvement, or recreational development may be disbursed by loans or grants made by the Board of Trustees to developers, business owners, non-profit corporations, or other legal entities or individuals for the purposes of business development, health care improvement, or recreational development; provided, any such project receiving loan or grant proceeds by said Trustees from the Trust must be limited to site improvements, building remodeling, building repairs, new construction, or building renovation to completed within the corporate city limits of the City of Proctor.

The Board of Trustees shall determine the risk, potential need, and feasibility of each such project submitted to it for loan or grant consideration and shall establish bylaws as to the loan application process to be followed, the rate of interest (if any) to be charged borrowers, the amount of collateral (if any) required, and all other reasonable and commercially accepted criteria for accepting or rejecting such loan or grant applications.

Said Board of Trustees to meet as frequently as the bylaws of that body require. Meetings of the Board shall be held in the City Council chambers of the City of Proctor.

Nothing in this section shall limit the ability of the Board to make, establish, and formulate further bylaws for the efficient conduct of its business; provided, any vote of the Board shall be based upon a four-fifths majority vote of all Board members.

1004.09. There shall be established four separate disbursement accounts by the Board of Trustees, one to be entitled "Business Development," one to be entitled "Health," one to be entitled "Recreation," and one to be entitled "General Fund." The purpose of the four accounts shall be to allow donors to specify the purpose for which their gift is given, and those gifts designated by the donor for one of the three specific purpose accounts shall be deposited in said account.

Monies, property, or other donations given and held for such specific purposes may be loaned, granted, expended, or otherwise utilized by the Board only for the specific purpose delineated.

All gifts, contributions, or the like of money or other property given without specific intent, purpose, or designation shall be held by the Board of Trustees in the General Fund account to be disbursed for any purpose allowed under this Ordinance.

1004.10. Books and Records of the Trust Fund; Location Thereof. All books, records, statements of account, and any and all other information relating to the Trust Fund and administration thereof shall be permanently located at the office of the City Administrator for the City of Proctor, Minnesota, and shall at all times be open for inspection by the public.

1004.11. Transfers to Trust Fund; How Made. Gifts, bequests, devises, or other transfers to the Trust Fund may be accomplished by making checks, drafts, or bequests payable to "City of Proctor Business Development, Recreation, Health, and Public Charitable Trust General Fund," or to any of the three specific intent accounts established hereunder. All such gifts, bequests, and transfers from any third party or parties shall be acknowledged by the Board of Trustees by means of a resolution of the Board accepting such gift or bequest for the purpose hereinbefore set forth. Transfers from the Trust shall be by check or draft only.

1004.12. Members of the Board of Trustees are subject to removal from the Board of Trustees without cause by majority vote of the City Council.

1005. Proctor Fair Housing Ordinance

Subdivision 1. Purpose and Intent. It is the intent of this chapter to secure in each citizen and resident of the City an opportunity to obtain quality housing without adverse discrimination on the basis of race, sex, creed, religion, marital status, and disability. It is also the policy of the City to protect all persons from unfair and unfounded charges of discrimination.

Subd. 2. Definitions. The following terms as used within this chapter have the following meanings:

- (A) "Discriminate or Discrimination:" Included segregate or separate.
- (B) "Disability:" A mental or physical condition which constitutes a handicap. Nothing in this section shall be construed to prohibit any program, service, facility, or privilege afforded to a person with a disability which is intended to habitat, rehabilitate, or accommodate that person.
- (C) "Marital Status:" The standing, state, or condition of one as single or married person.

