

PROCTOR, MINNESOTA CODE OF ORDINANCES

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§ 10.01 TITLE OF CODE.

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

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

§ 10.02 RULES OF INTERPRETATION.

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

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

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

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

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

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

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

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

COUNTY. The County of St. Louis.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be

equivalent to the words **AFFIRM** and **AFFIRMED**. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

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

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

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

RESERVED. When in reference to a code section, chapter or title, that part of the code is intentionally being held available for future use.

SHALL. The act referred to is mandatory.

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

STATE. The State of Minnesota.

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

UNPERMITTED. Not permitted, disallowed, banned.

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

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 SEVERABILITY.

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

§ 10.07 REFERENCE TO OTHER SECTIONS.

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

§ 10.08 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this city exercising the powers, duties or functions contemplated

in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.09 ERRORS AND OMISSIONS.

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

§ 10.10 OFFICIAL TIME.

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

§ 10.11 REASONABLE TIME.

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

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

§ 10.12 ORDINANCES REPEALED.

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

§ 10.13 ORDINANCES UNAFFECTED.

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

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

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

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

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

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

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

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had

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

§ 10.18 COPIES OF CODE.

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

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

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

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

§ 10.20 ENFORCEMENT.

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

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

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

(D) If the licensee, owner, resident or other person in control of a premises objects to the inspection of or entrance to the property, the Clerk-Treasurer, peace officer or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid

search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

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

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

§ 10.99 GENERAL PENALTY AND ENFORCEMENT.

(A) Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any violation which is a petty misdemeanor under this code, including Minnesota Statutes specifically adopted by reference.

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

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

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

(E) In addition to any penalties provided for in this section or in Chapter 11 of this code of ordinances, if any person, firm or corporation fails to comply with any provision of this code, the Council or any city official designated by it, may institute appropriate proceedings with a hearing before City Council, at law or at equity to restrain, correct or abate the violation.

(F) Issuance of citation for violation: upon probable cause to believe that a violation has been committed and that the violator has committed the violation or is legally responsible for the commission of the violation or for allowing the condition constituting the violation to exist, an issuer is authorized to issue a citation, complying with the standards set forth below, to the violator:

(1) In the case of a violation which constitutes a property violation, the citation may, in addition, include a directive to eliminate the condition giving rise to the property violation; and/or

(2) If reasonably practical, the issuer shall deliver the citation to the violator in person. If the violator is not present at the time that the citation is issued, cannot be reasonably contacted for the purpose of delivery of the citation or refused to accept delivery of the citation, the issuer may deliver the citation to the violator by depositing it in the U.S. mail addressed to the violator at an address of public record for the violator, which may include, but need not be limited to, an address taken from area telephone directories, from records of the City Assessor, from records of city-owned utilities or from other public sources. Delivery by alternative means shall be deemed to be valid delivery and shall be deemed to be effective three days after the deposit of the citation in the U.S. mail.

CHAPTER 11: ADMINISTRATIVE OFFENSES

Section

- 11.01 Purpose and intent
- 11.02 Administrative offense defined
- 11.03 Notice
- 11.04 Payment
- 11.05 Hearing
- 11.06 Hearing Officer
- 11.07 Failure to pay
- 11.08 Disposition of penalties
- 11.09 Offenses and penalties
- 11.10 Subsequent offenses
- 11.11 Administrative penalties

§ 11.01 PURPOSE AND INTENT.

Administrative offense procedures established pursuant to this chapter are intended to provide the public and the city with an informal, cost effective and

expeditious alternative to traditional criminal charges for violations of certain 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, 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 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.

(Prior Code, § 506A.01) (Ord. 01-04, passed 3-1-2004; Ord. 02-09, passed 4-20-2009)

§ 11.02 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 § 11.11.

(Prior Code, § 506A.02) (Ord. 01-04, passed 3-1-2004; Ord. 02-09, passed 4-20-2009)

§ 11.03 NOTICE.

Any offer of the City Police Department or any other person employed by the city, authorized in writing by the City Council, 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. The written notification may be delivered personally or by certified mail. The 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.

(Prior Code, § 506A.03) (Ord. 01-04, passed 3-1-2004; Ord. 02-09, passed 4-20-2009)

§ 11.04 PAYMENT.

Once the notice is given, the alleged violator may, within 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 the 15-day period.

(Prior Code, § 506A.04) (Ord. 01-04, passed 3-1-2004; Ord. 02-09, passed 4-20-2009)

§ 11.05 HEARING.

Any person contesting an administrative offense pursuant to this chapter may, within 15 days of the time of issuance of this notice, or in the case of a parking offense, within five days of the time of issuance of the notice, be issued a state citation requesting a hearing through the county district to determine if a violation has occurred. (Prior Code, § 506A.05) (Ord. 01-04, passed 3-1-2004; Ord. 01-09, passed 3-2-2009; Ord. 02-09, passed 4-20-2009)

§ 11.06 HEARING OFFICER.

(A) An individual designated in writing by the City Administrator shall be the Hearing Officer for purposes of this chapter. The Hearing Officer is authorized to hear and determine any controversy relating to the administrative offenses provided for in this section.

(B) The process is intended to replace any existing administrative procedures previously established by ordinance with regard to violations enumerated herein. (Prior Code, § 506A.05a) (Ord. 01-04, passed 3-1-2004; Ord. 01-09, passed 3-2-2009; Ord. 02-09, passed 4-20-2009)

§ 11.07 FAILURE TO PAY.

In the event a party charged with an administrative offense fails to pay the penalty and administrative fee, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. (Prior Code, § 506A.06) (Ord. 01-04, passed 3-1-2004; Ord. 01-09, passed 3-2-2009; Ord. 02-09, passed 4-20-2009)

§ 11.08 DISPOSITION OF PENALTIES.

All penalties and administrative fees collected pursuant to this chapter shall be paid to the city and deposited in the General Fund. (Prior Code, § 506A.07) (Ord. 01-04, passed 3-1-2004; Ord. 02-09, passed 4-20-2009)

§ 11.09 OFFENSES AND PENALTIES.

Offenses, which may be charged as administrative offenses and penalties and administrative fees for those offenses, shall be established by resolution of the City Council from time to time. Copies of the resolution shall be maintained in the office of the City Administrator; provided, however, that the fees shall be identical to the fine for the equivalent state citation. (Prior Code, § 506A.08) (Ord. 01-04, passed 3-1-2004; Ord. 02-09, passed 4-20-2009)

§ 11.10 SUBSEQUENT OFFENSES.

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

(Prior Code, § 506A.09) (Ord. 01-04, passed 3-1-2004; Ord. 01-09, passed 3-2-2009; Ord. 02-09, passed 4-20-2009)

§ 11.11 ADMINISTRATIVE PENALTIES.

<i>Regulation Conduct</i>	<i>Code Section</i>	<i>Penalty</i>
Disorderly Conduct (M.S. § 609.72)	130.01	Will define by statute or resolution
Disorderly Premises	130.03	Will define by statute or resolution
Drug Paraphernalia		
Unlawful sale	130.05	Will define by statute or resolution
Unlawful sale to juveniles	130.05	Will define by statute or resolution
Liquor and Beer	Chapter 120	
Liquor licensing procedure		Will define by statute or resolution
Noise Violation/Amplified Sound in Motor Vehicle	131.01, 131.02	Will define by statute or resolution
Obstructing a public officer	130.04	Will define by statute or resolution
Parking Violations		
Disability parking areas	71.02	Will define by statute or resolution
Hour parking	71.05	Will define by statute or resolution
No parking areas	71.01	Will define by statute or resolution
Parking in alleys	71.03	Will define by statute or resolution
Restricted or no parking zone by Council	71.04	Will define by statute or resolution
School zones	71.07	Will define by statute or resolution

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<i>Regulation Conduct</i>	<i>Code Section</i>	<i>Penalty</i>
Time limit parking	71.06	Will define by statute or resolution
Public Consumption of Alcohol		
Consumption of alcohol on public property	120.085—120.087	Will define by statute or resolution
Public urination/defecation	130.02	Will define by statute or resolution
Sexually Oriented Businesses		
Each violation to Chapter 119		Will define by statute or resolution
Street Dance		
Areas allowed	118.32	Will define by statute or resolution
Hours	118.31	Will define by statute or resolution
Insurance and deposits	118.34	Will define by statute or resolution
Other requirements	118.33	Will define by statute or resolution
Permit required	118.30	Will define by statute or resolution
Public safety	118.35	Will define by statute or resolution
Traffic and Motor Vehicles		
Disobeying a traffic control device	70.01	Will define by statute or resolution
Driving over sidewalks	70.30—70.32	Will define by statute or resolution
Exhibition driving/inattentive driving	70.02	Will define by statute or resolution
Non-motorized vehicles and devices (roller blades, skate boards, tricycles and the like)	70.15	Will define by statute or resolution
Weight limits	Chapter 73, Sch. II	Will define by statute or resolution

<i>Regulation Conduct</i>	<i>Code Section</i>	<i>Administrative Penalty</i>
The administrative offenses and administrative penalties for the offenses listed below are hereby established:		

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<i>Regulation Conduct</i>	<i>Code Section</i>	<i>Administrative Penalty</i>
Abandoned Personal Property		
Unlawful storage of abandoned property	91.051	Will define by statute or resolution
Animal Violations		
All other animal violations		Will define by statute or resolution
Barking dogs/habitual barking, yelping and the like	90.04	Will define by statute or resolution
Dogs and cats - failure to vaccinate against rabies	90.07	Will define by statute or resolution
Impounding fees - animal	90.09	Will define by statute or resolution
Interference with persons	90.03	Will define by statute or resolution
Running at large	90.02	Will define by statute or resolution
Vicious/public nuisance animals	90.05	Will define by statute or resolution
Bicycle Violations		
Operation of bicycles	72.01—72.03	Will define by statute or resolution
Building Sewers and Connections	51.19	Will define by statute or resolution
Burning of Solid Fuels		
Other requirements	91.022	Will define by statute or resolution
Public nuisance	91.020, 91.021	Will define by statute or resolution
Clean Air		
Tobacco products prohibited	34.21, 34.22	Will define by statute or resolution
Common Excavation, Drainage, Contaminated Soils and Wetlands		
Activities prohibited	151.03	Will define by statute or resolution
Curfew		
Curfew violations	130.50, 130.51	Will define by statute or resolution
Hunting Deer by Bow and Arrow	132.01—132.04	Will define by statute

<i>Regulation Conduct</i>	<i>Code Section</i>	<i>Administrative Penalty</i>
		or resolution
Land and Building Regulations		
Erection of sign without required permit	155.225—155.235	Will define by statute or resolution
Open Burning		
Open fire/burning violation	130.20—130.22	Will define by statute or resolution
Prohibition on Feeding Certain Animals		
Prohibition	132.30	Will define by statute or resolution
Public Nuisances		
Affecting health	91.002	Will define by statute or resolution
Affecting morals and decency	91.003	Will define by statute or resolution
Affecting peace and safety	91.004	Will define by statute or resolution
Public Sidewalk		
Failure to remove snow, ice, dirt and rubbish from sidewalk after its deposit on sidewalk	92.03	Will define by statute or resolution
Unlawful depositing of snow on public sidewalk, streets and the like prohibited	92.07	Will define by statute or resolution
Public Utilities	Chapters 51, 53, 54	Will define by statute or resolution
Racing Cars and Stock Cars		
Operation	91.006	Will define by statute or resolution
Parking and storage	91.006	Will define by statute or resolution
Repair, service or maintaining	91.006	Will define by statute or resolution
Snowmobile Violations		
Age violations	72.15—72.25	Will define by statute or resolution
Equipment	72.15—72.25	Will define by statute or resolution

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<i>Regulation Conduct</i>	<i>Code Section</i>	<i>Administrative Penalty</i>
Failed to yield	72.15—72.25	Will define by statute or resolution
Hours of operation	72.15—72.25	Will define by statute or resolution
Licensing	72.15—72.25	Will define by statute or resolution
Operation on a sidewalk	72.15—72.25	Will define by statute or resolution
Owner responsibility	72.15—72.25	Will define by statute or resolution
Speed	72.15—72.25	Will define by statute or resolution
Towing with snowmobile	72.15—72.25	Will define by statute or resolution
Trapping		
Trapping in city limits	132.15—132.18	Will define by statute or resolution
Trees	Chapter 94	Will define by statute or resolution
Trespass		
Angle parking and parking against traffic	71.09	Will define by statute or resolution
Commercial parking lots	71.14	Will define by statute or resolution
Double parking	71.10	Will define by statute or resolution
Public trespass	130.35	Will define by statute or resolution
Semi-truck parking regulations	71.12	Will define by statute or resolution
Semi-truck parking regulations, keys in ignition	71.13	Will define by statute or resolution
Trains obstructing streets	71.11	Will define by statute or resolution
Trespass	130.35	Will define by statute or resolution
Trespass/ATV, snowmobile winter parking regulations	71.08	Will define by statute or resolution
Weapons		
Discharge of air rifles/similar guns	133.02, 133.07	Will define by statute

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<i>Regulation Conduct</i>	<i>Code Section</i>	<i>Administrative Penalty</i>
or bow and arrow		or resolution
Wetland Protection	151.15—151.31	Will define by statute or resolution

<i>Regulation</i>	<i>Code Section</i>	<i>Fine</i>	<i>Admin.</i>	<i>Total</i>
Building sewers and connections	§ 51.99(N)(1)			
1st Offense		Will define by statute or resolution		
2nd Offense		Will define by statute or resolution		
Drug paraphernalia - individual	§ 130.05			
1st Offense		Will define by statute or resolution		
2nd Offense		Will define by statute or resolution		
Erosion and sediment control plan	Ch. 152			
1st Offense		Will define by statute or resolution		
2nd Offense		Will define by statute or resolution		
Noise regulation	§ 131.01			
1st Offense		Will define by statute or resolution		
2nd Offense		Will define by statute or resolution		
Racing and stock cars (operating, parking, storing repairing, servicing, and maintaining of racing cars and stock cars)	§ 91.006; § 91.999(B)			
1st Offense		Will define by statute or resolution		
2nd Offense		Will define by statute or resolution		
Semi-truck parking regulations	Ch. 71			
1st Offense		Will define by statute or resolution		

Regulation	Code Section	Fine	Admin.	Total
2nd Offense		Will define by statute or resolution		
Maintenance and removal of signs	§§ 155.225— 155.236	Will define by statute or resolution		
Trees	Ch. 94			
1st Offense		Will define by statute or resolution		
2nd Offense		Will define by statute or resolution		

(Ord. 02-05, passed 4-4-2005; Ord. 02-09, passed 4-20-2009)

TITLE III: ADMINISTRATION

Chapter

- 30. GENERAL PROVISIONS**
- 31. COUNCIL**
- 32. CITY ORGANIZATIONS**
- 33. CITY EMPLOYEES**
- 34. CITY POLICIES**
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CHAPTER 30: GENERAL PROVISIONS

Section

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GENERAL PROVISIONS

§ 30.01 SALARIES.

(A) *Councilors.*

(1) The salary of the City Councilors shall be an amount set by City Council from time to time by resolution, payable in equal installments in accordance with the city's normal payroll schedule. For purposes of this section, the salaries are 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.

(2) 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 an amount set by City Council from time to time by resolution.

(B) *Mayor.* The salary of the Mayor shall be an amount set by City Council from time to time by resolution, payable in equal installments in accordance with the city's normal payroll schedule.

(C) *Commissioners' salaries.*

(1) 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.

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

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

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

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

(D) *Committee members' reimbursement.* Members of committees shall receive compensation as determined by resolution of the City Council. This division (D)

shall not apply to city employees, members of the Planning and Zoning Commissioner or the City Public Utilities Commission.
(Prior Code, § 202.01)

CONFLICTS OF INTEREST

§ 30.15 PURPOSE.

The City Council 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 subchapter. As used herein, the term **BOARD** includes any and all boards, committees or commissions of the city, to include the City Public Utilities Commission.
(Prior Code, § 202.03)

§ 30.16 RULES OF CONDUCT.

(A) *Rules of conduct.*

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

(2) No Council member, member of any board or employee in any matter before the Council or board, which affects his or her financial interest or those of a business with which he or she is associated, unless the effect on him or her is no greater than that of other members of his or her business classification, profession or occupation, shall fail to disclose for the record that interest prior to any discussion or vote.

(3) 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 or her office except as provided by law.

(4) 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 the services are available to the public generally or are provided as municipal policy for the use of the public officials or employee in the conduct of official business.

(5) (a) 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 or her official duties in the public interest or would tend to impair his or her independence or judgment or action in the performance of his or her official duties.

(b) 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; and

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 the contract or business because of his or her public position.

(6) City Council shall determine if any outside employment by its employees is compatible or incompatible with their public position. No employee shall hold a position which the City Council deems incompatible with his or her public position. **EMPLOYMENT** is defined for the purpose of this division (A)(6) 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 City Public Utilities Commission shall make the same determinations relative to its employees.

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

(B) *Application.* 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.

(Prior Code, § 202.03)

PUBLIC CONTRACTS

§ 30.30 DEFINITIONS.

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

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 State Director of Voluntary Apprenticeship.

BASIC HOURLY RATE. The hourly wage paid to any employee.

FRINGE BENEFITS. Employer contribution for health and welfare benefits, vacation benefits, pension benefits and all other economic benefits other than the basic hourly rate.

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, being 40 U.S.C. §§ 3141-3148, as amended.

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.
(Prior Code, § 304.01)

§ 30.31 WAGE RATES AND HOURS FOR CITY PROJECTS.

(A) Any contract which provides for a project of estimated total cost of an amount set by City Council from time to time by resolution 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 eight hours in any work day or 40 hours in any work week unless he or she is paid at a rate of at least one and one-half times the basic hourly rate for all hours in excess of eight per day or 40 per week and unless he or she receives fringe benefits that are at least equal to those in the prevailing wage rate.

(B) (1) All contracts for city projects shall have applicable schedules of prevailing wage rates set forth in the contract.

(2) 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) (1) Employees on projects shall be paid at least weekly.

(2) 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) (1) Any contractor or subcontractor working on a project shall furnish the city with a copy of all payrolls relating to the project.

(2) The 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) (1) 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.

(2) 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 subchapter.

(F) This section shall not apply to contracts for projects where the total estimated cost of the project is less than an amount set by City Council from time to time by resolution; nor to materialmen 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 the material is incorporated into the project by depositing the material substantially in place, either directly or through spreaders, from the transporting vehicle.

(Prior Code, § 304.02) Penalty, see § 30.99

§ 30.32 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 or she is entitled under his or her contract of employment.

(Prior Code, § 304.03)

APPLICANTS FOR CITY EMPLOYMENT, CITY LICENSES AND CANVASSERS

§ 30.45 APPLICANTS FOR CITY EMPLOYMENT.

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

(B) *Criminal history employment background investigations.*

(1) The City Police Department is hereby required, as the exclusive entity within the city, to do a criminal history background investigation on the applicants for all regular part-time or full-time employees of the city and other positions which work with children or vulnerable adults unless the city's hiring authority concludes that a background investigation is not needed.

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

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

(b) If the city rejects the applicant's request on this basis, the city shall notify the applicant in writing of the following:

1. The grounds and reasons for the denial;

2. The applicant complaint and grievance procedure set forth in M.S. § 364.06, as it may be amended from time to time;
 3. The earliest date the applicant may reapply for employment; and
 4. That all competent evidence of rehabilitation will be considered upon reapplication.
- (Ord. 01-13, passed 2-19-2013)

§ 30.46 APPLICANTS FOR CITY LICENSES AND CANVASSERS.

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

(B) *Criminal history license background investigations.*

(1) The City Police Department is hereby required, as the exclusive entity within the city, to do a criminal history background investigation on canvassers and the applicants for the following licenses within the city:

- (a) Applicants for liquor licenses; and
- (b) Vendor/peddler licenses.

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

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

(b) If the city rejects the applicant's request on this basis, the city shall notify the applicant in writing of the following:

1. The grounds and reasons for the denial;
2. The applicant complaint and grievance procedure set forth in M.S. § 364.06, as it may be amended from time to time;
3. The earliest date the applicant may reapply for the license; and

4. That all competent evidence of rehabilitation will be considered upon reapplication.
(Ord. 01-13, passed 2-19-2013)

§ 30.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person violating the provisions of § 30.31 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 may withhold contract payments to the contractor until the deficiencies are corrected.
(Prior Code, § 304.02)

CHAPTER 31: COUNCIL

Section

31.01	Meetings
31.02	Mayor
31.03	Minutes
31.04	Agenda
31.05	Quorum and voting
31.06	Ordinances, resolutions and motions
31.07	Amendment and suspension of rules

§ 31.01 MEETINGS.

(A) *Time and place.*

(1) Regular meetings of the Council shall be held on the first and third Mondays of each calendar month at a 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 meeting at other facilities appropriate for those meetings provided 48 hours' posted notice of the location of the meetings appears in the City Hall prior to any meeting.

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

(B) *Special meetings.*

(1) 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-Treasurer. At least one day before the meeting, the Clerk-Treasurer 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 or her personally if he or she can be found, or, if he or she 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.

(2) The provisions regarding notice set forth in division (A) above shall apply to all special meetings not held in City Hall.

(C) *First meeting.*

(1) At the first regular Council meeting in January of each year the Council shall:

(a) Designate the depository of city funds;

(b) Designate the official newspaper;

(c) 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; and

(d) Appoint officers and employees and members of boards, commissions and committees as may be necessary.

(2) The provisions regarding notice set forth at division (A) above shall apply to all special meetings not held in City Hall.

(D) *Open meetings.* All Council meetings, including special and adjourned meetings, shall be open to the public except as may be otherwise provided by law. (Prior Code, § 201.01)

§ 31.02 MAYOR.

(A) *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-Treasurer 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.

(B) *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*.

(C) *Appeals.*

(1) Any member may appeal to the Council from a ruling of the presiding officer.

(2) 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.

(D) *Participation in meetings.* Except as otherwise provided by law or this section, the presiding officer shall not be deprived of any of the privileges of a Council

member by reason of his or her acting as presiding officer, including the power to move, second and debate from the chair.

(Prior Code, § 201.02)

§ 31.03 MINUTES.

(A) *Recording.* Minutes of each Council meeting shall be kept by the Clerk-Treasurer or, in his or her absence, by the Deputy Clerk-Treasurer. 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.

(B) *Approval and publication.* The minutes of each meeting shall be reduced to typewritten form, shall be signed by the Clerk-Treasurer 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.

(Prior Code, § 201.03)

§ 31.04 AGENDA.

(A) *Order of business.*

(1) Each meeting of the Council shall convene at the time and place appointed therefor.

(2) Council business shall be conducted in the following order:

(a) Call to order, to be scheduled pursuant to § 31.01(A) at 6:00 p.m. of the first and third Mondays, or as noted in that section;

(b) Roll call;

(c) Approval of minutes; and

(d) Approval of agenda:

1. Communications;

2. Planning and zoning;

3. Clerk-Treasurer advises Council;

4. Comments and suggestions from citizens present; to

be held at 8:00 p.m. on each Council meeting night, schedule allowing;

5. Committee reports; to be held at 8:30 p.m. on each

Council meeting night;

6. Unfinished business;

7. New business;

8. Bills for approval;

9. Liquor bills for approval; and

10. Adjournment.

(B) *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.

(C) *Written agenda.* An agenda of the business and claims for each regular Council meeting shall be prepared by the Clerk for the 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 on or before noon on the preceding Wednesday prior to the regular Council meeting, or on or before noon on the preceding Thursday prior to the regular Council meeting if the meeting is held on a Tuesday. 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 in accordance with the above rules 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.

(D) *Additions.* By super-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.

(Prior Code, § 201.04) (Ord. 03-20, passed 3-2-2020)

§ 31.05 QUORUM AND VOTING.

(A) *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.

(B) *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 or her name, shall be marked "Present not voting".

(C) *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.

(Prior Code, § 201.05)

§ 31.06 ORDINANCES, RESOLUTIONS AND MOTIONS.

(A) *Ordinances, resolutions and motions.*

(1) 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 the ordinance or amendment shall be read in full. A vote of the City Council may be taken relative to the ordinance or amendment upon completion of the second reading.

(2) 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.

(3) 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-Treasurer.

(B) *Recording.* Every ordinance and resolution passed by the Council shall be signed by the Mayor and attested by the Clerk-Treasurer. 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.

(C) *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.

(Prior Code, § 201.06)

§ 31.07 AMENDMENT AND SUSPENSION OF RULES.

The rules for the conduct of Council meetings established by §§ 31.02 through 31.07 may be temporarily suspended by a majority vote of all Council members. Sections 31.01 through 31.07 shall not be repealed or amended except by majority vote of the whole Council after notice has been given at some preceding Council meeting.
(Prior Code, § 201.08)

CHAPTER 32: CITY ORGANIZATIONS

Section

General Provisions

- 32.01 Committees
- 32.02 Police Civil Service Commission

Fire Department

- 32.15 Established
- 32.16 Appointment
- 32.17 Fire Chief
- 32.18 Volunteer Fire Department attendance requirements

GENERAL PROVISIONS

§ 32.01 COMMITTEES.

(A) *Standing committees.*

(1) *Committees listed.*

(a) There shall be eight standing committees of the City Council, namely:

1. Streets;
2. Liquor Control;
3. Parks and Recreation;
4. Beautification and Trees;
5. Public Safety;
6. Cable Television;
7. Tourism; and
8. Trust Fund Board.

(b) Each of the committees except the Trust Fund Board, the Board being governed by the ordinance establishing the fund, and Liquor Control Board, shall consist of one Council member and two non-Council members (or more as the Council shall so decide), and the committee members shall be appointed by the Council at the first meeting of each year or upon vacancy or term expiration. Any subject considered by the committees shall be presented to the Council with their recommendations for the Council's consideration.

(c) The Liquor Control Board shall consist of two Council members and the Police Chief with the liquor store manager as an advisory member.

(2) *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. subpart N.

(3) *Use of lodging tax proceeds.* Ten percent of the proceeds obtained from collection of lodging taxes shall be used in accordance with M.S. § 469.190, as it 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 the city. The remaining balance of the proceeds obtained from the collection of taxes shall be used in accordance with M.S. § 469.190, as it may be amended from time to time, to provide funding to the Tourism Committee for the purpose of marketing and promoting the city.

(B) *Special committees.* The presiding officer of the Council at his or her discretion may refer certain problems falling outside of the jurisdiction of the aforementioned committees to special committees appointed by him or her and confirmed by the Council. The committees shall consist of at least one Council member. The reports of the special committees and their recommendations shall be forwarded to the full Council for their consideration.

(C) *Personnel committees.* There shall be established for the City Council and the City Public Utilities Commission two Personnel Committees which shall be standing committees of each body.

(1) *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 City 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.

(2) *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.

(3) *Duties of Personnel Committees.* It shall be the duty of each of the respective Personnel Committees to perform the following functions and duties.

(a) 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 the employee, the complaint, allegation or charge regarding that employee shall be processed in accordance with the enacted policies and procedures of the respective employer.

(b) 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.

(c) 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.

(d) 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 or 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.

(e) 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.

(f) 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.

(4) *Applicability to police.* The process of discipline set forth in this section shall not be applicable to police officers employed by the city. Discipline of those employees shall be through the Police Civil Service Commission.

(Prior Code, § 201.07) (Ord. 02-05, passed 4-4-2005; Ord. 02-18, passed 6- -2018)

§ 32.02 POLICE CIVIL SERVICE COMMISSION.

The Police Civil Service Commission Rules and Regulations, copies of which are on file at the City Hall, are adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Policy passed 12-6-1993, amended 5-2-1994; approved 5-16-1994; approved 6-16-1997; approved 3-17-2008)

FIRE DEPARTMENT

§ 32.15 ESTABLISHED.

There is hereby established a Fire Department in the city, consisting of a Chief and not to exceed 25 volunteer firefighters, except as authorized by resolution of City Council.

(Prior Code, § 205.01) (Ord. 04-10, passed 1-3-2011)

§ 32.16 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.

(Prior Code, § 205.02) (Ord. 04-10, passed 1-3-2011)

§ 32.17 FIRE CHIEF.

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

(B) *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 or she shall have exclusive control of the apparatus at any fire and shall have exclusive command of the Fire Department at any fire. He or she 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.

(C) *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 any other information as he or she may deem advisable or as may be required from time to time by the Council or the state's Insurance Department.

(Prior Code, § 205.03)

§ 32.18 VOLUNTEER FIRE DEPARTMENT ATTENDANCE REQUIREMENTS.

The Volunteer Fire Department attendance requirements, copies of which are on file at the City Hall, are adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Policy approved - -)

CHAPTER 33: CITY EMPLOYEES

Section

Clerk-Treasurer

33.01 Offices combined

33.02 Annual audit

CLERK-TREASURER

§ 33.01 OFFICES COMBINED.

Pursuant to M.S. § 412.591, as it may be amended from time to time, 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.

(Prior Code, § 203.01)

§ 33.02 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.

(Prior Code, § 203.02)

CHAPTER 34: CITY POLICIES

Section

General Provisions

- 34.01 General records retention policy
- 34.02 Special assessment policy
- 34.03 Personnel policy
- 34.04 Respectful workplace policy

Clean Air Policy

- 34.20 Scope and intent
- 34.21 Tobacco products prohibited
- 34.22 Tobacco products prohibited; locations
- 34.23 Signage
- 34.24 Future intent

GENERAL PROVISIONS

§ 34.01 GENERAL RECORDS RETENTION POLICY.

The General Records Retention Policy, copies of which are on file at the City Hall, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Policy approval of Minnesota General Retention Schedule 6-25-1998, and adopted by reference, as amended from time to time.)

§ 34.02 SPECIAL ASSESSMENT POLICY.

The Special Assessment Policy, copies of which are on file at the City Hall, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Policy approved 11-7-2017)

§ 34.03 PERSONNEL POLICY.

The city's Personnel Policy, copies of which are on file at the City Hall, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Prior Code, § 204) (Policy approved - -) (Ord. 02-05, passed 4-4-2005; Ord. 04-08, passed 8-18-2008; Ord. 05-10, passed 1-3-2011; Ord. 06-14, passed 12-15-2014; Ord. 02-16, passed 9- -2016; Ord. 03-18, passed 10-15-2018; Ord. 2-20, passed 5-4-2020)

§ 34.04 RESPECTFUL WORKPLACE POLICY.

The Respectful Workplace Policy, copies of which are on file at the City Hall, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Policy approved 3-18-2019)

CLEAN AIR POLICY

§ 34.20 SCOPE AND INTENT.

Pursuant to and in recognition of the purpose of M.S. § 144.412, as it may be amended from time to time, the State Clean Air Act, being M.S. §§ 116.01 et seq., as they may be amended from time to time, the city desires to make the property owned and maintained by the city tobacco free wherever possible.

(Prior Code, § 202A.01) (Ord. 07-15, passed 1-19-2016)

§ 34.21 TOBACCO PRODUCTS PROHIBITED.

(A) No smoking or use of any tobacco-based products, to include pipes, cigars, cigarettes, snuff or similar substances, shall be permitted at any time in any building owned, operated, leased or maintained by the city.

(B) 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.

(Prior Code, § 202A.02) (Ord. passed - -; Ord. 07-15, passed 1-19-2016) Penalty, see § 10.99

§ 34.22 TOBACCO PRODUCTS PROHIBITED; LOCATIONS.

No smoking or use of any tobacco products, as set forth in § 34.21, shall be permitted at any time within City Hall, Street Department buildings, fairgrounds buildings, golf course club and the Fire Hall.

(Prior Code, § 202A.03) (Ord. passed - -; Ord. 07-15, passed 1-19-2016) Penalty, see § 10.99

§ 34.23 SIGNAGE.

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

(Prior Code, § 202A.04) (Ord. 07-15, passed 1-19-2016)

§ 34.24 FUTURE INTENT.

It is the intent of this subchapter to provide for future regulation of the use of tobacco upon property owned and maintained by the city with the eventual result of designating all city property to be tobacco free.

(Prior Code, § 202A.05) (Ord. 07-15, passed 1-19-2016)

CHAPTER 35: FINANCE AND REVENUE

Section

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- 35.002 Construction Fund
- 35.003 Fire Escrow Account

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- 35.120 Agreement with the Commissioner

Food and Beverage Tax

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- 35.131 Definitions
- 35.132 Imposition of tax
- 35.133 Separate statement; collection from purchaser advertising no tax; minimum uniform tax collection methods
- 35.134 Exemption certificates
- 35.135 Presumption of purpose of sale
- 35.136 Collection of tax at time of sale
- 35.137 Agent of retailer
- 35.138 Collection and enforcement
- 35.139 Tax clearance issuance of license
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FUNDS AND ACCOUNTS

§ 35.001 DEBT SERVICE FUND.

Pursuant to M.S. § 475.61, as it may be amended from time to time, 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 those 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. Ch. 475, as it may be amended from time to time, M.S. Ch. 429, as it may be amended from time to time, and other provisions of statute applicable to debt service funds.

(Prior Code, § 206.01)

§ 35.002 CONSTRUCTION FUND.

Pursuant to M.S. § 429.091, subd. 4, as it may be amended from time to time, 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 therefor prior to completion, and payment of all costs of the improvements so financed. The proceeds from the sale of obligations and other moneys appropriated for each 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. Ch. 429, as it may be amended from time to time. 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, as it may be amended from time to time, and § 35.001.
(Prior Code, § 206.02)

§ 35.003 FIRE ESCROW ACCOUNT.

(A) Pursuant to M.S. § 65A.50, as it may be amended from time to time, the City Council does hereby establish an escrow account to receive a portion of insured real property fire or explosion settlement proceeds as prescribed by the statute.

(B) The city intends to uniformly apply M.S. § 65A.50, as it may be amended from time to time, with respect to all property located within the city.

(C) The city is authorized to proceed to establish the escrow account as provided for in the statute.

(D) The city shall give the required written notification to the Commission of Commerce of the city's intention to apply M.S. § 65A.50, as it may be amended from time to time, and the establishment of the escrow account.

(E) The city is authorized to execute affidavits certifying the violation of health and safety standards as required by M.S. § 65A.50, subd. 3, as it may be amended from time to time.

(F) The city is authorized to receive reasonable proof that damaged or destroyed portions of an insured structure are repaired, replaced or removed or that an insured has entered into a contract for repair, replacement or removal of the damaged portions as required by M.S. § 65A.50, subd. 8, as it may be amended from time to time.

(Res. 04-14, passed 2-3-2014)

UNCLAIMED PROPERTY

§ 35.015 DEFINED.

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

UNCLAIMED PROPERTY. Any money or personal property, except animals and motor vehicles, lawfully coming into the possession of the city and remaining unclaimed by the owner.

(Prior Code, § 207.01)

§ 35.016 PROCEDURE.

(A) *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 or her.

(B) *Motor vehicles.* Abandoned motor vehicles shall be disposed of as provided by M.S. Ch. 168B, as it may be amended from time to time.

(C) *Animals.* Abandoned animals shall be disposed of as provided by §§ 90.07 and 90.08 of this code of ordinances.

(Prior Code, § 207.02)

§ 35.017 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. The person may indicate in writing that he or she wishes to assert a claim to the property or money as a finder. If the finder so indicates and the property or money remains unclaimed by the owner for 90 days, the property or money shall be delivered to the finders.

(Prior Code, § 207.03)

§ 35.018 PERISHABLE OR DANGEROUS PROPERTY.

Any unclaimed property which is perishable or which would lose the greater part of its value by being retained for 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 or her.

(Prior Code, § 207.04)

§ 35.019 MONEY.

Any money which is not claimed by the owner within 90 days or by a finder pursuant to § 35.017 or which was seized from illegal gambling shall be deposited in the city's General Fund.

(Prior Code, § 207.05)

§ 35.020 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. The property which

is otherwise subject to lawful detention shall be destroyed or otherwise disposed of as directed by the Court.
(Prior Code, § 207.06)

§ 35.021 DISPOSAL.

(A) *City use.* Any unclaimed property for which no other manner of disposal is provided by §§ 35.015 through 35.020 and which is not claimed by the owner within 90 days may be appropriated to city use upon approval of the appropriation by the Council.

(B) *Sale.* Any property described in division (A) above 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.

(C) *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 months of the sale and satisfactory proof of ownership is presented.

(D) *Unsold property.* Any unclaimed property remaining unsold after public auction shall be disposed of as directed by the Council.
(Prior Code, § 207.07)

ESCROW DEPOSITS

§ 35.035 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. This subchapter is intended to provide a method whereby this end will be furthered.
(Prior Code, § 208.01)

§ 35.036 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 any 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 any 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.
(Prior Code, § 208.02)

§ 35.037 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 § 35.036 upon request.
(Prior Code, § 208.03)

§ 35.038 INDIVIDUAL FEES.

Based on the fee schedule adopted pursuant to § 35.037, the Clerk-Treasurer 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.
(Prior Code, § 208.04)

§ 35.039 ENFORCEMENT.

(A) *Application.* The application listed in § 35.036 shall not be accepted or processed by the city unless accompanied by an escrow deposit as provided in this subchapter.

(B) *Deficits.* If at any time it appears that a deficit will occur in any escrow account, the Clerk- Treasurer may then require an additional deposit in the escrow account sufficient to cover the additional expenses. Failure to make 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 § 35.036 shall be grounds for denial or revocation of the permit or license or cessation of work on a particular project. The permit or license shall be revoked only after a hearing preceded by ten days' written notice.
(Prior Code, § 208.05)

§ 35.040 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.
(Prior Code, § 208.06)

PROCTOR TRUST FUND

§ 35.055 RECITALS.

The City Council, in full recognition of the needs of the citizens of the city 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 the city and substantially improve the quality of life for the residents of the city. The City of Proctor Business Development, Recreation and Health Public Charitable Trust Fund is in the public interest.

(Prior Code, § 1004.01)

§ 35.056 ESTABLISHMENT OF TRUST FUND.

There is hereby established a perpetual and permanent public charitable trust fund for the city 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".

(Prior Code, § 1004.02)

§ 35.057 PURPOSES.

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; 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 a manner as, in the judgment of the Board of Trustees of the Fund, will best promote the purposes of the Trust Fund.

(Prior Code, § 1004.03)

§ 35.058 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; the City Administrator; and three other members appointed by the City Council; one of whom shall be a member of the banking profession to the extent practicable, one of whom shall be a member of the city business community to the extent practicable, and

one of whom shall be a current member of the City Park and Recreations Board or Commission to the extent practicable. The Mayor and the City Administrator shall serve on the Board of Trustees so long as they hold public office. The three remaining members of the Board of Trustees shall each serve on the Board for terms of one, two and three years respectively, and thereafter each member and his or her 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 shall be the designated attorney for the Board of Trustees.

(Prior Code, § 1004.04)

§ 35.059 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.

(Prior Code, § 1004.05)

§ 35.060 CITY SHALL BE TRUSTEE OF FUNDS; ACCOUNTING.

The city, 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 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 audit. The city 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.

(Prior Code, § 1004.06)

§ 35.061 LIMITATION OF 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 26 U.S.C. § 49 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 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, the Trust, through its Board, shall apply for charitable status for tax purposes.

(Prior Code, § 1004.07)

§ 35.062 LOANS AND GRANTS FOR BUSINESS DEVELOPMENT, HEALTH CARE IMPROVEMENT OR RECREATIONAL DEVELOPMENT.

(A) Moneys 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 project receiving loan or grant proceeds by the 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.

(B) The Board of Trustees shall determine the risk, potential need and feasibility of each 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 the loan or grant applications.

(C) The 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.

(D) 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.
(Prior Code, § 1004.08)

§ 35.063 DISBURSEMENT ACCOUNTS.

(A) 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 the account.

(B) Moneys, property or other donations given and held for those specific purposes may be loaned, granted, expended or otherwise utilized by the Board only for the specific purpose delineated.

(C) 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 subchapter.
(Prior Code, § 1004.09)

§ 35.064 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, and shall at all times be open for inspection by the public.

(Prior Code, § 1004.10)

§ 35.065 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 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 the gift or bequest for the purpose hereinbefore set forth. Transfers from the Trust shall be by check or draft only.

(Prior Code, § 1004.11)

§ 35.066 MEMBERS OF BOARD.

Members of the Board of Trustees are subject to removal from the Board of Trustees without cause by majority vote of the City Council.

(Prior Code, § 1004.12)

LODGING TAX

§ 35.080 DEFINITIONS.

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

CITY. The City of Proctor, Minnesota, acting by or through its City Council.

LODGER. The person obtaining lodging from an operator.

LODGING. 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 a premises for a continuous period of 30 days or more to the same occupant. The furnishing of rooms owned by religious, educational or non-profit organizations for self-sponsored activities shall not constitute **LODGING** for purposes of this chapter.

OPERATOR. 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.

PERSON. Includes all firms, partnerships, associations, corporations and natural persons.

RENT. 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.
(Prior Code, § 1100.01)

§ 35.081 IMPOSITION OF TAX.

Pursuant to M.S. § 469.190, as it may be amended from time to time, there is hereby imposed a tax of 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 subchapter upon an operator exceed the amount of tax which the operator is authorized and required by this subchapter to collect from a lodger.

(Prior Code, § 1100.02) (Ord. 04-11, passed 11-21-2011)

§ 35.082 COLLECTIONS.

Each operator shall collect the tax imposed by this subchapter 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.
(Prior Code, § 1100.03) Penalty, see § 35.999

§ 35.083 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 therefor made at the time the rent is collected, and a claim shall be made in writing and under penalty of perjury on forms provided by the city. All claims shall be forwarded to the city when the returns and collections are submitted as required by this subchapter.

(Prior Code, § 1100.04)

§ 35.084 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 \$0.01 shall be considered an additional cent.

(Prior Code, § 1100.05) Penalty, see § 35.999

§ 35.085 PAYMENTS AND RETURNS.

(A) The taxes imposed by this subchapter shall be paid by the operator to the city monthly not later than 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 forms and containing information as the city may require.

(B) The return shall contain the following minimum information:

- (1) The total amount of rent collected for lodging during the period covered by the return;
- (2) The total amount of exceptions/exemptions;
- (3) The amount of tax required to be collected and due for the period;
- (4) The signature of the person filing the return or that of his or her agent duly authorized in writing;
- (5) The period covered by the return;
- (6) The amount of uncollectible rental charges subject to the lodging tax; and
- (7) A certification of accuracy attested to by the person signing the form for submission to the city.

(C) The operator may offset against the taxes payable with respect to any reporting period, the amount of taxes imposed by this subchapter previously paid as a result of any transaction the consideration for which became uncollectible.

(Prior Code, § 1100.06)

§ 35.086 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 the examination shall be the tax to be paid. If the tax due is found to be greater than that paid, the excess shall be paid to the city within ten 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 working days after determination of the refund.

(Prior Code, § 1100.07)

§ 35.087 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 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 the person at the address stated upon the return. If the claim is allowed in whole or in part, the city shall credit the amount of the allowance against any taxes due under this subchapter from the claimant and the balance of the allowance, if any, shall be paid by the city to the claimant.
(Prior Code, § 1100.08)

§ 35.088 FAILURE TO FILE A RETURN.

(A) (1) If any operator required by this subchapter 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 the return or corrected return within five days of receipt of the notice and shall at the same time pay any tax due on the basis thereof. If the person shall fail to file the return or corrected return, the entity shall make a return or corrected return for the person based upon the 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 the return) shall be paid within five days of the receipt of written notice and demand for the payment.

(2) Any 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.

(B) If any portion of a tax imposed by this subchapter, including penalties thereon, is not paid within 30 days after it is required to be paid, the city may institute a 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.

(C) Upon a showing of good cause, the city may grant an operator one 30-day extension of time within which to file a return and make payment of taxes as required by the subchapter provided that interest during the period of extension shall be added to the taxes due at the rate of 8% per annum.

(Prior Code, § 1100.09)

§ 35.089 ADMINISTRATION OF TAX.