Subd. 3. Prohibited Acts in Regard to Housing. It is unlawful:

- (A) For any person to discriminate on grounds of race, creed, religion, color, sex, marital status, status with regard to public assistance, national origin, age, or disability in the sale, lease, or rental of any housing unit or units.
- (B) For any broker, salesman, or other person acting in behalf of another to so discriminate in the sale, lease, or rental of any housing unit or units belonging to such other person.
- (C) For any person engaged in the business of financing the purchase, rehabilitation, remodeling, or repair of housing units or in the business of selling insurance with respect to housing units to refuse to provide such financing or insurance or to discriminate with regard to the terms or conditions thereof by reason of the race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age, or disability of the applicant or because of the location of the unit or units in areas of the City occupied by persons of a particular race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age, or disability; or to discriminate by treating differently any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair, or maintain real property in a specific urban area because of social, economic, or environmental conditions of the area in the granting, withholding, extending, modifying, or renewing, or in the rates, terms, conditions, or privileges of any such financial assistance or in the extension of services in connection therewith. The bona fide programs of federal, state, or local governmental units or agencies, however structured or authorized to upgrade or improve in any manner a specific urban area, shall not be deemed to be a violation of this subdivision.

- (D) For any person, having sold, leased, or rented a housing units or units to any person, to discriminate with respect to facilities, services, or privileges of occupancy by reason of race, color, sex, creed, religion, national origin, age, disability, marital status, or status with regard to public assistance.
- (E) For any person to make or publish any statement evidencing an intent to discriminate on grounds of race, creed, religion, color, sex, national origin or ancestry, marital status, status with regard to public assistance, age, or disability in the sale, lease, or rental of a housing unit or units.
- (F) For any person to make any inquiry regarding race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age, or disability or to keep any record or use any form of application designed to elicit such information in connection with the sale, lease, rental, or financing of a housing unit or units.
- (G) For any person, including real estate agents or brokers, for the purpose of inducing a real estate transaction from which he may benefit financially:
 - (1) To represent that a change has occurred or will or may occur in the composition of the block, neighborhood, or area in which the property is located in respect of the race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age, or disability of those living there; or,
 - (2) To represent that this change will or may result in the lowering of property values, an increase in crime or anti-social behavior, or a decline in the quality of schools in the block, neighborhood, or area concerned.
- (H) Nothing in this section shall be construed to require any person or group of persons selling, renting, or leasing property to modify the property in any way or exercising a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this section be construed to relieve any person or persons regardless of any disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of such lease, agreement, or contract.

Subd. 4. Exemptions and Exceptions. The unlawful acts described above at subd. 3 shall not be unlawful where:

- (A) The rental unit or dwelling unit in question has accommodations for no more than four families; provided, that the fee owner of the rental units or dwelling units physically occupies one of the available units;
- (B) The rental units or dwelling units are solely owned by a religious organization, association, or society or any non-profit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society "which limits the sale, rental, or occupancy of dwelling which it owns or operates for other than commercial purposes to persons of the same religion or which gives preference to such persons, unless membership in such a religion is restricted on account of race, color, sex, or national origin;"
- (C) The sale or rental of the owner-occupied single family housing involves a circumstance where the owner does not utilize the services of a real estate broker or real estate salesman; provided, however, that such sale or rental is not accomplished through the use of discriminatory advertising;
- (D) The facilities or units involved are solely owned by a private club not in fact open to the public which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose and which limits the rental or occupancy of such lodgings to its members or gives preference to its members;
- (E) Nothing in this section shall be construed to require any person or group or persons selling, renting, or leasing property to modify the property in any way or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this section be construed to relieve any person or persons or any obligations generally imposed on all persons regardless of any disability in a written lease, rental agreement, or contract of purchase or sale or to forbid distinctions based on the inability to fulfill their terms and conditions, including financial obligations of such lease, agreement, or contract.

Subd. 5. Enforcement Procedures. The City is designated as the enforcement agency for this section and shall have the power to receive, hear, and determine complaints as provided herein. The City shall promptly investigate, upon complaint or upon its own motion, any violations of this section. If after investigation it shall have reason to believe a violation has occurred, it may refer the matter to the City Attorney for criminal prosecution, initiate civil enforcement procedures as herein provided, or enter into a settlement agreement which, when approved by the City, shall have the same force as a City order.

Subd. 6. Statute of Limitations. No action may be brought for civil enforcement or criminal prosecution unless the charge of alleged discriminatory practice was filed with the City within 180 days from the occurrence of the practice.

Subd. 7. Civil Enforcement Procedure. Civil enforcement procedures shall be prosecuted by the City before the Council in the following manner:

- (A) The City shall serve upon respondent by certified mail a complaint, signed by it, which shall set forth a clear and concise statement of the facts constituting the violation, set a time and place for hearing, and advise the respondent of his right to file an answer to appear in person or by an attorney and to examine and cross-examine witnesses.
- (B) The hearing shall not be less than 20 days after service of the complaint. At any time prior to the hearing the respondent may file an answer. Facts not denied by answer shall be deemed admitted. If the answer sets out new matter, it shall be deemed denied by the City.
- (C) The complaint or answer may be amended at any given time prior to the hearing with the consent of the opposing party.
- (D) Hearings shall be before the Council.
- (E) The City may obtain subpoenas from the District Court to compel the attendance of witnesses and the production of documents at any hearing.
- (F) If, after hearing, the panel shall conclude that a violation has occurred, it shall prepare an order which may contain any provision deemed desirable to do justice to the complainant or to prevent further violations. It may include provisions which require the respondent to rent, sell, or lease particular housing to the complainant or to do any other thing as may be just. The panel's findings of fact and order shall be served on the respondent and each member of the Council by mail, shall become the findings and order of the City unless, within ten days after mailing of the findings and order, the City shall revoke or amend the order, but any order of a panel may be modified by the City at any time.

Subd. 8. Violation a Misdemeanor. Every person violates a section, subdivision, paragraph, or provision of this chapter when he performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this chapter and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

1100. Lodging Tax

1100.01. Definitions. The following words, terms, and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "City" means the City of Proctor, Minnesota, acting by or through its City Council.
2. "Lodging" means the furnishing for a consideration of lodging at a hotel, motel, apartment, tourist court, municipal campground, bed and breakfast or resort, other than the renting or leasing of such a premises for a continuous period of 30 days or more to the same occupant. The furnishing of rooms owned by religious, educational, or nonprofit organizations for self-sponsored activities shall not constitute "lodging" for purposes of this Ordinance.
3. "Operator" means any person who has charge, care, or control of a building in the City, or part thereof, in which dwelling units or rooming units are let, whether in the capacity of owner, lessee, sublessee, licensee, or any other capacity.
4. "Person" includes all firms, partnerships, associations, corporations, and natural persons.
5. "Rent" means the total consideration valued in money charged for lodging, whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.
6. "Lodger" means the person obtaining lodging from an operator.

1100.02. Imposition of Tax. Pursuant to Minnesota Statutes, Chapter 469.190, there is hereby imposed a tax of three percent (3%) on the rent charged by an operator for providing lodging to any person. The tax shall be stated and charged separately and shall be collected by the operator from the lodger. The tax collected by the operator shall be a debt owed by the operator to the City and shall be extinguished only by payment to the City. In no case shall the tax imposed by this Ordinance upon an operator exceed the amount of tax which the operator is authorized and required by this Ordinance to collect from a lodger.

1100.03. Collections. Each operator shall collect the tax imposed by this Ordinance at the time the rent is paid. The tax collection shall be deemed to be held in trust by the operator for

the City. The amount of tax shall be separately stated from the rent charged for the lodging, and those persons paying the tax shall receive a receipt of payment from the operator.

1100.04. Exemptions. An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the City to tax. No exemption shall be granted except upon a claim therefore made at the time the rent is collected, and such a claim shall be made in writing and under penalty of perjury on forms provided by the City. All such claims shall be forwarded to the City when the returns and collections are submitted as required by this Ordinance.

1100.05. Advertising No Tax. It shall be unlawful for any operator to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent or that, if added, it or any part thereof will be refunded. In computing the tax to be collected, amounts of tax less than one cent shall be considered an additional cent.