The city shall administer and enforce the assessment and collection of the taxes imposed by this subchapter. The city shall cause to be prepared blank forms for the returns and other documents required by this subchapter and shall distribute the same throughout the city. Failure to receive or secure forms and documents shall not relieve any person from any obligation required of him or her under this subchapter.

(Prior Code, § 1100.11)

§ 35.090 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 subchapter. Every operator is directed and required to give to the city the means, facilities and opportunity during regular city business hours for the examinations and investigations as are hereby authorized.

(Prior Code, § 1100.12)

§ 35.091 VIOLATIONS.

Any person who shall willfully fail to make a return by this subchapter or who shall fail to remit the taxes collected or any penalty or interest imposed by this subchapter after written demand for the 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.

(Prior Code, § 1100.13) Penalty, see § 35.999

§ 35.092 USE OF PROCEEDS.

Ninety-five percent of the proceeds obtained from the collection of taxes pursuant to this subchapter shall be used in accordance with M.S. § 469.190, as it may be amended from time to time, for the purpose of marketing and promoting the city as a tourist center. The city shall retain up to 5% of the proceeds obtained hereunder to defray the costs and expenses of collection and administration of the tax.

(Prior Code, § 1100.14)

§ 35.093 APPEALS.

(A) Any operator aggrieved by any notice, order or determination made by the city under this subchapter may file a petition for review of the 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.

(B) The petition for review shall be filed with the city within ten days after the notice, order or determination for which review is sought has been mailed to or served upon the person requesting review.

(C) Upon receipt of the petition, the City Administrator shall set a date for a hearing and give the petitioner at least five days' prior written notice of the date, time and place of the hearing.

(D) At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order or determination should be modified or withdrawn.

(E) 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 subchapter 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.
(Prior Code, § 1100.15)

§ 35.094 TERM.

The three-year term of this subchapter shall begin on its effective date and shall automatically be extended for subsequent three-year periods unless it is rescinded by City Council action.
(Prior Code, § 1100.16)

SALES AND USE TAX

§ 35.105 AUTHORITY.

The Minnesota Legislature has, by Laws of Minnesota for 2017, 1st Special Session, Chapter 1, Article 5, Section 11, Laws of 1999, Chapter 243, Article 4, Section 18, Subdivision 1 as amended by Laws of 2008, Chapter 366, Article 7, Section 12 by Laws of 2010, Chapter 389, Article 5, Section 1 and 2, authorized the city to impose a local sales and use tax to provide revenues to pay the costs of collecting and administering the tax to the State Commissioner of Revenue and to finance the capital and administrative costs related to the funding of designated projects as in Minnesota Laws of 2017, 1st Special Session, Chapter 1, Article 5, Section 11, Laws of 1999, Chapter 243, Article 4, Section 18, Subdivision 1 as amended by Laws of 2008, Chapter 366, Article 7, Section 12 by Laws of 2010, Chapter 389, Article 5, Section 1 and 2, and approved by the voters at the November 4, 2014 election.
(Prior Code, § 1200.01) (Ord. 05-17, passed 6-19-2017; Ord. 02-19, passed 8-19-2019)

§ 35.106 DEFINITIONS.

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

CITY. The City of Proctor.

COMMISSIONER. The Commissioner of Revenue for the state or the person to whom the Commissioner has delegated functions.

DESIGNATED PROJECTS. Capital improvements to include bikeways, trails, parks and recreation, public utilities to include water, sanitary sewer, storm sewer, and electric as authorized by the Minnesota Legislature in Laws of Minnesota for 2017, 1st

Special Session, Chapter 1, Article 5, Section 11, Laws of 1999, Chapter 243, Article 4, Section 18, Subdivision 1 as amended by Laws of 2008, Chapter 366, Article 7, Section 12 and Laws of 2010 Chapter 389, Article 5, Sections 1 and 2 and approved by the voters at the November 4, 2014 referendum.

STATE SALES AND USE TAX LAWS AND RULES. Those provisions of the state revenue laws applicable to state sales and use tax imposition, administration, collection, and enforcement, including M.S. Ch. 270C, 289A, 297A, and Minnesota Rules, Ch. 8130, as they may be amended from time to time.
(Prior Code, § 1200.02) (Ord. 05-17, passed 6-19-2017; Ord. 02-19, passed 8-19-2019)

§ 35.107 LOCAL SALES AND USE TAX IMPOSED; AMOUNT OF TAX; COORDINATION WITH STATE SALES AND USE TAX LAWS AND RULES.

A local sales tax is imposed in the amount of 1% on the gross receipts from sales at retail sourced within the city limits which are taxable under the state sales and use tax laws and rules. A local use tax is imposed in the amount of 1% on the storage, use, distribution or consumption of goods or services sourced within the city limits which are taxable under the state sales and use tax laws and rules. All of the provisions of the state sales and use tax laws and rules apply to the local sales and use tax imposed by this subchapter. The local sales and use tax imposed by this subchapter shall be collected and remitted to the Commissioner on any sale or purchase when the state sales tax must be collected and remitted to the Commissioner under the state sales and use tax laws and rules and is in addition to the state sales and use tax.
(Prior Code, § 1200.03) (Ord. 05-17, passed 6-19-2017; Ord. 02-19, passed 8-19-2019)

§ 35.108 PROCEEDS.

(A) The proceeds of the city sales and use tax shall be used in the discretion of the City Council for the projects approved by the voters at the November 4, 2014 general election.

(B) The approved projects are:

- (1) Capital improvement to include sidewalks, bikeways and trails;
- (2) Parks and recreation; and
- (3) Public utilities, including water, sanitary sewer, storm sewer and electric.

(C) All funds not used to pay collection and administrative costs of the city sales and use tax must be used for the projects listed in division (B) above.
(Ord. 05-17, passed 6-19-2017)

§ 35.109 BONDING AUTHORITY.

(A) In accordance with the authority provided by the Act, the city may issue bonds under M.S. Ch. 475, as it may be amended from time to time, to finance all or a portion of the costs of the facilities authorized by the Act and identified in § 35.108. The aggregate principal amount of bonds issued under this section may not exceed those amounts described in § 35.116, plus an amount to be applied to the payment of the costs of issuing the bonds. The bonds may be paid from or secured by any funds available to the city, including the city sales and use tax authorized by the Act and this subchapter. The issuance of bonds under this section is not subject to M.S. §§ 275.60 and 275.61, as they may be amended from time to time.

(B) The bonds are not included in computing any debt limitation applicable to the city, and any levy of taxes under M.S. § 475.61, as it may be amended from time to time, to pay principal and interest on the bonds is not subject to any levy limitation. A separate election to approve the bonds under M.S. § 475.58, as it may be amended from time to time, is not required.

(Ord. 05-17, passed 6-19-2017)

§ 35.110 SEPARATE STATEMENT; COLLECTION FROM PURCHASER ADVERTISING NO TAX; MINIMUM UNIFORM TAX COLLECTION METHODS.

The city sales and use tax shall be stated and charged separately from the sales price or charge for service insofar as practical, 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 any transaction, any amount of tax less than one-half of one 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 \$0.99 or less, no tax shall be collected.

(Prior Code, § 1200.04) (Ord. 05-17, passed 6-19-2017)

§ 35.111 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 application of the city sales and use tax will conclusively relieve the retailer from collecting and remitting the tax. A person who has obtained from the Commissioner an exemption certificate pursuant to M.S. Ch. 297A, as it may be amended from time to time, may use the exemption certificate for the purposes of the city sales and use tax.

(Prior Code, § 1200.05) (Ord. 05-17, passed 6-19-2017)

§ 35.112 PRESUMPTION OF PURPOSE OF SALE.

For the purpose of the proper administration and enforcement of § 35.107, 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.

(Prior Code, § 1200.06) (Ord. 05-17, passed 6-19-2017)

§ 35.113 COLLECTION OF SALES AND USE TAX AT TIME OF SALE.

(A) 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 or any items described in § 35.107 which are not exempted from the sales and use tax and which are to be delivered or caused to be delivered within the city to the purchaser, shall at the time of making those 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.

(B) Any retailer required to collect the city sales and use tax and remit the tax to the Commissioner pursuant to this section shall register with the Commissioner and provide any other information as the Commissioner may require.

(Prior Code, § 1200.07) (Ord. 05-17, passed 6-19-2017)

§ 35.114 AGENT OF RETAILER.

When in the opinion of the Commissioner it is necessary for the efficient administration of the city sales and use tax, the Commissioner may regard any salesperson, representative, trucker, peddler or canvasser as the agent of the dealer, distributor, supervisor, employer or other person under whom the salesperson, 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 subchapter.

(Prior Code, § 1200.08) (Ord. 05-17, passed 6-19-2017)

§ 35.115 EFFECTIVE DATE OF TAX; TRANSITIONAL SALES.

(A) Except as otherwise provided herein, the local sales and use tax imposed by this subchapter shall apply to sales and purchases made on or after April 1, 2000 and October 1, 2017.

(B) The local sales and use tax imposed by this subchapter shall not apply to:

(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 contract was enforceable prior to April 1, 2000 and October 1, 2017, and that delivery of the tangible personal property subject thereto is made on or before April 1, 2000 and October 1, 2017;

(2) The gross receipts from retail sales made pursuant to a 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 or allocation of future taxes, provided that such contract was enforceable prior to April 1, 2000 and

October 1, 2017, and that delivery of the tangible personal property used in performing such construction contract is made before January 1, 2001 and June 1, 2018;

(3) The purchase of taxable services, including utility services, if the billing period includes charges for services furnished before and after April 1, 2000 and October 1, 2017, but the local sales and use tax imposed by this chapter shall apply on the first billing period not including charges for services furnished before April 1, 2000 and October 1, 2017; and

(4) Lease payments for tangible personal property and motor vehicles that includes a period before and after April 1, 2000 and October 1, 2017, but the local sales and use tax imposed by this subchapter shall apply on a prorated basis to lease payment amounts attributable to that portion of the lease payment period on or after April 1, 2000 and October 1, 2017 and on the entire lease payment for all lease payment periods thereafter.

(Prior Code, § 1200.10) (Ord. 05-17, passed 6-19-2017; Ord. 02-19, passed 8-19-2019)

§ 35.116 COLLECTION AND ENFORCEMENT.

The city sales and use tax imposed by the city pursuant to this subchapter shall be subject to the same interests, penalties and other rules as are applicable to the state general sales and use tax imposed by M.S. Ch. 289A and M.S. Ch. 297A, as they may be amended from time to time. The city sales and use tax imposed by the city pursuant to this subchapter may be collected by the state on behalf of the city as provided by an appropriate agreement with the State Commissioner of Revenue.

(Prior Code, § 1200.11) (Ord. 05-17, passed 6-19-2017)

§ 35.117 TAX CLEARANCE; ISSUANCE OF LICENSE.

(A) The city may not issue or renew a license for the conduct of a trade or business in the city if the Commissioner notified the licensing division of the city that the applicant owes delinquent city taxes as provided in this subchapter, or penalties or interest due on such taxes.

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

APPLICANT. An individual if the license is issued to or in the name of an individual or the corporation or partnership if the license is issued to or in the name of a corporation or partnership.

CITY TAXES. Includes sales and use taxes as provided in this subchapter. Penalties and interest are penalties and interest due on taxes included in this definition.

DELINQUENT TAXES. Does not include a tax liability if:

(a) An administrative or court action which contests the amount of or validity of a tax 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.

(C) A copy of the notice of delinquent taxes given to the licensing division of the city shall also be sent to the applicant taxpayer. In the case of renewal of a license, if the applicant requests in writing, within 30 days of the receipt of the notice of hearing, then, a contested hearing shall be held under the same procedures as provided in M.S. Ch. 270C, as it may be amended from time to time, for the state sales and use tax imposed under M.S. Ch. 297A, as it may be amended from time to time, provided further that if a hearing must be held on the state sales and use tax, hearings may be combined.

(Prior Code, § 1200.12) (Ord. 05-17, passed 6-19-2017; Ord. 02-19, passed 8-19-2019)

§ 35.118 COPY OF NOTICE.

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 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 M.S. Ch. 270C, as it may be amended from time to time, for the state sales and use tax imposed under M.S. Ch. 297A, as it may be amended from time to time, provided that if a hearing must be held on the state sales and use tax, hearings may be combined.

(Prior Code, § 1200) (Ord. 05-17, passed 6-19-2017)

§ 35.119 DEPOSIT OF REVENUES; COSTS OF ADMINISTRATION; TERMINATION OF TAX.

(A) All of the revenues, interest, and penalties derived from the local sales and use tax imposed by this chapter collected by the Commissioner and remitted to the city shall be deposited by the City Finance Director in the city treasury and shall be credited to the fund established to pay the costs of collecting the local sales and use tax imposed by this chapter and to finance the capital and administrative costs directly related to completing the designated projects.

(B) The local sales and use tax imposed by this chapter shall terminate at the earlier of initial law was not determined or when the City Council determines that no dollar amount has been determined, plus an amount sufficient to pay the costs related to issuing bonds and interest on the bonds has been received from the local sales and use tax imposed by this chapter to pay for all the capital and administrative costs directly related to completing the designated projects. Any funds remaining after payment of all such costs and retirement or redemption of the bonds shall be placed in the general fund of the city. The local sales and use tax imposed by this chapter may terminate at an earlier time if the City Council so determines by ordinance.

(Ord. 02-19, passed 8-19-2019)

§ 35.120 AGREEMENT WITH THE COMMISSIONER.

The city may enter into an agreement with the Commissioner regarding each party's respective roles and responsibilities related to the imposition, administration, collection, enforcement, and termination of the local sales and use tax imposed by this chapter. Any such agreement shall not abrogate, alter, or otherwise conflict with the state sales and use tax laws and rules, and this subchapter.
(Ord. 02-19, passed 8-19-2019)

FOOD AND BEVERAGE TAX

§ 35.130 AUTHORITY.

The state legislature has by Session Laws of Minnesota 2014, Chapter 308, Article 3, Section 34, authorized the city to impose an additional food and beverage tax within the city to provide revenues to pay for the construction and improvement of walking and bicycle trails; a multiuse civic center facility and parking improvements; and improvements related to the redevelopment of a road through the fairgrounds property ceded to the city by the City of Duluth. The city approved the Act in accordance with applicable law, as did the voters of the city.
(Ord. 07-14, passed 12-15-2014)

§ 35.131 DEFINITIONS.

The words, terms and phrases used in this subchapter shall have the meaning ascribed to them in M.S. § 297A.61, as it may be amended from time to time, except where the context clearly indicates otherwise. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. Laws of Minnesota for 2014, Chapter 308, Article 3, Section 34 as amended.

CITY. The City of Proctor.

CITY FOOD AND BEVERAGE. The tax imposed and collected pursuant to this subchapter.

COMMISSIONER. The Commissioner of Revenue for the state acting under the authority of an agreement entered into between the city and the state pursuant to the Act, or any other person or entity designated to administer and collect the city sales and use tax.

ORDINANCE. This subchapter in its present form.

RETAILER MAINTAINING A PLACE OF BUSINESS IN THE CITY OR ANY LIKE TERM. 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, salesperson, 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, salesperson, 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.

(Ord. 07-14, passed 12-15-2014)

§ 35.132 IMPOSITION OF TAX.

(A) Except as otherwise provided in this subchapter, there is hereby imposed an additional excise tax in the amount of 1% on the gross receipts from the sales of food and beverages which occur within the city.

(B) The imposition, administration, collection and enforcement of this tax shall be governed by the provisions of M.S. § 297A.99, as it may be amended from time to time.

(Ord. 07-14, passed 12-15-2014)

§ 35.133 SEPARATE STATEMENT; COLLECTION FROM PURCHASER ADVERTISING NO TAX; MINIMUM UNIFORM TAX COLLECTION METHODS.

The city food and beverage 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 \$0.99 or less, no tax shall be collected.

(Ord. 07-14, passed 12-15-2014)

§ 35.134 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 subchapter will conclusively relieve the retailer from collecting and remitting the tax. A person who has obtained from the Commissioner an exemption certificate pursuant to M.S. Ch. 297, as it may be amended from time to time, may use the exemption certificate for the purposes of the sales tax imposed by the city.

(Ord. 07-14, passed 12-15-2014)

§ 35.135 PRESUMPTION OF PURPOSE OF SALE.

For the purpose of the proper administration and enforcement of § 35.132, 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.
(Ord. 07-14, passed 12-15-2014)

§ 35.136 COLLECTION OF TAX AT TIME OF SALE.

(A) 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 § 35.132 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 the 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.

(B) Any retailer required to collect the city food and beverage tax and remit the tax to the Commissioner pursuant to this section shall register with the Commissioner and provide any other information as the Commissioner may require.
(Ord. 07-14, passed 12-15-2014)

§ 35.137 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 salesperson, representative, trucker, peddler or canvasser as the agent of the dealer, distributor, supervisor, employer or other person under whom the salesperson, 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 subchapter.
(Ord. 07-14, passed 12-15-2014)

§ 35.138 COLLECTION AND ENFORCEMENT.

The city food and beverage tax imposed by the city pursuant to this subchapter shall be subject to the same interests, penalties and other rules as are applicable to the state general sales and use tax imposed by M.S. Ch. 289A and M.S. Ch. 297A, as they may be amended from time to time. The city food and beverage tax imposed by the city pursuant to this subchapter may be collected by the state on behalf of the city as provided by an appropriate agreement with the State Commissioner of Revenue.
(Ord. 07-14, passed 12-15-2014)

§ 35.139 TAX CLEARANCE ISSUANCE OF LICENSE.

(A) 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 the license owes delinquent city food and beverage taxes as provided in this subchapter, or penalties or interest due on the taxes.

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

APPLICANT. 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.

CITY FOOD AND BEVERAGE TAXES. Includes the tax as provided in this subchapter. Penalties and interest are penalties and interest due on taxes included in this definition.

DELINQUENT TAXES. Does 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.

(Ord. 07-14, passed 12-15-2014)

§ 35.140 COPY OF NOTICE.

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 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 M.S. Ch. 270C, as it may be amended from time to time, for the state sales and use tax imposed under M.S. Ch. 297A, as it may be amended from time to time, provided that if a hearing must be held on the state sales and use tax, hearings may be combined.

(Ord. 07-14, passed 12-15-2014)

§ 35.999 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) (1) If any tax imposed by §§ 35.080 through 35.094 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 10% of the amount remaining unpaid.

(2) In case of any failure to make and file a return within the time prescribed by §§ 35.080 through 35.094 unless it is shown that the failure is not due to willful neglect, there shall be added to the tax in addition to penalty provided in division (B)(1) above, a penalty of 10% for each 30-day period or fraction thereof during which the failure continues, not exceeding 25% in the aggregate. There shall be a minimum

penalty assessed of an amount set by City Council from time to time by resolution. 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.

(3) If any person willfully fails to file any return or make any payment required by §§ 35.080 through 35.094 or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat any tax or payment thereof, there shall also be imposed as a penalty an amount equal to 50% of any tax (less any amounts paid on the basis of the false or fraudulent return) found due for the period to which the return related. This penalty shall be collected as part of the tax and shall be in addition to any other penalties provided by §§ 35.080 through 35.094.

(4) All payments received shall be credited first to penalties, next to interest and then to the tax due.

(5) The amount of tax not timely paid, together with any penalty provided by §§ 35.080 through 35.094, shall bear interest at the rate of 10% per annum from the time the 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.
(Prior Code, § 1100.10)

CHAPTER 36: EMERGENCY MANAGEMENT

Section

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§ 36.01 POLICY AND PURPOSE.

Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure; and in order to ensure that preparations of this city will be adequate to deal with those 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 city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters;

(B) To provide for the exercise of necessary powers during emergencies and disasters;

(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 emergency-preparedness functions; and

(D) To comply with the provisions of M.S. § 12.25, as it may be amended from time to time, which requires that each political subdivision of the state shall establish a local organization for emergency management.

§ 36.02 DEFINITIONS.

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

DISASTER. A situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in catastrophic loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

EMERGENCY. An unforeseen combination of circumstances which calls for immediate action to prevent from developing or occurring.

EMERGENCY MANAGEMENT. The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by fire, flood, tornado, and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, fire-fighting services, police services, emergency medical services, engineering, warning services, communications, radiological, and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out the foregoing functions. **EMERGENCY MANAGEMENT** includes those activities sometimes referred to as "civil defense" functions.

EMERGENCY MANAGEMENT FORCES. The total personnel resources engaged in city-level emergency management functions in accordance with the provisions of this chapter or any rule or order thereunder. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

EMERGENCY MANAGEMENT ORGANIZATION. The staff responsible for coordinating city-level planning and preparation for disaster response. This organization provides city liaison and coordination with federal, state, and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

§ 36.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.

There is hereby created within the city government an emergency management organization which shall be under the supervision and control of the City Emergency Management Director, called the Director. The Director shall be appointed by the City Council for an indefinite term and may be removed by the City Council at any time. The Director shall serve with a salary as established by the City Council and shall be paid his or her necessary expenses. The Director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization, subject to the direction and control of the City Council. The emergency management organization shall conform to and be consistent with, where applicable, all state and federal requirements, including the National Incident Management System framework found at 44 C.F.R. part 201, as it may be amended from time to time.

§ 36.04 POWERS AND DUTIES OF DIRECTOR.

(A) The Director shall represent the city on any regional or state conference for emergency management. The Director shall develop proposed mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present these agreements to the City Council for its action. These arrangements shall be consistent with the State Emergency Plan.

(B) The Director shall make studies and surveys of the human resources, industries, resources, and facilities of the city as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster. The Director shall establish the economic stabilization systems and measures, service staffs, boards, and sub-boards required, in accordance with state and federal plans and directions subject to the approval of the Mayor.

(C) The Director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present the plan to the City Council for its approval. When the City Council has approved the plan, it shall be the duty of all city agencies and all emergency preparedness forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The Director shall coordinate the emergency management activities of the city to the end that they shall be consistent and fully integrated with the emergency plans of the federal government and the state and correlated with emergency plans of the county and other political subdivisions within the state.

(D) In accordance with the State and City Emergency Plan, the Director shall institute training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the City Emergency Plan when a disaster occurs.

(E) The Director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all city departments and agencies shall, to the maximum extent practicable, cooperate with and extend services and facilities to the

city's emergency management organization and to the Governor upon request. The head of each department or agency in cooperation with the Director shall be responsible for the planning and programming of those emergency activities as will involve the utilization of the facilities of the department or agency.

(F) The Director shall, in cooperation with those city departments and agencies affected, assist in the organizing, recruiting, and training of emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the city and state. To the extent that emergency personnel are recruited to augment a regular city department or agency for emergencies, they shall be assigned to the departments or agencies and shall be under the administration and control of the department or agency.

(G) Consistent with the state emergency services law, the Director shall coordinate the activity of municipal emergency management organizations within the city and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services as provided by M.S. § 12.25, as it may be amended from time to time.

(H) The Director shall carry out all orders, rules, and regulations issued by the Governor with reference to emergency management.

(I) The Director shall prepare and submit reports on emergency preparedness activities when requested by the Mayor.

§ 36.05 LOCAL EMERGENCIES.

(A) A local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of three days except by or with the consent of the City Council. Any order, or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the Clerk-Treasurer.

(B) A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans, and may authorize aid and assistance thereunder.

(C) No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

Penalty, see § 36.99

§ 36.06 EMERGENCY REGULATIONS.

(A) Whenever necessary, to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the Governor or the City Council, the City Council may by resolution promulgate regulations, consistent with applicable federal or state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding

of essential public services, emergency health, fire, and safety regulations, drills or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

(B) Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the Clerk-Treasurer. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of these regulations and their availability for inspection at the Clerk-Treasurer's office shall be conspicuously posted at the front of the city hall or other headquarters of the city or at other places in the affected area as the City Council shall designate in the resolution. By resolution, the City Council may modify or rescind a regulation.

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

(D) During a declared emergency, the city is, under the provisions of M.S. § 12.37, as it may be amended from time to time and notwithstanding any statutory or Charter provision to the contrary, empowered, through its City Council, acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster. The city may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for bids.

Penalty, see § 36.99

§ 36.07 EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.

All functions and activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this resolution or under the worker's compensation law, or under any pension law, nor the right of any person to receive any benefits or compensation under any act of Congress.

§ 36.08 PARTICIPATION IN LABOR DISPUTES OR POLITICS.

The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute.

§ 36.99 PENALTY.

Any person who violates any provision of this chapter or any regulation adopted thereunder relating to acts, omissions, or conduct other than official acts of city employees or officers is guilty of a misdemeanor.

CHAPTER 37: FEE SCHEDULE

Section

37.01 Fee schedule

§ 37.01 FEE SCHEDULE.

<i>Schedule of Charges and Fees</i>		
<i>Service, Licenses and the Like</i>	<i>Code Section</i>	<i>Charge/Fee</i>
Building Code Board of Appeals	§ 150.01(B)	An amount set by City Council from time to time by resolution
Building Inspector's fee	§ 150.01(B)	An amount set by City Council from time to time by resolution
Building Permit	§ 150.01	An amount set by City Council from time to time by resolution
Commercial Parking Lot		
Annual fee of an amount set by City Council from time to time by resolution		An amount set by City Council from time to time by resolution
Semi-annual fee of an amount set by City Council from time to time by resolution		An amount set by City Council from time to time by resolution
Daily fee of an amount set by City Council from time to time by resolution		An amount set by City Council from time to time by resolution
Conditional Use Permit	§§ 155.270—155.276	

Proctor, MN Code of Ordinances

<i>Schedule of Charges and Fees</i>		
<i>Service, Licenses and the Like</i>	<i>Code Section</i>	<i>Charge/Fee</i>
Application fee		An amount set by City Council from time to time by resolution
Per City Council motion on 2-2-2004 for City Attorney preparation of use/easement agreement, conditional use permits that benefit private property owners		An amount set by City Council from time to time by resolution
Building Inspector's time		An amount set by City Council from time to time by resolution
Conduit Financing Fee		Closing costs and administrative fee of an amount set by City Council from time to time by resolution
Dog or Cat License	§ 90.07(C)	An amount set by City Council from time to time by resolution neutered male or spayed female
		An amount set by City Council from time to time by resolution unneutered male or unspayed female
		Late fee, an amount set by City Council from time to time by resolution
Escrow Deposits	§ 35.037	Actual cost of consultants to city or PUC, plus Council established fees for City Attorney, City Engineer, City Planner and other city personnel
Excavation Fee	§ 52.15	An amount set by City Council from time to time by resolution
Fingerprinting		Fee determined by Police Department
Garbage Fees (Delinquent)	§§ 50.12, 50.13	An amount set by City Council from time to time by resolution

<i>Schedule of Charges and Fees</i>		
<i>Service, Licenses and the Like</i>	<i>Code Section</i>	<i>Charge/Fee</i>
Home Occupation	§ 155.001	An amount set by City Council from time to time by resolution
Housing Code Inspection Fee	§ 150.01(F)	An amount set by City Council from time to time by resolution
		Reinspections, an amount set by City Council from time to time by resolution
Impounding Fee - Animals	§ 90.09(E)	An amount set by City Council from time to time by resolution
Liquor Licensing	§ 120.066	
“On sale” 3.2 beer		An amount set by City Council from time to time by resolution
“Off sale” 3.2 beer		An amount set by City Council from time to time by resolution
“Temporary” 3.2 beer		An amount set by City Council from time to time by resolution
“Off sale” liquor - not allowed		An amount set by City Council from time to time by resolution
“On sale” liquor		An amount set by City Council from time to time by resolution
Temporary “on sale” club liquor (one-day limit)		An amount set by City Council from time to time by resolution
“On sale” club liquor license		An amount set by City Council from time to time by resolution
“On sale” Sunday club liquor license (regular licenses and clubs)		An amount set by City Council from time to time by resolution
Liquor license beyond application deadline		An amount set by City Council from time to time by resolution
Non-enclosed premises - if not		An amount set by City

<i>Schedule of Charges and Fees</i>		
<i>Service, Licenses and the Like</i>	<i>Code Section</i>	<i>Charge/Fee</i>
applied for at time of initial application		Council from time to time by resolution
Peddlers, Solicitors and Transient Merchants	§ 115.05	Daily, an amount set by City Council from time to time by resolution
		Weekly, an amount set by City Council from time to time by resolution
		Monthly, an amount set by City Council from time to time by resolution
		Yearly, an amount set by City Council from time to time by resolution
Plan/Design Review Fee	§ 150.01(B)	Residential and commercial permit cost, an amount set by City Council from time to time by resolution
Extenuating circumstances		Building Inspector's time, an amount set by City Council from time to time by resolution
		Street Department Working Foreman, an amount set by City Council from time to time by resolution
		Current hourly rate plus 10% for City Engineer time or any other consultant city must engage for plan review
Plan Review Fee: Erosion and Sediment Control Plan	Ch. 152	Per district's schedule of fees to cover any review or inspection costs incurred
Platting/Subdivision Review Fee	§ 150.01(B)	An amount set by City Council from time to time by resolution
Plumbing Permit Fee	§ 150.01(F)	An amount set by City Council from time to time by resolution
Plumbing Inspector's Fee		An amount set by City Council from time to time by

<i>Schedule of Charges and Fees</i>		
<i>Service, Licenses and the Like</i>	<i>Code Section</i>	<i>Charge/Fee</i>
		resolution
Public Dancing	§§ 118.15, 118.16	An amount set by City Council from time to time by resolution
Rezoning	§ 150.01	An amount set by City Council from time to time by resolution
		Zoning map amendment fee (if successful), an amount set by City Council from time to time by resolution
Sewer Connection	§ 52.01	An amount set by City Council from time to time by resolution plus plumbing and excavation inspection fee (for all new connections or projects not involving special assessments for the connections) Plumbing Inspector's fee (plus excavation permit fee)
Sewer Charge, for Usage	§ 51.23(G)	Monthly service charge for residential or commercial, an amount set by City Council from time to time by resolution
		100 cubic feet; residential, an amount set by City Council from time to time by resolution
		Per cubic feet; commercial, an amount set by City Council from time to time by resolution
Sexually Oriented Business		License fee, an amount set by City Council from time to time by resolution
Shows, Games and the like	§ 113.03	Per day (for circus, menagerie or similar show), an amount set by City Council from time to time by resolution

<i>Schedule of Charges and Fees</i>		
<i>Service, Licenses and the Like</i>	<i>Code Section</i>	<i>Charge/Fee</i>
		Per day (for any play, game, merry-go-round or theatrical performance or exhibition), an amount set by City Council from time to time by resolution
		For more than one week, an amount set by City Council from time to time by resolution
		For more than two weeks, an amount set by City Council from time to time by resolution
		For one month, an amount set by City Council from time to time by resolution
		For six months, an amount set by City Council from time to time by resolution
		For one year, an amount set by City Council from time to time by resolution
Sign Permit Fee	§§ 155.225— 155.236	Per permit schedule (based upon project cost of the sign;)
Soil and Erosion Ordinance Review		Charges are based upon soil and water district charges or else charges based on actual City Engineer charges if actual city costs exceed plan review fees collected
Soil Erosion Control Fines		An amount set by City Council from time to time by resolution
Solid Waste Rates	§ 50.03(D)(7)	The city adopts maximum rate schedule of the City of Duluth
Special Use Permits/Community, Unit Development	§ 150.01(B)	An amount set by City Council from time to time by resolution
Stormwater Management Plan		An amount set by City

<i>Schedule of Charges and Fees</i>		
<i>Service, Licenses and the Like</i>	<i>Code Section</i>	<i>Charge/Fee</i>
Fee		Council from time to time by resolution
Street Dance		An amount set by City Council from time to time by resolution (plus applicable insurance and deposit)
Street Department Working Foreman's Fee	§ 150.01(B)	An amount set by City Council from time to time by resolution
Towing	Ch. 116	Permit fee of an amount set by City Council from time to time by resolution; paid to towing operator; police calls only
		Not in excess of an amount set by City Council from time to time by resolution per tow, per vehicle (motorcycle, ATV, snowmobile, automobile or light truck) for emergency towing or an amount set by City Council from time to time by resolution per tow using a flat bed
Storage fee		For first 14 days: an amount set by City Council from time to time by resolution
		Thereafter: an amount set by City Council from time to time by resolution (covers automobile, light truck, motorcycle, ATV, snowmobile)
Variance Fee	§ 150.01	An amount set by City Council from time to time by resolution
Vacating - Alleys, Streets		An amount set by City Council from time to time by resolution
Water Connection	§ 52.01	
3/4 inch		An amount set by City Council from time to time by

<i>Schedule of Charges and Fees</i>		
<i>Service, Licenses and the Like</i>	<i>Code Section</i>	<i>Charge/Fee</i>
		resolution
1 inch		An amount set by City Council from time to time by resolution
2 inches		An amount set by City Council from time to time by resolution
		Plus plumbing inspection fee and excavation fee
Water Usage Charges	§ 51.23(H)	Residential
Monthly service charge		An amount set by City Council from time to time by resolution
Per 100 cubic feet		An amount set by City Council from time to time by resolution

(Ord. passed - -; Ord. 02-05, passed 4-4-2005)

TITLE V: PUBLIC WORKS

Chapter

- 50. SOLID WASTE**
- 51. SEWERS**
- 52. UTILITY SERVICE AND PROPERTY IMPROVEMENT**
- 53. UTILITY COMMISSION**
- 54. UTILITIES GENERALLY**

CHAPTER 50: SOLID WASTE

Section

- 50.01 Purpose and application
- 50.02 Definitions
- 50.03 Waste disposal
- 50.04 Licensing collectors of solid waste and recyclable materials
- 50.05 Reporting requirement
- 50.06 Unauthorized disposal of solid waste
- 50.07 Enforcement and inspection
- 50.08 Intent

- 50.09 Regular emptying; assessment for failure
- 50.10 List of delinquent accounts
- 50.11 Notice of assessment
- 50.12 Appeal to Council
- 50.13 Certification of delinquent assessments

- 50.99 Penalty

§ 50.01 PURPOSE AND APPLICATION.

(A) (1) The Sanitary Board of the Western Lake Superior Sanitary District (the "District"), which includes 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")).

(2) To reduce the volume of solid waste requiring disposal within the state, the Score Legislation requires the District and other governmental agencies in the state responsible for disposal of solid waste to give residents an opportunity to recycle which must include:

(a) Local recycling center in the District and sites for collecting recyclable materials that are located in areas convenient for persons to use them; and

(b) 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.

(B) 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 M.S. § 115A.552, subd. 1 and 2, as they may be amended from time to time;

(5) Supplies the District copies of all license applications for collectors on a monthly basis; and

(6) Provides a certified copy of the ordinance to the District within five days following enactment.

(C) The City Council supports the goals of the score legislation and believes it is in the best interest of its residents to design methods of accomplishing the goals consistent with factors unique to the city.

(Prior Code, § 505.01)

§ 50.02 DEFINITIONS.

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

BACKYARD COMPOST SITE. A site used to compost food scraps or yard waste from a single family or household, apartment building or a single commercial office.

BOARD. The Sanitary Board of the Western Lake Superior Sanitary District.

BULKY ITEMS. Items of solid waste which do not fit within a container.

CITY. The City of Proctor.

CITY COUNCIL. The City Council of the City of Proctor.

CLERK-TREASURER. The duly appointed Clerk-Treasurer of the City of Proctor.

COLLECTOR. 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. The controlled microbial degradation of organic waste to yield a humus-like product.

CONTAINER. A container for solid waste which meets the requirements set forth in § 50.03.

DEMOLITION DEBRIS. 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 human-made structures. **DEMOLITION DEBRIS** does not include solid waste or asbestos waste.

DISTRICT. The Western Lake Superior Sanitary District.

FACILITY. 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. Discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

HAZARDOUS SUBSTANCE.

(1) Means:

(a) Any commercial chemical designated pursuant to the Federal Water Pollution Control Act, under 33 U.S.C. § 1321(b)(2)(A);

(b) Any hazardous air pollutant listed pursuant to the Clean Air Act, under 42 U.S.C. § 7412; and

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

(2) **HAZARDOUS SUBSTANCE** does not include natural gas, natural gas liquids, liquified natural gas, synthetic gas usable for fuel or mixtures of 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. All solid waste generated by a hospital except infectious waste and pathological waste.

HOUSEHOLD HAZARDOUS WASTE. 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. All solid waste generated from an industrial or manufacturing process and solid waste generated from non-manufacturing 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. 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. Schools, courthouses, hospitals, "in-house" municipal programs and the like for collecting recyclable materials.

MEDICAL SHARPS.

(1) 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

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

MIXED MUNICIPAL SOLID WASTE. 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.** 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. Human tissues and human body parts removed accidentally or during surgery or autopsy intended for disposal. **PATHOLOGICAL WASTE** does not include teeth.

RECYCLABLE WASTE. Any materials that are designed as recyclable materials by regulation of the District.

RECYCLING FACILITY. A site permitted by the State 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. 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. 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. Solid waste designated as unacceptable waste by regulation of the District.

YARD WASTE COMPOST FACILITY. 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 State

Pollution Control Agency to accept yard waste.

(Prior Code, § 505.02)

§ 50.03 WASTE DISPOSAL.

(A) 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 nonresidential, 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.

(B) 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.

(C) 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.

(D) 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 the structure, shall collect or gather recyclable materials set out for collection by a licensed collector.

- (1) *Disposal of yard waste; composting.*

(a) After January 1, 1992, any person disposing of yard waste shall have the option of disposing of waste by one to the following:

1. Disposal in a backyard compost site;
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.

(b) 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 the person or entity may obtain from the state. 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.

(2) *Disposal of demolition debris.* Any person disposing of demolition debris shall transport the waste to any site designated by the State Pollution Control Agency for receipt of the waste.

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

(4) *Waste preparation and storage.*

(a) 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 the property or upon any adjoining property, alley, street, sidewalk or highway, except in proper containers as described below.

(b) 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 the premises during the time between collections. In the case of residential structures containing four or less dwelling units, the containers shall be of a maximum size of 32 gallons, shall be provided with handles and a tight and securely fitted cover. All solid waste shall be placed in 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 45 pounds in weight.

(c) 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 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.

(d) 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 the container. The disposal in a roadside litter receptacle of garbage or rubbish generated within an automobile shall not violate this provision.

(e) 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 the time, or in an other manner as shall be specified by the District.

(f) Hospital waste, pathological waste, infectious waste, medical sharps, hazardous substances and other unacceptable wastes not specifically referred to in this section 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 the time.

(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 the 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 the removal service themselves, provided that the owner shall obtain a license under the chapter. 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 the 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 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 § 50.09.

(6) *Collection of recyclable materials.* On or before January 1, 1992, the City Council 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.

(7) *Charges for collection.*

(a) On or before January 1, 1992, the City Council shall establish, by resolution, a schedule of rates for the collection of mixed municipal solid waste. The 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 the 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 rates shall provide additional charges for bulky items. These charges may not be included in the minimum charge.

(b) 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.

(c) 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 90 days' prior written notice to all collectors. In addition, the 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. (Prior Code, § 505.03) Penalty, see § 50.99

§ 50.04 LICENSING COLLECTORS OF SOLID WASTE AND RECYCLABLE MATERIALS.

For the health, safety and welfare of the residents of the city, the following regulations are applicable to all mixed municipal solid waste removal and disposal and handling of recyclable materials are established.

(A) *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 division (A).

(B) *License issuance.* Only collectors possessing a valid collector's license issued by the District shall be permitted to collect solid waste within the city as set forth within this chapter.

(Prior Code, § 505.04) Penalty, see § 50.99

§ 50.05 REPORTING REQUIREMENT.

(A) Beginning January 1, 1992, all collectors, owners which provide their own collection services under § 50.03(D)(5), 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.

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

- (1) Weight by ton;
- (2) Name and location of market to which the material was sold or delivered;
- (3) Average price per ton received; and
- (4) Inventory (in tons) of material in storage.

(C) 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.

(D) Each collector or owner which provides its own collection services under § 50.03 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.

(E) Each collector shall provide the city and the District with an opportunity to inspect current customer lists.

(Prior Code, § 505.05)

§ 50.06 UNAUTHORIZED DISPOSAL OF SOLID WASTE.

Any person who:

(A) 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;

(B) 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

(C) Deposits solid waste, recyclable materials, demolition debris or yard waste within the District in any manner that violates the provisions of this chapter is guilty of the misdemeanor of unauthorized deposit of solid waste.

(Prior Code, § 505.06) Penalty, see § 50.99

§ 50.07 ENFORCEMENT AND INSPECTION.

(A) Inspection and evaluation of containers and collectors shall be made by the City Building Official in a frequency as to ensure consistent compliance by the owners, occupants and collectors with provisions of the chapter. 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 the inspections as may be necessary to determine compliance with the requirements of this chapter or any other applicable statute, ordinance or regulation.

(B) 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 chapter.

(Prior Code, § 505.07)

§ 50.08 INTENT.

(A) It is the express intent of this chapter, 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 M.S. § 115A.551, as it may be amended from time to time.

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

(Prior Code, § 505.10)

§ 50.09 REGULAR EMPTYING; ASSESSMENT FOR FAILURE.

Every can or receptacle required by § 50.03 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. The costs may be certified to the County Auditor for collection as a special assessment pursuant to M.S. § 429.101, as it may be amended from time to time, and this chapter.

(Prior Code, § 505.11)

§ 50.10 LIST OF DELINQUENT ACCOUNTS.

(A) On or before June 1 of each year, each licensed collector or his or her assignee, may transmit to the Clerk-Treasurer a list of properties to which he or she has rendered collection and removal service pursuant to this chapter in the immediately preceding 17 months which has not been paid or previously assessed pursuant to this chapter, together with the amount due with respect to each property. The 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 the amounts.

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

(C) Upon the receipt of the lists, the Clerk-Treasurer 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 or her, together with a description of each lot or parcel of land and the amount of the assessment.

(Prior Code, § 505.12)

§ 50.11 NOTICE OF ASSESSMENT.

On or before July 1 of each year, the Clerk-Treasurer shall certify the assessment roll to the City Council. The Clerk-Treasurer shall give 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-Treasurer's office, and the time at which the Council will meet to hear parties aggrieved by the assessment.
(Prior Code, § 505.13)

§ 50.12 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 chapter to the regularity of the proceedings or to the correctness of the amount of the 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 the 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. The 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 the date shall render the assessment delinquent.
(Prior Code, § 505.14) (Ord. 02-05, passed 4-4-2005)

§ 50.13 CERTIFICATION OF DELINQUENT ASSESSMENTS.

On or before October 10 of each year, the City Treasurer shall file with the County Auditor a certified statement of all assessments delinquent under this chapter describing the land affected and giving the amount of the assessment, with 10% 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 the accounts shall be retained by the city. All accounts, including interest and penalty thereon, collected by the City Treasurer for service rendered and paid for by the city shall be retained by the city.
(Prior Code, § 505.15)

§ 50.99 PENALTY.

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

(B) *Equitable relief.* In the event of a violation or a threat of violation of this chapter, the Attorney for the city may take appropriate action to enforce this chapter, 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 the violations or threatened violations.

(Prior Code, § 505.08)

CHAPTER 51: SEWERS

Section

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SEWER LATERALS

§ 51.01 DEFINITIONS.

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

BACKFLOW VALVE. A check valve specifically designed to prevent the reverse flow of sewage in a lateral.

BUILDING SEWERS. Sewer, soil pipe and drain pipes constructed within and under buildings.

CITY ENGINEER. The City Engineer of the city is a qualified engineering firm acting as City Engineer of the city or qualified designee.

PREMISES. A lot, parcel of land, building or establishment.

SEWAGE. All water or combination of liquid and water-carried solid or semi-solid waste conducted away from residences, business buildings, institutions and other sources, which is known as domestic sewage, together with liquid or water-carried solid or semi-solid waste resulting from a manufacturing process employed in industrial establishments, including the washing, cleaning or drain water from the process, which is known as industrial waste.