1100.06. Payments and Returns. The taxes imposed by this Ordinance shall be paid by the operator to the City monthly not later than twenty (20) days after the end of the month in which the taxes were collected. At the time of payment, the operator shall submit a return upon such forms and containing such information as the City may require. The return shall contain the following minimum information:

- (a) The total amount of rent collected for lodging during the period covered by the return;
- (b) The total amount of exceptions/exemptions;
- (c) The amount of tax required to be collected and due for the period;
- (d) The signature of the person filing the return or that of his/her agent duly authorized in writing;
- (e) The period covered by the return;
- (f) The amount of uncollectible rental charges subject to the lodging tax;
- (g) A certification of accuracy attested to by the person signing the form for submission to the City.

The operator may offset against the taxes payable with respect to any reporting period, the amount of taxes imposed by this Ordinance previously paid as a result of any transaction the consideration for which became uncollectible.

1100.07. Examination of Return, Adjustments, Notices, and Demands. The City or its duly authorized representatives shall, after a return is filed, examine the same and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed and the basis of such examination shall be the tax to be paid. If the tax due is found to be greater than that paid, such excess shall be paid to the City within ten (10) days after receipt of a notice thereof given either personally or sent by certified mail, return receipt requested, to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be refunded to the person who paid the tax to the City within ten (10) working days after determination of such refund.

1100.08. Refunds. Any person may apply to the City for a refund of taxes paid for a prescribed period in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within one (1) year from the date the return was due to be filed. The City shall examine the claim and make and file written findings denying or allowing the claim in whole or in part and shall mail a notice thereof by certified mail, return receipt requested, to such person at the address stated upon the return. If such claim is allowed in whole or in part, the City shall credit the amount of the allowance against any taxes due under this Ordinance from the claimant and the balance of said allowance, if any, shall be paid by the City to the claimant.

1100.09. Failure to File a Return.

Subdivision 1. If any operator required by this Ordinance to file a return shall fail to do so within the time prescribed or shall make, willfully or otherwise, an incorrect, false, or fraudulent return, the operator shall, upon written notice and demand, file such return or corrected return within five (5) days of receipt of such notice and shall at the same time pay any tax due on the basis thereof. If such person shall fail to file such return or corrected return, the entity shall make a return or corrected return for such person based upon such knowledge or information as the City can obtain, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by such return) shall be paid within five (5) days of the receipt of written notice and demand for such payment.

Any such return or assessment made by the City shall be prima facie correct and valid, and the burden of proving to the contrary rests with any person in any action or proceeding in respect thereto.

Subd. 2. If any portion of a tax imposed by this Ordinance, including penalties thereon, is not paid within thirty (30) days after it is required to be paid, the City may institute such legal action as it, in its sole discretion, may deem appropriate to cover the amount due plus interest penalties, the costs and disbursements of any action.

Subd. 3. Upon a showing of good cause, the City may grant an operator one thirty (30) day extension of time within which to file a return and make payment of taxes as required by the Ordinance provided that interest during such period of extension shall be added to the taxes due at the rate of eight (8) percent per annum.

1100.10. Penalties.

Subdivision 1. If any tax imposed by this Ordinance is not paid within the time herein specified for the payment, or an extension thereof, there shall be added thereto a specific penalty equal to ten percent (10%) of the amount remaining unpaid.

Subd. 2. In case of any failure to make and file a return within the time prescribed by this ordinance, unless it is shown that such failure is not due to willful neglect, there shall be added to the tax in addition to penalty provided in Subdivision 1 above, a penalty of ten (10) percent for each thirty (30) day period or fraction thereof during which such failure continues, not exceeding twenty-five (25) percent in the aggregate. There shall be a minimum penalty assessed of Twenty-Five and no/100 (\$25.00) Dollars if penalties in the aggregate do not exceed that amount. The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

Subd. 3. If any person willfully fails to file any return or make any payment required by this Ordinance or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat any such tax or payment thereof, there shall also be imposed as a penalty an amount equal to fifty (50%) percent of any tax (less any amounts paid on the basis of such false or fraudulent return) found due for the period to which such return related. This penalty shall be collected as part of the tax and shall be in addition to any other penalties provided by this Ordinance.