SEWER or SEWER MAIN. Any city owned sewer pipe within a city street or public right-of-way receiving or intended to receive the discharges of more than one sewer lateral. No sewer main constructed henceforth shall be less than eight inches in diameter nor be laid or constructed in any city street, easement or right-of-way or street, easement or right-of-way under the control of the city, except to the lines, grades and specifications approved by the proper city authority.

SEWER LATERAL or LATERAL. A privately-owned pipeline connecting a building sewer to a sewer main.

(Ord. passed - -2018; Ord. 04-19, passed 10-21-2019)

§ 51.02 CITY'S AUTHORITY TO ENFORCE.

The City Administrator or designee shall be charged with the administration of the sewerage system and the enforcement of the provisions of this subchapter. (Ord. passed - -2018; Ord. 04-19, passed 10-21-2019)

§ 51.03 SEWER LATERALS, CLEANOUTS AND CONNECTIONS.

(A) All laterals from the building wall to the connection to the sewer main are the property of the owner of the connected building. All property owners whose properties are connected to a sewer main or are otherwise connected to the city's sewer system by sewer lateral shall at their own expense maintain the sewer lateral in a fully functioning condition and ensure the lateral is free of cracks, leaks, inflow or infiltration of extraneous water, root intrusion or open joints. Property owners shall ensure that laterals drain freely to the sewer main without excessive sags that collect grease and sediment.

(B) No person, firm or corporation shall break or cut into or connect to any sewer in any street, easement or right-of-way in the city or under the control of the city without first securing a permit so to do from the city. Prior to beginning work, detailed plans describing the work to be done shall be submitted to and approved by the City Engineer or his or her designee.

(C) Each property utilizing the city's sewer system shall have a separate lateral connected to the sewer main. Notwithstanding the foregoing sentence, branched or common laterals shall be permitted only in the following instances:

(1) Where a lateral is maintained by a homeowner's association or other entity that is party to a formal, recorded lateral maintenance agreement;

(2) Where more than one building or other structure is situated upon the same lot, in which case all buildings and structures may, by permit authorized by the City Engineer, be joined in the use of one connecting sewer; provided that the connection conforms in all other respects to the provisions of this subchapter and a drawn plan of the joint connection be first submitted to and approved by the City Engineer. As a further condition of obtaining a permit, all buildings and structures shall be owned by the same person;

(3) Where, in the opinion of the City Engineer, it is impossible or impractical to connect a building on a single lot to the main sewer except in conjunction with the connection of a building or buildings on other lots, a joint connection may be allowed, provided that the connection conforms in all other respects to the provisions of this subchapter and a drawn plan of the joint connection be first submitted to and approved by the City Engineer. A permit for each individual lot covering the identification of the responsible party for maintenance and liability for maintenance and overflow damages shall be required; and

(4) Where two or more structures on separate parcels are connected to a branched or common lateral "wye", each property shall be disconnected from the branched or common lateral and a new separate lateral shall be constructed upon the transfer of title of either property by sale.

(D) A cleanout approved by the City Engineer shall be installed and maintained, at the sole expense of the property owner, on all laterals. The installation of the devices shall be required as follows:

(1) When building a new structure on property with an existing lateral, or when otherwise proposing to connect a previously unconnected structure to an existing lateral;

(2) As a condition of approval of any major building remodel project. A major building remodel project is one that is estimated by the city to cost \$50,000 or more;

(3) Prior to the close of escrow when the property is transferred via sale or other transfer of ownership by deed, instrument or writing;

(4) Whenever the city finds that a sewage spill emanating from a lateral has reached public property, including, but not limited to, a city street or the city storm drain system, or has flowed onto private property owned by another property owner; and

(5) Whenever the city finds that a sewage spill emanating from a lateral presents a threat to public health, even if it has not flowed across a property line.

(E) (1) On laterals serving properties where the outlet of a trap for a plumbing fixture is installed or located at an elevation which is less than two feet above the rim of the nearest manhole or other sewer access point uphill from the point of connection of the lateral to the public sewer in any new or existing drainage system, approved types of backflow valves may be required by the City Engineer. The installation of the devices shall be required under the same circumstances as set forth in divisions (D)(1) through (D)(5) above.

(2) Where a backflow valve is required, the valve shall be installed in the lateral at the point of lowest elevation of the ground surface along the alignment of the lateral, or at another location as is permitted by the city, providing that at any location, the elevation of the ground surface is not less than two feet below the lowest trap served by the building sewer.

(3) The backflow valve shall have cleanouts directly upstream and downstream of the valve. The cleanouts shall be connected to the lateral by means of "wye" fittings. The backflow valve shall be accessible from the surface and protected by the use of a precast access box of concrete or heavy-duty plastic approved by the City Engineer.

(4) The cleanouts shall be positioned at an elevation at least three inches above the ground in order to prevent the obstruction of the vent opening or the inflow of surface water.

(F) Any owner whose property meeting the elevation criteria of this section that has no backflow valve, or has a defective or improperly installed backflow valve, shall be responsible for all damage that results from the lack of a device, or the failure of the defective or improperly installed device to prevent the damage.

(Ord. passed - -2018; Ord. 04-19, passed 10-21-2019) Penalty, see § 51.99

§ 51.04 INSPECTIONS AND REPAIRS OF SEWER LATERALS, HOUSE TRAPS, FOOTING DRAINS AND SUMP PUMPS.

(A) (1) No foundation drains, sump pumps, roof drains, or catch basins are permitted to discharge to the wastewater system. Unpolluted water must be excluded from the water system.

(2) Property owners shall, at their own expense, inspect, and provide to the city a report of the results of an inspection of, the laterals on their property prepared by a licensed plumber or a qualified and licensed person using closed circuit television (CCTV) inspection or other inspection or test method approved by the City Engineer, and if found defective, repair the lateral, as follows:

(a) When building a new structure on property with an existing lateral, or when otherwise proposing to connect a previously unconnected structure to an existing lateral;

(b) As a condition of approval of any major building remodel project. A major building remodel project is one that is estimated by the city to cost \$50,000 or more;

(c) Prior to the close of escrow when the property is transferred via sale or other transfer of ownership by deed, instrument or writing;

(d) Whenever the city finds that a sewage overflow emanating from a lateral has reached public property, including, but not limited to, a city street or the city storm drain system, or has flowed onto private property owned by another property owner; and

(e) Whenever the city finds that a sewage overflow emanating from a lateral presents a threat to public health, even if it has not flowed across a property line.

(3) In the absence of a specific deadline, all inspection and testing work shall be completed within 120 days of notification by the city that the inspection is required. Existing laterals shall not be used if they are found to be defective by the inspection or if they fail city mandated tests or if they were constructed of materials deemed unacceptable by the City Engineer.

(B) As part of its periodic construction and maintenance of sewer mains, the city may discover defective laterals. The city may order the property owner to conduct an inspection, repair or replacement of any lateral that the city knows or reasonably suspects to be defective.

(C) The lateral shall be considered defective if it has any of the following conditions: displaced joints, root intrusion, substantial deterioration of the lines, damaged clean-out, defective clean-out, inflow, infiltration of extraneous water or other conditions likely to substantially increase the chance for a lateral blockage, or if, within a period of one year, a lateral suffers two or more blockages resulting in overflows.

(D) Whenever defective laterals are found, the property owner, at the sole expense of the property owner, shall repair or replace the lateral. The City Engineer shall determine the extent of repair required, and more limited repair than complete replacement of the lateral may be permitted at the sole discretion of the City Engineer. The following requirements shall be met.

(1) A replaced or repaired lateral shall not be covered or backfilled until it has been inspected by a representative of the city.

(2) All new and repaired laterals must pass an air pressure test as specified by the City Engineer.

(3) All repaired or replaced laterals shall be brought into compliance with the requirements of the city code. Backflow valves may be required to be installed on laterals meeting the criteria of the city code.

(E) In the absence of a specific deadline established by the responsible authority of the city, all repair or replacement work shall be completed within 120 days, or by agreement with the city and property owner, of notification by the city that the repair or replacement is required. Repair or replacement shall consist of, but not be limited to, the sewer and water utilities, sidewalk, curb, street, grading and seeding.

(F) When a lateral is completely replaced, inspected and approved by the city, the property owner is not required to inspect the lateral upon sale of the property for ten years following the date of complete replacement of the lateral.

(G) Roots, grease or other material which have accumulated in a lateral cleaned or maintained shall be prevented from entering the sewer main during the maintenance or repair of the lateral. In the event that material is permitted to enter the main causing or contributing to the cause of a sewage spill, the property owner and/or contractor performing maintenance work, in addition to any criminal penalties imposed, shall be held civilly liable to the city for any fines or other expenses incurred by the city resulting from the spill.

(H) The city shall have the authority to recover from a property owner, the city's expenses incurred in responding to sewer overflows on private property. In addition to any actual expenses incurred by the city resulting from an overflow, the city may impose civil administrative penalties against a property owner who fails to perform any act required in this section, which failure results in an overflow reaching public or private property other than the property owner's property, according to the following schedule:

- (1) Up to \$500 for the first violation;
- (2) Up to \$1,000 for a second violation occurring within three years after the first violation; and
- (3) Up to \$2,500 for each additional violation within a three-year period exceeding two violations.

(I) The City Council shall have the authority to establish, waive, suspend or otherwise modify any civil administrative penalty imposed by this section that exceeds the direct costs of the city upon a showing by the property owner of severe financial hardship, or upon a showing that the property owner has satisfactorily repaired the lateral to a degree sufficient to ensure avoidance of further violations.

(J) The provisions of this section shall not be construed to require or obligate the city to enter into a reimbursement agreement if, in the sole discretion of the City Council, to so enter into the agreement would not be in the best interests of the city or would be detrimental to the health, safety or welfare of the city.

(K) (1) Where buildings are to be demolished, the following actions shall be required:

(a) Determine if the service is to be abandoned or reused in the future; and

(b) Have the service (lateral) line televised, if records are not on file showing it has been televised in the past ten years. A city official shall review the video recording and records on file with the city to determine the condition of the sewer

lateral (typically, the Building Official/Inspector, City Engineer or Streets Department Foreman/Supervisor).

(2) (a) If the service line is to be abandoned but is in good condition with no apparent inflow and infiltration issues (typically either PVC or cast iron pipe), remove or abandon service line to the property line. Expose the sewer lateral at the lot or curb line and seal/cap the open end to the satisfaction of the authorized city official.

(b) If the service line is to be abandoned and is in poor or failing condition and the street is in poor or failing condition, remove or abandon the service line to the main line in the street. Then remove the "wye" connection at the main line, and repair the main sewer line in the street as determined by authorized city official.

(c) If the service line is to be abandoned, and is in poor or failing condition but the street is in fair to good condition, remove or abandon the service line from the building to the property line, or as near as possible to the back of the curb, and do either of the following alternative actions with the remainder of the sewer line to the sewer main:

1. Dig down to the lateral, exposing the line at the lot line or close to the curb and install, a city approved membrane liner through the remaining service stub. Seal both ends of the liner, and install a seal/cap on the open end at the property or curb line to the satisfaction of the authorized city official; or

2. Install a city-approved plug in the service line as near the main line pipe as possible. Fill the remaining service stub with a non-permeable grout or sealant and install a seal/cap on the open end of the pipe at the property or curb line to the satisfaction of the authorized city official.

(d) If the service line is needed in the future and the service line is in good condition (typically either PVC or cast iron pipe) regardless of the street condition, remove or abandon the service line to the property line. Dig down to the lateral, exposing the line at the lot line or close to the curb and install a cap, or seal the open end of pipe at the property or curb line to the satisfaction of the authorized city official. Provide location (ties minimum of two) to the city official.

(e) If the service line is needed in the future, but is in poor or failing condition and the street is in poor or failing condition, remove or abandon the service line from the building to the mainline. Remove the old connection at the main line and install a new wye and pipe from the main sewer line to the lot line and install a cleanout access at the property line as determined by the authorized city official.

(f) If the service line is needed in the future, but the old line is in poor or failing condition and the street is in good to fair condition, the service line shall be removed or abandon to the property line or curb. Install a sewer cleanout at the property line or near the curb. Connection to the remaining sewer service stub between the sewer cleanout and the main line sewer pipe shall either:

1. Have a city-approved membrane liner installed and have the line capped at the lot line below the cleanout; or

2. Have a city-approved plug installed in the service pipe as near the main line pipe as possible, then filled with a non permeable, but removable, grout or sealant.

(L) (1) 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.

(2) 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.

(M) The city shall have the power and duty of hearing and deciding requests for waivers from the applicability of the provisions of this subchapter. 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. 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. The city shall have the right to inspect all property 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 fee schedule listed above. (Ord. passed - -2018; Ord. 04-19, passed 10-21-2019)

WASTEWATER FACILITIES SYSTEM

§ 51.15 WASTEWATER FACILITIES SYSTEMS ESTABLISHED.

(A) *System established.* There is hereby established a city wastewater facilities system. The 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 the 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.

(B) *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 the 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.

(Prior Code, § 401.01)

§ 51.16 DEFINITIONS.

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

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter expressed in milligrams per liter, as determined in accordance with standard laboratory procedures as set out in *Standard Methods*.

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

(1) **BUILDING DRAIN, SANITARY.** A building drain which conveys wastewater only.

(2) **BUILDING DRAIN, STORM.** A building drain which conveys stormwater or other unpolluted water drainage but no wastewater.

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

(1) **BUILDING SEWER, SANITARY.** A building sewer which conveys wastewater only.

(2) **BUILDING SEWER, STORM.** A building sewer which conveys stormwater or other unpolluted water drainage but no wastewater.

CAPITAL COST. 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.

CLASSES OF USERS. The division of wastewater facility users by waste characteristics and process or discharge similarities.

(1) **DOMESTIC USER.** 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.

(2) **NONDOMESTIC WASTEWATER USER.** A user which discharges wastewater other than domestic wastewater.

DEBT SERVICE. The principal and interest necessary to pay indebtedness of the city and city's share of the indebtedness to WLSSD.

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

FEDERAL CODE OF REGULATIONS. The United States government regulations so entitled.

FLOATABLE OIL. 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.

FLOW. The quantity of wastewater.

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

INDUSTRIAL COST RECOVERY. 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 the users' wastewater in the amount as required by Public Law 92-500, being 33 U.S.C. §§ 1251 et seq.

INDUSTRIAL USER. 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.

INDUSTRIAL WASTE. 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.

LOADS. Quantities of wastewater characteristics such as BOD, SS, P or other constituents.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)

PERMIT. A permit system of the United States Environmental Protection Agency.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

PEAK FLOW. The maximum instantaneous rate of flow that is discharged by a user into the wastewater facility.

PERMIT. Written authorization from the city or the WLSSD to perform acts allowed or required by this subchapter.

pH.

(1) The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight, in grams, of hydrogen ions per liter of solution.

(2) Neutral water for example, has a pH value of 7 and a hydrogen ion concentration of 10⁻⁷.

PHOSPHOROUS (P). Total phosphorous in wastewater as determined under standard laboratory procedures as set forth in Standard Methods.

POLLUTED WATER. 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.

PRETREATMENT. The treatment of wastewater prior to introduction thereof into the city or the WLSSD wastewater facilities.

PRIVATE WASTEWATER DISPOSAL SYSTEM. An arrangement of devices or structures for treating domestic or nondomestic wastewater approved for use by applicable regulations of the state and the county.

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

PUBLIC SEWER. Any sewer owned or operated by the city or the WLSSD.

SANITARY SEWER. A sewer which carries wastewater and to which storm, surface and ground water are not intentionally admitted.

SEWER. A pipe or conduit that carries wastewater to storm, surface or ground water.

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

STANDARD METHODS. 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.

SUITABLE WASTEWATER COLLECTION FACILITIES. A device(s) adequate to capture all significant wastewater developed or occurring on the premises where the facilities are located.

SUSPENDED SOLIDS (SS). Total suspended solids in wastewater as determined under standard laboratory procedures as set forth in *Standard Methods*.

UNPOLLUTED WATER. 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.

USER CHARGE. A charge levied on the users of the wastewater facilities for the cost of operation, maintenance, including replacement and debt service.

WASTEWATER. The 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.

(1) **DOMESTIC STRENGTH WASTEWATER.** 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.

(2) **NONDOMESTIC STRENGTH WASTEWATER.** All wastewater other than domestic strength wastewater.

WASTEWATER FACILITY. 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**. The wastewater facilities of the WLSSD and when preceded by the word **CITY** means the wastewater facilities of the city.

WASTEWATER TREATMENT WORKS. An arrangement of devices and structures for treating wastewater, industrial waste and sludge.

WLSSD. Western Lake Superior Sanitary District, a public corporation and political subdivision of the state established by subchapter 478, Laws of Minnesota, 1971.

WORKING STREET FOREMAN. The Working Street Foreman of the city's wastewater facilities or his or her authorized deputy, agent or representative.
(Prior Code, § 401.02) (Ord. 02-05, passed 4-4-2005)

§ 51.17 USE OF PUBLIC SEWERS REQUIRED.

(A) *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 subchapter.

(B) *Septic tanks.* Except as provided in § 51.18, 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.

(C) *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 the facilities directly with the proper public sewer in accordance with the provisions of this subchapter at the time of construction of the facilities in the case of new construction or new use or within 90 days after date of official notice to do so in the case of existing housing, buildings or properties; provided that the public sewer is within 100 feet of the property line.

(Prior Code, § 401.03) Penalty, see § 51.99

§ 51.18 PRIVATE WASTEWATER DISPOSAL.

(A) *Connection required.* Where a public sanitary sewer is not available within the distance prescribed by the provisions of § 51.17, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(B) *Permit.* Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit from the County Health Department.

(C) *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 the county. No system shall be permitted to discharge to any natural outlet.

(D) *Public sewer availability.* At those times as a public sewer becomes available to a property served by a private wastewater disposal system within the distance prescribed by § 51.17, a direct connection shall be made to the public sewer within 90 days in compliance with this subchapter, and any private wastewater disposal system shall be cleared of sludge and filled with suitable material.

(E) *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.

(F) *Additional regulations.* No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the State Pollution Control Agency, the county or the WLSSD.
(Prior Code, § 401.04) Penalty, see § 51.99

§ 51.19 BUILDING SEWERS AND CONNECTIONS.

(A) *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.

(B) *Classes of connections.*

(1) 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.

(2) In all cases, the owner or his or her 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 the connection permit, including the cost of inspection of connection for each class, shall be established by resolution of the City Council and shall be paid to the city at the time the application is filed.

(C) *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.

(D) *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 the connection.

(E) *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 therefor, the 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 single connection aforementioned.

(F) *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 subchapter.

(G) *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.

(H) *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 the building drain shall be lifted by an approved means and discharged to the building sewer.

(I) *Stormwater connection.*

(1) *Generally.* No person shall make connection of roof downspouts, sump pump or other sources of unpolluted waters such as stormwater, 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.

(2) *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.

(3) *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.

(4) *Power and duty of hearing and deciding requests for waivers.* 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 subchapter. 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 1. 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 the discharge will result in a fine subject to § 10.99. If a property owner feels undue hardship, appeal will be made to the City Council.

(J) *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 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 the rules, regulations and tests when so promulgated and filed with the Clerk-Treasurer shall be met.

(K) *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.

(L) *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 § 52.15 of this code or ordinances.)

(M) *Enforcement and additional charges.* The provisions of this subchapter 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.

(N) *Penalties and surcharges.*

(1) Any person who willfully or negligently violates any provision of this subchapter or any provision of a permit issued by the city hereunder shall be subject to a fine subject to city administrative fine schedule.

(2) Any person who continues any violation of any provision of this subchapter 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.

(3) Each day in which a violation referred to in either division (N)(1) or (N)(2) above continues shall be deemed a separate violation.

(4) 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 subchapter, or who falsifies, tampers with or renders inaccurate any monitoring device or method required under this subchapter or any permit issued by the city hereunder shall be guilty of a misdemeanor.

(5) Any person who continues to discharge ground water into the sanitary sewer system in violation of this subchapter will be charged an additional surcharge per month on their utility bill of an amount set by City Council from time to time by resolution. The surcharge will be imposed every month until the property at issue is in compliance with this subchapter.

(Prior Code, § 401.05) (Ord. 02-05, passed 4-4-2005; Ord. 10-05, passed 8-16-2005; Ord. 01-07, passed 3-19-2007) Penalty, see § 51.99

§ 51.20 USE OF PUBLIC SEWERS.

(A) *Discharge of unpolluted waters.* No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, ground water, 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 this section and all other unpolluted drainage shall be discharged to the 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 § 51.19(B).

(B) *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; and

(4) Solid or viscous substances in quantities or of a 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.

(C) *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 any further limitations are necessary to meet the above objectives. In making the determination due consideration shall be given factors such 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:

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- (1) Wastewater having a temperature higher than +150°F (65°C);
 - (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 three-fourths 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, nonbiodegradables, organic chemicals and similar untreatable or toxic substances to a degree that any materials received in the composite wastewater at the wastewater treatment works exceed the limits established by the City Engineer for the 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 a 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 a 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; and
 - (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.
- (D) *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 division (C) above 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 the waste and achieve a discharge in compliance with the NPDES permit;
 - (3) Require control over the quantities and rates of discharge; and
 - (4) Require payment to cover added cost of handling and treating the wastes not covered by existing user charges under the provisions of this subchapter.

(E) *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 division (D)(3) above or any flammable wastes, sand, grit or other harmful ingredients; except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Working Street Foreman, City Building Official 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.

(F) *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 the facilities shall be commenced until approval in writing is granted. Where the facilities are provided, they shall be maintained continuously in satisfactory and effective operating order by the owner at his or her expense and shall be subject to periodic inspection by the city and the WLSSD to determine that the 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.

(G) *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 the necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes by the city and the WLSSD. The 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 or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

(H) *Additional information.*

(1) 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 subchapter.

(2) These requirements may include:

- (a) Wastewater peak flow and volume over a specified time period;
- (b) Chemical analyses of wastewaters;
- (c) Information on raw materials, processes and products affecting wastewater volume and quality;

- (d) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control;
 - (e) A plot plan of the user's property showing sewer and pretreatment facility or flow equalizing facility location;
 - (f) Details of wastewater pretreatment or flow equalizing facility;
 - (g) Details of systems to prevent and control the losses of materials through spills to the public sewer; and
 - (h) Access to users' premises so that city and WLSSD personnel can carry out sampling, monitoring and measurement of users' discharge.
 - (I) *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.
 - (J) *Tests.* All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this subchapter shall be determined in accordance with the provisions set out in *Standard Methods*.
 - (K) *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 agreement shall establish that charges to the user shall be in accordance with the city established user charges.
- (Prior Code, § 401.06) (Ord. 02-05, passed 4-4-2005) Penalty, see § 51.99

§ 51.21 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.

(Prior Code, § 401.07) Penalty, see § 51.99

§ 51.22 POWERS AND AUTHORITY OF INSPECTORS.

- (A) *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, in accordance with § 10.20, 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 subchapter.
 - (B) *Information.* The Working Street Foreman or other duly authorized employees of the city and the WLSSD shall be provided by users with the information concerning industrial processes as have a direct bearing on the kind and source of discharge to the wastewater facilities.
- (Prior Code, § 401.08) (Ord. 02-05, passed 4-4-2005)

§ 51.23 USER CHARGE SYSTEM ESTABLISHED.

(A) *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.

(B) *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 the procedure shall be effective upon approval of the Council by resolution. The procedure shall include a late payment penalty provision and shall provide for an interest charge on the unpaid balance of the charges.

(C) *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 the 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 Clerk- Treasurer who shall prepare an assessment roll each year providing for assessment of delinquent amounts against the respective property service pursuant to M.S. § 444.075, subd. 4, as it may be amended from time to time. 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. The action by the City Council and adoption of the certification is optional. Money paid to the County Auditor on the 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 the charges, the City Administrator may, according to the rules and regulations as he or she 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 the delinquent charges, shall be paid, together with the cost of shutting off and turning on the water.

(D) *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 the system shall be deemed to be and shall be based and computed upon the amount of water used on the premises.

(1) In all cases where the premises obtain water from the city's water supply, the volume of water used on any 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 the premises at his or her own cost and subject to the supervision and inspection of the Commission Secretary/Senior Bookkeeper/Utility Operations Coordinator. User charges against the 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 the 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 a manner and by those methods as he or she may find practicable considering conditions and attendant circumstances in each case, the estimated volume of water from private sources which discharges into the system. The estimate shall be used in lieu of the meter volume of water from private sources to determine the user charge thereon and therefor.

(E) *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 § 51.20 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.

(F) *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-Treasurer. 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 Law 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-Treasurer.

(G) *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 division (D) above, provided, and in accordance with the city schedule of charges and fees.

(Prior Code, § 401.09) (Ord. 02-05, passed 4-4-2005)

STANDARDS FOR FATS, OIL AND GREASE REDUCTION

§ 51.35 AUTHORITY AND PURPOSE.

This subchapter 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 subchapter will protect the health, welfare and safety of the public and the environment by requiring provisions for the reduction of fats, oils and grease, minimizing the impact on the wastewater collection and transmission system.

(Prior Code, § 401.10) (Ord. 05-11, passed 1-17-2012)

§ 51.36 DEFINITIONS.

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

CITY. The City of Proctor, Minnesota.

CUSTOMER. Any entity which discharges wastewater to the city wastewater conveyance system.

FATS, OILS AND GREASE (FOG). Material, either liquid or solid, composed primarily of fat, oil and grease from animal, vegetable or mineral sources.

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.

GREASE INTERCEPTOR. A device designed to capture fats, oils and grease prior to discharge to a sanitary sewer. Also termed **GREASE TRAPS** or **GREASE RECOVERY DEVICES**.

(Prior Code, § 401.10) (Ord. 05-11, passed 1-17-2012)

§ 51.37 FATS, OIL AND GREASE REDUCTION REQUIREMENTS.

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

(1) Grease interceptors must be installed at all new FOG generating facilities.

(2) Existing FOG generating facilities must install an approved, properly operated and maintained grease interceptor when any of the following conditions exist:

(a) If the city determines the discharge of grease from the facility to the sewer has or is creating restrictions in the public sewer or is causing additional sewer maintenance costs; and

(b) Construction which requires issuance of a building permit from the city occurs at a food service facility.

(3) Grease interceptors must be of adequate size and efficiency and at a minimum shall be sized and installed in accordance with the Minnesota Rules Ch. 4715, as it may be amended from time to time, and all applicable municipal plumbing codes.

(4) 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.

(5) FOG generating facilities must maintain records for all grease interceptor cleaning and maintenance activities in a format approved by the city and have the records available for inspection.

(6) FOG generating facilities must regularly clean and maintain the grease interceptor and properly dispose of captured material.

(a) Each facility must maintain records of the dates and means of disposal.

(b) Any removal and hauling of the captured materials not performed by the owner's personnel must be performed in compliance with all applicable laws and regulations by a licensed waste disposal contractor.

(B) *Variance.* The city may grant a variance or conditional waiver from the minimum requirements in division (A) above 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.

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

(2) 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.

(C) *Inspections.* 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.

(Prior Code, § 401.10) (Ord. 05-11, passed 1-17-2012) Penalty, see § 51.99

§ 51.38 RECORD RETENTION.

Records required to be maintained under § 51.37(A) 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.
(Prior Code, § 401.10) (Ord. 05-11, passed 1-17-2012)

ILLICIT DISCHARGE AND CONNECTION TO THE STORM DRAINAGE SYSTEM

§ 51.50 PURPOSE.

(A) *Purpose.* The purpose of this subchapter is to provide for the health, safety and general welfare of the citizens of the city through the regulation on non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This subchapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the national pollutant discharge elimination system (NPDES) permit process.

(B) *Objectives.* The objectives of this subchapter are:

- (1) To regulate the contribution or potential contribution of pollutants to the MS4 by any user;
 - (2) To prohibit illicit discharges and connections to the MS4; and
 - (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this subchapter.
- (Ord. 04-12, passed 8-20-2012)

§ 51.51 DEFINITIONS.

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

AUTHORIZED ENFORCEMENT AGENCY. Employees or designees of the city designated to enforce this subchapter.

BEST MANAGEMENT PRACTICES or **BMPs.** Schedules of activities, prohibitions or practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems. **BMPs** also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sewage or water disposal or drainage from raw materials storage.

CLEAN WATER ACT. The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Any activity subject to an NPDES construction stormwater permit or any activity subject to a city land alteration permit.

GREYWATER. Liquid waste from a residence or other establishment produced by bathing laundry, culinary operations and from floor drains associated with these sources, but specifically excluding toilet waste.

HAZARDOUS MATERIAL. Any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical chemical or infectious characteristics may cause, or significantly contribute to a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

ILLICIT CONNECTION. Any of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4 including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater and greywater to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether the drain(s) or connection(s) has been previously allowed, permitted or approved by the city; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the MS4 that has not been documented in plans, maps or equivalent records and approved by the city.

ILLICIT DISCHARGE. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in § 51.55(B).

INDUSTRIAL ACTIVITIES. Activities subject to NPDES industrial permits as defined in 40 C.F.R. § 122.26(b)(14).

MUNICIPAL SEPARATE STORMWATER SEWER SYSTEM (MS4). Includes municipally owned facilities where stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. A permit issued by the U.S. Environment Protection Agency (or the state under authority delegated pursuant to 33 U.S.C. § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual, group or general area-wide basis.

NON-STORMWATER DISCHARGE. Any discharge to the MS4 that is not composed entirely of stormwater.

PERSON. Any individual, association, organization, partnership, limited liability company, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT. Anything which causes or contributes to pollution. **POLLUTANTS** may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; sediment resulting from soil erosion; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land or portion of land whether improved or unimproved including adjacent sidewalks and parking areas.

SEWAGE. Waste and wastewater discharged from residences, business buildings, institutions and industrial establishments.

STORM DRAINAGE SYSTEM. Publicly owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

STORMWATER. Any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation, and resulting from precipitation.

STORMWATER POLLUTION PREVENTION PLAN or SWPPP. A document which describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, the MS4 and/or receiving waters to the maximum extent practicable.

WASTEWATER. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof, as defined in M.S. § 115.01, subd. 22, as it may be amended from time to time.

(Ord. 04-12, passed 8-20-2012)

§ 51.52 APPLICABILITY.

This subchapter shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by the city.

(Ord. 04-12, passed 8-20-2012)

§ 51.53 RESPONSIBILITY FOR ADMINISTRATION.

The city shall administer, implement and enforce the provisions of this subchapter. Any powers granted or duties imposed upon the city may be delegated to persons or entities acting in the beneficial interest of or in the employ of the city.

(Ord. 04-12, passed 8-20-2012)

§ 51.54 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this subchapter are minimum standards; therefore this subchapter does not intend nor imply that

compliance by any person will endure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.
(Ord. 04-12, passed 8-20-2012)

§ 51.55 PROHIBITION OF ILLICIT DISCHARGES.

(A) No person shall discharge or cause to be discharged into the MS4 anything other than stormwater, including, but not limited to, pollutants or waters containing any pollutants that may impede the natural flow of stormwater or the functionality of the MS4 or that cause or contribute to a violation of applicable water quality standards.

(B) The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited except as follows:

(1) Discharges related to water line flushing or water from other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active ground water dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), firefighting activities and any other water source not containing pollutants;

(2) Discharges specified in writing by the city as being necessary to protect public health and safety;

(3) Dye testing is an allowable discharge, but required a verbal notification to the city prior to the time of the test and the dye used must be non-hazardous; and

(4) The prohibitions contained in this subchapter shall not apply to any non-stormwater discharge permitted under a city permit or an NPDES permit, specific written waiver, or waste discharge order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency or the State Pollution Control Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for the discharge to the MS4.

(Ord. 04-12, passed 8-20-2012) Penalty, see § 51.99

§ 51.56 PROHIBITION OF ILLICIT CONNECTIONS.

(A) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(B) This prohibition expressly included, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(C) A person is considered to be in violation of this section if the person connects a line conveying sewage, process wastewater or greywater to the MS4, or allows a connection to continue.

(D) Improper connections in violation of this subchapter must be disconnected and redirected, if necessary, to an approved on-site wastewater management system or the sanitary sewer system upon approval of the city.

(E) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the city requiring that the locating be completed. The notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other be identified. Results of these investigations are to be documented and provided to the city.

(Ord. 04-12, passed 8-20-2012) Penalty, see § 51.99

§ 51.57 SUSPENSION OF MS4 ACCESS.

(A) *Suspension due to illicit discharges in emergency situations.* The city may, without prior notice, suspend MS4 discharge access to a person when the suspension is necessary to stop and actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health and welfare of persons, or to the MS4 or waters of the state. If the violator fails to comply with a suspension order issued in an emergency, the city may take steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, or to minimize danger to persons.

(B) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this subchapter may have his, her or its access terminated if the termination would abate or reduce an illicit discharge. The city will notify a violator of the proposed termination of its MS4 access. The violator may petition the city for a reconsideration and hearing.

(C) *Offense.* A person commits an offense if the person reinstates MS4 access to a premises terminated pursuant to this subchapter, without the prior approval of the city.

(Ord. 04-12, passed 8-20-2012) Penalty, see § 51.99

§ 51.58 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES; SUBMISSION OF NOTICE OF COVERAGE/AUTHORIZATION TO THE CITY.

(A) Any person subject to an industrial or construction activity NPDES stormwater discharge permit or city land alteration permit shall comply with all provisions of the permit. Proof of compliance with the permit may be required in a form acceptable to the city prior to allowing discharges to the MS4.

(B) The operator of a facility, including construction sites, required to have an NPDES permit to discharge stormwater associated with industrial or construction activity shall submit a copy of the coverage notification or notification of permit authorization to the city.

(C) The copy of the coverage notification or notification of permit authorization may be delivered to the city either in person or by mailing it to:

City of Proctor 100 Pionk Drive Proctor, MN 55810

(D) A person commits an offense if the person operates a facility that is discharging stormwater associated with industrial or construction activity without having submitted a copy of the coverage notification or notification of permit authorization to do so to the city.

(Ord. 04-12, passed 8-20-2012) Penalty, see § 51.99

§ 51.59 MONITORING OF DISCHARGES.

(A) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(B) *Access to facilities.*

(1) The city shall be permitted to enter and inspect facilities subject to regulation under this subchapter as often as may be necessary to determine compliance with this subchapter, in accordance with § 10.20. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangement to allow access to representatives of the city.

(2) Facility operators shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the condition of an NPDES permit, city land alteration permit or any permit issued by the city pursuant to the section to discharge stormwater, and the performance of any additional duties as defined by city, state and federal law.

(3) The city shall have the right to set up, on any permitted facility, the devices as are necessary, in the opinion of the city, to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The city has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at the discharger's expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city and shall not be replaced. The costs of clearing the access shall be borne by the operator.

(6) Unreasonable delays in allowing the city access to a facility is a violation of a stormwater discharge permit and of the subchapter. A person who is the operator of a facility with a NPDES permit or any city land alteration permit or any permit issued by the city pursuant to this subchapter to discharge stormwater associated with industrial activity commits an offense if the person denies the city reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by the subchapter.

(7) If the city has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this subchapter or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. 04-12, passed 8-20-2012)

§ 51.60 REQUIREMENT TO PREVENT, CONTROL AND REDUCE POLLUTANTS IN STORMWATER BY THE USE OF BEST MANAGEMENT PRACTICES (BMPs).

The owner or operator of a commercial or industrial establishment shall provide, at his, her or its own expense, reasonable protection from accidental discharge of prohibited material or other wastes into the MS4 system or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a SWPP as necessary for compliance with requirements of the NPDES permit.

(Ord. 04-12, passed 8-20-2012)

§ 51.61 WATERCOURSE PROTECTION.

(A) Every person owning property through which a watercourse passes, or the person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse.

(B) In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that the structures will not become a hazard to the use, function or physical integrity of the watercourse.

(Ord. 04-12, passed 8-20-2012)

§ 51.62 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the MS4 or waters of the state, the person shall take all necessary steps to ensure the discovery, containment and cleanup or the release. In the event of a release of hazardous material, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous material, the person shall notify the city in person or by phone call or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addresses and mailed to the city within two business days of the phone notice. If the discharge of prohibited material emanates from a commercial or industrial establishment, the owner or operator of the establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. The records shall be retained for at least three years.

(Ord. 04-12, passed 8-20-2012)

§ 51.63 ENFORCEMENT.

(A) *Violation.* It shall be unlawful for any person to violate any provisions or fail to comply with any of the requirements of this subchapter. Any person who has violated or continues to violate the provisions of this subchapter, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, the city is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The city is authorized to seek costs of the abatement as outlined in division (D) below.

(B) *Notice of warning.* When the city finds that any person has violated, or continues to violate, any provisions of this subchapter, or any order issued hereunder, the city may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this section shall limit the authority of the city to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

(C) *Notice of violation.*

(1) Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this subchapter, the city may order compliance by written notice of violation to the responsible person.

- (2) The notice may require without limitation:
- (a) The performance of monitoring, analyses and reporting;
 - (b) The elimination of illicit connections or discharges;
 - (c) That violating discharges, practices or operations shall cease and desist;
 - (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
 - (e) The implementation of source control or treatment BMPs.
- (D) *Abatement.* If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which the remediation or restoration must be completed. The notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
- (E) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal the determination of the city. The notice of appeal must be received within 15 days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his or her designee shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the municipal authority or his or her designee shall be final.
- (F) *Enforcement measures.* If the violation has not been corrected pursuant to the requirement set forth in the notice of violation, then representatives of the city may take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purpose set forth above. The remedies available to the city shall include:
- (1) Criminal prosecution;
 - (2) Injunction relief pursuant to division (H) below;
 - (3) Collection of administrative and remediation costs, including attorney fees, court costs, sampling and monitoring costs and other expenses associated with enforcement of this subchapter;
 - (4) Imposition of costs abatement pursuant to division (G) below; and
 - (5) Enforcing the provisions of division (I) below.
- (G) *Cost of abatement of the violation.* After abatement of the violation, the owner of the property will be notified of the cost of abatement, including attorney fees and administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten calendar days with the Clerk-Treasurer. If the amount due is not paid by the deadline set forth by the decision of the City Council, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.
- (H) *Injunction relief.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this subchapter. If a person has violated or continues to violate the provisions of this subchapter, the city may petition for a preliminary or permanent injunction restraining the person from activities which would

create further violations or compelling the person to perform abatement or remediation of the violation.

(I) *Compensatory action.* In lieu of enforcement proceedings, penalties and remedies authorized by this subchapter, the city may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup and the like.

(J) *Violations deemed a public nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this subchapter is a threat to public health, safety and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of the nuisance may be taken.

(K) *Remedies not exclusive.* The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies.

(Ord. 04-12, passed 8-20-2012) Penalty, see § 51.99

§ 51.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) (1) Any person found in violation of any provision of §§ 51.35 through 51.38 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by penalty established in state law for a misdemeanor as may be amended from time to time. Any person convicted of a violation of §§ 51.35 through 51.38 shall be required to pay the reasonable costs of prosecution.

(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 fees expended by the city in order to enforce §§ 51.35 through 51.38.

(3) Each right or remedy accruing to the city under §§ 51.35 through 51.38 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.

(Prior Code, § 401.10) (Ord. 10-05, passed 8-16-2005; Ord. 05-11, passed 1-17-2012)

CHAPTER 52: UTILITY SERVICE AND PROPERTY IMPROVEMENT

Section

General Provisions

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GENERAL PROVISIONS

§ 52.01 UTILITY CONNECTIONS AND DISCONNECTIONS.

(A) *Connection required.*

(1) Owners of lands and premises abutting on any road, street, avenue or highway within the city 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 the waterline or sewer line as soon as practicable.

(2) This section shall not apply to lands and premises already connected to municipal water and/or sewer lines.

(3) 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 the lands and premises. The term **TRANSFER OF TITLE** includes any transfer of title by deed, contract, option or assignment of the title to the lands and premises.

(4) For all required connections to city sewer or PUC water lines, the fees for the connections, to be paid by the connecting party to the city or PUC, shall be as follows.

(a) *Sewer connection fee.*

- 1. See city schedule of charges and fees; and
- 2. For all new connections or projects not involving special assessment for the connections.

(b) *Water connection fee.*

- 1. See city schedule of charges and fees, plus plumbing inspection fee and excavation fee; and
- 2. For all new connections or projects not involving special assessment for the connections.

(B) *Connections to be approved.* Plans for connections to be made pursuant to this subchapter 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.

(C) *Disconnection and capping required.*

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

(2) (a) 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.

(b) Where the City Administrator deems an emergency to exist, the work may be done immediately and without prior notice.

(Prior Code, § 303.01) (Ord. 07-04, passed 2-22-2005; Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

STREET EXCAVATION AND OBSTRUCTION

§ 52.15 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 Clerk-Treasurer, approved by the Working Street Foreman and City Administrator or Deputy Clerk-Treasurer. Upon approval of the permit by the city, Working Street Foreman and City Administrator or Deputy Clerk-Treasurer, each applicant shall pay a fee to be determined as follows: see the city schedule of charges and fees.

(Prior Code, § 303.02) (Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

§ 52.16 CITY EMPLOYEES.

The provisions of §§ 52.01 and 52.22 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.

(Prior Code, § 303.03)

§ 52.17 SEWER, WATER AND GAS WORK.

(A) 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-Treasurer shall not issue the permit without the written consent of the Working Street Foreman and City Administrator or Deputy Clerk-Treasurer or affected city department.

(B) All work done and materials used in making the connection shall conform to all applicable city ordinances and state laws.

(Prior Code, § 303.05) (Ord. 02-05, passed 4-4-2005)

§ 52.18 POSTING.

(A) 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.

(B) Each permit shall be posted at the site of the excavation or obstruction.
(Prior Code, § 303.06)

§ 52.19 BOND AND INSURANCE.

(A) *Generally.*

(1) No permit required by this subchapter shall be issued by the Clerk-Treasurer unless the applicant therefor shall first file with the Clerk-Treasurer 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 an amount set by City Council from time to time by resolution.

(2) In addition to the bond, the applicant shall also file with the Clerk-Treasurer 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 the company for the purpose and in the amounts of an amount set by City Council from time to time by resolution for personal injuries and property damage.

(3) Every corporate surety bond shall be conditioned as follows.

(a) 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 the 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 subchapter. The street restoration shall be by compaction to 90% of original value with replacement of overlay. The project shall be inspected and approved by the Street Foreman before being accepted by the city.

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

(B) *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.
(Prior Code, § 303.07)

§ 52.20 RELEASE OF BOND.

Any corporate surety bond filed under the terms of this subchapter may be released in writing by the Clerk-Treasurer 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.
(Prior Code, § 303.08)

§ 52.21 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.
(Prior Code, § 303.09) Penalty, see § 10.99

§ 52.22 RESTORATION.

Where an excavation has been made under permit, the permittee shall not commence restoration without first notifying the Clerk-Treasurer. The Clerk-Treasurer 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% 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.
(Prior Code, § 303.10)

§ 52.23 EMERGENCIES.

(A) When an emergency exists caused by the bursting of a pipe or main, the falling of electrical wires, or by other accident so 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.

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

(Prior Code, § 303.11)

§ 52.24 UNLAWFUL CONNECTION OF UTILITIES.

(A) 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, the City Public Utility Commission or any authorized agents thereof unless prior permission or authorization of the connection has been requested and granted by the applicable utility, the city or a designated agent thereof.

(B) Prior to preliminary approval of any 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.

(C) 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 subchapter 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 the illegal connection. The reimbursement shall be paid directly to the affected utility.

(Prior Code, § 303.12) Penalty, see § 10.99

§ 52.25 INSTALLATION OF CULVERTS.

In all areas adjacent to any street, road, alley or avenue located within the city which require, in the discretion of the Working Street Foreman, the installation of culverts, plans for all 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 culvert installations, to include private installations, meet current County Highway Department specifications as published by that Department.

(Prior Code, § 303.13) (Ord. 02-05, passed 4-4-2005)

§ 52.26 DISRUPTION OF CURBS AND SIDEWALKS.

(A) No person shall cut, disrupt, remove, cover or otherwise damage any curbs or sidewalks located within the city which lie within any public easement without prior approval of the Working Street Foreman of the city.

(B) Prior to any work being done which affects any curb or sidewalk, the Working Street Foreman shall be provided by the landowner the plans and specifications therefor for the city's review and approval.

(C) 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 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.

(Prior Code, § 303.14) (Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

CHAPTER 53: UTILITY COMMISSION

Section

- 53.01 Commission created
- 53.02 Building
- 53.03 Water and Light Fund
- 53.04 Clerk-Treasurer may be Secretary

§ 53.01 COMMISSION CREATED.

(A) There is hereby continued a Public Utilities Commission pursuant to M.S. §§ 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.

(B) 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.
(Prior Code, § 402.01)

§ 53.02 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 the 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.

(Prior Code, § 402.02)

§ 53.03 WATER AND LIGHT FUND.

There are hereby created two funds; a Water Fund and a Power and Light Fund. The 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.
(Prior Code, § 402.03)

§ 53.04 CLERK-TREASURER MAY BE SECRETARY.

The Clerk-Treasurer may, at the option of the Commission and, in that event, shall receive for his or her services as Secretary, compensation as the Commission may determine.
(Prior Code, § 402.04)

CHAPTER 54: UTILITIES GENERALLY

Section

Utility Billing

- 54.01 Owners of premises to be responsible for charges
- 54.02 Misdemeanor to rent premises where service is disconnected
- 54.03 Tenant's right to pay bill and deduct charges from rent
- 54.04 All charges to be paid before water, electric or sewer supply is re-established
- 54.05 Landlord shut-off notice provisions
- 54.06 Utility service repairs

Utility Service Deposit and Liens

- 54.20 Deposit requirements; service application
- 54.21 Deposit required; lien exception
- 54.22 Refund of deposits

Utility Connection Inspections

- 54.35 Inspections mandated by service connection
- 54.36 Failure to allow access

UTILITY BILLING

§ 54.01 OWNERS OF PREMISES TO BE RESPONSIBLE FOR CHARGES.

(A) The owner or his or her 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 division (A) is effective as to all premises leased after January 1, 1986; provided that this division (A) 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 the lease after January 1, 1986.

(B) (1) 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 the 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 a 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. The notice shall be posted not less than 31 calendar days prior to the actual discontinuance of the service. Copies of the 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 or her billing address.

(2) The notice to the tenants shall contain the following information:

- (a) The date of posting;
- (b) The proposed date of termination;
- (c) The reason for the proposed termination;
- (d) 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; and

(e) 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 or her account, then the tenant shall be entitled during the 31-day notice period provided by division (B) above 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 § 54.04.

(Prior Code, § 403) Penalty, see § 10.99

§ 54.02 MISDEMEANOR TO RENT PREMISES WHERE SERVICE IS DISCONNECTED.

(A) No person shall let to another for occupancy any dwelling or dwelling unit within the city 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 the 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 the disconnection occurs, the landlord shall be obligated to reinstate the service as soon as possible.

(C) If residential premises are rented in violation of division (A) above, 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 31 days. The provider shall bill the landlord for the reconnection charges.
(Prior Code, § 403) Penalty, see § 10.99

§ 54.03 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 a 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 division (B) above, 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 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 the 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 days' notice by certified mail of its intent to terminate utility service before terminating the service.

(Prior Code, § 403)

§ 54.04 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 subchapter or Department rules, neither water, electric, nor sewer will be again supplied to the non-paying customer until all past charges incurred by the 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.

(Prior Code, § 403)

§ 54.05 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 the rental units shall sign an agreement with the provider to ensure the provisions of this section 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 the 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 division (D) above, the provider shall be empowered to discontinue service to the rental premises in question.

(Prior Code, § 403)

§ 54.06 UTILITY SERVICE REPAIRS.

Pursuant to § 54.01(B), 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 § 54.03.

(Prior Code, § 403)

UTILITY SERVICE DEPOSIT AND LIENS

§ 54.20 DEPOSIT REQUIREMENTS; SERVICE APPLICATION.

(A) Every person, partnership, corporation or other entity desiring to purchase electric power, water and/or services from the city public utility and/or the city shall be required to fill out an application for service with the appropriate provider prior to service being instituted.

(B) For purposes of this subchapter, the provider of electric and water service is the city public utility. The provider of sewer service is the city.

(C) The 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.

(D) 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 the party.
(Prior Code, § 404.01)

§ 54.21 DEPOSIT REQUIRED; LIEN EXCEPTION.

(A) Each party completing an application for utility service shall post a deposit equal to three month's average of the previous 12 months' billings for the property to be serviced as computed and billed by the applicable provider.

(B) If service has been discontinued prior to the application in question, the provider shall utilize the most recent previous 12 months of service listed in the billings for that particular location or property.

(1) *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 those 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.

(2) *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 division (B)(1) above. To obtain a waiver and exception, the fee owner must sign the lien agreement authorizing the lien at the time service is applied for.

(3) *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 city public utilities prior to his or her present application for service and who meets the following requirements shall not have to post the deposit required by this division (B) or sign a lien agreement:

(a) The applicant has had an account with the city public utilities within the past five years;

(b) The applicant's prior account covered at least two complete years of service; and

(c) The applicant's prior account with the city 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 city public utilities.

(Prior Code, § 404.01)

§ 54.22 REFUND OF DEPOSITS.

(A) *Twenty-four months.* Any party posting a deposit as required by § 54.21 shall be entitled to a full refund of the deposit with interest as allowed by law after 24

months service to the 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 the party's account covered by the deposit has been past due more than one time during the 24-month service period.

(B) *Termination of customer's interest.*

(1) At any time upon customer request the applicable utility shall terminate any and all utility service to the customer and shall refund any deposit posted and interest as allowed by law.

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

(Prior Code, § 404.01)

UTILITY CONNECTION INSPECTIONS

§ 54.35 INSPECTIONS MANDATED BY SERVICE CONNECTION.

(A) All customers of the city public utilities, with respect to water and electric service, and customers of the city, with respect to sewer service, shall allow properly identified employees of the Proctor Public Utilities (PUC) and the city access to any and all structures being provided the 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.

(B) 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.

(C) The term **INSPECTION** shall include the inspection of water and sewer mains, service lines, drains and meters and/or electrical lines, connections and meters. (Prior Code, § 405)

§ 54.36 FAILURE TO ALLOW ACCESS.

Any customer, as described in § 54.35, 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 shut-off. Upon compliance with a demand to inspect, any utility service disconnected for noncompliance with this subchapter shall be immediately reconnected and service restored upon the payment of any required reconnection fees.

(Prior Code, § 405)

TITLE VII: TRAFFIC CODE

Chapter

- 70. TRAFFIC REGULATIONS
- 71. PARKING
- 72. RECREATIONAL VEHICLES
- 73. TRAFFIC SCHEDULES

CHAPTER 70: TRAFFIC REGULATIONS

Section

General Provisions

- 70.01 Designation of through highways
- 70.02 Exhibition driving/inattentive driving
- 70.03 Train whistles

Non-Motorized Vehicles and Devices

- 70.15 Prohibited areas

Driving over Sidewalks

- 70.30 Prohibition
- 70.31 Damages
- 70.32 Exception
- 70.99 Penalty

GENERAL PROVISIONS

§ 70.01 DESIGNATION OF THROUGH HIGHWAYS.

(A) 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 the intersection.

(B) Every driver of a vehicle shall stop at the 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.

(Prior Code, § 801.01)

§ 70.02 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 the vehicle. Violations shall be cited as inattentive driving under this code provision.

(Prior Code, § 801.02) Penalty, see § 70.99

§ 70.03 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 the 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.

(Prior Code, § 801.03) Penalty, see § 70.99

NON-MOTORIZED VEHICLES AND DEVICES

§ 70.15 PROHIBITED AREAS.

(A) *Prohibited areas.*

(1) No person shall use, operate or ride roller skates, rollerblades, rollerskis, scooters or similar non-motorized vehicles or devices upon the public streets, roadways, highways and alleys located within the city listed in Ch. 73, Sch. I.

(2) The devices shall be permitted on all other public roadways, highways and alleys located within the city subject to the provisions of division (B) below.

(B) *Exceptions and regulations.*

(1) Any individual operating or riding the devices must yield to pedestrians.

(2) Any individual operating or riding the devices may cross streets or roadways only at crosswalks.

(3) The above-stated prohibitions and restrictions shall not apply to bicycles which are regulated by state law.

(4) Tricycles and skateboards shall be prohibited on all public streets, roadways, highways and alleys located within the city.

(Prior Code, § 801.04) Penalty, see § 70.99

DRIVING OVER SIDEWALKS

§ 70.30 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 those places where a driveway or crossing has been provided in accordance with city procedures.

(Prior Code, § 801.05) Penalty, see § 70.99

§ 70.31 DAMAGES.

(A) Any damages caused to a public sidewalk, gutter or curb due to driving over the curb, sidewalk or gutter shall be the responsibility of the abutting property owner.

(B) Costs of repair of the sidewalk, curb or gutter may be recovered by the city by the procedure set forth in § 92.03 of this code of ordinances.

(Prior Code, § 801.05)

§ 70.32 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 the parking is necessary to provide adequate right-of-way on a public street. The exception shall be exercised only after notice to the City Police Department and approval of the parking arrangement by the Police Department. Any damages caused as a result of the parking are the responsibility of the adjacent property owner as set forth in § 70.31.

(Prior Code, § 801.05)

§ 70.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Violations under § 70.02 shall constitute petty misdemeanors.
(Prior Code, § 801.02)

(C) The penalty for violation of the prohibitions set forth in § 70.15 shall be subject to the city administrative fine schedule.

(Prior Code, § 801.04)

(Ord. 02-05, passed 4-4-2005)

CHAPTER 71: PARKING

Section

General Provisions

- 71.01 Parking prohibitions
- 71.02 Disability parking areas
- 71.03 Parking in alleys
- 71.04 Restricted or no parking zones by Council designation
- 71.05 24-hour parking
- 71.06 Time limit parking
- 71.07 School zones
- 71.08 Winter parking regulations
- 71.09 Angle parking and parking against traffic
- 71.10 Double parking
- 71.11 Trains obstructing streets
- 71.12 Semi-truck parking regulations
- 71.13 Semi-truck parking regulations; keys in the ignition
- 71.14 Commercial parking lots
- 71.15 Towing of vehicles in violation of parking ordinances

Parking of Unlicensed Vehicles

- 71.40 Definition
- 71.41 Violations
- 71.42 Exceptions

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GENERAL PROVISIONS

§ 71.01 PARKING PROHIBITIONS.

No person shall stop, stand or park a motor vehicle, occupied or unoccupied, or permit any of the same except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

- (A) On a sidewalk or with any part of the vehicle thereon;
- (B) In front of a public or private drive, or with any part of the vehicle in front thereof, or directly across therefrom in a manner so as to impede access to the driveway;
- (C) Within an intersection;
- (D) Within ten feet of a fire hydrant;
- (E) On or within a crosswalk;
- (F) Within 20 feet of a crosswalk at an intersection;

- (G) Within 30 feet upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of the roadway;
 - (H) Within seven feet upon the approach to the entrance of any alley or private driveway;
 - (I) Within 50 feet of the nearest rail of railroad crossing;
 - (J) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when posted;
 - (K) Alongside, near or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
 - (L) On the roadway side of any vehicle stopped or parked at the edge or curb of a street (double parking);
 - (M) Upon any bridge or other elevated structure upon a highway or within a highway tunnel when the parking or stopping is prohibited by official signs;
 - (N) At any place where official signs prohibit stopping;
 - (O) Between the curb line and property line and property line or between the edge of the roadway and the property line;
 - (P) On or within any area designated as a fire lane;
 - (Q) In any area designated as handicap zone; except as otherwise authorized by the City Council, within or upon a front yard;
 - (R) Within any area designated a bus stop by resolution of the Council when the area is posted;
 - (S) Within any area designated as a loading zone by resolution of the Council when the area is so posted unless the stopping, standing or parking, is for not more than five minutes and for the purpose of loading or unloading passengers or freight; and
 - (T) Upon any street or highway when directed or ordered to proceed by any peace officer invested by law with authority to direct, control or regulate traffic.
- (Ord. passed - -2009) Penalty, see § 71.99

§ 71.02 DISABILITY PARKING AREAS.

No person shall stop, stand or park, occupied or unoccupied, or permit the same, in or obstruct access to a parking space or associated access aisle designated and reserved for the physically disabled, on either public or private property unless that person is physically disabled or is operating the vehicle under the direction and for the use of a physically handicapped person, and the vehicle visibly bears or contains a proper disability certificate or license plate.

(Ord. passed - -2009) Penalty, see § 71.99

§ 71.03 PARKING IN ALLEYS.

No person shall stop, stand or park, occupied or unoccupied, or permit the same, a motor vehicle within an alley in a manner and under those conditions so as to impede

the free movement of traffic through the alley or in a manner as to block or otherwise impede access to the driveway or entrance to any abutting property.
(Ord. passed - -2009) Penalty, see § 71.99

§ 71.04 RESTRICTED OR NO PARKING ZONES BY COUNCIL DESIGNATION.

The Council may designate, by resolution, streets and/or portions thereof as restricted parking zones. Upon designation by the Council such restricted or no parking zones, official signs shall be erected establishing the zones and no person shall stop, stand or park a vehicle, whether occupied or unoccupied, or permit any of the same within the zone.
(Ord. passed - -2009) Penalty, see § 71.99

§ 71.05 24-HOUR PARKING.

No person shall stop, stand or park, occupied or unoccupied, or permit the same, a motor vehicle upon any public property belonging to the city or any public street for a continuous period of more than 24 hours except with prior permission from the Police Department. The permission may be granted by the Chief of Police if the Chief of Police determines, in his or her discretion, that stopping, standing or parking is necessary due to a lack of alternative stopping, standing or parking.
(Ord. passed - -2009) Penalty, see § 71.99

§ 71.06 TIME LIMIT PARKING.

The Council may designate by resolution streets and/or portions thereof as areas in which stopping, standing or parking a motor vehicle, whether occupied or unoccupied, or permitting the same, is prohibited beyond a specified continuous time period. Upon designation by the Council of the time restrictions, official signs establishing the restriction shall be erected, and no person shall stop, stand or park a vehicle, whether occupied or unoccupied, or permit any of the same beyond the time restriction.
(Ord. passed - -2009) Penalty, see § 71.99

§ 71.07 SCHOOL ZONES.

The Council may designate by resolution streets and/or portions thereof as "No Parking" or "Restricted Parking" zones during school days. Upon designation by the Council of the restrictions, official signs establishing the restriction shall be erected, and no person shall stop, stand or park a vehicle, whether occupied or unoccupied, or permit any of the same within the zone during the period of the established restriction.
(Ord. passed - -2009) Penalty, see § 71.99

§ 71.08 WINTER PARKING REGULATIONS.

Between the period of November 15 and April 1 in each year, no person shall park or permit the same, any motor vehicle upon any street or alley within the city between the hours of 2:00 a.m. and 7:00 a.m. If the Chief of Police, in his or her discretion, or any police officer acting under the authority of the Chief of Police, determines that any vehicle parked contrary to the provisions of this section is thereby hindering the removal of snow, the Chief of Police or police officer acting under the authority of the Chief of Police may direct to have the vehicle removed from the street or alley by removal. The owner of the vehicle shall be responsible for any costs accrued as a result of the removal in addition to any fines imposed as result of a violation of this section.

(Ord. passed - -2009) Penalty, see § 71.99

§ 71.09 ANGLE PARKING AND PARKING AGAINST TRAFFIC.

Except where angle parking is permitted hereunder, no person shall stop, stand or park, occupied or unoccupied, or permit the same, a motor vehicle at an angle to the curb or roadside. Each vehicle shall park with the right hand wheels parallel to and within 12 inches of the curb or road side and to the right of the main part of the street or roadway but in no event shall the vehicle park, stop or stand against the flow of traffic or to the left of the main part of street or roadway so as to face on-coming traffic. Where angle parking is authorized by the Council and is so marked by an appropriate sign, no part of the vehicle shall extend over the sidewalk, and the vehicle shall not extend into the travel portion of the street.

(Ord. passed - -2009) Penalty, see § 71.99

§ 71.10 DOUBLE PARKING.

No person shall stop, stand or park, occupied or unoccupied, or permit the same, a motor vehicle to the left of another vehicle parked parallel to the curb or roadway.

(Ord. passed - -2009) Penalty, see § 71.99

§ 71.11 TRAINS OBSTRUCTING STREETS.

(A) No railroad company, conductor, engineer, yard or track master, other agents or employees of the 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 ten minutes. The 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.

(B) No company or person shall make, cause or allow to be made any flying switch or make or unmake trains upon or across any street.
(Ord. passed - -2009) Penalty, see § 71.99

§ 71.12 SEMI-TRUCK PARKING REGULATIONS.

(A) *Parking upon public property street, roadway or alleyway.* 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 zoned "S" Suburban or "R-1a", "R-1b" and "R-2" or "R-3" nor within 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.

(B) *Parking upon private property in "O/R", "S", "R-1a", "R-1b", "R-1c", "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 the truck owner in the above-referenced zones only upon an improved designated private parking area which meets the zoning and building requirements of the 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.

(C) *Parking in commercial and manufacturing districts.*

(1) 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 for a maximum period of 48 hours. This prohibition shall include parking in all "C" Commercial and "I" Manufacturing Districts within the city.

(2) No on-street parking of the vehicles shall be allowed at any time within any zoning districts of the city except for the purposes of loading and unloading, the parking to be limited to a maximum period of two hours unless prior authorization for a longer period is obtained from the City Chief of Police.

(3) Those businesses located within the city 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 "I" Districts within the city. Each 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 § 155.191 of this code of ordinances.

(4) Temporary parking of construction vehicles meeting the descriptions herein may be allowed for periods in excess of 48 hours by the Chief of Police by obtaining a construction parking permit from the City Police Department prior to the commencement of or during construction. The 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 division (C)(3) above and this division (C)(4).

(Ord. passed - -2009) Penalty, see § 71.99

§ 71.13 SEMI-TRUCK PARKING REGULATIONS; KEYS IN THE 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 the theft of a motor vehicle, nor shall the violation be used to effect a recovery in any civil action for theft of a motor vehicle, the insurance thereon, or have any other bearing in any civil action.

(Ord. passed - -2009) Penalty, see § 71.99

§ 71.14 COMMERCIAL PARKING LOTS.

Commercial parking lots shall be permitted only as provided herein.

(A) No one may operate or permit to operate any commercial parking lot within the city in any zoned residential or suburban or any variation of the same except for the South St. Louis City Fairgrounds or except as authorized by the City Council.

(B) 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.

(C) The city may, at any time, and in its sole discretion, require insurance provisions for the protection of customers and users of the commercial parking lot or lots.

(D) The city may establish an annual licensing fee, which shall include all inspection charges to ensure compliance with the insurance and zoning and public health and safety regulations.

(E) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL PARKING LOT. Any sole proprietorship, partnership, limited partnership, limited liability corporation, corporation or any unit of government owning or operating on a daily basis 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 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 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.

(F) The licensee shall operate the facility in compliance with all local, state and federal regulations and the regulations as the city may, in its sole discretion, enact. (Ord. passed - -2009) Penalty, see § 71.99

§ 71.15 TOWING OF VEHICLES IN VIOLATION OF PARKING ORDINANCES.

(A) The Chief of Police or any police officer acting under the authority of the Chief of Police may tow any vehicle from any public street, alleyway or parking lot if the vehicle parked, standing or stopped in violation of any of the provisions of this traffic code creates a hazard, obstructs the flow of traffic, or otherwise impedes access to any driveway, alleyway or entrance to a property whether public or private.

(B) The owner of the vehicle shall be responsible for any costs accrued as a result of the removal in addition to any fines imposed as a result of the applicable violation.

(Ord. passed - -2009)

PARKING OF UNLICENSED VEHICLES

§ 71.40 DEFINITION.

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

UNLICENSED VEHICLE. 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 the vehicle.

(Prior Code, § 804A.01)

§ 71.41 VIOLATIONS.

It shall be a violation of this subchapter 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 the property any unlicensed motor vehicle which is visible to motorists, pedestrians or the general public. All visible unlicensed motor vehicles stored upon the premises shall be secured in a garage or storage building and not stored out of doors.

(Prior Code, § 804A.02) Penalty, see § 71.99

§ 71.42 EXCEPTIONS.

(A) *Temporary storage.* This subchapter shall not apply to the temporary storage of unlicensed motor vehicles. The term **TEMPORARY** shall mean a period of not more than 30 days.

(B) *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. The 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 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 permit shall be reviewed by the Building Inspector and be approved or denied. Permits that are denied may be appealed pursuant to § 150.01(E) of this code of ordinances.
(Prior Code, § 804A.03) Penalty, see § 71.99

§ 71.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) The presence of any vehicle on any street or roadway when stopped, parked or standing, whether occupied or unoccupied, in violation of any provision of §§ 71.01 through 71.15 constitutes prima facie evidence that the register owner of the vehicle either committed the violation or permitted the violation to occur. A violation of any provision of §§ 71.01 through 71.15 shall be deemed a petty misdemeanor and shall be subject to the city fine schedule unless a fine is otherwise specifically established by §§ 71.01 through 71.15.
(Prior Code, § 804A.01)

(C) The penalty for violation of § 71.14 shall be a fine subject to the city administrative fine schedule. Each day any person or entity is in violation of § 71.14 shall constitute a new and separate offense under § 71.14. A conviction of violating § 71.14 shall constitute good cause to deny a license to an applicant or to terminate a licensee's permit to operate a facility.

(D) Violations of § 71.42 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.
(Prior Code, § 804A.03)
(Ord. 02-05, passed 4-4-2005; Ord. passed - -2009)

CHAPTER 72: RECREATIONAL VEHICLES

Section

Operation of Bicycles

- 72.01 Speed
- 72.02 Sidewalks
- 72.03 Time

Snowmobiles and All-Terrain Vehicles

- 72.15 Intent

72.16	Definitions
72.17	State statute adopted
72.18	Application of traffic ordinances
72.19	Snowmobile operation
72.20	Snowmobile restrictions
72.21	ATV operation
72.22	ATV restrictions
72.23	Equipment
72.24	Signage
72.25	Stopping and yielding
72.99	Penalty

OPERATION OF BICYCLES

§ 72.01 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.

(Prior Code, § 803.02) Penalty, see § 72.99

§ 72.02 SIDEWALKS.

No bicycle shall be permitted to operate upon any public sidewalk of the city.

(Prior Code, § 803.02) Penalty, see § 72.99

§ 72.03 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 the bicycle and properly lighted or without a yellow or red light or reflector attached to and visible from 200 feet from the rear thereof.

(Prior Code, § 803.02) Penalty, see § 72.99

SNOWMOBILES AND ALL-TERRAIN VEHICLES

§ 72.15 INTENT.

It is the intent of this subchapter to supplement M.S. Ch. 84 and M.S. Ch. 169, as they may be amended from time to time, with respect to the operation of snowmobiles and all-terrain vehicles. This section is not intended to allow what state law prohibits, nor to prohibit what state law allows.
(Ord. 06-17, passed 7-17-2017)

§ 72.16 DEFINITIONS.

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

ALL-TERRAIN VEHICLE or **ATV**. The meaning as defined in M.S. § 84.92, subd. 8, as it may be amended from time to time.

CITY OF PROCTOR SNOWMOBILE AND ATV MAP. The map created by the city indicating the streets, roads, highway and other areas within the city in which snowmobile and ATV operation is authorized, which shall be kept on file at the City Police Department and furnished upon request.

CLASS 1 ATV. The meaning as defined in M.S. § 84.92, subd. 9, as it may be amended from time to time.

CLASS 2 ATV. The meaning as defined in M.S. § 84.92, subd. 10, as it may be amended from time to time.

DITCH. A narrow channel dug in the ground, typically used for drainage alongside a road.

OPERATE. To ride in or on and control the operation of a snowmobile.

OPERATOR. Every person who operates or is in actual physical control of a snowmobile or ATV.

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

RIGHT-OF-WAY. The entire strip of land traversed by a highway or street in which the public owns the fee or an easement for roadway purposes.

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

SNOWMOBILE. The meaning as defined in M.S. § 84.81, as it may be amended from time to time.

STREET or **HIGHWAY**. The entire width between the boundaries of any way or place open to the use of the public, as a matter of right, for the purposes of vehicular traffic.

(Ord. 06-17, passed 7-17-2017)

§ 72.17 STATE STATUTE ADOPTED.

M.S. §§ 84.81 to 84.915, Snowmobiles, M.S. §§ 84.92 to 84.928, All-Terrain Vehicles and M.S. Ch. 169, Traffic Regulations, as they may be amended from time to time

time, are hereby adopted by reference and are as much a part of this section as if fully set forth herein.

(Ord. 06-17, passed 7-17-2017)

§ 72.18 APPLICATION OF TRAFFIC ORDINANCES.

City traffic ordinances shall apply to the operation of snowmobiles and ATVs on streets or highways, except those which by their nature have no application.

(Ord. 06-17, passed 7-17-2017)

§ 72.19 SNOWMOBILE OPERATION.

A snowmobile may be operated upon the roadway, shoulder, inside bank or slope of those city streets, county roads and state highways as designated on the City of Proctor Snowmobile and ATV Map provided that the operation occurs on the farthest right hand side of the street, road or highway and whenever possible, and legal to do, the operation occurs within the ditch and always one way in the direction of traffic.

(Ord. 06-17, passed 7-17-2017)

§ 72.20 SNOWMOBILE RESTRICTIONS.

- (A) It shall be unlawful to operate a snowmobile:
- (1) On a public sidewalk provided for pedestrian travel;
 - (2) On boulevards within any public right-of-way;
 - (3) On private property of another, except as permission is expressly obtained by the owner or person in control of the private property;
 - (4) On any school grounds, except as permission is expressly obtained from responsible school authorities;
 - (5) On public property, playgrounds and recreation areas, except as allowed by the city and indicated on the City of Proctor Snowmobile and ATV Map;
 - (6) At a rate of speed exceeding 30 mph on any roadway, or at a rate of speed greater than the posted speed limit on any trail, and in no event at a rate of speed greater than reasonable or proper under the surrounding circumstances;
 - (7) In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto; and
 - (8) In a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys or interferes with the peace and quiet of the public.
- (B) No person shall operate a snowmobile on any street, alley or other public roadway within the city 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.
- (Ord. 06-17, passed 7-17-2017) Penalty, see § 72.99

§ 72.21 ATV OPERATION.

In order to access businesses and residences and to make trail connections, an ATV may be operated upon the roadway of those city streets, county roads and state highways as designated on the City of Proctor Snowmobile and ATV Map, provided that operation occurs on the farthest right hand shoulder or the extreme right hand side of the street, road or highway and always one way in the direction of traffic.
(Ord. 06-17, passed 7-17-2017) Penalty, see § 72.99

§ 72.22 ATV RESTRICTIONS.

- (A) It shall be unlawful to operate an ATV:
- (1) On a public sidewalk provided for pedestrian travel;
 - (2) On boulevards within any public right-of-way;
 - (3) On or in a ditch;
 - (4) On private property of another without specific permission of the owner or person in control of the property;
 - (5) On any school grounds, except as permission is expressly obtained from responsible school authorities;
 - (6) On public property, playgrounds and recreation areas, except as allowed by the city and indicated on the City of Proctor Snowmobile and ATV Map;
 - (7) At a rate of speed greater than 30 mph or proper under the surrounding circumstances;
 - (8) In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto; and
 - (9) In a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys or interferes with the peace and quiet of the public.
- (B) No person shall operate an ATV on any street, alley or other public roadway within the city 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.
(Ord. 06-17, passed 7-17-2017) Penalty, see § 72.99

§ 72.23 EQUIPMENT.

It is unlawful for any person to operate a snowmobile or ATV within the limits of the city unless it is equipped with the following.

- (A) A muffler that is in good working order and that does not produce sharp popping or cracking sounds or excessive or unusual noise. In no event, shall a muffler be altered in any way to produce a noise that is louder than the original manufacturer equipment or by means of a cutout, bypass straight pipe or similar device; or in a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys or interferes with the peace and quiet of the public.
- (B) Brakes adequate to control the movement of and to stop and hold the snowmobile or ATV under any condition of operation;

- (C) A safety throttle in operating condition;
 - (D) Reflective material at least 16 square inches on each side so as to reflect lights at a 90 degree angle; and
 - (E) At a rate of speed greater than 30 mph or proper under the surrounding circumstances.
- (Ord. 06-17, passed 7-17-2017) Penalty, see § 72.99

§ 72.24 SIGNAGE.

The City Chief of Police may, in his or her sole discretion, cause signage to be installed identifying the designated snowmobile or ATV routes, as set forth on the City of Proctor Snowmobile and ATV Map, and/or cause signage to be installed notifying persons of any restrictions on use as described in this section.
(Ord. 06-17, passed 7-17-2017)

§ 72.25 STOPPING AND YIELDING.

No snowmobile or ATV shall enter any uncontrolled intersection without making a complete stop. The operator shall then yield the right-of-way to any vehicles or pedestrians at the intersection or so close to the intersection as to constitute an immediate hazard.
(Ord. 06-17, passed 7-17-2017) Penalty, see § 72.99

§ 72.99 PENALTY.

- (A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.
 - (B) A person convicted of a violation of §§ 72.15 through 72.25 is guilty of a misdemeanor ordinance violation.
- (Ord. 06-17, passed 7-17-2017)

CHAPTER 73: TRAFFIC SCHEDULES

Schedule

- I. Non-motorized vehicles; prohibited areas**
- II. Weight limits**

SCHEDULE I. NON-MOTORIZED VEHICLES; PROHIBITED AREAS.

- (A) *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.

(B) Children eight years of age or younger are prohibited from operating or riding roller skates, rollerblades, rollerskis, scooters or similar non-motorized vehicles or devices on any streets within the city limits, except that they may cross Highway 2 at Second Street.

(Prior Code, § 801.04) Penalty, see § 70.99(C)

SCHEDULE II.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:

(A) 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 Second 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;

(B) 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;

(C) 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;

(D) 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;

(E) 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; and

(F) Bass Boulevard, Cypress Drive and Acacia Avenue in Rolling Green Division, Hearthside and Birchwood in Lundholm Division.
(Prior Code, § 801.06) Penalty, see § 10.99

TITLE IX: GENERAL REGULATIONS

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- 91. NUISANCES AND OFFENSES
- 92. PUBLIC PROPERTY AND IMPROVEMENTS
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CHAPTER 90: ANIMALS

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- 90.02 Running at large prohibited
- 90.03 Interference with persons
- 90.04 Habitual barking, yelping and the like
- 90.05 Public nuisance animals
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§ 90.01 DEFINITIONS.

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

ANIMAL. Any dog, cat or farm animal.

CAT. Includes both male and female cats.

DOG. Includes both male and female dogs.

FARM ANIMAL. Includes any horse, mule, cattle, swine, sheep, goat or other beast, and any chicken, turkey, goose or other fowl or poultry.

OWNER. Any person owning, keeping, harboring or having custody of any animal.

PERSON. Any natural person, partnership, corporation or association.

RUNNING AT LARGE - DOGS AND CATS.

(1) A dog or cat is deemed to be ***RUNNING AT LARGE*** unless it is:

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

(2) 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 or her family or his or her 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 the dog or cat is confined and being transported to or from the premises of the owner.

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.
(Prior Code, § 501.01)

§ 90.02 RUNNING AT LARGE PROHIBITED.

No owner shall permit any animal to run at large.
(Prior Code, § 501.02) Penalty, see § 10.99

§ 90.03 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 people.
(Prior Code, § 501.03) Penalty, see § 10.99

§ 90.04 HABITUAL BARKING, YELPING AND THE LIKE.

No person shall harbor or keep any dog or cat which, by loud and frequent or habitual barking, yelping, meowing, howling and the like shall cause annoyance to the neighborhood or to people passing upon the streets, sidewalks or other public places in the city.

(Prior Code, § 501.11) Penalty, see § 10.99

§ 90.05 PUBLIC NUISANCE ANIMALS.

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

PUBLIC NUISANCE ANIMAL. Includes 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; and
- (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.

(B) *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.

(Prior Code, § 501.13) Penalty, see § 10.99

§ 90.06 MUZZLING.

Whenever the prevalence of rabies or any other contagious disease affecting dogs or cats renders the 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. The order shall remain in effect for that time as the Council deems necessary for the protection of the public. The owner of every dog or cat shall comply with the order for the period of time as it remains in effect. Any dog or cat not muzzled or confined in compliance with the order shall be impounded pursuant to § 90.09.

(Prior Code, § 501.04) Penalty, see § 10.99

§ 90.07 DOG AND CAT LICENSES.

(A) *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 the dog or cat.

(B) *Application.* Every application for a dog or cat spayed or neutered license shall be made to the Police Department and shall state the name and address of the owner, and the sex, breed, age, color and marking of the dog or cat. 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 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 animal vaccinated against rabies shall be a petty misdemeanor. In addition to any court fines, owners may post a deposit of an amount set by City Council from time to time by resolution for the animals which shall be refunded upon proof of vaccination.

(C) *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.

(D) *License tag.* The Police Department 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-Treasurer 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 or her 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.

(E) *Owner responsibility.* The owner of any licensed dog or cat, as recorded by the Clerk-Treasurer, 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 Clerk-Treasurer of the change.

(Prior Code, § 501.05) (Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

§ 90.08 POUND AND ANIMAL CONTROL OFFICER.

(A) *Pound established.* There is hereby established a city pound at a location as the Council may designate for the keeping of any animal impounded under this chapter. The Council shall provide suitable facilities for the well-being and humane care of impounded animals.

(B) *Animal Control Officer.* There is hereby created the office of Animal Control Officer. The Animal Control Officer and/or other designated employees of the City Police Department shall enforce the provisions of this chapter 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 moneys received by him or her. Upon the Council's approval, the bills will be paid. Council, as an alternative, may contract with any other government for Animal Control Officer services.

(C) *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 City Police Department any animal taken up by him

or her as provided by this chapter. No person shall hinder, obstruct or interfere with the Animal Control Officer and/or other designated employees of the City Police Department in the performance of their duties.

(Prior Code, § 501.06) Penalty, see § 10.99

§ 90.09 IMPOUNDING.

(A) *Authorization.* The Animal Control Officer and/or other designated employees of the City Police Department shall seize and impound any unlicensed dog or cat, any animal running at large and any animal otherwise in violation of this chapter. 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 City Police Department shall thereupon give notice of the impounding to the owner, or if the owner is unknown or cannot be found, he or she 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.

(B) *Redemption.* Any impounded animal may be redeemed by the owner within five 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 City 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 City Police Department.

(C) *Disposal - research.* When any hospital or reputable institution of learning shall apply to the Clerk-Treasurer 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 days, the Animal Control Officer and/or other designated employees of the City Police Department upon direction of the Council shall surrender to the institution or hospital those unclaimed animals as are requested.

(D) *Disposal generally.* Any unclaimed impounded animal may be sold by the Animal Control Officer and/or other designated employees of the City 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 City Police Department at the direction of the Council. Costs of disposal shall be the responsibility of and be billed to the owner of the animal, if known.

(E) *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 animal; provided, that the owner of any animal found to be running at large or impounded for any reason under the terms of the chapter 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.

(Prior Code, § 501.07) (Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

§ 90.10 VOLUNTARY PICKUP.

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

§ 90.11 DANGEROUS ANIMALS.

Notwithstanding any other provisions of this chapter, 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 City Police Department. (Prior Code, § 501.09)

§ 90.12 ADOPTION BY REFERENCE.

M.S. §§ 35.67 and 35.68, as they may be amended from time to time, are adopted by reference as if set out in full herein. (Prior Code, § 501.10)

§ 90.13 APPLICATION OF CHAPTER.

This chapter shall apply to any and all animals kept within the city and to all animals found within the city. The selection of the roadways to be posted shall be at the Council's discretion. (Prior Code, § 501.12)

§ 90.14 DANGEROUS ANIMAL REQUIREMENTS.

(A) *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:

(1) The owner provide and maintain a proper enclosure for the dangerous animal as defined in this chapter;

(2) 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 M.S. § 347.51, as it may be amended from time to time;

(3) Provide and show proof annually of public liability insurance in the minimum amount of an amount set by City Council from time to time by resolution;

(4) 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 feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of the 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;

(5) 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 M.S. § 347.51, as it may be amended from time to time;

(6) All animals deemed dangerous by city police personnel shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to city police personnel;

(7) 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; and

(8) If there is more than one 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.

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

(C) *Reclaiming animals.* A dangerous animal seized under this section, 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 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.

(D) *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 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.

(Prior Code, § 501.14) Penalty, see § 10.99

§ 90.15 PET WASTE.

(A) *Purpose.* The purpose of this section is to ensure pet waste on public and private properties in the City of Proctor is properly disposed of so as not to cause a nuisance to others and to protect surface waters.

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

ANIMAL. A dog, cat or other animal kept for amusement or companionship.

IMMEDIATELY. At once, without delay.

OWNER/CUSTODIAN. Any person who harbors, feeds, boards, possesses, keeps or has custody of an animal.

SOIL/DEFILE. To make unclean from excrement.

WASTE. Solid matter expelled from the bowels of the pet; excrement.

(C) *Owner/custodian responsibility.* No owner or custodian of any animal shall allow animal waste to remain on any public property or upon any street, sidewalk, public way, play area, or common grounds owned jointly by the members of a homeowners' or condominium association, or upon private property other than that of the owner. Waste produced by animals shall be immediately removed and disposed of in a sanitary manner.

(D) *Unlawful acts.*

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

(2) It is unlawful for any person in control of, causing or permitting any animal to be on any public or private property, if private property included is not owned or possessed by such person, to fail to remove feces left by such animal and dispose of it properly.

(E) *Proper disposal.*

(1) Proper disposal of animal waste shall be limited to bagging for disposal in the owner or keeper's waste receptacle, and bagging for disposal in a waste receptacle in a public park or park area.

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

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

(F) *Exceptions.* The provisions of this section shall not apply to the ownership or use of dogs certified by the State of Minnesota as service dogs, seeing-eye dogs by blind persons, dogs when used in police activities by the city, or tracking dogs when used by or with the permission of the city.

(G) *Persons authorized to issue citations.* Any peace officer, animal control officer, park ranger, any duly authorized agent, or any person authorized by the animal control officer may issue citations for violations.

(H) *Penalty.* Any person violating this section shall be punished by a fine in an amount set by resolution of the Council. Any person who is found guilty of subsequent violations of this section shall be punished by a fine in an amount set by resolution of the Council.

(Ord. 06-22, passed 7-18-2022)

CHAPTER 91: NUISANCES AND OFFENSES

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NUISANCES

§ 91.001 PUBLIC NUISANCE DEFINED.

Whoever by his or her 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:

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

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

(C) Is guilty of any other act or omission declared by law or this chapter to be a public nuisance and for which no sentence is specifically provided.

(Prior Code, § 901.01) Penalty, see § 91.999

§ 91.002 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

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

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

- (D) Carcasses of animals not buried or destroyed within 24 hours after death;
 - (E) Accumulations of manure, refuse or other debris;
 - (F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
 - (G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;
 - (H) All noxious weeds and any other weeds growing to a height of more than 12 inches and any weeds which have gone or about to go to seed;
 - (I) Dense smoke, noxious fumes, gas, soot or cinders in unreasonable quantities;
 - (J) All public exposure of persons having a contagious disease; and
 - (K) Any offensive trade or business as defined by statute not operating under local license.
- (Prior Code, § 901.02) Penalty, see § 91.999

§ 91.003 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

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

- (A) All gambling devices, slot machines and punch boards;
 - (B) Betting, bookmaking and all apparatus used in those occupations;
 - (C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, house of ill fame, bawdy houses and housing kept for purposes of consumption or sale of illegal drugs and other intoxicating substances;
 - (D) 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; and
 - (E) 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.
- (Prior Code, § 901.03) Penalty, see § 91.999

§ 91.004 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

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

- (A) All snow and ice not removed from public sidewalks by adjacent property owners 12 hours after the snow or other precipitation causing the conditions has ceased to fall;

(B) 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.

(C) All wires and limbs of trees which are less than 15 feet above the surface of a sidewalk, street or alley;

(D) All tree limbs which touch or interfere with electrical power lines;

(E) All unnecessary noises and annoying vibrations;

(F) 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 those conditions as are permitted by this code or other applicable law;

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

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

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

(J) 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;

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

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

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

(N) 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.

(1) The terms **GARBAGE** and **RUBBISH** shall be defined as follows.

GARBAGE. 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. Waste products which are composed wholly or partly of materials such 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 substances which may become a nuisance.

(2) 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.

(O) Any racing car or stock car not in compliance with § 91.006;

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

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

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

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

(T) 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; and

(U) All other conditions or things which are likely to cause injury to the person or property of anyone.

(Prior Code, § 901.04) Penalty, see § 91.999

§ 91.005 ENFORCEMENT.

The Building Official and/or the Chief of Police (or his or her designee) shall enforce the provisions of this chapter. 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, the officials shall be authorized to enter any property or structure within the city for the purpose of enforcing and ensuring compliance with this nuisance chapter. 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.

(Prior Code, § 901.05)

§ 91.006 RACING CARS AND STOCK CARS.

Operating, parking, storing, repairing, servicing and maintaining of racing cars and stock cars shall be regulated as follows.

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

PERSON. A natural person, firm, association, partnership, corporation and any agent of any of the aforesaid.

RACING CAR. 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 or more vehicles or for timing of speed.

STOCK CAR. 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 designated for high speed contests between two or more vehicles or for timing of speed.

(B) *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 or she owns, occupies or controls for more than 72 hours unless it shall be within a building on private premises.

(C) *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 private premises.

(D) *Operation.* No person shall drive or operate a stock car or racing car upon the streets and alleys within the limits of the city.

(Prior Code, § 901.051; § 901.062) (Ord. 02-05, passed 4-4-2005; Ord. 08-05, passed 6-6-2005) Penalty, see § 91.999

§ 91.007 ABATEMENT.

(A) *General.*

(1) Whenever a Building Official's officer determines that a public nuisance is being maintained or exists on premises within the city, the officer shall notify in writing the owner or occupant of the premises of the fact and order that the nuisance be terminated and abated. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice shall be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 30 days, within which the steps to abate the nuisance must be commenced. If steps to abate the nuisance have been commenced as required in the notice, the abatement must be completed no later than 30 days after the expiration of the initial notice period. If the notice is not complied with within the time specified, or if the abatement of the nuisance has not been completed as required herein, the officer shall report the fact forthwith to the Council. Thereafter the Council shall direct the City Attorney to institute civil suit regarding the nuisance following the procedures set forth in M.S. §§ 462.12 through 462.17 requiring the condemnation of hazardous buildings, if applicable.

(2) Additionally, the City Attorney may seek any or all of the following forms of relief in a civil suit:

(a) A judgement restraining the defendants from using for any purposes the place at or in which a nuisance has been maintained or permitted;

(b) A judgement perpetually restraining the defendants from maintaining or permitting any nuisance, as defined in the city code;

(c) An order permitting the removal from the place at or in which the nuisance has been maintained or permitted all fixtures and moveable property used in conducting or aiding or abetting the nuisance, and permitting the city or its designee to sell the fixtures and moveable property;

(d) An order directing the owner to provide relocation assistance to displaced tenants, if the tenants did not maintain, permit, contribute to, aid or abet the nuisance; and/or

(e) An order directing the owner to more effectively manage the owner's property, including, but not limited to, the following actions:

1. Make capital improvements to the owner's property;
2. Improve exterior or interior lighting;
3. Install surveillance cameras;
4. Employ security guards;
5. Post signs warning against illegal activity;
6. Participate in neighborhood or local merchants'

associations; and

7. Screen prospective tenants.

(3) Criminal prosecution or action pursuant to Chapter 11 of this code of ordinances, at the discretion of the City Attorney, may also be instituted.