Subd. 4. All payments received shall be credited first to penalties, next to interest, and then to the tax due.

Subd. 5. The amount of tax not timely paid, together with any penalty provided by this Ordinance, shall bear interest at the rate of ten (10) percent per annum from the time such tax should have been paid until payment is made. Any interest and penalty shall be added to the tax and be collected as part thereof.

1100.11. Administration of Tax. The City shall administer and enforce the assessment and collection of the taxes imposed by this Ordinance. The City shall cause to be prepared blank forms for the returns and other documents required by this Ordinance and shall distribute the same throughout the City. Failure to receive or secure such forms and documents shall not relieve any person from any obligation required of him or her under this Ordinance.

1100.12. Examine Records. Persons acting on behalf of the City and authorized in writing by the City may examine the books, papers, and records of any operator in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this Ordinance. Every such operator is directed and required to give to the City the means, facilities, and opportunity during regular City business hours for such examinations and investigations as are hereby authorized.

1100.13. Violations. Any person who shall willfully fail to make a return by this ordinance or who shall fail to remit the taxes collected or any penalty or interest imposed by this ordinance after written demand for such payment or who shall refuse to permit the City's authorized agents to examine the books, records, and papers under his or her control or who shall willfully make any incomplete, false, or fraudulent return shall be guilty of a misdemeanor.

1100.14. Use of Proceeds. Ninety-five (95%) percent of the proceeds obtained from the collection of taxes pursuant to this ordinance shall be used in accordance with Minnesota Statutes Section 469.190 as the same may be amended from time to time for the purpose of marketing and promoting Proctor as a tourist center. The City shall retain up to five (5%) percent of the proceeds obtained hereunder to defray the costs and expenses of collection and administration of such tax.

1100.15. Appeals.

Subdivision 1. Any operator aggrieved by any notice, order, or determination made by the City under this Ordinance may file a petition for review of such notice, order, or determination. The petition shall contain the name of petitioner, the petitioner's address, and the location of the lodging subject to the notice, order, or determination.

Subd. 2. The petition for review shall be filed with the City within ten (10) days after the notice, order, or determination for which review is sought has been mailed to or served upon the person requesting review.

Subd. 3. Upon receipt of the petition, the City Administrator shall set a date for a hearing and give the petitioner at least five (5) days prior written notice of the date, time, and place of the hearing.

Subd. 4. At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order, or determination should be modified or withdrawn.

Subd. 5. The hearing shall be conducted by the City Council or its authorized representative, and it shall make written findings of fact and conclusions based upon the applicable section of this Ordinance and the evidence presented. The City Council or its authorized representative may affirm, reverse, or modify the notice, order, or determination which is subject of the appeal.

1100.16. Term. The three-year term of this Ordinance shall begin on its effective date and shall automatically be extended for subsequent three year periods unless it is rescinded by City Council action.

1200 Sales and Use Tax

1200.01. Authority. The Minnesota legislature has; by session laws of Minnesota 1999, Chapter 243, Article 4, Section 18, authorized the City of Proctor to impose an additional sales and use tax, and a motor vehicle excise tax within the City to provide revenues to pay for the construction and improvement of City streets and/or construction and equipping of Proctor Community Activity Center. The City of Proctor approved the Act in accordance with applicable law, as did the voters of the City of Proctor.