(B) *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.

(C) *Costs of abatement.* The owner of premises on which a nuisance has been abated by the city shall be personally liable for the costs to the city of the abatement, including administrative costs. The Clerk-Treasurer shall prepare a bill for the cost and mail it to the owner. The charged for abatement of a public health nuisance as defined by § 91.002 or a public safety as defined by § 91.004 may, if unpaid, be certified to the County Auditor for collection as a special assessment, pursuant to M.S. § 429.101, as it may be amended from time to time. The proceeds of any sale pursuant to court order of fixtures and moveable property used in conducting or aiding or abetting the nuisance shall be applied to the payment of the costs of the proceeding.

(Prior Code, § 901.06) (Ord. 06-04, passed 6-7-2004)

BURNING OF SOLID FUELS

§ 91.020 DEFINITIONS.

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

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

PUBLIC NUISANCE. Whoever by his or her 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 11 of this code of ordinances for treatment as an administrative offense.

SOLID FUEL-FIRED HEATING DEVICE. 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.

STACKS or **CHIMNEYS.** Any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device; especially the part of a structure extending above a roof.
(Prior Code, § 901.41) (Ord. 05-05, passed 5-2-2005)

§ 91.021 PERMITS.

Any person installing a solid fuel-fired heating device must comply with all city code requirements pertaining to building permits.
(Prior Code, § 901.41) (Ord. 05-05, passed 5-2-2005) Penalty, see § 91.999

§ 91.022 OTHER REQUIREMENTS UPON EFFECTIVE DATE OF THIS SUBCHAPTER.

(A) All wood-burning units installed or purchased within the city limits 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's public nuisance ordinances as described in this Chapter 91 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.

(D) Additionally, 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 six-inch flue.

(E) Any existing stack height or irregularly installed stack shall be removed or replaced within a period of six 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-1a", "R-1b", "R-1c", "R-2" or "R-3" Districts shall have a minimum stack height of three feet above the roof of the adjoining properties highest roof elevation.

(Prior Code, § 901.41) (Ord. 05-05, passed 5-2-2005) Penalty, see § 91.999

§ 91.023 DUTIES OF CITY OFFICERS.

The City Building Official, Police Department or other designated official shall enforce the provisions of this chapter. Emission standards shall be enforced by the EPA.

(Prior Code, § 901.41) (Ord. 05-05, passed 5-2-2005)

HAZARDOUS BUILDINGS AND EXCAVATIONS

§ 91.035 ABATEMENT.

(A) Any building, structure or property erected, altered, maintained, repaired or used in violation of the laws of this state (M.S. §§ 462.12 through 462.17 and M.S. §§ 463.15 et seq., as they may be amended from time to time, and any amendments thereto) or any ordinance of the city shall be deemed a nuisance and may be abated as provided in § 91.007 or as provided in the Minnesota Hazardous and Substandard Buildings Act, M.S. §§ 463.15 et seq., as it may be amended from time to time.

(B) Any abandoned or hazardous building declared a nuisance under this chapter shall be subject to the notice requirements set forth in § 91.007(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 § 91.007(B).

(C) The provisions of § 91.007(C) shall also apply to abatement of hazardous or abandoned buildings and structures.

(D) 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 or her designee) as set forth at § 91.007(B).

(Prior Code, § 902.01)

ABANDONED PERSONAL PROPERTY

§ 91.050 DEFINITIONS.

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

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.

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 Building Official or Chief of Police to enforce the provisions of this subchapter.

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 the city, and includes buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way and other similar property.
(Prior Code, § 904.01)

§ 91.051 UNLAWFUL STORAGE OF ABANDONED PROPERTIES.

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 155 of this code of ordinances.

(Prior Code, § 904.02) Penalty, see § 91.999

§ 91.052 PROCEDURE FOR REMOVAL OF ABANDONED PROPERTY FROM PUBLIC PROPERTY.

(A) Whenever the enforcement officer shall ascertain that an article or articles of abandoned property is present on public property within the city, he or she shall cause a notice and order to be placed upon the article in substantially the following form:

NOTICE AND ORDER TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY
--

This property, to-wit: (<u>setting forth brief description</u>) is unlawfully upon public property known as (<u>setting forth brief description of location</u>) in violation of (<u>setting forth the section violated</u>) 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 the article, if any, shall be retained by the City to cover the costs of removal and destruction.

Signed: (<u>setting forth name, title, address and telephone number of enforcement officer</u>).
--

Dated: _____.

(B) The 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 or she shall, by first class mail, mail a copy of the notice to the owner on or before the date of posting.

(C) Following the 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 the notice and/or posting.

(D) If at the end of seven days after posting the notice and order the owner or any person interested in the abandoned article or articles described in the 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 the article or articles shall be retained by the city to be applied against the cost of removal and destruction thereof.

(Prior Code, § 904.03)

§ 91.053 PROCEDURE FOR REMOVAL OF ABANDONED PROPERTY FROM PRIVATE PROPERTY.

(A) 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:

<p>NOTICE AND ORDER TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY</p>

<p>The following property, to-wit: <u>(setting sufficient description for identification)</u> located at <u>(setting forth brief description of location)</u> is improperly stored and is in violation of <u>(setting forth section violated)</u> 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 the article(s), if any, shall be retained by the city. The removal and destruction of the 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.</p>

<p>Dated this: <u>(setting forth of posing of order)</u>.</p>

<p>Signed: <u>(setting forth name, title, address and telephone number of enforcement officer)</u>.</p>

(B) The 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.

(C) 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.

(D) If at the end of seven days after posting and serving the notice and order the owner or any person interested in the abandoned article or articles described in the 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 the article or articles shall be retained by the city to be applied against the cost of removal and destruction thereof.

(Prior Code, § 904.04)

§ 91.054 HEARING PROCEDURE.

(A) In the event that a timely appeal is filed with the City Administrator, the City Administrator shall, within two weeks, schedule a date for a public hearing before the Board of Adjustment.

(B) 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.

(C) 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.

(D) (1) 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.

(2) 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.

(3) 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 § 91.053.

(Prior Code, § 904.05)

LOST, STOLEN OR ABANDONED PROPERTY

§ 91.065 SALE AT PUBLIC AUCTION AFTER 60 DAYS.

If the owner of any lost, stolen or abandoned property in the possession of the city cannot be found within 90 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 or her discretion shall cause the property to be sold at public auction to the highest bidder. Notice of the time and place of the holding of the auction shall be published once a week for two consecutive weeks in the official newspaper of the city.

(Prior Code, § 508.01)

§ 91.066 CLAIM OF PROCEEDS OF THE SALE.

The owner may claim proceeds within six months of sale, disposition of unclaimed proceeds. If the owner of property sold under the provisions of this subchapter or his or her legal representatives shall, at any time within six months after the money has been deposited in the city treasury, furnish satisfactory evidence of his or her ownership thereof to the City Treasurer, the City Treasurer shall pay to the person the amount so deposited. If the money is unclaimed within that time, the same shall belong to the city and shall be credited to the Police Department Forfeited Funds Account in the General Fund.

(Prior Code, § 508.02)

Cross-reference:

Unclaimed property, see §§ 35.015 through 35.021

ABANDONED AND INOPERATIVE MOTOR VEHICLES

§ 91.080 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 the 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 the abandoned and junk motor vehicles are often in the nature of rubbish, litter and unsightly debris. Therefore, the accumulation and storage of the

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.

(Prior Code, § 905.01) (Ord. 05-08, passed 11-17-2008)

§ 91.081 DEFINITIONS.

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

ABANDONED VEHICLE. 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 definition 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. Any motor vehicle that 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. Any part or parts of any motor vehicle.

PLACARD. A printed or handwritten poster for giving notice. See § 91.084(E).

PRIVATE PROPERTY. Any real property not owned by the federal government, state, county, city vocational school district, school district or other political subdivisions.

PUBLIC PROPERTY. Any real property owned by the federal government, state, county, city, vocational school district, school district or other political subdivision.

REMOVAL. The physical relocation of a motor vehicle from one location to another location.

STREET. 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. Unmoved from its location with no obvious sign of continuous human use.

UNREGISTERED MOTOR VEHICLE. 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. A motorized vehicle within the meaning of M.S. Ch. 168 and M.S. Ch. 168B, as they may be amended from time to time, whether or not the vehicle is registered under state law.

(Prior Code, § 905.02) (Ord. 05-08, passed 11-17-2008)

§ 91.082 ABANDONED VEHICLE.

(A) *Generally.* For purposes of this subchapter, 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 division (A) 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.

(B) *Abandonment of vehicles prohibited.* No person shall leave unattended any vehicle within the city for a time and under those circumstances as to cause the vehicle to reasonably appear to be abandoned.

(C) *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.

(D) *Enforcement officers.* This subchapter may be enforced by any or all of the following procedures.

(1) 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.

(2) An action for collection of a forfeiture may be commenced by issuance of a summons and complaint.

(3) Upon observing an abandoned vehicle, the Building Official or law enforcement officer shall cause a notice (placarded) pursuant to § 91.084(D) giving notice that the motor vehicle is abandoned. After the placard has remained on the abandoned motor vehicle for 72 hours, a directed tow may be ordered.

(Prior Code, § 905.03) (Ord. 05-07, passed 7-2-2007; Ord. 05-08, passed 11-17-2008) Penalty, see § 91.999

§ 91.083 UNREGISTERED VEHICLES.

(A) *Unregistered motor vehicles prohibited on streets.* No person shall cause any unregistered motor vehicle to be located upon any street within the city.

(B) *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 the 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 or her designee will be forwarded a copy of the report.

(C) *Exemptions.* A person charged with violating this section may not be convicted if he or she produces in court or in the office of the arresting officer satisfactory evidence that, at the time of the issuance of the citation:

(1) A complete application for registration of the motor vehicle, under M.S. § 169.79, as it may be amended from time to time, 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

(2) The motor vehicle was exempt from registration.

(D) *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.

(Prior Code, § 905.04) (Ord. 07-06, passed 12-18-2006; Ord. 05-08, passed 11-17-2008)

§ 91.084 JUNKED VEHICLES.

(A) *Purpose; findings of fact.*

(1) The City Council finds that the storage of non-operating vehicles outside of licensed salvage yards or private garages is a public nuisance.

(2) 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.

(B) *Storage prohibited.*

(1) No person owning or having custody of any junked motor vehicle or of any motor vehicle accessories shall store or allow any 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 vehicles or accessories to remain on his or her property.

(2) 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.

(C) *Storage permitted.*

(1) Division (B) above 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.

(2) This section shall also not apply to a duly licensed business or commercial enterprise operated and conducted pursuant to law when the parking or storing of vehicles is necessary to the operation of the business or commercial enterprise.

(D) *Enforcement officer.* This subchapter may be enforced by any or all of the following procedures.

(1) 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.

(2) An action for collection of a forfeiture may be commenced by issuance of a summons and complaint.

(3) Upon observing a junked vehicle, the enforcement officer shall provide notice that the vehicle is junked through the following methods.

(a) *Public property.*

1. 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 the 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 a mailing shall not invalidate the notice unless due to error on the part of the enforcement officer.

2. After the placard has remained on the abandoned motor vehicle for 72 hours, a directed tow may be ordered.

(b) *Private property.*

1. 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 days after the 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 a mailing shall not invalidate the notice unless due to error on the part of the enforcement officer.

2. After the placard has remained on the abandoned motor vehicle for 72 hours, a directed tow may be ordered.

(E) *Notice to remove.*

(1) Whenever the enforcement officer ascertains that an abandoned or junked motor vehicle is present on real property within the city, he or she shall cause a notice (placarded) pursuant to division (D) above and order to be placed upon the abandoned or junked vehicle and upon a conspicuous place on the property where the 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 (<u>setting forth a brief description</u>), located at (<u>setting forth a brief description of the location</u>) is improperly stored, and its present storage will be in violation of § 91.084 of the Proctor City Code on (<u>setting forth 72 hours from the date of this notice and order</u>) unless the vehicle is removed and stored within a building pursuant to § 91.084(C).
Failure to remove or store the vehicle is a misdemeanor. In addition, if you fail to remove and store the vehicle as provided herein within 72 hours from the date of this notice and order, the vehicle shall be removed and disposed of by the city in accordance with the provisions of M.S. Ch. 168B, as it may be amended from time to time. The vehicle shall be removed and disposed of by the city in accordance with the provisions set forth in M.S. Ch. 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: (<u>setting forth of posing of order</u>).
Signed: (<u>setting forth name, title, address and telephone number of enforcement officer</u>).
Dated: _____.

(2) The notice set forth in division (E)(1) above shall not be less than eight inches by ten inches and shall be sufficiently weatherproofed to withstand normal exposure to the elements.

(Prior Code, § 905.05) (Ord. 05-08, passed 11-17-2008) Penalty, see § 91.999

§ 91.085 HEARING PROCEDURE.

(A) In the event that a timely appeal is filed with the City Administrator, the City Administrator shall, within four weeks schedule a date for a public hearing before the Board of Adjustment.

(B) 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. The notice shall also be published once in a newspaper of general circulation within the city at least one week prior to the hearing.

(C) (1) 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 of the subject motor vehicle(s), and/or his or her 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.

(2) 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.

(D) 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 § 91.084(C), 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 the vehicle(s) in accordance with § 91.087 herein. The Council shall thereafter give a copy of the resolution to the enforcement official who shall cause the notice to be posted on the affected motor vehicle(s) and mailed to the last registered owner of the vehicle property and to the owner or persons in lawful possession of the real property upon which the vehicle(s) is located.

(Prior Code, § 905.06) (Ord. 08-06, passed 12-18-2006; Ord. 05-08, passed 11-17-2008)

§ 91.086 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.

(Prior Code, § 905.07) (Ord. 05-08, passed 11-17-2008)

§ 91.087 ABATEMENT, REMOVAL AND DISPOSITION.

If the registered owner of any motor vehicle which is in violation of this subchapter, or if the owner or person in lawful possession or control of the property upon which the vehicle is located, shall fail, neglect or refuse to remove or house the 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 the 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 M.S. Ch. 168 and M.S. Ch. 168B, as they may be amended from time to time.

(Prior Code, § 905.08) (Ord. 05-08, passed 11-17-2008)

§ 91.088 ENTRY FOR REMOVAL OR ABATEMENT.

(A) 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 subchapter, in accordance with § 10.20.

(B) It is unlawful for any person to interfere with or hinder the person so authorized to enter upon private property in the performance of these duties.
(Prior Code, § 905.09) (Ord. 05-08, passed 11-17-2008) Penalty, see § 91.999

§ 91.089 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 the vehicles in accordance with the procedures set forth in M.S. Ch. 168B, as it may be amended from time to time.
(Prior Code, § 905.10) (Ord. 05-08, passed 11-17-2008) Penalty, see § 91.999

§ 91.090 RESTORATION OF VEHICLES.

Notwithstanding provisions of this subchapter to the contrary, one motor vehicle that is being kept for restoration purposes may be stored on each residential parcel of land if:

(A) The motor vehicle is kept under a tarp or is kept behind opaque visual screening; and

(B) 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.

(Prior Code, § 905.11) (Ord. 05-08, passed 11-17-2008)

INTRUSIVE LIGHTING

§ 91.105 IN GENERAL.

No use or structure shall be operated or occupied as to create light or glare in an amount or to a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.
(Ord. 01-16, passed 2-1-2016) Penalty, see § 91.999

§ 91.106 SPECIFIC STANDARDS.

All uses shall comply with the following standards except as otherwise provided in this section.

(A) Lighting fixtures shall be effectively arranged so as not to directly or indirectly cause illumination or glare in excess of one-half footcandle measured at the closest property line of any residential zones, and five footcandles measured at the street curb line or nonresidential property line nearest the light source.

(B) Lighting fixtures shall not exceed 2,000 lumens (equivalent to a 150 watt incandescent bulb) unless cutoff type shields the light source from an observer at the closest property line of a residential zone.

(C) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility to a person of normal sensitivities when viewed from any permitted or conditional residential use.

(D) Lighting shall not create a hazard for vehicular or pedestrian traffic.

(E) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

(Ord. 01-16, passed 2-1-2016) Penalty, see § 91.999

§ 91.107 EXCEPTIONS.

The uses listed below shall be exempt from the provisions of this subchapter as follows.

(A) Publicly controlled or maintained street lighting and warning, emergency or traffic signals shall be exempt from the requirements of this subchapter.

(B) Athletic fields and outdoor recreation facilities serving or operated by an institutional or public use that otherwise meet all of the requirements of this subchapter shall be exempt from the requirements of § 91.106(A), (B) and (C) between the hours of 7:00 a.m. and 10:00 p.m., because of their unique requirements for nighttime visibility and limited hours of operations.

(Ord. 01-16, passed 2-1-2016)

USER CHARGE FOR EXCESSIVE CONSUMPTION OF POLICE SERVICES

§ 91.120 PURPOSE.

It is the intent of the City Council by the adoption of this subchapter to impose on and collect a fee from the person or persons in charge of or responsible for nuisance events or activities that generate extraordinary cost to the city over and above the cost of providing normal law enforcement services and police protection citywide.

(Ord. 02-14, passed 6-2-2014)

§ 91.121 DEFINITIONS.

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

NUISANCE EVENT.

- (1) An event requiring special security assignment in order to protect the public peace, health, safety and welfare.
- (2) A **NUISANCE EVENT** includes, but is not limited to, the following:
 - (a) Unlawful sale, possession, storage, delivering, giving, manufacture, cultivation or use of controlled substance;
 - (b) Prostitution or prostitution-related activity;
 - (c) Illegal gambling or gambling-related activity;
 - (d) Unlicensed sales of alcoholic beverages or unlawful sales or gifts of alcoholic beverages by an unlicensed person or underage consumption at a specific location;
 - (e) Loud and boisterous conduct, noises and activities that disturb the peace;
 - (f) Events between 11:00 p.m. and sunrise which disturb the peace and tranquility of the neighborhood;
 - (g) Congregating in a tumultuous, noisy or rowdy crowd;
 - (h) Fighting or use of obscene or inflammatory language;
 - (i) Loud music constituting a nuisance or disturbing the peace;
 - (j) Activities causing excessive pedestrian or vehicular traffic and parking problems and congestion; and
 - (k) Indecent exposure or lewd conduct.
- (3) For the purposes of this subchapter, the term **NUISANCE EVENT** shall not include an event of domestic abuse as that term is defined in M.S. § 518B.01, subd. 2(a).

OWNER. A person or persons shown to be owner or owners of property on the property tax records of St. Louis County, Minnesota.

PERSONAL SERVICE. Service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.

POLICE SERVICES FEE. A fee imposed for law enforcement services associated with a special security assignment. The fee shall be set in the administrative fine schedule and may be based on, but not limited to, salaries of police officers while responding to or remaining at the nuisance event, the pro rata cost of equipment, the cost of repairing city equipment and property and the cost of any medical treatment of injured police officers.

RESPONSIBLE PERSON. A person who owns the property where the nuisance event takes place, and/or a person in charge of the premises, and/or a person who organized or served as a host of the nuisance event. If the responsible person is a minor, then the parents or guardians of that minor will also be considered

RESPONSIBLE PERSONS.

SPECIAL SECURITY ASSIGNMENT. The assignment of police officers, services and/or equipment during a second or subsequent response to a nuisance

event at a particular location after the service of a written notice to the responsible persons that a police services fee may be imposed for costs incurred by the city for any subsequent police response at the location.

(Ord. 02-14, passed 6-2-2014)

§ 91.122 INITIAL POLICE RESPONSE TO NUISANCE EVENT.

When any police officer responds to any nuisance event and determines that there is a threat to the public peace, health, safety or general welfare, the police officer may serve a written notice by mail or personal services to the responsible person or persons that any subsequent police response to that same location or address within a 90-day period shall be deemed a special security assignment and that the responsible person or persons may be liable for a police services fee.

(Ord. 02-14, passed 6-2-2014)

§ 91.123 SUBSEQUENT POLICE RESPONSES; LIABILITY.

If, after a written notice is served pursuant to this subchapter, a subsequent police response or responses are necessary to the same location or address within a 90-day period, then each subsequent response or responses shall be deemed a special security assignment. Responsible persons who had previously received a notice of warning shall be jointly and severally liable for a police services fee for a special security assignment. The city reserves its rights to seek reimbursement for actual costs and damages exceeding an amount set by City Council from time to time by resolution through other legal remedies or procedures.

(Ord. 02-14, passed 6-2-2014)

§ 91.124 COST; COLLECTION.

The Chief of Police shall notify the City Administrator's office in writing of the performance of each special security assignment, of the name and address of the responsible person or persons, the date and time of the incident, the services performed and the amount of the police services fee. If the police services fee is in excess of an amount set by City Council from time to time by resolution, the Chief of Police shall provide documentation to support the additional amount. The City Administrator's office shall thereafter cause appropriate billings to be made and be responsible for the collection of the police services fee.

(Ord. 02-14, passed 6-2-2014)

§ 91.125 ADMINISTRATIVE APPEAL.

(A) An administrative appeal of a police services fee may be made to the Chief of Police or his or her designee within ten days from the date of mailing of the billing.

(B) The request for a hearing shall be in writing and addressed to the Chief of Police and shall include a copy of the billing and grounds for the appeal.

(C) The Chief of Police or his or her designee may excuse or modify the service fee upon a finding that the responsible person or persons had made a good faith effort to remedy the situation or that the nuisance event was not the fault of the person or persons filing the appeal.

(Ord. 02-14, passed 6-2-2014)

§ 91.126 APPLICABILITY OF SUBCHAPTER.

This subchapter shall not be deemed to authorize the imposition of a police services fee against a landlord for a police response initiated by a call from a tenant for police or emergency assistance in response to domestic abuse or any other conduct.

(Ord. 02-14, passed 6-2-2014)

§ 91.999 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person violating the provisions of § 91.006 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine subject to the city administrative fine schedule. Each day of noncompliance shall constitute a separate violation. In addition, the civil abatement procedures set forth in § 91.007 and Chapter 151 of this code of ordinances may also be applicable to this section.

(Prior Code, § 901.062)

(C) Any violation of §§ 91.020 through 91.023 shall be considered a misdemeanor and be punishable by existing laws, including, but not limited to, Chapter 11 of this code of ordinances for treatment as an administrative offense.

(Prior Code, § 901.41)

(Ord. 02-05, passed 4-4-2005; Ord. 05-05, passed 5-2-2005)

CHAPTER 92: PUBLIC PROPERTY AND IMPROVEMENTS

Section

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- 92.06 Assessment
- 92.07 Depositing of snow
- 92.08 Storage and transportation of deicing material

§ 92.01 DEFINITION.

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

CURRENT SERVICES. 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 Chapter 91 of this code of ordinances.
(Prior Code, § 301.01)

§ 92.02 WEED ELIMINATION.

On or before June 1 of each year, the Clerk-Treasurer 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 § 91.002(H). 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 91 of this code of ordinances.
(Prior Code, § 301.02)

§ 92.03 SIDEWALK REPAIR.

(A) *Owner responsibility.*

(1) 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 Clerk-Treasurer. Before commencing the repair work, the property owner shall obtain a permit from the Clerk-Treasurer. No fee shall be charged for the permit.

(2) 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 the walk safe for pedestrians. No 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 division (A) relative to snow, ice, dirt and rubbish removal shall constitute a petty misdemeanor punishable for a fine subject to the city administrative fine schedule.

(B) *Enforcement.* The Clerk-Treasurer or any other person as the Council may designate may inspect sidewalks to determine if they are in good repair and safe for pedestrians. If he or she finds that any sidewalk is in need of repair, he or she 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 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.

(C) *Repair.* If the sidewalk is not repaired within 30 days after receipt of the notice, the Clerk- Treasurer 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-Treasurer shall keep a record of the total cost of repair attributable to each lot or parcel of property.

(Prior Code, § 301.03) (Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

§ 92.04 STREET SPRINKLING, FLUSHING, TREE CARE AND THE LIKE.

(A) *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-Treasurer shall, under the Council's direction, publish notice that the Council will meet to consider the 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.

(B) *Hearing.* At the 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 a 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- Treasurer 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.

(Prior Code, § 301.04)

§ 92.05 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 the service. As soon as the service is completed and the cost determined, the Clerk-Treasurer shall prepare a bill and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the Clerk-Treasurer's office.

(Prior Code, § 301.05)

§ 92.06 ASSESSMENT.

On or before September 1 of each year, the Clerk-Treasurer 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 chapter. After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the Council may spread the charges against the property benefitted as a special assessment pursuant to M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection along with current taxes for the following year or in annual installments, not exceeding ten, as the Council may determine in each case.

(Prior Code, § 301.06)

§ 92.07 DEPOSITING OF SNOW.

(A) *Depositing snow.* The depositing, placing or throwing, upon any of the public sidewalks, streets, alleys, highways or other public grounds within the city of snow or accumulations thereof for the purpose of removing the snow or accumulations thereof from any lot, tract or parcel of land is hereby prohibited.

(B) *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.

(Prior Code, § 301.07) Penalty, see § 10.99

§ 92.08 STORAGE AND TRANSPORTATION OF DEICING MATERIAL.

(A) *Purpose.* The purpose of this section is to ensure proper operation of permanent and temporary bulk deicer facilities and operations within the City of Proctor to prevent chloride transmission into lakes, streams, groundwater, drinking water supplies as well as to protect freshwater fish and other aquatic life.

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

BULK STORAGE. Storage of any material used for deicing and/or traction during winter conditions that is more than five tons solid or 1,000 gallons liquid and includes salt piles, salt bag storage and sand piles.

BULK STORAGE FACILITIES. Storage site, snow piles, salt truck wash water and transfer of materials.

(C) *General requirements.*

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

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

(a) When not using a permanent roof, a waterproof impermeable, flexible cover must be placed over all storage piles (to protect against precipitation and surface water runoff). The cover must be secured to prevent removal

by wind or other storm events. Piles must be formed in a conical shape and covered as necessary to prevent leaching.

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

(D) *Facility site.*

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

(2) Each bulk storage facility must be located outside of floodplains and 200 feet from lakes, rivers, streams, ditches, storm drains, manholes, catch basins, wetlands, and any other areas likely to absorb runoff. A facility must not be located in close proximity to surface water features, water supplies, wells or drywells.

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

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

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

(a) Areas with salt sensitive vegetation;

(b) Areas serving as a source of drinking water (surface water and ground water);

(c) Areas with bodies of water with low dilution, low volume or salt sensitive species;

(d) Areas associated with ground water recharge zones or shallow water table, with medium to high permeable soils.

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

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

(G) *Transfer of materials.* Practices must be implemented in order to reduce exposure (e.g., sweeping, diversions, and/or containment) when transferring salt or other deicing material.

(H) *Penalty.* Any person violating the provisions of this section shall be punished by a fine in an amount set by resolution of the Council.
(Ord. 04-22, passed 7-18-2022)

CHAPTER 93: FAIR HOUSING

Section

93.01 Purpose and intent

93.02 Definitions

93.03	Prohibited acts in regards to housing
93.04	Exemptions and exceptions
93.05	Enforcement procedures
93.06	Statute of limitations
93.07	Civil enforcement procedure
93.99	Penalty

§ 93.01 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.
(Prior Code, § 1005.01)

§ 93.02 DEFINITIONS.

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

DISABILITY. A mental or physical condition which constitutes a handicap. Nothing in this 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.

DISCRIMINATE or DISCRIMINATION. Include segregate or separate.

MARITAL STATUS. The standing, state or condition of one as single or married person.
(Prior Code, § 1005.01)

§ 93.03 PROHIBITED ACTS IN REGARDS TO HOUSING.

- (A) It is unlawful:
- (1) For any person to discriminate on grounds of race, creed, religion, color, sex, marital status, status with regard to public assistance, national origin, age or disability in the sale, lease or rental of any housing unit or units;
 - (2) For any broker, salesperson or other person acting in behalf of another to so discriminate in the sale, lease or rental of any housing unit or units belonging to any other person;
 - (3) For any person engaged in the business of financing the purchase, rehabilitation, remodeling or repair of housing units or in the business of selling insurance with respect to housing units to refuse to provide the 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 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 division (A)(3);

(4) For any person, having sold, leased or rented a housing unit 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;

(5) For any person to make or publish any statement evidencing an intent to discriminate on grounds of race, creed, religion, color, sex, national origin or ancestry, marital status, status with regard to public assistance, age or disability in the sale, lease or rental of a housing unit or units;

(6) For any person to make 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 information in connection with the sale, lease, rental or financing of a housing unit or units; and

(7) For any person, including real estate agents or brokers, for the purpose of inducing a real estate transaction from which he or she may benefit financially:

(a) To represent that a change has occurred or will or may occur in the composition of the block, neighborhood or area in which the property is located in respect 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

(b) 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.

(B) 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 the lease, agreement or contract.

(Prior Code, § 1005.01) Penalty, see § 93.99

§ 93.04 EXEMPTIONS AND EXCEPTIONS.

- (A) The unlawful acts described above in § 93.03 shall not be unlawful where:
- (1) 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;
 - (2) 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 those persons, unless membership in such a religion is restricted on account of race, color, sex or national origin”;
 - (3) 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 salesperson; provided, however, that the sale or rental is not accomplished through the use of discriminatory advertising; or
 - (4) 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 the lodgings to its members or gives preference to its members.
- (B) 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 the lease, agreement or contract.
- (Prior Code, § 1005.01)

§ 93.05 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.

(Prior Code, § 1005.01)

§ 93.06 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.

(Prior Code, § 1005.01)

§ 93.07 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 or her 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.

(Prior Code, § 1005.01)

§ 93.99 PENALTY.

Every person violates a section, division, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when the 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.

(Prior Code, § 1005.01)

CHAPTER 94: TREES

Section

94.01	Purpose
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94.03	Applicability
94.04	Landscaping
94.05	Tree planting, maintenance and removal
94.06	Tree protection
94.07	Private trees
94.99	Penalty

§ 94.01 PURPOSE.

It is the purpose of this chapter 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.
(Prior Code, § 1003A)

§ 94.02 AUTHORITY AND POWER.

(A) *City Tree Board.* There is hereby created and established a City Tree Board for the city, which shall consist of the members of the Proctor Beautification and Tree Committee.

(B) *City Tree Inspector.* The Foreman of the City Street Department, or his or her designee, shall serve as the City Tree Inspector and shall report to the City Tree Board.
(Prior Code, § 1003A)

§ 94.03 APPLICABILITY.

This chapter 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.
(Prior Code, § 1003A)

§ 94.04 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.

(Prior Code, § 1003A)

§ 94.05 TREE PLANTING, MAINTENANCE AND REMOVAL.

(A) *Utilities.* No street trees may be planted under or within ten lateral feet of any overhead utility wire, or over or within five 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 chapter 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 chapter.

(Prior Code, § 1003A) Penalty, see § 94.99

§ 94.06 TREE PROTECTION.

(A) 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 the diseased or infested tree is situated, and the notice shall require the property owner to eradicate, remove or otherwise control the condition within reasonable time to be specified in the notice.

(B) (1) The City Tree Inspector shall have as one of his or her duties the location, selection and identification of any trees which qualify as "landmark trees".

(2) 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; and/or
- (d) Scenic enhancement.

(Prior Code, § 1003A)

§ 94.07 PRIVATE TREES.

The City Tree Inspector or his or 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.

(Prior Code, § 1003A)

§ 94.99 PENALTY.

(A) *Violations.* Any person who violates any provision of this chapter or who fails to comply with any notice issued pursuant to provisions of this chapter, 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 chapter shall occur or continue shall be a separate offense. If, as a result of the violation of any provision of this chapter, 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 the 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 the nuisance. The reasonable cost of the abatement shall be filed as a lien against the property on which the nuisance was located. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution.
(Prior Code, § 1003A) (Ord. 02-05, passed 4-4-2005)

CHAPTER 95: RIGHT-OF-WAY MANAGEMENT

Section

- 95.01 Election to manage the public right-of-way
- 95.02 Definitions
- 95.03 Permit requirement
- 95.04 Permit applications
- 95.05 Issuance of permit; conditions
- 95.06 Permit fees
- 95.07 Right-of-way patching and restoration
- 95.08 Supplementary applications
- 95.09 Denial of permit
- 95.10 Installation requirements
- 95.11 Inspection
- 95.12 Work done without a permit
- 95.13 Supplementary notification
- 95.14 Revocation of permits
- 95.15 Mapping data

95.16	Location of facilities
95.17	Damage to other facilities
95.18	Right-of-way vacation
95.19	Indemnification and liability
95.20	Abandoned facilities
95.21	Appeal
95.22	Reservation of regulatory and police powers

§ 95.01 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.

In accordance with the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects pursuant to this chapter to manage rights-of-way within its jurisdiction.

§ 95.02 DEFINITIONS.

The definitions included in M.S. § 237.162, Minnesota Rules 7819.0100 subps. 1 through 23 and Minnesota Rules 7560.0100 subps. 1 through 12, as they be amended from time to time are hereby adopted by reference and are incorporated into this chapter as if set out in full.

§ 95.03 PERMIT REQUIREMENT.

(A) *Permit required.* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate permit from the city.

(1) *Excavation permit.* An excavation permit is required to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) *Obstruction permit.* An obstruction permit is required to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(B) *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit and a new permit or permit extension is granted.

(C) *Delay penalty.* In accordance with Minnesota Rule 7819.1000 subp. 3, as it may be amended from time to time, and notwithstanding division (B) of this section, the city shall establish and impose a delay penalty for unreasonable delays in

right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.

(D) *Permit display.* Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the director.

§ 95.04 PERMIT APPLICATIONS.

Application for a permit shall contain and will be considered complete only upon compliance with the requirements of the following provisions:

(A) Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

(1) Each permittee's name, Gopher One-Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers;

(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration;

(3) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the permittee by an insurance company licensed to do business in the state, or a form of self insurance acceptable to the director;

(b) Verifying that the permittee is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the permittee, its officers, agents, employees and permittees, and placement and use of facilities and equipment in the right-of-way by the permittee, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

(d) Requiring that the director be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the director in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter;

(f) The city may require a copy of the actual insurance policies;

(g) If the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06, as it may be amended from time to time, as recorded and certified to by the Secretary of State; and

(8) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.

(B) Payment of money due the city for:

(1) Permit fees, estimated restoration costs and other management costs;

(2) Prior obstructions or excavations;

(3) Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; and

(4) Franchise fees or other charges, if applicable.

§ 95.05 ISSUANCE OF PERMIT; CONDITIONS.

(A) *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the director shall issue a permit.

(B) *Conditions.* The director may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state and federal laws, including but not limited to M.S. §§ 216D.01 through 216D.09, as they may be amended from time to time (Gopher One Call Excavation Notice System) and Minnesota Rules Ch. 7560, as it may be amended from time to time.

(C) *Trenchless excavation.* As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to horizontal directional drilling, shall follow all requirements set forth in M.S. Ch. 216D and Minnesota Rules Ch. 7560, as they may be amended from time to time, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the city.

§ 95.06 PERMIT FEES.

(A) *Generally.* The city shall establish an excavation permit fee in an amount sufficient to recover the following costs:

(1) The city management costs; and

(2) Degradation costs, if applicable.

(B) *Obstruction permit fee.* The city shall establish the obstruction permit fee and shall be in an amount sufficient to recover the city management costs.

(C) *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay such fees within 30 days of billing.

(D) *Non-refundable.* Permit fees that were paid for a permit that the director has revoked for a breach as stated in § 95.21 of this section are not refundable.

(E) *Application to franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(F) *Consistent with state statute.* All permit fees shall be established consistent with the provisions of Minnesota Rule 7819.100, as it may be amended from time to time.

§ 95.07 RIGHT-OF-WAY PATCHING AND RESTORATION.

(A) *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required in this chapter, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable under § 95.15 of this chapter.

(B) *Patch and restoration.* Permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

(1) *City restoration.* If the city restores the right-of-way, permittee shall pay the costs thereof within 30 days of billing. If following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

(2) *Permittee restoration.* If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rules 7819.3000, as it may be amended from time to time.

(3) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

(C) *Standards.* The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minnesota Rule 7819.1100, as it may be amended from time to time.

(D) *Duty to correct defects.* The permittee shall correct defects in patching, or restoration performed by permittee or its agents. Permittee upon notification from the director, correct all restoration work to the extent necessary, using the method required by the director. Said work shall be completed within five calendar days of the receipt of the notice from the director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under § 95.15 of this chapter.

(E) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the director, or fails to satisfactorily and timely complete all restoration required by the director, the director at its option may do such work. In that event the permittee shall pay to the city, within 30 days of billing, the cost

of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

§ 95.08 SUPPLEMENTARY APPLICATIONS.

(A) *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

(B) *Limitation on dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

§ 95.09 DENIAL OF PERMIT.

The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

§ 95.10 INSTALLATION REQUIREMENTS.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100, as it may be amended from time to time and other applicable local requirements, in so far as they are not inconsistent with the M.S. §§ 237.162 and 237.163, as it may be amended from time to time.

§ 95.11 INSPECTION.

(A) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minnesota Rules 7819.1300, as it may be amended from time to time.

(B) *Site inspection.* Permittee shall make the work-site available to city personnel and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) *Authority of director.*

(1) At the time of inspection, the director may order the immediate cessation of any work, which poses a serious threat to the life, health, safety or well-being of the public.

(2) The director may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit pursuant to § 95.21 of this chapter.

§ 95.12 WORK DONE WITHOUT A PERMIT.

(A) *Emergency situations.*

(1) Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities that it considers being an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each facility owner affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the person whose facilities occasioned the emergency.

(B) *Non-emergency situations.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for said permit, pay double all the other fees required by this code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

§ 95.13 SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the director of the accurate information as soon as this information is known.

§ 95.14 REVOCATION OF PERMITS.

(A) *Substantial breach.* The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of

the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittees control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 95.18 of this chapter.

(B) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations might be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *Response to notice of breach.* Within 24 hours of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city, which will cure the breach. Permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

(D) *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

§ 95.15 MAPPING DATA.

(A) *Information required.* Each permittee shall provide mapping information required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100, as they may be amended from time to time.

(B) *Service laterals.* All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules 7560.0150 subpart 2, as it may be amended from time to time, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the city reasonably requires it. Permittees or their subcontractors shall submit to the city evidence of the installed service lateral locations. Compliance with this division (B) and with applicable Gopher State One Call Law and Minnesota Rules governing service laterals installed after December 31, 2005, shall be a condition of any city approval necessary for payments to

contractors working on a public improvement project including those under M.S. Ch. 429, as it may be amended from time to time, and city approval of performance under development agreements, or other subdivision or site plan approval under M.S. Ch. 462, as it may be amended from time to time. The city shall reasonably determine the appropriate method of providing such information. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

§ 95.16 LOCATION OF FACILITIES.

(A) *Generally.* Placement, location, and relocation of facilities must comply with the act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.

(B) *Corridors.* The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

(C) *Limitation of space.* To protect health, safety, and welfare or when necessary to protect the right-of-way and its current use, the director shall have the power to prohibit or director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

§ 95.17 DAMAGE TO OTHER FACILITIES.

When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the director shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that facility owner and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another caused during the city's response to an emergency occasioned by that owner's facilities.

§ 95.18 RIGHT-OF-WAY VACATION.

If the city vacates a right-of-way that contains facilities, the facility owner's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200, as it may be amended from time to time.

§ 95.19 INDEMNIFICATION AND LIABILITY.

By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rule 7819.1250, as it may be amended from time to time.

§ 95.20 ABANDONED FACILITIES.

Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless the director waives this requirement.

§ 95.21 APPEAL.

A right-of-way user that: has been denied registration; has been denied a permit; has had permit revoked; believes that the fees imposed are invalid; or disputes a determination of the city, may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee imposition will be writing and supported by written findings establishing the reasonableness of the decision.

§ 95.22 RESERVATION OF REGULATORY AND POLICE POWERS.

A permittee's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. BUSINESS LICENSING**
- 111. KENNELS**
- 112. COIN-OPERATED DEVICES AND GAMBLING**
- 113. SHOWS, GAMES AND EXHIBITIONS**
- 114. GARBAGE COLLECTION**
- 115. PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS**

- 116. MUNICIPAL TOWING AND IMPOUNDMENT
- 117. FILLING STATIONS
- 118. SPECIAL EVENTS; PUBLIC DANCING
- 119. SEXUALLY ORIENTED BUSINESSES
- 120. ALCOHOL
- 121. SHORT-TERM VACATION RENTALS

CHAPTER 110: BUSINESS LICENSING

Section

- 110.01 Person defined
- 110.02 Business license
- 110.03 Applications
- 110.04 Granting of license
- 110.05 Term
- 110.06 Pro-rated fee
- 110.07 Prior conviction
- 110.08 Zoning
- 110.09 Display
- 110.10 Transfers
- 110.11 Suspension and revocation
- 110.12 Home occupation license

§ 110.01 PERSON DEFINED.

As used in Chapters 110 through 117 of this code of ordinances, **PERSON** means any natural person, partnership, corporation or association.
(Prior Code, § 601.01)

§ 110.02 BUSINESS LICENSE.

(A) *License required.* No person, partnership, corporation or association shall engage in or operate any of the following businesses without having obtained a license therefor, except as otherwise provided by this chapter:

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

(B) *Scope.* The provisions of Chapters 110 through 117 of this code of ordinances shall apply to all licenses issued under Chapters 110 through 117 of this code of ordinances, except as provided otherwise.

(Prior Code, § 601.02) (Ord. 06-06, passed 11-20-2006)

§ 110.03 APPLICATIONS.

Every application for a license to engage in any business listed in § 110.02(A) shall be made to the Clerk-Treasurer 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 any other information as may be required by this code of ordinances 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.

(Prior Code, § 601.03) (Ord. 06-08, passed 11-17-2008)

§ 110.04 GRANTING OF LICENSE.

Each completed application shall be presented to the Council by the Clerk-Treasurer. The Council shall either approve or deny each application.

(Prior Code, § 601.04)

§ 110.05 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.

(Prior Code, § 601.05)

§ 110.06 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 of the annual fee for each month or fraction of a month remaining in the license year.

(Prior Code, § 601.06)

§ 110.07 PRIOR CONVICTION.

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, as it may be amended from time to

time. No person shall be denied a license because of an arrest or arrests not followed by conviction or admission of guilt.
(Prior Code, § 601.07)

§ 110.08 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 regulations.
(Prior Code, § 601.08) Penalty, see § 10.99

§ 110.09 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.
(Prior Code, § 601.09)

§ 110.10 TRANSFERS.

No license shall be transferred to another person or premises unless specifically provided for by ordinance and approved by the Council.
(Prior Code, § 601.10) Penalty, see § 10.99

§ 110.11 SUSPENSION AND REVOCATION.

The Council may suspend for a period not to exceed 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 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 15 days pending a hearing on revocation.
(Prior Code, § 601.11)

§ 110.12 HOME OCCUPATION LICENSE.

Home occupations are licensed by the city pursuant to § 155.001 of this code of ordinances. (For fees regarding business licenses, see individual sections covering the listed businesses. Additional fees may be referenced in the schedule of fees found in Chapter 37 of this code or ordinances.)
(Prior Code, § 601.12)

CHAPTER 111: KENNELS

Section

- 111.01 Definitions
- 111.02 Kennel licenses
- 111.03 Conditions for issuance of a kennel license

§ 111.01 DEFINITIONS.

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

KENNEL. Any place a person keeps more than three dogs for the purpose of boarding.

OWNER. Any person who owns, harbors or keeps or has custody of a dog, or the parents or guardians or a person under 18 years of age who owns, harbors, keeps or has custody of a dog.

(Prior Code, § 601A.01) (Ord. 07-07, passed 1-7-2008)

§ 111.02 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 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 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 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 private kennel license.

(I) Kennel licenses in effect on residential property at the time of adoption of this chapter that do not meet the requirements of this chapter 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.

(Prior Code, § 601A.01) (Ord. 07-07, passed 1-7-2008)

§ 111.03 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, the 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 50°F 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.

(Prior Code, § 601A.01) (Ord. 07-07, passed 1-7-2008)

CHAPTER 112: COIN-OPERATED DEVICES AND GAMBLING

Section

General Provisions

- 112.01 Definitions
- 112.02 Gambling
- 112.03 Transfers

Lawful Gambling

- 112.15 Purpose
- 112.16 Provision of state law adopted
- 112.17 License or permit required
- 112.18 Persons eligible for a license or permit
- 112.19 Eligible premises
- 112.20 Local gambling permit fee
- 112.21 Application procedure
- 112.22 Contributions
- 112.23 Conduct of gambling
- 112.24 Reporting requirements
- 112.25 Prizes
- 112.26 Bingo

Charitable Gambling

- 112.40 State license reporting requirements
- 112.99 Penalty

GENERAL PROVISIONS

§ 112.01 DEFINITIONS.

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

COIN-OPERATED DEVICE. Any machine which upon insertion of a coin, token or slug in any slot or receptacle attached to the 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.

OWNER. Any person who installs or permits to be installed in his or her place of business any coin- operated device for the use or patronage of the public or persons in or about the place.

PUBLIC PLACE. Any room, space, store or building of a public or quasi-public character, wherein the public may enter at large or by membership.

(Prior Code, § 602.01)

§ 112.02 GAMBLING.

(A) *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 the 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 M.S. § 609.75, as it may be amended from time to time. No person shall own, operate, maintain or keep for operation any device the licensing of which is forbidden by this division (A).

(B) *Gambling prohibited.* The owner of any coin-operated device shall not permit the operation of the device for the making of side bets or gambling in any form. (Prior Code, § 602.05) (Ord. 02-05, passed 4-4-2005) Penalty, see § 112.99

§ 112.03 TRANSFERS.

(A) *Persons.* No license may be transferred from one person to another.

(B) *Location.* The owner of a licensed coin-operated device may move the device from one location to another.

(C) *Sales.* Whenever the owner of a licensed coin-operated device shall sell, exchange, transfer or assign the device, he or she shall report the sale or other transaction to the Clerk-Treasurer, who shall present the report to the Council. (Prior Code, § 602.06) Penalty, see § 112.99

LAWFUL GAMBLING

§ 112.15 PURPOSE.

The purpose of this subchapter is to closely regulate and control the conduct of gambling.

(Prior Code, § 602A.01) (Ord. 03-04, passed 5-17-2004; Ord. 04-06, passed 7-5-2006)

§ 112.16 PROVISION OF STATE LAW ADOPTED.

The provisions of M.S. Ch. 349, as it may be amended from time to time, relating to the definition of terms, licensing and restrictions of gambling are adopted and made a part of this subchapter as if set out in full.

(Prior Code, § 602A.02) (Ord. 03-04, passed 5-17-2004; Ord. 04-06, passed 7-5-2006)

§ 112.17 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.

(Prior Code, § 602A.03) (Ord. 03-04, passed 5-17-2004; Ord. 04-06, passed 7-5-2006)
Penalty, see § 112.99

§ 112.18 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 M.S. Ch. 349, as it may be amended from time to time.

(Prior Code, § 602A.04) (Ord. 03-04, passed 5-17-2004)

§ 112.19 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 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-Treasurer/Administrator.

(Prior Code, § 602A.05) (Ord. 03-04, passed 5-17-2004)

§ 112.20 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 the fee by state law.

(Prior Code, § 602A.06) (Ord. 03-04, passed 5-17-2004)

§ 112.21 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 30 days after the date of application.

(Prior Code, § 602A.07) (Ord. 03-04, passed 5-17-2004)

§ 112.22 CONTRIBUTIONS.

Each organization conducting lawful gambling within the city shall contribute at least 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 M.S. § 349.12, subd. 11, as it may be amended from time to time. The city's use of the 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. (Prior Code, § 602A.08) (Ord. 03-04, passed 5-17-2004)

§ 112.23 CONDUCT OF GAMBLING.

(A) *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.

(B) *Bond.* The gambling manager shall provide a fidelity bond in the sum of an amount set by City Council from time to time by resolution in favor of the organization conditioned on the faithful performance of his or her duties.

(C) *Qualifications of gambling manager.* The gambling manager shall be an active member of the organization and shall qualify under state law.

(Prior Code, § 602A.09) (Ord. 03-04, passed 5-17-2004)

§ 112.24 REPORTING REQUIREMENTS.

(A) *Gross receipts.* Each organization licensed or permitted to operate 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.

(B) *Separation of funds.* Gross receipts from the operation of gambling devices and the conduct of raffles 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.

(C) *Monthly reports.* Each organization licensed and permitted to operate gambling devices or to conduct raffles shall report monthly to its membership, and to the Clerk-Treasurer/Administrator, its gross receipts, expenses and profits from gambling

devices or raffles, and the distribution of profits. The licensee or permit holder shall preserve the records for three years.

(Prior Code, § 602A.10) (Ord. 03-04, passed 5-17-2004)

§ 112.25 PRIZES.

(A) 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.

(B) 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.

(Prior Code, § 602A.11) (Ord. 03-04, passed 5-17-2004)

§ 112.26 BINGO.

(A) Nothing in this subchapter shall be construed to authorize the conduct of bingo without acquiring a separate bingo license or permit.

(B) Bingo operations shall be conducted in accordance with M.S. Ch. 349, as it may be amended from time to time, and the regulations promulgated by the Minnesota Gambling Control Board.

(Prior Code, § 602A.12) (Ord. 03-04, passed 5-17-2004)

CHARITABLE GAMBLING

§ 112.40 STATE LICENSE REPORTING REQUIREMENTS.

All charitable gambling licensees holding licenses issued by the state pursuant to M.S. § 349.213, as it may be amended from time to time, the licenses being issued for bingo, tip boards, paddleboards, raffles, pull tabs and ticket jars shall be required to submit a copy of any and all financial statements, reports and documents required by the state to the Clerk-Treasurer within 30 days of the licensee's submission of the statements, reports and documents to the state.

(Prior Code, § 611.01) (Ord. 02-12, passed 2-6-2012) Penalty, see § 112.99

§ 112.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) (1) *Criminal penalty.* Violation of any provision of §§ 112.15 through 112.26 shall be a misdemeanor.

(2) *License suspension and revocation.* Any permit may be suspended or revoked by the Council for any violation of §§ 112.15 through 112.26. A permit shall not be suspended or revoked until the procedural requirements or division (B)(3) below 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 division (B)(3) below. A temporary suspension shall not extend for more than two weeks.

(3) *Suspension and revocation procedure.* Except as otherwise provided, a permit shall not be revoked or suspended under division (B)(2) above 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 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.

(Prior Code, § 602A.13) (Ord. 03-04, passed 5-17-2004)

CHAPTER 113: SHOWS, GAMES AND EXHIBITIONS

Section

- 113.01 License required
- 113.02 License term
- 113.03 Fees
- 113.04 Security

Cross-reference:

Coin-operated devices and gambling, see Ch. 112

§ 113.01 LICENSE REQUIRED.

(A) *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 therefor.

(B) *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 or for any show, performance or entertainment consisting exclusively of amateur performers.

(Prior Code, § 603.01) Penalty, see § 10.99

§ 113.02 LICENSE TERM.

A license required under § 113.01 may be issued for the term, not exceeding one year, as the Council may approve.
(Prior Code, § 603.02)

§ 113.03 FEES.

Fees are subject to city schedule of charges and fees.
(Prior Code, § 603.03) (Ord. 02-05, passed 4-4-2005)

§ 113.04 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.
(Prior Code, § 603.04)

CHAPTER 114: GARBAGE COLLECTION

Section

114.01 License required

114.02 Regulations

Cross-reference:

Solid waste, see Ch. 50

§ 114.01 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 § 50.04 if this code of ordinances.
(Prior Code, § 605.01) Penalty, see § 10.99

§ 114.02 REGULATIONS.

(A) *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.

(B) *Cleaning.* The owner or persons in possession or control of any 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.
(Prior Code, § 605.02)

CHAPTER 115: PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

Section

115.01	Definitions
115.02	License required
115.03	Application
115.04	Term
115.05	Fee
115.06	Refunds
115.07	Display
115.08	Practices prohibited

§ 115.01 DEFINITIONS.

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

PEDDLER. 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.

SOLICITOR. 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.

TRANSIENT MERCHANT.

(1) 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 the purpose, hires, leases, uses or occupies any building, structure, vacant lot, motor vehicle, trailer or railroad car.

(2) The 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.

(Prior Code, § 606.01)

§ 115.02 LICENSE REQUIRED.

(A) *Generally.* Except as provided in division (B) below, 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.

(B) *Exceptions.* The requirements of this chapter 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.

(Prior Code, § 606.02) Penalty, see § 10.99

§ 115.03 APPLICATION.

(A) *Information.* In addition to the information required by § 110.03 of this code of ordinances, each application shall state the names and addresses of all persons associated with the applicant in his or her business and shall have each person complete and sign an informed consent form authorizing the City 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.

(B) *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.

(Prior Code, § 606.03) (Ord. 06-08, passed 11-17-2008)

§ 115.04 TERM.

A license required by § 115.02 may be issued for the term as the Council may approve, not exceeding one year.

(Prior Code, § 606.04)

§ 115.05 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.

(Prior Code, § 606.05) (Ord. 02-05, passed 4-4-2005)

§ 115.06 REFUNDS.

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

(Prior Code, § 606.06)

§ 115.07 DISPLAY.

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

§ 115.08 PRACTICES PROHIBITED.

No peddler, solicitor or transient merchant shall call attention to his or her business or to his or her merchandise by crying out, by blowing a horn, by ringing a bell or by any loud or unusual noise.
(Prior Code, § 606.08)

CHAPTER 116: MUNICIPAL TOWING AND IMPOUNDMENT

Section

- 116.01 Impoundment authority
- 116.02 Reclaiming vehicles
- 116.03 Definitions
- 116.04 Towing licenses required
- 116.05 License application process
- 116.06 Fees
- 116.07 License issuance, refusal, revocation
- 116.08 Insurance
- 116.09 Off-street parking required
- 116.10 Wrecker vehicle inspection
- 116.11 Powers and duties of the Chief of Police
- 116.12 Emergency towing service
- 116.13 Towing rotation list
- 116.14 Driving wrecker to the scene of accident
- 116.15 Soliciting towing business at the scene of accident prohibited;
presence at scene is evidence of violation
- 116.16 Towing fees
- 116.17 Storage lot facilities

§ 116.01 IMPOUNDMENT AUTHORITY.

Any police officer or other duly authorized person may remove and impound any vehicle when the 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 the vehicle has been taken into custody with regard to any violation of this code or state statute and the removal and impoundment is reasonably needed in the investigation of a crime.

(Prior Code, § 607A)

§ 116.02 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.

(Prior Code, § 607A)

§ 116.03 DEFINITIONS.

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

ACCIDENT. Any occurrence causing any damage to any motor vehicle which results from the motion of one or more vehicles.

CHIEF OF POLICE. The Chief of Police of the City of Proctor or any person or persons as he or she shall designate.

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 the vehicle by wrecker.

EMERGENCY TOWING SERVICE. The business of offering service to disabled vehicles and other vehicles by means of motor vehicle at the request of the Chief of Police.

TOWING ROTATION LIST. Any list of licensed towing services located within the city maintained by the Chief of Police as provided for in this chapter.

(Prior Code, § 607A)

§ 116.04 TOWING LICENSES REQUIRED.

No person shall engage in offering emergency towing service within the city without being licensed in accordance with this chapter unless summoned by the owner or operator of the disabled vehicle or his or her agent.

(Prior Code, § 607A) Penalty, see § 10.99

§ 116.05 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 Clerk-Treasurer a written

application upon a form for that purpose which shall be signed by the applicant or his or her authorized agent.

(B) The 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 chapter 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 or she applies.

(E) The Clerk-Treasurer may at any time require additional information of the licensee or applicant relevant to his or her application.

(Prior Code, § 607A)

§ 116.06 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 chapter at the discretion of the city.

(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.

(Prior Code, § 607A) (Ord. 02-05, passed 4-4-2005)

§ 116.07 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 Clerk-Treasurer of changes in required information within ten days of the change;
- (3) Failure to have an insurance policy as required in this chapter in force;
- (4) Evading or attempting to evade the towing service fee limitations of this chapter 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 chapter;

(6) Use by the licensee of any trade name for his or her towing service other than the one registered with the Clerk-Treasurer or operating any towing service vehicle without the name of the proper towing service posted in the directed manner on the vehicle or with the name of another towing service appearing in place of the proper name;

(7) Two or more moving violations or one driving while under the influence (or 0.10 b/a or more) by a licensee or his or her employees while furnishing towing services within one 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 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 the scene; and

(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 division (B) above 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 years of a new or renewal application for a license under this chapter may be denied the new or renewed license by the Clerk-Treasurer upon his or her review of the application.

(E) (1) Any licensee whose license has been recommended for suspension or revocation by the Chief of Police or had his or her renewal for license denied by the Clerk-Treasurer shall be entitled to a hearing before the Public Safety Committee of the City Council by filing a letter requesting a hearing within ten 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 Clerk-Treasurer and served upon the aggrieved applicant not later than 60 days following the filing of the letter requesting the hearing before the committee.

(2) Thereafter the aggrieved party shall have ten 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. The hearing shall be held at the next scheduled Council meeting.

(3) Upon completion of the hearing, the City Council shall either sustain, reverse or modify the actions previously taken. The decision shall be final. (Prior Code, § 607A) Penalty, see § 10.99

§ 116.08 INSURANCE.

(A) Each license applicant shall present proof of insurance coverage naming the city as an additional insured in the following amounts:

(1) Comprehensive general liability insurance insuring against liability imposed by law for bodily injury or death in the sum of an amount set by City Council from time to time by resolution for any one person and in the sum of an amount set by City Council from time to time by resolution for two or more persons for the same occurrence and for damages to property in the sum of an amount set by City Council from time to time by resolution;

(2) Worker's compensation insurance and employer's liability insurance as required by law;

(3) 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; and

(4) Garagekeeper's liability coverage of an amount set by City Council from time to time by resolution.

(B) Every policy referred to in division (A)(2) above shall contain an endorsement providing for 30 days' notice to the Clerk-Treasurer in the event of any material change or cancellation of the policy.

(Prior Code, § 607A)

§ 116.09 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.

(Prior Code, § 607A)

§ 116.10 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 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 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 8,000 pounds, single-line capacity.

(3) Each 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 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 division (A) above except:

(1) Each vehicle shall have a manufacturer-rated capacity of not less than two and one-half tons;

(2) Each 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 32,000 pounds, single or double line capacity; and

(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 the vehicle displayed.

(D) Any vehicle proposed for use in offering towing services shall have emergency lights complying with standards of the state.

(Prior Code, § 607A)

§ 116.11 POWERS AND DUTIES OF THE CHIEF OF POLICE.

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

(Prior Code, § 607A)

§ 116.12 EMERGENCY TOWING SERVICE.

An emergency towing service shall provide the following minimum services.

(A) The service shall provide services with a wrecker or wreckers which meet the vehicular requirements of this chapter.

(B) The service shall provide 24 hour a day, seven day a week service.

(C) The service shall come at all times when summoned by the Chief of Police to remove a disabled vehicle and, when summoned, shall remove the vehicle on all occasions.

(D) The 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, the time not to exceed 20 minutes.

(E) The 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 the 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 the service, the wrecker service shall deposit the vehicle as directed; provided that if

services provided pursuant to this direction would justify additional charges under this chapter, the Chief of Police shall pay the charges.
(Prior Code, § 607A)

§ 116.13 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 chapter 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 the emergency and call any licensed wrecker service at his or her discretion. A record of the departure together with the reason therefor shall be maintained with the record referred to in division (B) above.

(D) In circumstances and situations where the owner of a vehicle subject to emergency towing under this division (D), divisions (A) and (B) above presents the Chief of Police or his or her 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 or her 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 or her designee shall then utilize the provisions of divisions (A) and (B) above to facilitate the required tow.
(Prior Code, § 607A)

§ 116.14 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 the 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 or her agent.
(Prior Code, § 607A) Penalty, see § 10.99

§ 116.15 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 the vehicle.

(Prior Code, § 607A) Penalty, see § 10.99

§ 116.16 TOWING FEES.

(A) No licensed emergency towing service shall charge in excess of an amount set by City Council from time to time by resolution per tow plus applicable tax relative to the towing of any motorcycle, ATV, snowmobile, automobile or light truck towed pursuant to this chapter plus an amount set by City Council from time to time by resolution 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 division (A).

(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 chapter.

(Prior Code, § 607A) (Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

§ 116.17 STORAGE LOT FACILITIES.

(A) All licensed emergency towing services required by this chapter shall maintain a storage lot located within the city limits. Any vehicles towed pursuant to this chapter shall be stored within the confines of that lot; provided, vehicles towed pursuant to § 116.13(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 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 shall be effectively screened from adjacent residential developments to prevent adverse visual or noise impact upon neighborhoods.

(Prior Code, § 607A)

CHAPTER 117: FILLING STATIONS

Section

- 117.01 Definition
- 117.02 License required
- 117.03 Fee

117.04	Transfers
117.05	Eligibility
117.06	Inspections
117.07	Operation

§ 117.01 DEFINITION.

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

FILLING STATION. 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.

(Prior Code, § 608.01) (Ord. 02-12, passed 2-6-2012)

§ 117.02 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.

(Prior Code, § 608.02) (Ord. 02-12, passed 2-6-2012) Penalty, see § 10.99

§ 117.03 FEE.

The annual fee for a filling station shall be an amount set by City Council from time to time by resolution per pump.

(Prior Code, § 608.03) (Ord. 02-12, passed 2-6-2012)

§ 117.04 TRANSFERS.

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

(Prior Code, § 608.04) (Ord. 02-12, passed 2-6-2012)

§ 117.05 ELIGIBILITY.

A filling station license shall be issued only if the premises are in compliance with all applicable Fire Code and Building Code provisions.

(Prior Code, § 608.05) (Ord. 02-12, passed 2-6-2012)

§ 117.06 INSPECTIONS.

Every filling station shall permit the Fire Chief, his or her 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. (Prior Code, § 608.06) (Ord. 02-05, passed 4-4-2005; Ord. 02-12, passed 2-6-2012)

§ 117.07 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 the 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 the motor vehicle while the engine is running. (Prior Code, § 608.07) (Ord. 02-05, passed 4-4-2005; Ord. 02-12, passed 2-6-2012)

CHAPTER 118: SPECIAL EVENTS; PUBLIC DANCING

Section

Special Events

118.01 Application for approval

Public Dancing

118.15 Adoption by reference

118.16 Term

Street Dances

118.30 Permit required

118.31 Hours

118.32 Areas allowed

118.33 Other requirements

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Police Services

118.50 Introduction and purpose

118.51 Description of criteria

118.52 Special events safety

118.53 Special event risk factors

118.54 Factors that increase risk levels for any event

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118.56 Guidelines for event sponsors to consider

118.57 Special events staffing matrix

Cross-reference:

Business licensing, see Ch. 110

Shows, games and exhibitions, see Ch. 113

SPECIAL EVENTS

§ 118.01 APPLICATION FOR APPROVAL.

Any person(s) wishing to hold a special event, to include pyrotechnics, shall apply for approval on forms to be provided by City Hall and the Event Coordinator. The City Council will create by resolution, specific deadlines for all permits and approvals necessary to conduct a special event, which copies thereof will be provided to the city. No special event may be held unless an application as provided for herein has been submitted, fully completed and approved in writing by the City Administrator or designee, Event Coordinator and Public Safety Committee.
(Ord. 02-17, passed 5-1-2017)

PUBLIC DANCING

§ 118.15 ADOPTION BY REFERENCE.

The provisions of state law regarding public dancing are adopted by reference. No person shall conduct a public dance unless he or she has been issued a public dance license.
(Prior Code, § 610.01) (Ord. 02-12, passed 2-6-2012) Penalty, see § 10.99

§ 118.16 TERM.

Dance licenses may be issued for a one-year term or for a one-day term. In addition to the information required by § 118.30, each application shall state whether a one-year or a one-day license is requested.
(Prior Code, § 610.02) (Ord. 02-12, passed 2-6-2012)

STREET DANCES

§ 118.30 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 by virtue of license, fee, title, easement or equity shall apply to the city for a permit for an event. Applications for permits shall be maintained at City Hall.

(Prior Code, § 610.04) (Ord. 09-05, passed 7-18-2005; Ord. 02-12, passed 2-6-2012)

§ 118.31 HOURS.

No public dance, music festival or music celebration as described in § 118.30 shall be permitted to begin before noon, and any music or entertainment presented in connection with the events shall terminate at 12:00 a.m.

(Prior Code, § 610.04) (Ord. 02-12, passed 2-6-2012) Penalty, see § 10.99

§ 118.32 AREAS ALLOWED.

Any public dance, music festival or music celebration for which a permit is required as set forth in § 118.30 shall be restricted to areas of the city zoned commercial, industrial or open space/recreational.

(Prior Code, § 610.04) (Ord. 02-12, passed 2-6-2012) Penalty, see § 10.99

§ 118.33 OTHER REQUIREMENTS.

(A) (1) The City Council will create by resolution, specific deadlines for all applicants for a permit as set forth in § 118.30 and shall submit a formal permit application to the Event Coordinator provided by the city and available at City Hall. No special event may be held unless an application as provided for herein has been submitted, fully completed and approved in writing by the Event Coordinator and Public Safety Committee.

(2) The permittee liability insurance shall provide coverage in an amount no less than the liability limits set forth in M.S. § 466.04, subd. 1, as it may be amended from time to time. Additionally, any monetary deposits or insurance policies procured by the permittee as required by this subchapter shall be delivered to the Event Coordinator no later than the guidelines set by resolution of the City Council, prior to the event.

(B) Any completed application submitted by a permittee shall include specific information regarding:

- (1) Date(s) of the event;
- (2) Time(s) of the event;
- (3) Location;
- (4) Permittee's proposal for traffic and crowd control, police protection and cleanup;
- (5) Expected number of patrons; and

(6) 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. The liability insurance shall provide coverage in an amount no less than the liability limits set forth in M.S. § 466.04, subd. 1, as it may be amended from time to time.

(C) Additionally, any monetary deposits or insurance policies procured by the permittee as required by this subchapter shall be delivered to the City Administrator no later than seven calendar days prior to the event.

(Prior Code, § 610.04) (Ord. 02-12, passed 2-6-2012; Ord. 03-17, passed 5-1-2017)

§ 118.34 INSURANCE AND DEPOSITS.

(A) All permittees shall be required to provide evidence of a general liability policy in the amount as set forth in § 118.33. In addition, if the permittee sells, barter, trades or in any way dispenses alcoholic beverages at the event, the permittee must also provide evidence of dram shop insurance in the minimum amount required by state law. Any policies of insurance shall name the city as an additional insured.

(B) A cleanup deposit of an amount set by City Council from time to time by resolution shall also be posted by the permittee and shall be refundable upon timely satisfactory cleanup. The on-duty city 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 the officer and inspect the area with him or her upon completion of cleanup.

(C) The permittee shall also secure and erect barricades prior to any event as required by the Chief of Police and shall be responsible for timely removal thereof at the conclusion of the event.

(Prior Code, § 610.04) (Ord. 02-12, passed 2-6-2012)

§ 118.35 PUBLIC SAFETY.

(A) The permittee shall provide officers as follows:

(1) Two officers for any event with anticipated attendance of zero to 300 patrons with one additional officer for each additional 200 patrons.

(2) The officers hired by the permittee shall be retained by the permittee under the following priority:

(a) Off-duty city officers;
(b) Officers from a jurisdiction sharing mutual aid agreements with the city; or

(c) As approved by the City Chief of Police; provided, all officers hired under the priority listed in this division (A)(2)(c) shall be licensed, full-time peace officers from a jurisdiction within the state.

(B) 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.

(Prior Code, § 610.04) (Ord. 02-12, passed 2-6-2012)

§ 118.36 FEE.

The permit application fee hereunder shall be per city schedule of charges and fees.

(Prior Code, § 610.04) (Ord. 02-05, passed 4-4-2005; Ord. 02-12, passed 2-6-2012)

POLICE SERVICES

§ 118.50 INTRODUCTION AND PURPOSE.

(A) While there are a variety of considerations utilized to determine the level of police services staffing for each event, the following is compromised of the typical criteria considered by the Police Chief on a case-by-case basis for the majority of special events in the city.

(B) If in the professional judgment of the Chief of Police or his or her designee, an event warrants more than the usual security coverage, event organizers will be advised as soon as thorough assessment of the event can be made. This includes security assessments for physical security (barricades, metal detectors and the like) or police, or other personnel.

(C) Each event will be evaluated and the minimum amount of police services personnel will be assigned to accomplish the security/law enforcement goal for the event.

(D) While the Police Department works closely in event planning with all organizations to provide a reasonably safe environment for special events, the final decision on all event security measures and police services staffing levels is the responsibility of the Chief of Police.

(Ord. 03-15, passed 6-15-2015)

§ 118.51 DESCRIPTION OF CRITERIA.

(A) *Prior history.* If an event is conducted with any level of repetition (annual, each semester, monthly and the like) the Police Department will examine past event history to ascertain if the event usually ran smoothly or had been prone to security problems. Problem events may warrant a higher level of security coverage.

(B) *Estimated crowd size.* Each event will be assessed on the basis of past history for the estimated crowd size versus actual crowd size. If repeat events are prone

to low crowd estimates but history has shown larger than estimated crowd actually attends the event, then security coverage will be estimated upward.

(C) *Impact on public property and/or surrounding community.* In order to control any adverse impact (crowd management issues, traffic considerations and the like) as the result of a certain type of event, staffing and physical security measures may be increased.

(D) *Location of event.* Events that require controlled access and which have many potential entry points to the event venue normally require a higher level of staffing and physical security measures.

(E) *Advertising.* Events that are advertised in the media beyond the community may require a higher degree of security consideration (staffing, physical security and the like).

(F) *Higher profile or VIP speakers or subject matter.* Celebrities, controversial speakers and some politicians may require “dignitary protection” measures that normally go beyond normal event security measures. Similarly, events that have controversial or highly charged subject matter may warrant special security consideration.

(G) *Money exchange.* Events which involve the selling of tickets or merchandise normally require a police detail.
(Ord. 03-15, passed 6-15-2015)

§ 118.52 SPECIAL EVENTS SAFETY.

(A) The City Police Department recognizes the rights of individuals to engage in constitutionally protected free speech and public assembly. The Police Department also recognizes its responsibility to protect the rights of persons who choose to engage in the activity in a reasonable manner.

(B) However, when the activity infringes on the rights and safety of others, the activity loses constitutional protection and may become a violation of law, city policy or union contractual agreements.

(C) (1) The Police Department is one of the departments that must be involved in the pre-planning and research of all major special events held in the city.

(2) The reasons for detailed planning are:

(a) To provide a safe and secure environment;
(b) To prevent crime;
(c) To maintain order;
(d) To protect persons and property;
(e) To respond to and implement emergency services when required;

(f) To prepare for and request necessary emergency and non-emergency services; and

(g) To determine the best methods for achieving these goals in a cost effective manner.

(Ord. 03-15, passed 6-15-2015)

§ 118.53 SPECIAL EVENT RISK FACTORS.

(A) (1) The following risk factors often influence the staffing levels indicated on the matrix guide.

(2) These factors will be discussed with event organizers with the goals of:

(a) Reducing risk; and

(b) Making the event successful.

(B) The Police Department looks at special events at three different risk levels. Those levels are identified as low, medium and high. Each event has factors attached that may increase or decrease the risk level which affect staffing.

(Ord. 03-15, passed 6-15-2015)

§ 118.54 FACTORS THAT INCREASE RISK LEVELS FOR ANY EVENT.

(A) The need for personal protection for speakers, performers or guests;

(B) Guest(s) will be in the city at multiple locations;

(C) Out of city advertising (non-city guests);

(D) Cash protection/deliveries;

(E) Anticipation of large ticket sales (or oversell);

(F) Night time event;

(G) Outdoor venue;

(H) Live/amplified entertainment;

(I) Multiple events on the same day;

(J) Venues with multiple entrances;

(K) Traffic control needs;

(L) Sales of alcoholic beverages;

(M) Lack of significant number of toilets;

(N) Lack of timely notification to the Police Chief and City Police Department;

and

(O) Other factors determined by the Police Chief.

(Ord. 03-15, passed 6-15-2015)

§ 118.55 FACTORS THAT DECREASE RISK LEVELS FOR ANY EVENT.

(A) Guest(s) will be in the city at one general location;

(B) Events limited to city residents, those employed in the city;

(C) Competing event elsewhere will affect attendance;

(D) Patrons are screened for weapons at the entrance;

(E) Prior events of similar nature with no history of safety problems or required police actions;

(F) Day time event;

(G) Indoor venue;

(H) Shorter duration of event;

- (I) Historically poor ticket sales;
- (J) Student affairs oversight and presence at students events;
- (K) Formal or semi-formal events; and
- (L) Other factors determined by the Police Chief.

(Ord. 03-15, passed 6-15-2015)

§ 118.56 GUIDELINES FOR EVENT SPONSORS TO CONSIDER.

- (A) Have you given sufficient notification to the Police Chief regarding your event?
- (B) Will the event impact other events, city traffic or surrounding community in any way?
- (C) What special safety considerations should be taken for day versus nighttime events?
- (D) How will the size of the crowd that gathers before and after the event impact our community?
- (E) How will potential complaints regarding noise, litter, parking, lack of toilets and loitering be mitigated?
- (F) Does the event have proper insurance/liability coverage?
- (G) What if it rains?
- (H) Can medical or emergency personnel get into the venue without complications?
- (I) What is the maximum capacity of the venue?
- (J) What potential threats need to be shared with the Police Chief?

(Ord. 03-15, passed 6-15-2015)

§ 118.57 SPECIAL EVENTS STAFFING MATRIX.

The Police Department staffing matrix is a guideline to assist the planner in reasonably predicting the staffing levels necessary for the event. The number of the personnel assigned may vary as dictated by the nature of the particular event, or as calculated to be necessary by the Police Department and those responsible for the event. Ultimately, the decision of the Police Department regarding its deployment will prevail.

<i>Police Department Staffing Matrix</i>							
	<i>Low Risk</i>		<i>Medium Risk</i>		<i>High Risk</i>		
<i>Estimated # of Attendance</i>	<i>0—100</i>	<i>101—200</i>	<i>201—500</i>	<i>501—1,000</i>	<i>1,001—2,000</i>	<i>2,001—3,000</i>	<i>3,000+</i>
Dances	0	2 PS	2 O 2 PS	2 O	6 O 1 S 4 PS	8 O 1 S 6 PS	2 Add'l. O
Fairs/festivals	0	0	2 O 1 S	3 O	5 O 1 S 4 PS	6 O 1 S 10 PS	2 Add'l. O
Invited guests/speakers	2 O	2 O	2 O 1 S	3 O	4 O 1 S	6 O 1 S	2 additional

Police Department Staffing Matrix							
	Low Risk		Medium Risk		High Risk		
Estimated # of Attendance	0—100	101—200	201—500	501—1,000	1,001—2,000	2,001—3,000	3,000+
							O for each 500
Live concerts	0	2 PS	2 O 4 PS	3 O 1 S 8 PS	5 O 1 S 8 PS	9 O 2 S 10 PS	2 Add'l. O
Sports, dirt track racing, film shoots, foot races, parades	TBD by Police	TBD by Police	TBD by Police	TBD by Police	TBD by Police	TBD by Police	TBD by Police
Key O - Officers S - Sergeant PS - Private Security*							
* The definition of PRIVATE SECURITY FOR SPECIAL EVENT STAFFING is off duty police officers approved by the Police Chief							

(Ord. 03-15, passed 6-15-2015)

CHAPTER 119: SEXUALLY ORIENTED BUSINESSES

Section

- 119.01 Purpose, findings and conclusion
- 119.02 Definitions
- 119.03 Location restrictions
- 119.04 Regulated uses
- 119.05 Licensing
- 119.06 Inapplicability of M.S. § 617.242

- 119.99 Penalty

§ 119.01 PURPOSE, FINDINGS AND CONCLUSION.

(A) *Purpose.* The purpose of this chapter is to control and regulate certain land uses that have a direct and detrimental effect on the character of the city's residential and commercial neighborhoods.

(B) *Findings.* The City Council makes for the following findings regarding the effect of where 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 the 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 the businesses are located.

(4) The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on the area in which the 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 the businesses is perceived by others 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 the 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 regulations, recognizing that it has a great interest in the present and future character of the city's residential and commercial neighborhoods.
(Prior Code, § 612) (Ord. 02-12, passed 2-6-2012)

§ 119.02 DEFINITIONS.

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

ADULT CABARET. A building or portion of a business used for providing dancing or other live entertainment, if the building or portion of a building excludes minors by virtue of age, or if 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.

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 an 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.

ADULT HEALTH/SPORT CLUB. A health/sport club which excludes minors by reason of age, or if the 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.

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 any material, for sale to patrons therein. It shall be presumed that an establishment is an **ADULTS-ONLY BOOKSTORE** if 10% or more of its floor space is devoted to the materials.

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 10% or more of its floor space is devoted to those materials.

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 the 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.

ADULT SAUNA. An establishment or place primarily in the business of providing:

- (1) A steam bath or hot air bathing; and/or
- (2) Massage services which excludes minors by reason of age where the service(s) is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for patrons.

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 the 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.

MASSAGE PARLOR. A massage parlor which restricts minors by reason of age, or which provides the service of massage, if the 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.

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.

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.

SEXUAL CONDUCT. Acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's unclothed genitals, pubic area, buttocks, or, if the person be a female, her breast.

SEXUAL EXCITEMENT. The condition of human male or female genitals when in a state of sexual stimulation or arousal.

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.

(Prior Code, § 612) (Ord. 02-12, passed 2-6-2012)

§ 119.03 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 1,000 feet of a residential zone;
(2) Be operated or maintained within 1,000 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 2,000 feet of another sexually oriented business;

(4) In regard to distance limitations set forth herein, be measured in a straight line from the primary structure of the premises in commercially-zoned districts or from the demarcation lines of residential zones; and

(5) Be located in the same building or upon the same property as another use.

(Prior Code, § 612) (Ord. 02-12, passed 2-6-2012) Penalty, see § 119.99

§ 119.04 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; and

(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 a.m.; and
- (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; and
- (2) Employing dancers or other live entertainers shall maintain a distance of at least four 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; and
- (2) Shall not allow the patrons of the business to make direct payment/gratuities to its dancers or other live entertainers.

(Prior Code, § 612) (Ord. 02-12, passed 2-6-2012) Penalty, see § 119.99

§ 119.05 LICENSING.

(A) *Basic provisions for licensing; 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 chapter.

(B) *License process.*

(1) *Application.* Every application for a license under this section shall state the name of the applicant, his or her age, representations as to his or her character with the references as the Council may require, his or her 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 or she has been in that business at that place, and any other information as the Council may require from time to time. In addition, the application shall be verified and filed with the Clerk-Treasurer. 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 nonresident of the state;
- (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; and

(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 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 chapter.

(D) *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 chapter, 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 chapter is grounds for revocation or suspension of the license. A license granted under this chapter 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 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 60 days. Repeated violations (more than two) by the same licensee, its heirs or assigns, may be subject to revocation of the 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 chapter 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 chapter shall be open at all reasonable hours for inspection by any peace officer, or other properly designated officer of the city. Refusal to permit the inspection shall be a violation of this code.

(F) *Licensee responsibility.* Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of order.

(Prior Code, § 612) (Ord. 02-05, passed 4-4-2005; Ord. 02-12, passed 2-6-2012)
Penalty, see § 119.99

§ 119.06 INAPPLICABILITY OF M.S. § 617.242.

M.S. § 617.242, as it may be amended from time to time, does not apply to or in the city. The section is also inapplicable to or in the city as to any portion of the operations of sexually oriented businesses that are not regulated by this chapter but which may otherwise have been subject to it.

(Prior Code, § 612) (Ord. 04-07, passed 7-2-2007; Ord. 02-12, passed 2-6-2012)

§ 119.99 PENALTY.

A violation of this chapter shall be a misdemeanor under state law.
(Prior Code, § 612) (Ord. 02-12, passed 2-6-2012)

CHAPTER 120: ALCOHOL

Section

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MUNICIPAL LIQUOR STORE

§ 120.001 LIQUOR STORE ESTABLISHED.

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% of alcohol by weight in sealed or closed receptacles or containers to be consumed off or away from the premises.

(Prior Code, § 701.01)

§ 120.002 LOCATION AND OPERATION.

(A) *Location.* The liquor store or stores shall be at a place or places as the Council shall determine by motion and may be either leased or owned by the municipality.

(B) *Operation.* The 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 compensation as the Council shall determine. The manager shall have full charge of the operation of the store or stores and shall have authority to purchase 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 or her possession in the operation of the 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.

(Prior Code, § 701.02)

§ 120.003 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 the amount shall be reimbursed to the General Fund out of the first moneys 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.
(Prior Code, § 701.03)

§ 120.004 HOURS OF OPERATION.

- (A) *General.* The municipal store or stores shall at all times observe the following on the hours of operation.
- (B) *Intoxicating liquor; off-sale.*
- (1) No sale of intoxicating liquor may be made by an off-sale licensee:
- (a) On Sundays, except between the hours of 11:00 a.m. and 6:00 p.m.;
- (b) Before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;
- (c) On Thanksgiving Day;
- (d) On Christmas Day, December 25; and
- (e) After 8:00 p.m. on Christmas Eve, December 24.
- (2) Sunday sale is permitted in accordance to M.S. § 340A.504, subd. 4, as it may be amended from time to time. These hours may be further limited by Council resolution.
- (Prior Code, § 701.04) (Ord. 07-05, passed 6-6-2005; Ord. 04-17, passed 6-19-2017)
Penalty, see § 120.999

§ 120.005 REGULATION.

- (A) *Gambling.* No person on the premises of the municipal liquor store shall keep, possess or operate on the 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 the premises; nor shall any person of known immoral character or any disorderly person be permitted on the premises. Charitable or other regulated gambling, as allowed by state law and local ordinance, may be permitted.
- (B) *Other business.* No other business than the sale of liquor and related items, as previously set forth in this chapter, shall be carried on by the store or by any person employed therein during the time so employed.
- (C) *Intoxicated persons.* No liquor shall be sold to any person who is in an intoxicated condition.
- (D) *Underaged persons.* No liquor shall be sold to any person under the age of 21 years.

(E) *Health inspection.* The premises occupied by the liquor store shall be duly inspected by the health officer of the county as required by law.

(F) *Loitering.* No person shall be permitted to loaf or loiter about the store habitually.

(G) *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 the 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.

(Prior Code, § 701.05) Penalty, see § 120.99

3.2% MALT LIQUOR

§ 120.020 DEFINITIONS.

(A) The provisions of M.S. Ch. 340A, as it may be amended from time to time, applicable to the sale of 3.2% malt liquor are adopted herein by reference.

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

3.2% MALT LIQUOR. Any beverage containing alcohol of more than 1.5% by volume and not more than 3.2% by weight.

PREMISES. An establishment for the sale of 3.2% malt liquor.

TAPROOM. A room that is ancillary to the production of beer at a production brewery where the public can purchase and/or consume only the beer provided on site.

TEMPORARY. A period not to exceed three days. Sales made pursuant to any **TEMPORARY** license shall meet all other requisites of this chapter.

WINE. As defined by M.S. Ch. 340A, as it may be amended from time to time. The holder of an on-sale wine license who also hold an on-sale 3.2% malt liquor license is authorized to sell malt liquor with content over 3.2% (strong beer) without an additional license.

(Prior Code, § 702.01) (Ord. 02-10, passed 4-19-2010; Ord. 01-14, passed 4-7-2014; Ord. 05-15, passed 1-4-2016)

§ 120.021 LICENSE REQUIRED.

(A) *Licenses.*

(1) 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.

(2) Licenses shall be of three kinds:

(a) Regular "on-sale";

(b) Temporary "on-sale"; and

(c) "Off-sale".

(B) *Regular on-sale.* Regular "on-sale" licenses shall be granted only to bona fide clubs, retail establishments holding wine or 3.2% 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 3.2% 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 3.2% malt liquor for consumption on the premises only.

(D) *Off-sale.* "Off-sale" licenses shall permit the sale of wine or 3.2% malt liquor at retail in the original package for consumption off the premises only. (Prior Code, § 702.01) (Ord. 08-07, passed 1-22-2008; Ord. 02-10, passed 4-19-2010; Ord. 05-15, passed 1-4-2016) Penalty, see § 120.99

§ 120.022 LICENSE APPLICATIONS.

(A) *Applications.* Every application for a license to sell wine or 3.2% malt liquor shall be made on forms to be supplied by the city setting forth the name of the applicant, his or her age, representations as to his or her character with references such as may be required, his or her citizenship, the location where the 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 the business, the time the applicant has been in that business at that place, and any 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.*

(1) Prior to the issuance of a wine, 3.2% malt liquor license of the types described in § 120.021, as applicable, each license applicant shall provide the Clerk-Treasurer with a notarized affidavit in a form and manner set forth and provided by the city, which shall state:

(a) The applicant's gross annual sales of 3.2% malt liquor will not equal or exceed an amount set by City Council from time to time by resolution for the year for which the license is sought; or

(b) The applicant's gross annual sales of 3.2% malt liquor will equal or exceed an amount set by City Council from time to time by resolution for the year for which the license is sought.

(2) If a wine license is sought, that applicant is and shall remain in compliance with M.S. Ch. 340A, as it may be amended from time to time.

(C) *Security.* In the event that an applicant for a 3.2% malt liquor license submits a notarized statement under division (B) above which states that the gross 3.2% malt liquor sales of the applicant will equal or exceed an amount set by City Council from time to time by resolution for the license year, the applicant shall file with the Clerk-Treasurer a liability insurance policy in an amount set by City Council from time to time by resolution coverage for one person and an amount set by City Council

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from time to time by resolution coverage for more than one person. The policy must comply with the provisions of M.S. § 340A.301, as it may be amended from time to time, regarding liability insurance policies.

(D) *Auditing right.* The city 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 division (A) above. The audit may be conducted after the Liquor Committee of the City Council has considered the matter and recommended to the City Council that the audit be undertaken. The City Council may or may not order an audit based upon the Liquor Committee's recommendations.

(Prior Code, § 702.01) (Ord. 02-10, passed 4-19-2010) Penalty, see § 120.99

§ 120.023 FORM OF AFFIDAVIT.

<i>AFFIDAVIT OF LICENSEE</i>
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 3.2% 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 the gross wine or 3.2% malt liquor sales, that the gross wine or 3.2% malt liquor sales for the current license year, 20_____, will/will not (<i>strike one inapplicable term</i>) <i>equal or exceed Twenty-Five Thousand and no/100ths Dollars (\$25,000), the 20_____ gross beer sales being presently estimated to equal approximately</i> _____.
Further your affiant saith not. _____
Licensee's Designated Representative _____
Subscribed and sworn to before me this _____ day of _____, 20_____ _____.
Notary Public _____

(Prior Code, § 702.01) (Ord. 01-06, passed 6-5-2006; Ord. 02-10, passed 4-19-2010)

INTOXICATING LIQUOR

§ 120.035 BASIC PROVISIONS FOR LICENSING.