1200.02. Definitions. The words, terms and phrases used in this Ordinance shall have the meaning ascribed to them in Minnesota Statutes, Section 297A.01, except where the context clearly indicates otherwise. In addition, the following definitions shall apply:

1. "Act" means laws of Minnesota for 1999, Chapter 243, Article 4, Section 18 as amended;
2. "City" means the City of Proctor;
3. "Commissioner" means the Commissioner of Revenue for the State of Minnesota acting under the authority of an agreement entered into between the City and the State of Minnesota pursuant to the Act, or such other person or entity designated to administer and collect the Proctor Sales and Use Tax;
4. "Proctor Sales and Use Tax" means the sales and use tax imposed and collected pursuant to this Ordinance;
5. "Ordinance" means this ordinance in its present form and as it may be subsequently codified if that should occur;

6. "Retailer maintaining a place of business in the City" or any like term shall mean any retailer having or maintaining within the City, directly or by a subsidiary, an office, place of distribution, sales or sample room or place, warehouse or other place of business, or having any representative, agent, sales person, canvasser or solicitor operating in the City under the authority of the Retailer or its subsidiary, for any purpose, including the repairing, selling, delivering, installing, or soliciting of orders of the Retailer's goods or services, or the leasing of tangible personal property located in the City, whether the place of business or agent, representative, sales person, canvasser, or solicitor, is located in the City permanently or temporarily, or whether or not the Retailer or subsidiary is authorized to do business within the City.
7. "Motor vehicle" has the meaning given to it by Minnesota Statute Section 297B.01, Subd. 5.
8. "Motor vehicle excise tax" means the amount of up to \$20,000 per vehicle tax which may be imposed and collected, in the discretion of the City, as further stated in Section 8 of this Ordinance.

1200.03. Imposition of Tax. Except as otherwise provided in this Ordinance, there is hereby imposed an additional excise tax in the amount of one-half of the percent on the gross receipts from the sales at retail, and the storage, use, distribution or consumption of goods or services which are taxable, pursuant to Minnesota Statutes 297A and occur within the City of Proctor. The imposition, administration, collection and enforcement of this tax shall be governed by the provisions of Minnesota Statute Section 297A.48.

1200.04. Separate Statement: Collection From Purchaser Advertising No Tax: Minimum Uniform tax Collection Methods. The Proctor Sales and Use Tax shall be stated and charged separately from the sales price or charge for service insofar as practicable, and should be a debt from the purchaser to the seller recoverable at law in the same manner as other debts. In computing the tax to be collected as a result of transaction, any amount of tax less than one-half of the cent may be disregarded and amounts of tax one-half cent or more may be considered an additional cent. If the sales price of any sale at Retail is ninety-nine cents or less, no tax shall be collected.

1200.05. Exemption Certificates. An exemption certificate taken in good faith from a purchaser to the effect that the property purchased is for resale or that the sale is otherwise exempt from the application of the tax imposed by this ordinance will conclusively relieve the Retailer from collecting and remitting the tax. A person who has obtained from the Commissioner an exemption certificate pursuant to Minnesota Statute Section 297A.11 may use such exemption certificate for the purposes of the sales tax imposed by the City.

1200.06. Presumption of Purpose of Sale. For the purpose of the proper administration and enforcement of Section 3 of this Ordinance, it shall be presumed that all retail sales for

delivery in the City are for storage, use, or other consumption in the City until the contrary is established.

1200.07. Collection of Sales and Use Tax at Time of Sale.

1. Any Retailer making deliveries within the City, any Retailer maintaining a place of business in the City, or any other Retailer otherwise doing business within the City, upon making sales of any items described in Section 3 which are not exempted from the sales tax imposed under that section and which are to be delivered or caused to be delivered within the City to the purchaser, shall at the time of making such sales collect the Sales and Use Tax from the purchaser. The tax collected by such retailer shall be remitted to the Commissioner on behalf of the City.
2. Any Retailer required to collect the Proctor Sales and Use Tax and remit such tax to the Commissioner pursuant to this section shall register with the Commissioner and provide such other information as the Commissioner may require.