(A) *Generally.*

(1) The provisions of M.S. Ch. 340A, as may be amended from time to time, applicable to the sale of intoxicating liquor are adopted herein by reference.

(2) The term **LIQUOR** herein means intoxicating liquor as defined in M.S. Ch. 340A, as may be amended from time to time.

(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 subchapter.

(C) *Off-sale prohibited.* There shall be no off-sale of any intoxicating liquor by any person or corporation within the city except as allowed under §§ 120.001 through 120.005 (municipal liquor store).

(D) *On-sale licenses.* There shall be allowed "on-sale" licenses as enumerated within M.S. Ch. 340A, as may be amended from time to time, the licenses to be limited in their issuance to only restaurants or hotels with seating capacities of 30 guest seats or more, except as provided in §§ 120.036 and 120.037, pertaining to restaurant licenses and developmental licenses, respectively.

(E) *Brewery taproom license.* A brewery taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer.

(Prior Code, § 702.02) (Ord. 05-15, passed 1-4-2016)

§ 120.036 RESTAURANT LICENSES.

(A) *Definition.* For purposes of the issuance of a restaurant liquor license within the purview of this 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% 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 an amount set by City Council from time to time by resolution as to the building or portions of the building associated with liquor sales.

(B) *Sale, sell, sold.* **SALE**, **SELL** and **SOLD** mean all barbers and all manners or means of furnishing alcoholic beverages to persons, including the 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").

(Prior Code, § 702.02) (Ord. 01-08, passed 2-19-2008) Penalty, see § 120.99

§ 120.037 DEVELOPMENTAL LICENSES.

For purposes of the issuance of a developmental liquor license within the purview of this 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 150 full-time employees outside of the licensed establishment.

(Prior Code, § 702.02) Penalty, see § 120.99

§ 120.038 BREWERY TAPROOM LICENSES.

This license may be issued to the holder of a brewer's license under M.S. § 340A.301, as may be amended from time to time.

(A) *Conditions for brewery taproom license.*

(1) A brewer may hold only one brewer taproom license under this section, and may not have an ownership of another brewery.

(2) The on-sale of malt liquor may only be sold Monday through Saturday, unless a Sunday sales license is obtained, and during the hours that "on-sale" of liquor may be made.

(3) A brewery must demonstrate compliance with all zoning standards pertaining to production breweries.

(4) All other provisions of this chapter shall be applicable to the licenses and licensees unless inconsistent with the provisions of this section.

(B) *Preclude.* Nothing in this section shall preclude the holder of a brewer taproom license from also holding a license to operate a restaurant at the taproom location.

(Ord. 05-15, passed 1-4-2016) Penalty, see § 120.99

§ 120.039 LICENSE PROCESS.

(A) *Application.*

(1) Every application for a license to sell liquor shall state the name of the applicant, his or her age, representations as to his or her character with references such as the Council may require, his or her 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 or she has been in that business at that place, and any other information as the Council may require from time to time.

(2) In addition to containing this information, the application shall be in the form prescribed by the Commissioner of Public Safety and shall be verified and filed with the Clerk-Treasurer. 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 Clerk-Treasurer a liability insurance policy which shall comply with the

provisions of M.S. Ch. 340A, as may be amended from time to time, relating to liability insurance policies and shall include the minimum limits of coverage specified herein. (Prior Code, § 702.02) (Ord. 05-15, passed 1-4-2016) Penalty, see § 120.99

CLUB LICENSING

§ 120.050 ADOPTION BY REFERENCE.

The regulatory provisions of M.S. Ch. 340A, as it may be amended from time to time, are hereby adopted by reference as they apply to club licenses. (Prior Code, § 702.03)

§ 120.051 STATE PERMIT REQUIRED.

(A) 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.

(B) This requirement shall include the consumption and display of 3.2% malt liquor for which a permit shall also be necessary under this subchapter. (Prior Code, § 702.03) Penalty, see § 120.99

§ 120.052 INSPECTIONS.

(A) 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 or her designated agents, and any peace officer, health officer or other properly designated officer of the city.

(B) Refusal to permit the inspection shall be a violation of this code. (Prior Code, § 702.03) Penalty, see § 120.99

§ 120.053 ONE DAY PERMITS.

(A) 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 the permit with the Commissioner of Public Safety and a copy thereof with the Clerk-Treasurer.

(B) Any permit fee specified by state law shall be remitted to the Commissioner. (Prior Code, § 702.03)

LIQUOR LICENSING PROCEDURE

§ 120.065 DEFINITIONS.

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

ON-SALE. The sale of any product licensed hereunder for consumption on the premises where sold.

OFF-SALE. The sale of any product licensed hereunder for consumption off the premises where sold.

(Prior Code, § 702.04)

§ 120.066 FEES.

(A) *Municipal liquor store.* There shall be no fee collected by the city from its municipal liquor store for the granting of its franchise or right to operate.

(B) *3.2% malt liquor.*

(1) *“On-sale”.* The annual fee for an “on-sale” license shall be as set forth in the city schedule of charges and fees.

(2) *“Off-sale”.* The annual fee for an “off-sale” license shall be as set forth in the city schedule of charges and fees.

(3) *“Temporary.”* The fee for a “temporary” license shall be as set forth in the city schedule of charges and fees.

(C) *Intoxicating liquor.*

(1) *“Off-sale”.* There shall be no “off-sale” intoxicating liquor licenses issued by the city.

(2) *“On-sale”.* The annual fee for an “on-sale” license shall be as set forth in the city schedule of charges and fees.

(3) *“Temporary”.* The fee for a “temporary” license shall as set forth in the city schedule of charges and fees.

(D) *Club licenses.*

(1) *“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.

(2) *“Off-sale”.* No “off-sale” club licenses shall be issued by the city.

(3) *One day “on-sale”.* The license fee for a one day “on-sale” club license issued under this subchapter shall be as set forth in the city schedule of charges and fees.

(4) *Sunday “on-sale”.* Sunday “on-sale” liquor licenses may be granted by the City Council as per this subchapter. 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.

(Prior Code, § 702.04) (Ord. 01-05, passed 3-7-2005; Ord. 02-05, passed 4-4-2005; Ord. 06-05, passed 6-6-2005; Ord. 08-07, passed 1-22-2008)

§ 120.067 APPLICATION PROCESS.

(A) *Payment of fee.* Each application for a license issued pursuant to this subchapter 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 the 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 January 1 or July 1, 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 the 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 the date shall be stated on the license.

(C) *Refunds.* No part of the fee paid for any license issued under this section shall be refunded except in the following instances upon application to the Council within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, 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; or
- (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 the 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 the 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.*

(1) Any application granted for the inclusion of non-enclosed premises in the licensed premises will be granted upon the terms and conditions as the Council may specify in granting the application relating to the limits of the use including provisions relating to:

- (a) Barriers to be maintained delineating the unenclosed area such as requiring planters, walls or fences;
- (b) Proposed lighting;
- (c) Types of chairs and/or tables used and/or means to secure the same;
- (d) Personnel required to supervise the proposed area;
- (e) Items required by applicable fire, health, building and life safety codes;
- (f) Maximum number of persons who may be present at any one time;
- (g) Means and methods used to restrict consumption to the licensed area and prevent removal or consumption of beverages outside licensed areas;
- (h) The type of beverage containers used;
- (i) Sanitary facilities provided, their location and number;
- (j) Days and times that the non-enclosed area would be used by the licensee; and
- (k) Outdoor music, entertainment and all other activities proposed.

(2) 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.

(Prior Code, § 702.04) (Ord. 02-05, passed 4-4-2005; Ord. 06-05, passed 6-6-2005; Ord. 08-07, passed 1-22-2008)

§ 120.068 DENIAL OF LICENSE.

(A) No license shall be granted to or held by any person who:

- (1) Is under 21 years of age;

- (2) Is a manufacturer of 3.2% malt liquor or intoxicating liquor or is interested in the control of any place where the liquor is manufactured;
 - (3) Is an alien or nonresident of the state;
 - (4) Is not of good moral character;
 - (5) Is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him or her a local license to sell intoxicating liquor at the place; or
 - (6) Is not the proprietor of the establishment for which the license is issued.
- (B) 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 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 3.2% malt liquor.
(Prior Code, § 702.04)

§ 120.069 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 subchapter 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.
(Prior Code, § 702.04)

§ 120.070 SUSPENSION/REVOCATION PROCESS.

The violation of any provision or condition of this subchapter or any other ordinance or state law or regulation relating to the sale, use or possession of 3.2% malt liquor or intoxicating liquor by a 3.2% malt liquor licensee or his or her 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 the place shall be revoked without notice and without hearing. In all other cases, a license granted under this subchapter may be revoked or suspended by the Council after written notice to the licensee and a public hearing 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 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 60 days. Repeated violations (more than two) by the same licensee, its heirs or assigns, may be subject to revocation of the license through the hearing process.

(Prior Code, § 702.04)

§ 120.071 REGULATION OF HOURS AND CONDUCT.

(A) *Hours of operation.*

(1) On any licensed premises, no sale of any 3.2% malt liquor or intoxicating liquor shall be authorized under this subchapter before 8:00 a.m. Sunday nor after 2:00 a.m. on Monday provided that the licensee is permitted to engage in those sales after 1:00 a.m. pursuant to M.S. Ch. 340A, as it may be amended from time to time. No sale shall be authorized between the time set for the cessation of consumption and 8:00 a.m. on any other day.

(2) No licensee or his or her agent shall allow another person to consume alcohol on a licensed premises from that period 30 minutes after sales are ceased by this subchapter 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 30-minute grace period. Bottles and containers stored behind the bar with sealed lids, tappers or spout stoppers shall be considered corked.

(3) All patrons of the establishments shall be required to leave the licensed premises no later than 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:

- (1) To a person under the age of 21 years;
- (2) To a person in an intoxicated condition; or
- (3) 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.*

(1) 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 ordinances may be permitted.

(2) No underage person (person under 21) shall be allowed to consume 3.2% malt liquor or intoxicating liquor on a licensed premises.

(3) 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 3.2% malt liquor or intoxicating liquor in violation of this subchapter.

(4) (a) No sales by a licensee hereunder shall be allowed on Sundays unless a Sunday "on-sale" liquor license is purchased.

(b) 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 subchapter. Restaurants and hotels so licensed shall have facilities for serving not less than 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. The licenses issued to hotels and restaurants must be utilized by the establishments in conjunction with the serving of food.

(5) Interest of manufacturers or wholesalers: no manufacturer or wholesaler of 3.2% malt liquor shall have any ownership of or interest in any establishment licensed to sell at retail contrary to the provisions of M.S. § 340A.38, as it may be amended from time to time. No retail licensee and manufacturer or wholesaler of 3.2% 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 3.2% malt liquor, and no manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

(6) No person shall consume, mix or prepare intoxicating liquor for barter, display or sale in any public place or business unless licensed under this subchapter.

(7) Liquor dealer's stamp: no licensee shall sell 3.2% malt liquor while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he or she is licensed under the laws of the state to sell intoxicating liquors.

(8) 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 a licensee shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this subchapter. 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.

(Prior Code, § 702.04) (Ord. 06-15, passed 1-19-2016) Penalty, see § 120.99

§ 120.072 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 M.S. Ch. 340A, as it may be amended from time to time, 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. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMPLIANCE CHECKS. 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 21 as authorized by this section.

INTOXICATING AND NON-INTOXICATING LIQUOR. Alcoholic beverages as referred to in this subchapter are intended to refer to both intoxicating and non-intoxicating liquors as those terms are defined by Minnesota Statute and in this subchapter.

MINOR. Any natural person who has not yet reached the age of 18 years.

SALE. Any transfer of goods for money, trade, barter or other consideration.

UNDERAGE ADULT. Any natural person who is an adult but who has not yet reached the legal age for the consumption of intoxicating or non-intoxicating beverages as defined by then existing Minnesota Statutes.

(C) *Responsibility.*

(1) *Enforcement.* It shall be the duty of all police officers of the city to enforce the provisions of this subchapter 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 or her designated agents, and any peace officer, health officer or other properly designated officer of the city. Refusal to permit the 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 premises, and for purposes of this subchapter the sale of 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 or her place of business and shall maintain conditions of sobriety and order.

(D) *Citation process and right to a hearing.* Upon discovery of a violation of this section 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 section will be payable to the City Administrator. 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 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 days of the hearing.

(E) *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.

(F) *Compliance checks and inspections.*

(1) *Generally.* 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.

(2) *Mandatory keg registration.* As of the date of the adoption of this section codified in this subchapter, 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 driver's 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 for a minimum of one 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.

(G) *Exceptions and defenses.* Nothing in this subchapter 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 subchapter for a person to have reasonably relied on proof of age as described by law.

(H) *Severability and savings clause.* If any section or portion of this subchapter 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 subchapter.

(l) *Judicial review.* Any person who maintains they are aggrieved by a decision pursuant to this section may have the decision reviewed in the district court consistent with M.S. § 462.361, as it may be amended from time to time.
(Prior Code, § 702.04) Penalty, see § 120.99

PUBLIC CONSUMPTION OF ALCOHOL

§ 120.085 VIOLATIONS.

No person shall consume 3.2% malt liquor or intoxicating liquor on a public street, highway, sidewalk, in a public park or upon any other publicly owned property.
(Prior Code, § 703.01) (Ord. 02-05, passed 4-4-2005) Penalty, see § 120.99

§ 120.086 PERMITS.

The public body governing and controlling the public property may, upon notice to the City Police Department, permit the consumption in limited areas maintained for that purpose.
(Prior Code, § 703.01)

§ 120.087 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 §§ 120.021(C) or 120.053, shall be exempt from the provisions of this subchapter; provided that all other requisites of this chapter have been complied with.
(Prior Code, § 703.01)

§ 120.999 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any licensee’s designated representative who misrepresents his or her annual gross 3.2% malt liquor sales or projected sales under § 120.022(A) as described in the required affidavit (§ 120.023) filed with the Clerk-Treasurer shall be guilty of a misdemeanor.
(Prior Code, § 702.01)

(C) (1) Notwithstanding the provisions in § 120.072(A) through (C), the clerk or employee specifically involved in a compliance check violation or determined to have violated §§ 120.065 through 120.072 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.

(2) It is hereby determined that the following penalty schedule is adopted.

(a) A first offense violation will result in an administrative fee of an amount set by City Council from time to time by resolution to the merchant license holder and a penalty fee of an amount set by City Council from time to time by resolution 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 14 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 24 months of the first violation will result in an administrative penalty of an amount set by City Council from time to time by resolution to any clerk or bartender previously cited within 24 months and an administrative penalty of an amount set by City Council from time to time by resolution to any merchant/licensee whose clerk was previously cited for a violation of §§ 120.065 through 120.072 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 an amount set by City Council from time to time by resolution if the merchant license holder can provide proof that his or her employees have attended staff ID training as approved by the city within 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 24 months will result in an administrative penalty of an amount set by City Council from time to time by resolution to any clerk or bartender cited with two prior violations of §§ 120.065 through 120.072 and will result in an administrative penalty of an amount set by City Council from time to time by resolution to any merchant/licensee whose clerk was previously cited for a violation of §§ 120.065 through 120.072 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 an amount set by City Council from time to time by resolution if the merchant license holder can provide proof that his or her employees have attended staff ID training as approved by the city within 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 24-month period by a licensee will result in a penalty fee of an amount set by City Council from time to time by resolution to the merchant/license holder. The merchant/license holder will also be required to provide proof that his or her employees have attended staff ID training as approved by the city within 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.

(3) All administrative fees imposed by §§ 120.065 through 120.072 are deemed payable within 60 days of the date of citation or no later than 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.

(D) Failure to comply with § 120.072(F) will result in an administrative penalty of an amount set by City Council from time to time by resolution for a first offense and of an amount set by City Council from time to time by resolution for a second or any subsequent offense.

(Prior Code, § 702.04)

(E) Any violation of §§ 120.085 through 120.087 shall constitute a petty misdemeanor with a fine subject to the city administrative fine schedule.

(Prior Code, § 703.01)

(Ord. 02-05, passed 4-4-2005; Ord. 02-10, passed 4-19-2010)

CHAPTER 121: SHORT-TERM VACATION RENTALS

Section

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§ 121.01 PURPOSE.

The purpose of this chapter is to ensure that the short-term rental of dwelling units within the city is conducted, operated and maintained in a manner so as to protect the public health, safety and welfare of the citizens of the city, and so as to not become a nuisance to the surrounding neighborhood.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.02 DEFINITIONS.

The following terms, as used in this chapter, shall have the meanings stated in this section.

DWELLING. Any building, or portion thereof, which is designed for or used for residential purposes.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit equipped and intended to be used for living, sleeping, cooking and eating.

ON-PREMISES SIGN. As defined in § 155.227.

OPERATE. To charge a rental charge for the use of a unit in a dwelling.

OWNER. Any person who, alone or jointly or severally with others:

(1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, prime tenant, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this section, to the same extent as if that person were the owner.

PERSON. Any individual, firm, corporation, association or partnership.

RECREATIONAL VEHICLE. Any of the following:

(1) **MOTOR HOME.** A portable, temporary building to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

(2) **PICK-UP COACH.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

(3) **TRAVEL TRAILER.** A vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a **TRAVEL TRAILER** by the manufacturer of the trailer.

SHORT-TERM RENTAL. The rental or lease of a dwelling unit, in whole or in part, for 30 days or less.

SHORT-TERM RENTAL PERMIT. The permit issued by the city for the rental or lease of a dwelling unit, in whole or in part, for 30 days or less.

SOLID WASTE. Garbage, refuse or any other discarded solid organic or inorganic materials.

TENANT. Any person who is occupying a dwelling unit, in whole or in part, under any agreement (written or oral), lease or contract.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.03 EXEMPTIONS.

This chapter shall not apply to hospital units or rooms, nursing homes, retirement homes, hotels, motels, bed and breakfasts, or other similar rental space that is otherwise licensed by the state or the city.
(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.04 LICENSE REQUIRED.

No owner shall undertake the short-term rental of any dwelling unit to a tenant or tenants unless properly permitted by state, county and any other governmental regulations, and as hereinafter provided.
(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.05 APPLICATION.

An owner desiring to undertake or allow the short-term rental of a dwelling unit in the city shall apply for a short-term rental license. The application shall be submitted by the owner. The permit application shall be on a form prescribed by the city and shall include all required information.
(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.06 LODGING TAX.

Short-term rentals are subject to lodging tax as provided for in the city code. An application for a short-term rental license must be accompanied by a lodging tax form, as prescribed by the city, including all required information. A short-term rental permit holder is required to file monthly lodging tax reports.
(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.07 EXPIRATION OF LICENSE.

A short-term rental license shall expire annually on December 31, unless suspended or revoked as provided for in this chapter.
(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.08 RENEWAL OF LICENSE.

Applications for the renewal of an existing short-term rental license must be made at least 60 days prior to the expiration of the current short-term rental license. All such applications shall be made to the city on forms provided by the city.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.09 PERMITTED PREMISES.

Short-term rentals shall only be licensed for dwelling units located on conforming lots as defined in the zoning ordinance. All licensed premises must be hooked up to city water and sewer services.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.10 RECREATIONAL VEHICLES.

The short-term rental of recreational vehicles parked or otherwise located on property outside of designated campsites within the city is prohibited.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.11 LICENSES NOT TRANSFERABLE.

No short-term rental licenses shall be transferable to another person or another dwelling unit. Every person holding a short-term rental license shall give notice in writing to the city within five business days after having legally transferred or otherwise disposed of the legal control of any dwelling unit for which a short-term rental license has been issued. Such notice shall include the name and address of the person succeeding to the ownership or control of such dwelling unit.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.12 REGISTERED AGENT REQUIRED.

No short-term rental permit shall be issued without the designation of a local agent. The agent must live and work within 30 miles of the dwelling unit. The agent may be, but is not required to be, the owner. One person may be the agent for multiple dwelling units. At all times, the agent shall have on file with the city primary and secondary telephone numbers as well as a current address. The agent or a representative of the agent shall be available 24 hours a day during all times that the dwelling unit is being rented, at the primary or secondary telephone number, to respond immediately to complaints and contacts relating to the dwelling unit. The city shall be notified in writing within five business days of any change of agent. The agent shall be responsible for the activities of tenants and for the maintenance and upkeep the dwelling unit and shall be authorized and empowered to receive notice of a violation of the provisions of city ordinances and state law, to receive orders, to institute remedial action to effect such orders, and to accept service of process pursuant to law.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.13 RESPONSIBILITY OF OWNERS.

No owner shall undertake or allow the short-term rental of a dwelling unit that does not comply with all applicable city ordinances, the laws of the state, and this section. It shall be the owner's responsibility to ensure compliance with the following:

- (A) *Maintenance standards.* Every dwelling unit used for short-term rental shall conform to all building and zoning requirements of the city and the laws of the state.
 - (B) *Parking.* All short-term rentals shall have their own designated, off-street parking and their own drive, not shared with another dwelling or business.
 - (C) *Signs prohibited.* On-premises signs are prohibited.
 - (D) *Tenants.* The owner or registered agent shall maintain a list of all current and prior tenants of each dwelling unit, including the dates they stayed at the dwelling unit. The owner or registered agent shall make the list available to city staff and/or law enforcement upon request.
 - (E) *Emergency contact.* The owner shall post within the dwelling unit the name, address, email and primary and secondary telephone numbers of the owner or any registered agent that can be utilized 24 hours a day by tenants or their guests.
 - (F) *Noise standards.* Quiet hours shall be between 10:00 p.m. and 8:00 a.m. Any outdoor amplified sound during this time that can be heard by neighboring property owners is prohibited.
 - (G) *Solid waste.* The owner shall ensure that appropriate solid waste and/or recycling bins are available for use by tenants and guests, and shall not be stored in public view.
 - (H) *Posted notice.* The owner shall post within the dwelling unit notice of all use restrictions as set forth in this chapter.
- (Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.14 DISORDERLY CONDUCT PROHIBITED.

Disorderly conduct is prohibited on all permitted premises. It shall be the responsibility of the owner to ensure that all tenants occupying the permitted premises, and their guests, conduct themselves in such a manner as not to cause the permitted premises to be disorderly. For purposes of this section, disorderly conduct refers to any disorderly conduct violation under state statutes or city ordinances.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.15 PERMIT REVOCATION.

Every short-term rental permit is subject to revocation for violations of this chapter or any other provision of state statutes or city ordinances.

- (A) *Violations.* Violations of this chapter shall be reported to the City Clerk's office and/or the City Council. The City Council shall review the violation and provide written notice to the permit holder of the violation and any necessary remedial actions.

(B) *Revocation.* If a license holder fails to correct a violation or receives three violations within any 12-month period, the City Council shall recommend revocation of the short-term rental license. The City Council and the City Clerk shall provide written notice to the owner and any registered agent of the revocation. The notice shall inform the owner and agent of the right to appeal the decision of the City Council.

(C) *Appeal.* A license holder aggrieved by the revocation of a short-term rental license may appeal to the City Council. Such appeal shall be taken by filing with the City Clerk's office within ten days after date of issuance of the written revocation notice, a written statement requesting a hearing before the City Council and setting forth fully the grounds for the appeal. A hearing shall be held within 30 days of receipt of the request. Notice of the hearing shall be given by the City Clerk in writing, setting forth the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the permit holder at his/her last known address at least five days prior to the date set for hearing.

(D) *Effect of revocation.* If a short-term rental permit is revoked, it shall be unlawful for anyone to thereafter allow any new short-term rental occupancies of the dwelling unit until such time as a valid short-term rental permit is issued by the city. No person who has had a permit revoked under this section shall be issued a short-term rental permit for one year from the date of revocation.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.16 VIOLATION.

Any person who undertakes or allows any violation of this chapter shall be guilty of a misdemeanor.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.17 ZONING; EXISTING SHORT-TERM RENTALS.

Short-term rentals shall only be allowed uses in R3 zones and up, and shall only be allowed pursuant to conditional use permits. Further, the conditional use permit issued to a licensed short term rental owner shall cease if the property is sold, either through a conveyance or through the conveyance of a controlling interest in a business entity.

(Ord. 04-20, passed 3-16-2020)

§ 121.18 CURRENT SHORT-TERM RENTALS.

Existing short-term rental properties which are not in an allowed zone shall only be permitted to operate as a short-term rental for an additional period of six months after the passage of this chapter. Existing short-term rental properties which are in zones permitted by this chapter shall only be permitted as allowed herein, by obtaining a conditional use permit and licensure.

(Ord. 04-20, passed 3-16-2020)

TITLE XIII: GENERAL OFFENSES

Chapter

- 130. REGULATION OF CONDUCT**
- 131. NOISE**
- 132. HUNTING AND TRAPPING**
- 133. WEAPONS**

CHAPTER 130: REGULATION OF CONDUCT

Section

General Provisions

- 130.01 Disorderly conduct
- 130.02 Urination and defecation
- 130.03 Disorderly premises
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GENERAL PROVISIONS

§ 130.01 DISORDERLY CONDUCT.

(A) 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;
- (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.

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

(C) The provision of M.S. § 609.72, as it may be amended from time to time, regarding disorderly conduct is adopted by reference as if set in full herein.

(Prior Code, § 506.01) (Ord. 08-08, passed 12-15-2008) Penalty, see § 130.99

§ 130.02 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 that area. No person shall urinate or defecate in any area open to public view.

(Prior Code, § 506.02) Penalty, see § 130.99

§ 130.03 DISORDERLY PREMISES.

(A) No person within the city shall own or keep a dwelling, gaming area or party or meeting room which attracts people to its locale at times or in 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.

(B) 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.

(Prior Code, § 506.03) Penalty, see § 130.99

§ 130.04 OBSTRUCTING A PUBLIC OFFICER.

(A) (1) No person shall intentionally do an act which he or she 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 or her office.

(2) 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 or she reasonably believes may constitute a crime; and
- (e) Directing vehicular or pedestrian traffic or controlling a crowd of people.

(B) 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 the police officer or police vehicle when the person knows or reasonably should know the same to be a police officer or police vehicle. For purposes of this division (B), the term **FLEE** shall include, but is not limited to, fleeing on foot and/or fleeing via motorized or non-motorized cycle or vehicle.

(C) 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 the arrest is lawful.

(D) No person shall resist, obstruct, interfere with or induce another to resist, obstruct or interfere with, a lawful citizen's arrest.

(Prior Code, § 506.05) Penalty, see § 130.99

§ 130.05 DRUG PARAPHERNALIA.

(A) 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.

(B) 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 three years his or her junior within the city.

(C) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DRUG PARAPHERNALIA. 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, being 21 U.S.C. §§ 801 et seq., which are knowingly or intentionally used primarily in:

- (a) Manufacturing a controlled substance;
- (b) Injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance;
- (c) Testing the strength, effectiveness or purity of a controlled substance; or
- (d) Enhancing the effect of a controlled substance.

(Prior Code, § 507) (Ord. 02-05, passed 4-4-2005) Penalty, see § 130.99

OPEN BURNING

§ 130.20 DEFINITION.

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

OPEN BURNING. 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.
(Prior Code, § 504.01)

§ 130.21 REGULATIONS ADOPTED.

The regulations of the Minnesota State Pollution Control Agency regulating open burning, APC8, are adopted by reference.
(Prior Code, § 504.02)

§ 130.22 PROHIBITION.

No person shall cause, suffer, allow or permit open burning, except as permitted by the regulations of the Minnesota State Fire Code Rules and Regulations for recreational fires and portable outdoor fire places.
(Prior Code, § 504.03) Penalty, see § 130.99

TRESPASS

§ 130.35 TRESPASS.

No person shall do any of the following acts unless he or she is a public official or officer engaged in a good faith effort to carry out his or her 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 entering or occupying will be in violation of the wishes of the lawful possessor of the premises; and

(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.

(Prior Code, § 504A.01)

§ 130.36 PUBLIC PROPERTY TRESPASS.

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

PUBLIC PROPERTY. Includes 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 the real property, together with improvements or fixtures therewith.

(B) *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 the property;
- (2) Whether on or off the 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; and
- (4) To enter or remain upon the property, in contravention of regulatory signs displayed upon the property, without the consent of the public body owning or leasing the property.

(Prior Code, § 504A.02) Penalty, see § 130.99

CURFEW

§ 130.50 CURFEW IMPOSED.

(A) *Age and time.* No person under the age of 17 years except as provided in division (B) below 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 10:00 p.m. and 5:00 a.m. of the following day.

(B) *Exceptions.* The restrictions of division (A) above do not apply when the minor:

- (1) Is accompanied by his or her parents, guardian or other person having the minor's lawful care, custody and control;
- (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;

(3) Is carrying a certified card of employment and is on his or her way to or from his or her 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.
(Prior Code, § 503.01) Penalty, see § 130.99

§ 130.51 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 § 130.50.
(Prior Code, § 503.02) Penalty, see § 130.99

PREDATORY OFFENDERS

§ 130.65 FINDINGS AND INTENT.

(A) 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.

(B) 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 the city's 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.

(Prior Code, § 907) (Ord. 03-10, passed 7-19-2010)

§ 130.66 DEFINITIONS.

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

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 M.S. § 243.166, as it may be amended from time to time, a successor statute or a similar statute from another state, and has been categorized as a **Level III** predatory offender under M.S. § 244.052, as it may be amended from time to time, a successor statute or similar statute from another state in which that person's risk assessment indicates a high risk of re-offense.

LICENSED CHILD CARE CENTER. A group child care center currently licensed by the St. Louis County, Minnesota Public Health and Human Services Department.

PERMANENT RESIDENCE. A place where a person abides, lodges or resides for 14 or more consecutive days.

PUBLIC PLAYGROUND. A publicly owned, improved outdoor area designed, equipped and set aside for children's play and includes in that area facilities such as play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation and related structures.

SCHOOL. A public or nonpublic elementary or secondary school.

TEMPORARY RESIDENCE. A place where a person abides, lodges or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.
(Prior Code, § 907) (Ord. 03-10, passed 7-19-2010)

§ 130.67 PREDATORY OFFENDERS PROHIBITION; EXCEPTIONS.

(A) *Prohibited location of residence.* It is unlawful for any designated Level III predatory offender to establish a permanent or temporary residence within 2,000 feet of any school, licensed child care center or public playground.

(B) *Measurement of distance.* For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest outer property line of the school, licensed child care center or public playground.
(Prior Code, § 907) (Ord. 03-10, passed 7-19-2010) Penalty, see § 130.99

§ 130.68 EXCEPTIONS.

A designated predatory offender residing within a prohibited area as described in § 130.67 does not commit a violation of this subchapter if any of the following apply:

(A) The designated predatory offender registered the residence pursuant to M.S. §§ 243.166 and 243.167, as they may be amended from time to time, or a successor statute, prior to the effective date of this subchapter;

(B) The designated predatory offender was a minor when he or she committed the offense 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 M.S. §§ 243.166 and 243.167, as they may be amended from time to time, or a successor statute;

(E) The residence is also the permanent residence of the designated predatory offender's parents, grandparents, siblings or spouse; and

(F) The residence is a property purchased or leased by the State Department of Corrections prior to June 10, 2010.

(Prior Code, § 907) (Ord. 03-10, passed 7-19-2010)

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Violations of § 130.04(A), (B), (C) and/or (D) shall be considered a misdemeanor.

(Prior Code, § 506.05)

(C) (1) Any violation of § 130.05(A) is a misdemeanor, punishable by a fine subject to city administrative fine schedule.

(2) A violation of § 130.05(B) is a misdemeanor punishable by a fine subject to city administrative fine schedule and/or 90 days in jail.

(Prior Code, § 507)

(D) Violation of § 130.35 shall constitute a misdemeanor under this code of ordinances.

(Prior Code, § 504A.01)

(E) Any person under the age of 17 on a street or other place in violation of § 130.50 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 minor who is convicted of a violation of § 130.50 after the case has been referred for prosecution in the trial court under M.S. Ch. 260B, as it may be amended from time to time, and any person who is convicted of a violation of any provision of § 130.51 is guilty of a petty misdemeanor and shall be punished by a fine subject to the city administrative fine schedule or pursuant to Chapter 11 of this code of ordinances.

(Prior Code, § 503.03)

(F) A person who violates §§ 130.65 through 130.68 shall be punished by a fine of not exceeding an amount set by City Council from time to time by resolution or confinement for a term not exceeding 90 days, or by both a fine and confinement. Each day a person maintains a permanent or temporary residence in violation of §§ 130.65 through 130.68 constitutes a separate violation.

(Prior Code, § 907)

(Ord. 02-05, passed 4-4-2005; Ord. 03-10, passed 7-19-2010)

CHAPTER 131: NOISE

Section

131.01 Noises prohibited

131.02 Unlawful acts

131.99 Penalty

§ 131.01 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 his or her enjoyment of property or affects his or her property's value. This general prohibition is not limited by the specific restrictions of unlawful acts listed in § 131.02. (Prior Code, § 506.04) Penalty, see § 131.99

§ 131.02 UNLAWFUL ACTS.

(A) The following acts are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but the enumeration shall not be deemed to be exclusive.

(1) *Horns, audible signaling devices and the like.* No person shall sound any audible signaling device on any vehicle except as a warning of danger.

(2) *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.

(3) *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.

(4) *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.

(5) *Radios, phonographs, paging systems and the like.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinct and loudly audible manner as to 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 the machine or device is being operated. Operation of any set, instrument, phonograph, machine or other device in 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 facie evidence of a violation of this section.

(6) *Engine braking on semi-tractor/trailers.* No person shall use, operate or permit the use of any engine braking within the city; provided that signage to that effect is posted on the major thoroughfares within the city utilized by the vehicles.

(7) *Amplification of sound.* 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:

(a) Plainly audible at a distance of 100 feet or more from the motor vehicle; or

(b) Louder than necessary for the convenience hearing by person inside the vehicle in areas adjoining churches, schools or hospital.

(B) 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.

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

(D) The provisions of this section 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 the business may be operated.

(Prior Code, § 506.04) Penalty, see § 131.99

§ 131.99 PENALTY.

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 11 of this code of ordinances.

(Prior Code, § 506.04)

CHAPTER 132: HUNTING AND TRAPPING

Section

Hunting Deer by Bow and Arrow

- 132.01 Definitions
- 132.02 Prohibitions against hunting; discharge of bow and arrow
- 132.03 Prohibitions
- 132.04 Chief of Police to report

Trapping

- 132.15 Purpose
- 132.16 Definitions
- 132.17 Violations
- 132.18 Exceptions

Prohibition on Feeding Certain Animals

- 132.30 Prohibition
- 132.99 Penalty

HUNTING DEER BY BOW AND ARROW

§ 132.01 DEFINITIONS.

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

BOW AND ARROW. A bow and arrow or a bow and arrow drawn, held or released by a mechanical device.

HUNT or HUNTING. The pursuing, stalking, chasing, driving or tracking of deer while in possession of a bow and arrow.

(Prior Code, § 806.01) (Ord. passed - -2004; Ord. 14-05, passed 10-3-2005; Ord. 03-21, passed 9-20-2021)

§ 132.02 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.

(A) 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 the 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", and incorporated as part of this code of ordinances as fully as if set out at length herein.

(B) 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, addressed to the Chief of Police and shall state:

- (1) The purpose for requesting the permit;
- (2) 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;
- (3) The type of bow and arrow to be discharged;
- (4) 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;
- (5) The signature of the owner or owners of the property granting approval and consent for hunting thereon;
- (6) Other information as may be deemed necessary by the city;
- (7) Proof of a valid license to hunt with a bow and arrow issued by the appropriate authority; and
- (8) 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.

(C) 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.

(D) 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.

(E) No bow and arrow shall be discharged in any of the following areas within the permitted hunting areas:

(1) Within any platted subdivision or industrial park in the city;
(2) Within 200 feet of any dwelling or other building occupied by or for human habitation or the storing of animals;

(3) Within 200 feet of any property owned by Independent School District No. 704, Proctor Schools, except those portions on the attached map which is incorporated as part of this code of ordinances as fully as if set out at length herein;

(4) No hunting of bears with a bow and arrow shall be allowed within the city;

(5) 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;

(6) 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; and

(7) A hunter shall discharge an arrow only from an elevated location of no less than four feet off the ground.

(Prior Code, § 806.02) (Ord. passed - -2004; Ord. 14-05, passed 10-3-2005; Ord. 03-21, passed 9-20-2021) Penalty, see § 132.99

§ 132.03 PROHIBITIONS.

The provisions of this section shall not apply to the discharge of any bow and arrow when discharged within a "bow and arrow" range.

(A) 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 States.

(B) The provisions of this section shall not prohibit the use of any bow and arrow for archery practice.

(Prior Code, § 806.03) (Ord. passed - -2004; Ord. 14-05, passed 10-3-2005; Ord. 03-21, passed 9-20-2021)

§ 132.04 CHIEF OF POLICE TO REPORT.

(A) Annually in February during the term of this subchapter, the Chief of Police shall provide a report to the Council with respect to the operation and effect of this section.

(B) 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 the preceding bow hunting season, and any recommendations for the modifications or the continuation of this section.

(Prior Code, § 806.04) (Ord. passed - -2004; Ord. 14-05, passed 10-3-2005; Ord. 03-21, passed 9-20-2021)

TRAPPING

§ 132.15 PURPOSE.

The purpose of this subchapter 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.

(Prior Code, § 906.01) (Ord. 09-06, passed 12-18-2006)

§ 132.16 DEFINITIONS.

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

TRAP. Any mechanical device or snare which seeks to hold, capture or kill an animal.

TRAPPING. The setting or laying or otherwise using of a trap in the city limits.
(Prior Code, § 906.02) (Ord. 09-06, passed 12-18-2006)

§ 132.17 VIOLATIONS.

Trapping in all areas within the city, including park areas is prohibited.
(Prior Code, § 906.02) (Ord. 09-06, passed 12-18-2006) Penalty, see § 132.99

§ 132.18 EXCEPTIONS.

(A) The provisions of this subchapter do not apply to the use of any trap specifically designed to kill rats, mice, gophers or moles.

(B) The provisions of this subchapter do not apply to the use of cage type live traps employed for the control of nuisance animals as long as the traps are tended each 12 hours.

(C) The provisions of this subchapter 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 subchapter 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.
(Prior Code, § 906.04) (Ord. 09-06, passed 12-18-2006)

PROHIBITION ON FEEDING CERTAIN ANIMALS

§ 132.30 PROHIBITION.

No person shall feed deer within any area of the city. 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 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.

(Prior Code, § 806) (Ord. 16-05, passed 11-21-2005) Penalty, see § 132.99

§ 132.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Violation of §§ 132.01 through 132.03 shall be a misdemeanor, and shall be subject to Chapter 11 of this code of ordinances.

(Prior Code, § 806.05)

(C) Violation of § 132.30 shall be a misdemeanor, and shall be subject to Chapter 11 of this code of ordinances.

(D) Any person violating any provision of §§ 132.15 through 132.18 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 11 of this code of ordinances.

(Prior Code, § 906.03)

(Ord. passed - -2004; Ord. 16-05, passed 11-21-2005; Ord. 09-06, passed 12-18-2006; Ord. 09-08, passed 12-15-2008)

CHAPTER 133: WEAPONS

Section

133.01	Definitions
133.02	Discharge
133.03	Carrying
133.04	Exceptions
133.05	Minors
133.06	Assault weapon
133.07	Discharge of bow and arrows prohibited

§ 133.01 DEFINITIONS.

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

ASSAULT WEAPON. 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.

FIREARMS. Any rifle, shotgun, pistol, air rifle or BB gun.
(Prior Code, § 502.01)

§ 133.02 DISCHARGE.

No person shall fire or discharge any firearm within the city, except as provided by § 133.04.

(Prior Code, § 502.02) Penalty, see § 10.99

§ 133.03 CARRYING.

No person shall have in his or her possession any firearm unless the weapon is unloaded and is dismantled, broken apart or carried in a case in a manner that it cannot be discharged, except as provided by § 133.04.

(Prior Code, § 502.03) Penalty, see § 10.99

§ 133.04 EXCEPTIONS.

The provisions of §§ 133.02 and 133.03 shall not apply to the following:

- (A) The possession or discharge of any firearm by a peace officer or military personnel in the scope of his or her official duties;
- (B) The possession of a firearm by a person within his or her home or place of business;
- (C) The discharge of a firearm in the lawful defense of a person or property;
- (D) The carrying of a pistol by a person whom a permit has been issued pursuant to M.S. §§ 624.711 through 624.717, as they may be amended from time to time; or

(E) The discharge of a firearm at a shooting range or facility approved by the Chief of Police.
(Prior Code, § 502.04)

§ 133.05 MINORS.

No minor under the age of 14 years shall handle or have in his or her possession or under his or her control any firearm except when accompanied by or under the immediate charge of his or her parent or guardian.
(Prior Code, § 502.05) Penalty, see § 10.99

§ 133.06 ASSAULT WEAPON.

No person shall own, keep, carry or have in his or her possession any assault weapon.
(Prior Code, § 502.06) Penalty, see § 10.99

§ 133.07 DISCHARGE OF BOW AND ARROWS PROHIBITED.

(A) No person shall discharge any bow and arrow, to include any long bow, short bow, cross bow or similar device within the city unless solely upon premises owned by the person or unless permitted by this code of ordinances.

(B) Hunting within the city with any device is prohibited, unless it is specifically permitted pursuant to §§ 132.01 through 132.04.
(Prior Code, § 502.07) (Ord. 02-11, passed 10-3-2011)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING CODE**
- 151. COMMON EXCAVATION, DRAINAGE, CONTAMINATED SOILS AND WETLANDS**
- 152. CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT**
- 153. FLOODPLAINS**
- 154. SUBDIVISIONS**
- 155. ZONING**

CHAPTER 150: BUILDING CODE

Section

- 150.01 Minnesota State Building Code
- 150.02 Licenses required

§ 150.01 MINNESOTA STATE BUILDING CODE.

The Minnesota State Building Code, being Minnesota Rules Ch. 1300, as it may be amended from time to time, 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 1997 Uniform Building Code, Table 1-A Building Permit Fees.

(A) *Codes.* As used in this section, the term **CODES** shall mean those certain documents, copies of which are on file with the Building Official, comprising the building codes as adopted by the state, and the codes shall be designated and are hereby adopted by the city 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. Further, the 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 section 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 the 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, and basement flooring and/or concrete slab shall be utilized in conformance with building codes and city ordinances.

(1) *Roofing and roof structures.* All buildings and structures within the city 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.

(2) *Siding and visible address requirement.*

(a) All buildings and structures within the city shall have and maintain siding material covering the entire exterior wall surface of the 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.

(b) Additionally, every commercial and residential structure shall have a street address posted in a manner that it is clearly visible from the road with the following additional requirements, as applicable.

1. 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.

a. 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.

b. On the signpost must be placed a sign which contains the assigned address number horizontally.

c. Existing signs which are placed parallel to the road in conformity with the chapter 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.

d. New and replacement signs installed after the adoption of this division (A)(2)(b) 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 14 or more than 20 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.

2. The occupant of the primary structure shall be responsible for keeping its address numbers clear of snow, dirt, debris or other obstruction.

(B) *Building permit required; fees; penalties.*

(1) *Building permit required.*

(a) Any alteration, modification, improvement, construction, addition, deletion, enhancement or the like affecting any building or structure within the city limits of the city shall require the equitable or fee owner of the 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 §§ 155.225 through 155.236 of this code of ordinances.)

(b) The 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 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.