1200.08. Agent of Retailer. When in the opinion of the Commissioner, it is necessary for the efficient administration of the tax, the Commissioner may regard any salesman, representative, trucker, peddler, or canvasser as the agent of the dealer, distributor, supervisor, employer, or other person under whom such salesman, representative, trucker, peddler or canvasser operated or from whom the tangible property is being sold is obtained, and may regard the dealer, distributor, supervisor, employer or other person as a Retailer for the purposes of this Ordinance.

1200.09. Motor Vehicle Excise Tax. There is no additional excise tax to be imposed on the sale of new and used motor vehicles by any person engaged within the City in the business of selling motor vehicles at retail. The City specifically declines to impose such a tax although authorized by law in Chapter 389, Article 8, Section 45, Minnesota Laws of 1998.

1200.10. Effective date; Transitional Sales. Except as otherwise provided herein, the Proctor Sales and Use Tax authorized by this Ordinance shall apply to sales made on or after April 1, 2000, and shall be in addition to all other taxes now in effect. The Proctor Sales and Use Tax shall not apply to the following:

1. The gross receipts from retail sales or leases of tangible personal property made pursuant to a bona fide written contract which unconditionally vests the rights and obligations of the parties thereto, provided that such contracts were enforceable

prior to April 1, 2000, and that delivery of the tangible personal property subject thereto is made on or before June 1, 2000.

2. The gross receipts from retail sales made pursuant to bona fide lump sum or fixed price construction contract which unconditionally vests the rights and obligations of the parties thereto and which does not make provision for allocation of future taxes, provided that such contract was enforceable prior to April 1, 1999, and the delivery of the tangible personal property used in performing such construction contract is made before January 1, 2001.
3. Payments made prior to April 1, 2000, for contracts to provide taxable services, provided that such contracts were enforceable prior to April 1, 2000, however, the Proctor Sales and Use Tax shall apply to payments made pursuant to such contracts to provide services on and after June 1, 2000.
4. Utility bills that include charges for services for any date before April 1, 2000, however, the Proctor Sales and Use Tax shall apply to all utility bills for services provided after April 1, 2000.

1200.11. Collection and Enforcement. The Proctor Sales and Use Tax imposed by the City pursuant to this Ordinance shall be subject to the same interests, penalties, and other rules as are applicable to the State general sales and use tax imposed by Minnesota Statutes Chapter 289A and 297A. The Proctor Sales and Use Tax imposed by the City pursuant to this Ordinance may be collected by the State on behalf of the City as provided by an appropriate agreement with the Minnesota Commissioner of Revenue.

1200.12. Tax Clearance Issuance of License. The City may not issue or renew a license for the conduct of a trade or business in the City if the Commissioner notifies the City that the applicant for such license owes delinquent Proctor Sales and Use Taxes as provided in this Ordinance, or penalties or interest due on such taxes. For the purposes of this Section 11, the following terms have the following meanings:

1. Proctor Sales and Use Taxes include sales and use tax as provided in this Ordinance. Penalties and interest are penalties and interest due on taxes included in this definition.
2. Delinquent taxes do not include a tax liability if:
 - a. an administrative or court action which contests the amount or validity or the liability has been filed or served;
 - b. the appeal period to contest tax liability has not expired; or

- c. the applicant has entered into a payment agreement and is current with the payments.
3. Applicant means an individual if the license is issued to or in the name of an individual or the corporation, partnership, or other entity if the license is issued to or in the name of a corporation, partnership, or other entity.

A copy of the notice of delinquent taxes given to the City shall also be sent to the applicant taxpayer. In the case of renewal of a license, if the applicant requests a hearing in writing, within thirty (30) days of the receipt of the notice of delinquent taxes, then a contested case hearing shall be held by the Commissioner under the same procedures as provided in Minnesota Statutes, Section 270.72 for the State sales and use tax imposed under Minnesota Statutes, Chapter 297A, provided that if a hearing must be held on the State sales and use tax, hearings may be combined.