<i>Building Permit Fee Schedule</i>
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Proctor, MN Code of Ordinances

<i>Valuation</i>	<i>Fees</i>
\$1—\$500	Amount set by City Council from time to time by resolution
\$501—\$600	Amount set by City Council from time to time by resolution
\$601—\$700	Amount set by City Council from time to time by resolution
\$701—\$800	Amount set by City Council from time to time by resolution
\$801—\$900	Amount set by City Council from time to time by resolution
\$901—\$1,000	Amount set by City Council from time to time by resolution
\$1,001—\$1,100	Amount set by City Council from time to time by resolution
\$1,101—\$1,200	Amount set by City Council from time to time by resolution
\$1,201—\$1,300	Amount set by City Council from time to time by resolution
\$1,301—\$1,400	Amount set by City Council from time to time by resolution
\$1,401—\$1,500	Amount set by City Council from time to time by resolution
\$1,501—\$1,600	Amount set by City Council from time to time by resolution
\$1,601—\$1,700	Amount set by City Council from time to time by resolution
\$1,701—\$1,800	Amount set by City Council from time to time by resolution
\$1,801—\$1,900	Amount set by City Council from time to time by resolution
\$1,901—\$2,000	Amount set by City Council from time to time by resolution
\$2,001—\$3,000	Amount set by City Council from time to time by resolution
\$3,001—\$4,000	Amount set by City Council from time to time by resolution
\$4,001—\$5,000	Amount set by City Council from time to time by resolution
\$5,001—\$6,000	Amount set by City Council from time to time by resolution
\$6,001—\$7,000	Amount set by City Council from time to time by resolution
\$7,001—\$8,000	Amount set by City Council from time to time by resolution

<i>Building Permit Fee Schedule</i>	
<i>Valuation</i>	<i>Fees</i>
\$8,001—\$9,000	Amount set by City Council from time to time by resolution
\$9,001—\$10,000	Amount set by City Council from time to time by resolution
\$10,001—\$11,000	Amount set by City Council from time to time by resolution
\$11,001—\$12,000	Amount set by City Council from time to time by resolution
\$12,001—\$13,000	Amount set by City Council from time to time by resolution
\$13,001—\$14,000	Amount set by City Council from time to time by resolution
\$14,001—\$15,000	Amount set by City Council from time to time by resolution
\$15,001—\$16,000	Amount set by City Council from time to time by resolution
\$16,001—\$17,000	Amount set by City Council from time to time by resolution
\$17,001—\$18,000	Amount set by City Council from time to time by resolution
\$18,001—\$19,000	Amount set by City Council from time to time by resolution
\$19,001—\$20,000	Amount set by City Council from time to time by resolution
\$20,001—\$21,000	Amount set by City Council from time to time by resolution
\$21,001—\$22,000	Amount set by City Council from time to time by resolution
\$22,001—\$23,000	Amount set by City Council from time to time by resolution
\$23,001—\$24,000	Amount set by City Council from time to time by resolution
\$24,001—\$25,000	Amount set by City Council from time to time by resolution
\$25,001—\$26,000	Amount set by City Council from time to time by resolution
\$26,001—\$27,000	Amount set by City Council from time to time by resolution
\$27,001—\$28,000	Amount set by City Council from time to time by resolution
\$28,001—\$29,000	Amount set by City Council from time to time by resolution
\$29,001—\$30,000	Amount set by City Council from time to

Proctor, MN Code of Ordinances

<i>Building Permit Fee Schedule</i>	
<i>Valuation</i>	<i>Fees</i>
	time by resolution
\$30,001—\$31,000	Amount set by City Council from time to time by resolution
\$31,001—\$32,000	Amount set by City Council from time to time by resolution
\$32,001—\$33,000	Amount set by City Council from time to time by resolution
\$33,001—\$34,000	Amount set by City Council from time to time by resolution
\$34,001—\$35,000	Amount set by City Council from time to time by resolution
\$35,001—\$36,000	Amount set by City Council from time to time by resolution
\$36,001—\$37,000	Amount set by City Council from time to time by resolution
\$37,001—\$38,000	Amount set by City Council from time to time by resolution
\$38,001—\$39,000	Amount set by City Council from time to time by resolution
\$39,001—\$40,000	Amount set by City Council from time to time by resolution
\$40,001—\$41,000	Amount set by City Council from time to time by resolution
\$41,001—\$42,000	Amount set by City Council from time to time by resolution
\$42,001—\$43,000	Amount set by City Council from time to time by resolution
\$43,001—\$44,000	Amount set by City Council from time to time by resolution
\$44,001—\$45,000	Amount set by City Council from time to time by resolution
\$45,001—\$46,000	Amount set by City Council from time to time by resolution
\$46,001—\$47,000	Amount set by City Council from time to time by resolution
\$47,001—\$48,000	Amount set by City Council from time to time by resolution
\$48,001—\$49,000	Amount set by City Council from time to time by resolution
\$49,001—\$50,000	Amount set by City Council from time to time by resolution
\$50,001—\$51,000	Amount set by City Council from time to time by resolution

<i>Building Permit Fee Schedule</i>	
<i>Valuation</i>	<i>Fees</i>
\$51,001—\$52,000	Amount set by City Council from time to time by resolution
\$52,001—\$53,000	Amount set by City Council from time to time by resolution
\$53,001—\$54,000	Amount set by City Council from time to time by resolution
\$54,001—\$55,000	Amount set by City Council from time to time by resolution
\$55,001—\$56,000	Amount set by City Council from time to time by resolution
\$56,001—\$57,000	Amount set by City Council from time to time by resolution
\$57,001—\$58,000	Amount set by City Council from time to time by resolution
\$58,001—\$59,000	Amount set by City Council from time to time by resolution
\$59,001—\$60,000	Amount set by City Council from time to time by resolution
\$60,001—\$100,000	Amount set by City Council from time to time by resolution
for the first \$60,000, an amount set by City Council from time to time by resolution for each additional \$1,000 or fraction thereof, plus surcharge of 0.0005 times valuation	

(3) *Existing violations.* No building permit shall be issued by the city to any person with existing zoning or Building Code violations.

(4) *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 the permit, the fee specified shall be doubled. The Building Official may waive up to 90% 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 of an amount set by City Council from time to time by resolution. The payment of the fee shall not exempt any person from compliance with all other laws and ordinances nor from any penalty prescribed by law or ordinance.

(5) *Other fees.*

(a) *Plan review fee.*

1. 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, the plan review fee shall be to 50% of the building permit cost. For commercial structures, the 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.

2. The plan review fees specified in this section are separate fees from the permit fees specified in division (B)(2) above, 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 § 155.325 of this code of ordinances, shall be subject to the city schedule of charges and fees.

(g) *Housing Code inspection fee.* See division (F) below.

(h) *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.

(C) *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 at division (A) above, 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 City 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.

(D) *Penalties.* Each day of violation shall constitute a separate and distinct offense and be subject to the penalties set forth infra at § 10.99.

(E) *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 division (A) above. The Board shall consist of the members of the City Planning Commission. The Board shall adopt rules and regulations as set forth in § 204 of the Uniform Building Code.

(F) *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 inspection shall be per the city schedule of charges and fees.

(G) *Plumbing permit fee.* Subject to the city schedule of charges and fees. (Prior Code, § 1003.01) (Ord. 02-05, passed 4-4-2005; Ord. 02-06, passed 6-5-2006; Ord. 03-06, passed 7-5-2006; Ord. 02-08, passed 6-16-2008; Ord. 03-22, passed 7-18-2022) Penalty, see § 10.99

§ 150.02 LICENSES REQUIRED.

(A) *Contractor's license required.* Any residential building contractor and/or remodeler, as those terms are defined within M.S. § 326B.01, as it may be amended from time to time, shall be required to present to the Building Official of the city proof of current compliance with the state'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.

(B) *Plumbing, electrical license required.* Any plumbing or electrical contractor, plumber or electrician as those terms are defined by M.S. §§ 326.01 et seq., as it may be amended from time to time, therein, shall be required to present to the Building Official of the city proof of current compliance with the state'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 M.S. § 326B.0921, as it may be amended from time to time. 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 the licensing requirements provided for by statute shall not be applicable if the exemptions are inconsistent with this section (including population exceptions). (Prior Code, § 1003.02) (Ord. 11-05, passed 8-1-2005; Ord. 10-06, passed 12-18-2006) Penalty, see § 10.99

CHAPTER 151: COMMON EXCAVATION, DRAINAGE, CONTAMINATED SOILS AND WETLANDS

Section

General Provisions

- 151.01 Common excavation and drainage alterations
- 151.02 Contaminated soils; definitions
- 151.03 General provisions

Wetland Protection

- 151.15 Findings and intent
- 151.16 Purpose

151.17	Delineation of wetlands
151.18	No net loss
151.19	Standards
151.20	Wetland alteration
151.21	Permit required
151.22	Filling
151.23	Dredging/excavation/grading
151.24	Stormwater runoff
151.25	Mitigation
151.26	Application and issuance of permit
151.27	Inspection of work
151.28	Expiration and renewal of permit
151.29	Exemptions
151.30	Variances
151.31	Enforcement procedures
151.32	Definitions
151.99	Penalty

GENERAL PROVISIONS

§ 151.01 COMMON EXCAVATION AND DRAINAGE ALTERATIONS.

(A) *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 so as to permanently interrupt, alter or disturb the existing and/or natural drainage of ground water upon the parcel; provided, that upon submission of the excavation plans to the city prior to commencement of the excavation and the approval of the 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.

(B) *Plan review fee.* All plans reviewed pursuant to division (A) above shall be subject to the payment of an excavation permit fee to be paid to the Clerk-Treasurer prior to review of the plans by the city.

(C) *Temporary interruption.* Nothing in this chapter shall prohibit the temporary interruption, alteration or disturbance of ground water drainage within the city. By definition, the term **TEMPORARY** shall mean that the drainage is altered, interrupted or disturbed for no more than a period of seven days.

(D) *Wetlands considerations.* Any excavations or drainage alterations which may impact upon any wetlands, as defined by this chapter, shall be reviewed in accordance with §§ 151.15 through 151.32.

(Prior Code, § 903.01) (Ord. 02-05, passed 4-4-2005)

§ 151.02 CONTAMINATED SOILS; DEFINITIONS.

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

CONTAMINANT. Any toxic or non-toxic, flammable or non-flammable, corrosive or otherwise dangerous substance, whether the substance is naturally occurring or manufactured. Normal farming practices shall be excluded from the provision of this definition.

MATERIAL. Any processed or human-made substance or thing; it specifically includes all types of human-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.

PERSON. 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.

SOIL. Any substance of the earth; the term specifically includes earth, sand, gravel, boulders and rock.

SPILL or LEAK. Any discharge of any volume of any contaminant, whether the discharge is intentional or accidental.

(Prior Code, § 903.02)

§ 151.03 GENERAL PROVISIONS.

(A) *Activities prohibited.*

(1) 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.

(2) 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 or her ownership or control.

(B) *Violations.*

(1) A person violating the provisions of this chapter 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 chapter continues may be treated as a separate offense.

(C) *Conditional use permit.* The 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. Any conditional use permit application shall first be reviewed by the wetlands technical panel. (See § 151.26(A) and the Planning and Zoning Commission pursuant to § 155.270 of this code of ordinances.)

(Prior Code, § 903.03) Penalty, see § 151.99

WETLAND PROTECTION

§ 151.15 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 subchapter 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 to promote the restoration of degraded wetlands.

(B) (1) The intent of this subchapter is to avoid alteration and destruction of wetlands.

(2) When this is not feasible, mitigation must be provided to recreate the lost or altered wetlands value and function.

(Prior Code, § 903.04)

§ 151.16 PURPOSE.

The purpose of this chapter is to assure the general health, safety and welfare of the residents through preservation and conservation of wetlands and sound management of development by:

(A) Establishment of wetlands and regulations that are coordinated with flood protection and water quality programs;

(B) Requiring sound management practices that will protect, conserve, maintain, enhance and improve the present quality of wetlands within the community;

(C) Requiring measures designed to maintain and improve water quality in streams and watercourses;

(D) Protecting and enhancing the scenic value of wetlands;

(E) Restricting and controlling the harmful effects of land development of wetlands;

(F) Allowing only development that is planned to be compatible with wetland protection and enhancement;

(G) Providing standards for the alteration of wetlands when alteration is allowed;

(H) Mitigating the impact of development adjacent to wetlands;

(I) Educating and informing the public about the numerous benefits and features of wetlands and the impacts of urbanization; and

(J) Obtaining protective easements over or acquiring fee title to wetlands as appropriate.

(Prior Code, § 903.04)

§ 151.17 DELINEATION OF WETLANDS.

(A) 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.

(B) A wetland is land that meets the definition of **WETLANDS** set forth in § 151.32.

(C) 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.

(D) This subchapter 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.

(Prior Code, § 903.04)

§ 151.18 NO NET LOSS.

(A) To achieve no net loss of wetland, except as provided elsewhere in this subchapter 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.

(B) Any alteration to a wetland, permitted by a wetland alteration permit, will be fully mitigated so that there is no net loss of wetlands.

(Prior Code, § 903.04) Penalty, see § 151.99

§ 151.19 STANDARDS.

The following standards apply to all lands within and abutting a wetland.

(A) Septic and soil absorption system must be a setback minimum of 150 feet from the ordinary high water mark of the wetland.

(B) The lowest ground floor elevation is three feet above ordinary high water mark of the wetland.

(C) Docks or walkways shall be elevated six to eight inches above the ordinary high water mark or six to eight inches above the ground level, whichever is greater.

(D) Access across a wetland shall be by means of a boardwalk and only upon approval of a wetland alteration permit.

(Prior Code, § 903.04) Penalty, see § 151.99

§ 151.20 WETLAND ALTERATION.

(A) 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.

(B) A wetland alteration permit shall not be issued unless the proposed development complies with the provisions of § 151.25 as well as the standards, intent and purpose of this subchapter. 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.

(Prior Code, § 903.04) (Ord. 08-04, passed 1-18-2005)

§ 151.21 PERMIT REQUIRED.

(A) 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.

(B) 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 watercourses. 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; and
- (5) Discharge of stormwater runoff in a manner that impacts the wetland.

(Prior Code, § 903.04) Penalty, see § 151.99

§ 151.22 FILLING.

When a wetland alteration permit is issued allowing filling in a wetland, the following standards shall be followed.

- (A) Filling must be consistent with the city floodplain regulations.
 - (B) 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.
 - (C) Only fill free of chemical pollutants and organic wastes may be used.
 - (D) Filling shall be carried out so as to minimize the impact on vegetation.
 - (E) 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.
 - (F) Filling in wetland areas will be required to be mitigated in accordance with the requirements of this subchapter.
- (Prior Code, § 903.04) Penalty, see § 151.99

§ 151.23 DREDGING/EXCAVATION/GRADING.

When a wetland alteration permit is issued allowing dredging, excavating or grading in a wetland, the following standards shall be followed.

- (A) The dredging will not have a net adverse effect on the ecological and hydrological characteristics of the wetland.
- (B) It shall be located as to minimize the impact on vegetation.
- (C) It shall not adversely change water flow.
- (D) The size of the dredged area shall be limited to the minimum required for the proposed action.
- (E) Disposal of the dredged material is prohibited within the wetland area.

(F) Disposal of any dredged material shall include proper erosion control and nutrient retention measures.

(G) 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.

(H) Dredging in wetland areas will be required to be mitigated in accordance with the requirements of this subchapter 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 city floodplain regulations.

(Prior Code, § 903.04) Penalty, see § 151.99

§ 151.24 STORMWATER RUNOFF.

When a wetland alteration permit is issued allowing stormwater runoff to discharge directly into a wetland, the following standards shall be followed.

(A) An increase over the natural volume of stormwater 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.

(B) Stormwater 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.

(C) 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 city floodplain regulations.

(Prior Code, § 903.04)

§ 151.25 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; and
- (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 subchapter.
- (5) Mitigation shall maintain or enhance the wetland hydrological balance through the following:

- (a) Restoration of deteriorated wetlands;
 - (b) Flooding of previously drained wetland basins;
 - (c) Creation of new wetlands; and
 - (d) 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 subchapter. 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) (a) 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.

(b) Where feasible, the city shall require the permit holder to satisfy long term management requirements.

(Prior Code, § 903.04)

§ 151.26 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 situation which may be deemed by the referring person or body to adversely impact wetlands within the city to the city wetlands technical panel for review. The wetlands technical panel shall consist of a technical professional employee of the State 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 designated by the City Council. All matters referred to the wetlands technical panel shall be considered by the panel and a recommendation made thereon to the Planning and Zoning Commission.

(B) *Permit process.*

(1) 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 by 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 subchapter.

(2) (a) The City Council may establish reasonable conditions which are specifically set forth in the permit to ensure compliance with requirements contained in this subchapter.

(b) These conditions may, among other matters:

1. Limit the size, kind or character of the proposed work;
2. Require the construction of other structures;
3. Require replacement of vegetation and wetland function and value;
4. Establish required monitoring procedures and maintenance activity;
5. Stage the work over time;
6. Require the alteration of the site design to ensure buffering; and
7. Require the provision of a performance security.

(Prior Code, § 903.04)

§ 151.27 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 the work and shall cause final inspection to be made following the completion of the work. (Prior Code, § 903.04)

§ 151.28 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 year after the date the City Council approves the permit application.

(B) The permittee shall provide written notice to the city 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.

(Prior Code, § 903.04)

§ 151.29 EXEMPTIONS.

(A) Activities exempted by M.S. § 103G.2241, as it may be amended from time to time, from state wetlands protection shall be exempted from the provisions of this chapter. However, certificates of exemption must be obtained from the city and filed with the County Recorder prior to starting work.

(B) 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 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 § 404 of the Federal Clean Water Act, 33 U.S.C. § 1344, except that nationwide permit in 33 C.F.R. § 330.5, limited to when a new road crosses a wetland and all of 33 C.F.R. § 330.5;

(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:

(a) 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

(b) The proposed project significantly modifies or alters less than one-half 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 or existing public highways, roads, street 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; and

(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.

(Prior Code, § 903.04)

§ 151.30 VARIANCES.

Variances from the requirements of this subchapter may be granted in accordance with the variance provisions of § 155.310 of this code of ordinances.
(Prior Code, § 903.04)

§ 151.31 ENFORCEMENT PROCEDURES.

(A) Wetland reviews conducted by the city shall be coordinated with state wetland protection statutes and rules.

(B) 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 wetland protection statutes and official rules shall be coordinated with city approval.
(Prior Code, § 903.04)

§ 151.32 DEFINITIONS.

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

BUFFER STRIP. An area of nondisturbed ground cover abutting a wetland left undisturbed to filter sediment, materials and chemicals.

CLASS A WETLANDS. 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.

CLASS B WETLANDS. 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.

HABITAT EVALUATION PROCEDURES (HEP).

(1) A species-habitat data management system for impact assessment developed by the U.S. Fish and Wildlife Service.

(2) 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).

HABITAT SUITABILITY INDEX (HSI). 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.

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.

PRINCIPAL STRUCTURE. The main building as distinguished from an accessory building or structure.

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.

VEGETATION, NATIVE. The pre-settlement group of plant species native to the North American continent which were not introduced as a result of European settlement.

WETLAND TYPES. Classifications of wetlands as defined in U.S. Department of Interior, Fish and Wildlife Service, Circular 39, *Wetlands of the U.S. 1956*.

WETLAND WATERSHED. The area of land from which water drains into a Class A or Class B wetland.

WETLANDS.

(1) 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.

(2) For purposes of this definitions, **WETLANDS** must have the following three attributes:

- (a) Have a predominance of hydric soils;
- (b) 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
- (c) Under normal circumstances support a prevalence of the vegetation.

(3) 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.

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.

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.

WETLANDS, PRISTINE. Wetlands that exist in a natural state and have special and unusual qualities worth protecting at a high level are called **PRISTINE**. These qualities include: outstanding vegetation community; native species population; rare or unusual species present; and habitat for rare wildlife species.
(Prior Code, § 903.04)

§ 151.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) (1) Violation of §§ 151.15 through 151.32 or of the terms of a permit issued thereunder shall be a misdemeanor punishable by 90 days in jail and/or a fine of amount set by City Council from time to time by resolution.

(2) Any person who alters a wetland in violation of §§ 151.15 through 151.32 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.

(Prior Code, § 903.04)

CHAPTER 152: CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT

Section

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§ 152.01 PURPOSE AND INTENT.

The purpose of this regulatory mechanism is to set forth minimum requirements for stormwater management that will prevent or reduce water pollution during and after land disturbance activities to safeguard persons, protect property, and prevent damage to the environment in the City of Proctor.

(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022)

§ 152.02 DEFINITIONS.

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

BEST MANAGEMENT PRACTICES or **BMPS**. Practices to prevent or reduce the pollution of the waters of the state, including schedules of activities, prohibitions or practices, and other management practices, and also includes treatment requirements, operating procedures and practices to control site runoff spillage or leaks, sludge, or waste disposal or drainage from raw material storage.

CITY. The City of Proctor.

COMMON PLAN OF DEVELOPMENT OR SALE. A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur.

CONSTRUCTION ACTIVITY. A disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. This may include clearing, grading, filling, and excavating.

DEWATERING. The removal of surface or ground water to dry and/or solidify a construction site to enable construction activity. **DEWATERING** may require a Minnesota Department of Natural Resources water appropriation permit and, if **DEWATERING** water is contaminated, discharge of such water may require an individual MPCA NPDES/SDS permit.

ENERGY DISSIPATION. Method employed at pipe outlets to prevent erosion caused by the rapid discharge of water scouring soils.

EROSION CONTROL MEASURE. A measure that prevents soil particles exposure and detachment.

GREEN INFRASTRUCTURE. A wide array of practices at multiple scales that manages wet weather and that maintains or restores natural hydrology by infiltrating, evapotranspiring, or harvesting and using stormwater. On a regional scale, **GREEN INFRASTRUCTURE** is the preservation or restoration of natural landscape features, such as forests, floodplains and wetlands, coupled with policies such as infill and redevelopment that reduce overall imperviousness in a watershed. On the local scale, **GREEN INFRASTRUCTURE** consists of site and neighborhood-specific practices.

KARST ACTIVE. A geographic area underlain by carbonate bedrock (or other forms of bedrock that can erode or dissolve) with less than 50 feet of sediment cover.

LAND DISTURBANCE. Any project or activity, including removal of vegetation, excavations, clearing, filling, stockpiling, grading, or other earth change that directly or indirectly affects slopes, water bodies, the moving of ground cover or which may result in the movement of sediment.

MPCA CONSTRUCTION STORMWATER PERMIT. The most current Minnesota Pollution Control Agency (MPCA) General Permit to Discharge Stormwater Associated with Construction Activity Under the National Pollution Discharge Elimination System Sate Disposal System Program (NPDES/SDS).

MUNICIPAL SEPARATE STORM SEWER SYSTEM or **MS4**. The conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains owned and operated by the City of Proctor.

NEW DEVELOPMENT. All construction activity that is not defined as redevelopment and areas where new impervious is being created.

OWNER. Includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm, association, public, or quasi-public corporation, private corporation, or a combination of any of them, with legal or equitable interest in the parcel of record or as identified on the grading permit.

RECEIVING WATER. Any lake, river, stream, or wetland that receives stormwater discharges from the MS4.

REDEVELOPMENT. Any construction activity where, prior to the start of construction, the areas to be disturbed have 15% or more of existing impervious surface(s).

SATURATED SOIL. The highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids filled with water. Evidence of **SATURATED SOIL** is the presence of redoximorphic features or other information.

SEDIMENT CONTROL MEASURE. A measure that prevents eroded sediment from leaving the site.

STEEP SLOPES. Slopes that are 1:3 (V:H) (33.3%) or steeper in grade.

STORMWATER. Stormwater runoff, snow melt runoff, and surface runoff and drainage.

STORMWATER POLLUTION PREVENTION PLAN or **SWPPP**. A comprehensive plan developed to manage and reduce the discharge of pollutants in stormwater.

STRUCTURAL STORMWATER BMPs. Stationary and permanent BMPs designed, constructed, and operated to prevent or reduce the discharge of pollutants in stormwater.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022)

§ 152.03 APPLICABILITY.

This chapter shall apply to all land disturbance and construction activity that disturbs land of equal to or greater than 2,500 square feet, and includes the disturbance of less than one 2,500 square feet of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one 2,500 square feet or as deemed necessary by the city to safeguard persons, protect property, and prevent degradation to the environment in the city.

(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022)

§ 152.04 REQUIRED GRADING PERMIT.

The permit authorizes, subject to the terms and conditions of this chapter, land disturbance and the discharge of stormwater.

(A) Prior to the commencement of any land disturbing activities on lands subject to this chapter, the owner shall obtain a grading permit from the city.

(B) The following activities are not required to obtain a grading permit:

(1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources;

(2) Nursery, home gardening, and agricultural operations conducted as a permitted main or accessory use;

(3) Maintenance work conducted by city employees.

(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022) Penalty, see § 152.99

§ 152.05 GRADING PERMIT PROCESS AND DATA REQUIREMENTS.

(A) An application and applicable application fee for a grading permit shall be filed with the city on an approved form, with accompanying documents, and Stormwater Pollution Prevention Plan (SWPPP) if required, meeting the requirements set forth in the City of Proctor Stormwater Management Design Standards.

(B) The city or city representative will review each application. It is the responsibility of the applicant to meet the provisions of this chapter and the City of Proctor Stormwater Management Design Standards.

(C) The city shall in writing:

(1) Approve the permit application;

(2) Approve the permit application subject to such reasonable conditions as may be necessary to substantially secure the objectives of this regulation, and issue the permit subject to these conditions; or

(3) Disapprove the permit applications, indicating the reason(s) and procedure for submitting a revised application and/or submission.

(D) Each application shall include:

(1) Application form and fee;

(2) Project name;

(3) Project narrative describing type of work and proposed disturbance;

(4) Address of the proposed land disturbing activities;

(5) Total acres to be disturbed;

(6) Name, address, and contact information of the owner and/or developer of the site;

(7) Name and contact information of consulting firm retained by applicant, if applicable;

(8) SWPPP, if required, meeting the requirements set forth in the City of Proctor Stormwater Management Design Standards;

(9) Details, plans, specifications, calculations, and any other documentation needed to verifying compliance with this chapter and file City of Proctor Stormwater Management Design Standards;

(10) Private stormwater BMP maintenance agreement, if applicable.
(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022)

§ 152.06 MAINTENANCE OF STRUCTURE BMPs.

Any structural BMPs which are designed and installed to meet the post-construction stormwater management requirements set forth in the City of Proctor Stormwater Management Design Standards shall meet the following requirements:

(A) *Private facilities.*

(1) A permanent public easement shall be provided to the city for access for inspection and/or maintenance purposes. Costs incurred by the city for any maintenance of private systems will be billed and/or assessed to the owner/operator.

(2) The owner shall enter into a maintenance agreement with the city. The agreement shall include as an attachment a maintenance plan which identifies and defines inspection and maintenance responsibilities. Agreements are transferrable to any party that becomes the owner/operator of the site.

(3) If site configurations or structural stormwater BMPs change, causing decreased BMP effectiveness, new or improved structural stormwater BMPs must be designed and implemented to meet the requirements of the set forth in the City of Proctor Stormwater Management Design Standards for Post-construction Stormwater Management. New and/or improved BMP design information and plans must be submitted to the city for review and approval.

(B) *Public facilities.* A permanent public easement shall be provided to the city for access for inspection and/or maintenance purposes prior to final acceptance of the project.

(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022)

§ 152.07 INSPECTION AND FEES.

(A) The city or city representative shall review all documents and material submitted showing compliance with this chapter and the City of Proctor Stormwater Management Design Standards. The costs associated with the review process, including but not limited to, staff hours, engineering fees, administrative tasks, reproductions and other expenses associated with the review, shall be charged back to the applicant, including any follow-up reviews for incomplete or noncompliant submittals.

(B) The city or city representative may make inspections during the construction and land disturbance activity. Upon inspection the city shall notify the permittee wherein the work fails to comply with this chapter or the site-specific stormwater pollution prevention plan as approved.

(C) The permitted or his or her agent shall make regular inspections of the property, construction activity, land disturbance activity in accordance with this chapter and the site-specific stormwater pollution prevention plan as approved. All inspections

shall be documented in written form and made available upon request to the city or city representative.

(D) The city or city representative shall be allowed access to enter the property of the applicant as deemed necessary to make inspections to ensure the validity and compliance with this chapter and the site-specific storm water pollution prevention plan as approved.

(E) See Schedule of Charges and Fees for associated fees.
(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022)

§ 152.08 FINANCIAL SECURITY.

The city may require at its discretion the submittal of a letter of credit or other financial security in a form acceptable to the city in the amount of 150% of the total estimated construction cost of the stormwater management systems.

(Ord. 05-22, passed 8-8-2022)

§ 152.09 ENFORCEMENT.

(A) *Violations.*

(1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person who has violated or continues to violate the provisions of this chapter, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(2) In the event the violation constitutes an immediate danger to public health or public safety, the city is authorized to enter upon the subject private property, without giving prior notice, to take all measures necessary to abate the violation and/or restore the property. The city is authorized to seek costs of the abatement as outlined in § 152.14.

(B) *Warning notice.* When the city finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, the city may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting the violator to immediately investigate the matter and to seek a resolution whereby any offending violation will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this section shall limit the authority of the city to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

(C) *Notice of violation.*

(1) Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the city may order compliance by written notice of violation to the responsible person.

(2) The notice of violation shall contain:

- (a) The name and address of the alleged violator;
 - (b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - (c) A statement specifying the nature of the violation;
 - (d) A description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of such remedial action;
 - (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - (f) A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 30 days of service of notice of violation; and
 - (g) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency, or a contractor and the expense thereof shall be charged to the violator.
- (3) Such notice may require without limitation, at their own expense:
- (a) The performance of monitoring, analyses, and reporting;
 - (b) The elimination of the violation(s);
 - (c) That violating discharges, practices, or operations shall cease and desist;
 - (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
 - (e) Payment of a fine to cover administrative and remediation costs; and
 - (f) The implementation of source control or treatment BMPs.
- (Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022) Penalty, see § 152.99

§ 152.10 COSTS.

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

(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022)

§ 152.11 STOP WORK ORDER; REVOCATION OF PERMIT.

In the event that any person holding a grading permit pursuant to this chapter violates the terms of the permit and is found noncompliant with the permit or implements site development construction practices in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious

to property or improvements in the neighborhood, the city may suspend or revoke the grading permit. The city shall notify the owner in writing with a notice of violation of the approved grading permit to remove such conditions or remedy such defects. Such notice shall require the owner to remove or abate said violations within 48 hours of notification.

(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022)

§ 152.12 APPEAL NOTICE OF VIOLATION.

Any person receiving a notice of violation may appeal the determination of the city. The notice of appeal must be received within 30 days from the date of the notice of violation, except in the instance where a stop work order is issued as described in § 152.11, then the notice of appeal must be received within two days from the date of the stop work order hearing on the appeal before the appropriate authority or his or her designee shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the municipal authority or its designee shall be final.

(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022)

§ 152.13 ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within two days of the decision of the municipal authority upholding the decision of the city, then representatives of the city shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022) Penalty, § 152.99

§ 152.14 COST OF ABATEMENT OF THE VIOLATION.

(A) Within 45 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 30 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(B) Any person violating any of the provisions of this chapter shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 8% per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022)

§ 152.15 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. (Ord. 05-22, passed 8-8-2022)

§ 152.16 REMEDIES NOT EXCLUSIVE.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies. The city may recover all attorney's fees court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

(Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022)

§ 152.99 PENALTY.

(A) *Civil penalties.* In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the city shall deem appropriate, after the city has taken one or more of the actions described above, the city may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

(B) *Criminal penalties.* Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment for not to exceed 90 days or both. (Ord. 01-15, passed 3-2-2015; Ord. 05-22, passed 8-8-2022)

CHAPTER 153: FLOODPLAINS

Section

153.01 Adopted by reference

§ 153.01 ADOPTED BY REFERENCE.

The city's floodplain policy, copies of which are on file in the city's offices, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Policy adopted - -, amended 6-17-1991, amended 12-16-1991)

CHAPTER 154: SUBDIVISIONS

Section

154.01	Definitions
154.02	Procedure
154.03	Design standards
154.04	Improvements
154.05	Pre-application plans and data
154.06	Preliminary plats
154.07	Final plats
154.08	Variance
154.09	Inspection
154.10	Maintenance
154.11	Acceptance
154.12	Conveyance of property by metes and bounds
154.13	Building permits
154.14	Regulation of subdivisions, transfer of part of parcel

§ 154.01 DEFINITIONS.

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

ENGINEER. The City Engineer or engineering consultant of the Council.

PEDESTRIAN/BICYCLE WAYS. Paved ways for the exclusive use of pedestrians and/or bicycle riders.

STREETS and ALLEYS.

(1) 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.

(2) The following shall be types of **STREETS**.

(a) **ALLEYS.** Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

(b) **ARTERIAL STREETS AND HIGHWAYS.** Those which are used primarily for fast or heavy traffic.

(c) **COLLECTOR STREETS.** 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 a development.

(d) **MARGINAL ACCESS STREETS.** 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) **MINOR STREETS.** Those which are used primarily for access to the abutting properties.

SUBDIVISION or SUBDIVIDE. 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 land subdivided.

(Prior Code, § 1001.01)

§ 154.02 PROCEDURE.

(A) 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 § 154.05. 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 division (A) does not constitute approval of any type of preliminary or final plat.

(B) Conditional approval of preliminary plat.

(1) On reaching conclusions informally as recommended in division (A) 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 § 154.06.

(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 or her 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 division (B)(2) above.

(4) 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 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.

(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.

(C) *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 or she proposes to record and develop at the time; provided, however, that the 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. The 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 § 154.07, and shall be submitted to the Planning Commission within six months after approval of the preliminary plat; otherwise, the approval shall become null and void unless an extension of time is applied for and granted by the Planning Commission.

(Prior Code, § 1001.02) (Ord. 04-04, passed 6-7-2004)

§ 154.03 DESIGN STANDARDS.

(A) *Application.* All plats shall comply with the design standards set forth in this section.

(B) *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. 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.

(C) *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, stormwater 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 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.

(D) *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.

(E) *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 firefighting 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 the 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) Cul-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 centerlines 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 cul-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 the thoroughfares. The 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	Culs-de-Sac	Pedestrian/ Bike Ways
Horizontal alignment (minimum radii of centerline)	Subject to approval of City Engineer				
Maximum angle for intersection	90 degrees	80 degrees	70 degrees	70 degrees	-
Maximum grade subject to approval of City Engineer	3%	4%	5%	5%	-
Minimum curb radius	35 ft.	12 ft.	12 ft.	12 ft.	-
Paving width	44	40	28	28	8
Right-of-way width	80	70	50	50	10
Vertical curves (minimum sight distance)	500	350	200	100	-

(F) *Blocks.* Blocks shall ordinarily not exceed 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.

(G) *Lots.* The lot and yard sizes shall conform with the requirements of the city zoning regulations, Chapter 155 of this code of ordinances, 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 chapter 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 the 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, the 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.

(H) *Easements.* Shall be required at a minimum of 20 feet. Where a subdivision is traversed by a watercourse, there shall be provided a stormwater easement or drainage right-of-way of width sufficient for the purpose.

(I) *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 State Department of Health.

(J) *Commonly-owned conservation areas.*

(1) 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.

(2) 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 the commonly-owned conservation areas.

(K) *Safe routes to school.* Any subdivision authorized by the city shall include connected sidewalks and/or bikeway facilities pursuant to M.S. § 174.40, subd. 4a, as the same may be amended from time to time.

(Prior Code, § 1001.03) (Ord. 05-21, passed 1-3-2022)

§ 154.04 IMPROVEMENTS.

(A) *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.

(B) *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.

(C) *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 ensure 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 State 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.

(D) *Sidewalks.* Paved sidewalks shall be installed along all streets.

(E) *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%.
(2) Open watercourses shall have adequate capacity and erosion control to ensure safe and healthful disposal of stormwater.

(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.

(F) *Water supply.*

(1) Where public water supply is available, as determined by the Planning Commission, the subdivider shall connect to the public water supply and construct a system of water mains with a connection for each lot.

(2) Where public water is not available:

(a) 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 the evidence is deemed not acceptable. Copies of well logs from the 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; and

(b) 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, ten feet from all cast iron sewer lines, 30 feet from any vitrified sewer tile lines, and shall not be located within any floor plan.

(G) *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.

(H) *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.

(I) *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.

(J) *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.

(Prior Code, § 1001.04)

§ 154.05 PRE-APPLICATION PLANS AND DATA.

The following information shall be submitted prior to the submission of the preliminary plat.

(A) *General subdivision information.* 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.

(B) *Location map.* 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.

(C) *Sketch plan on topographic survey.* 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.

(Prior Code, § 1001.05)

§ 154.06 PRELIMINARY PLATS.

(A) *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 and the like;

(4) *Mailbox location in culs-de-sac.* In the event that the planned improvement contains cul(s)-de-sac, the location of all mailboxes to be installed in the cul(s)-de-sac must be identified, and all of the 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%, 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%, either show contours with an interval of not more than five feet if ground slope is regular and the information is sufficient for planning purposes or show contours with an interval of not more than two 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.* Watercourses, 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 nonresidential 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.* 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.* 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; and

(16) *Wetlands.* Any and all wetlands required to be delineated by state or federal law must be identified on the preliminary plat.

(B) *Form of preliminary plat.* The preliminary plat shall be at a scale of 200 feet to one inch or larger (preferred scale of 100 feet to one inch). It shall show all existing conditions required in division (A) 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 and the like; and
- (9) Title, scale, north arrow and date.

(C) *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 stormwater sewers with grades and sizes indicated. All elevations shall be based on a datum plane approved by the City Engineer.

(D) *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.

(Prior Code, § 1001.06) (Ord. 08-04, passed 1-18-2005; Ord. 05-06, passed 8-21-2006)

§ 154.07 FINAL PLATS.

(A) *Final plat data and form.* The final plat shall be drawn in ink on Mylar, or modern day replacement, on sheets 30 inches wide by 18 inches long and shall be at a scale of 100 feet to one 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 11 inches by 17 inches 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 the 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 landowner;
 - (11) Statement of owner dedicating street, rights-of-way and any sites for public uses; and
 - (12) Title, scale, north arrow and date.
- (B) *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.
- (C) *Other data.* Other certificates, affidavits, endorsements or deductions as may be required by the Planning Commission in the enforcement of these regulations. (For fees, see § 150.01(B).)
- (D) *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, the approval shall become null and void unless an extension of time is applied for and granted by the Planning Commission.
(Prior Code, § 1001.07) (Ord. 05-04, passed 6-7-2004)

§ 154.08 VARIANCE.

- (A) *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 the variation will not have the effect of nullifying the intent and purpose of the general community plan or these regulations.
- (B) *Conditions.* In granting variances, the Planning Commission may require conditions such as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.
- (C) *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.
(Prior Code, § 1001.08)

§ 154.09 INSPECTION.

When the plans of street and other improvements have been approved as provided in this chapter, the subdivider shall first notify the Clerk-Treasurer of his or her intention to proceed with the construction or installation of streets and improvements;

notification shall be made at least one week before any 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 the 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 or she proceeds with any construction or installation, present a certified check or money order made payable to the Council in an amount equal to 1.5% of the engineer's estimate of the cost of the improvements.
(Prior Code, § 1001.09)

§ 154.10 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 the improvements for a period of a least 12 months from the date of acceptance by the city.
(Prior Code, § 1001.10)

§ 154.11 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 the 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 the street or improvement which the subdivider desires to be accepted by the city.
(Prior Code, § 1001.11)

§ 154.12 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 the conveyance be recorded in the office of the County Recorder, except for those exceptions set forth in M.S. § 462.358, subd. 4b paragraphs (1) through (6), as it may be amended from time to time; 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 the compliance by adoption of a resolution to that effect and the conveyance may then be made and filed or recorded.

(Prior Code, § 1001.12)

§ 154.13 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 § 154.12 or any other provision of this chapter or M.S. § 462.358. (See §§ 150.01 and 151.02 regarding applicable codes and fees.) (Prior Code, § 1001.13)

§ 154.14 REGULATION OF SUBDIVISIONS, TRANSFER OF PART OF PARCEL.

(A) *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 M.S. § 272.162, as it may be amended from time to time.

(B) *Procedure.* Pursuant to M.S. § 272.162, as it may be amended from time to time, each parcel of land subject to the chapter shall not be presented to and approved by the County Auditor for transfer until the transfer and parcel have been reviewed by the Clerk-Treasurer for the city to determine if the transfer is appropriate and conforms with existing city ordinances and regulations. (Prior Code, § 1002.24)

CHAPTER 155: ZONING

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GENERAL PROVISIONS

§ 155.001 DEFINITIONS.

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

ACCESSORY USE OR STRUCTURE. A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

ATTACHMENT. An extension of or increase to the floor area or height of an existing building or structure meeting building code standards.

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 15 persons.

DWELLING.

(1) Any building or portion thereof which is designed for or used for residential purposes. For the purposes of this chapter, a **DWELLING** shall have an outside width of 20 feet at its narrowest point, a minimum square footage of 600, and shall be placed upon a permanent foundation which complies with all applicable manufacturer's specifications, building or other codes, and the city code.

(2) 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 specialized uses.

(a) **ONE-FAMILY.** Detached residential dwelling unit designed for and occupied by one family only.

(b) **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.

(c) **TWO-FAMILY.** A detached residential building containing two dwelling units designed for occupancy by not more than two families.

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**.

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.

HOME OCCUPATIONS.

(1) *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 not otherwise zoned for the use without first obtaining a permit to do so.

(2) *Permit requirements.* **HOME OCCUPATIONS** shall require a permit if any of the following circumstances would occur more than 90 days each year:

(a) Customers visiting the premises;

(b) Manufacture of products on the premises;

(c) More than one vehicle associated with the **HOME**

OCCUPATION which is classified as a light commercial vehicle; and

(d) A vehicle(s) used in the **HOME OCCUPATION**, and parked on the premises, which exceeds a three-quarter ton payload capacity.

(3) *Definitions used in this code.*

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.

HOME OCCUPATION. The use of dwelling unit for gainful employment through the manufacture of or providing the sale of goods and/or services.

(4) *Intent.* It is the intent of these regulations 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 permits in a single dwelling unit if the combined operation of the two permitted uses does not otherwise violate the provisions herein.

(5) *Application and permit fee.*

(a) All applicants for a permit for **HOME OCCUPATIONS** shall file with the Clerk- Treasurer a written application for each permit on forms to be prescribed by the city. The application shall be submitted by the Clerk-Treasurer to the Fire Chief, the Building Inspector and other city inspectors as may be appropriate. The approval or disapproval of the Fire Marshal and all city inspectors shall be delivered to the Clerk-Treasurer within 15 working days from the date the application is received by the Clerk-Treasurer. The appropriate permit fee shall accompany each application. All permits shall be reviewed by the Planning Commission. The Commission's recommendations on each permit shall be submitted to the City Council for the Council's consideration.

(b) 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 Clerk-Treasurer, together with applicable fee, not later than December 1 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.

(6) *Regulation and performance standards.*

(a) No one other than a member of the immediate family occupying the dwelling unit shall be employed on the licensed premises at any time.

(b) Sign: **HOME OCCUPATIONS** shall be permitted one sign which shall not exceed five 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 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 setback from the front property line of 15 feet.

(c) No **HOME OCCUPATION** shall be conducted in an accessory building except in an attached or detached garage.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) All licensed dwelling units shall retain their residential look, appearance and character; and the appearance of any 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).

(j) 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.

(k) 1. An area equivalent to no more than 20% of the gross floor space of the dwelling unit, including the basement and garage, shall be used in the conduct of a **HOME OCCUPATION**.

2. 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 the **HOME OCCUPATION** is carried out shall be included in its entirety in the calculation; and

b. If the **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.

(l) No equipment or process shall be used in a **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.

(m) There shall be no fire, safety or health hazards.

(n) 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 120 volts of current.

(o) The City Council may add any additional requirements that it deems necessary to ensure that the operation of **HOME OCCUPATION** will be compatible with nearby land uses.

(7) *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.

(8) *Revocation.* Every permit granted hereunder may be revoked by the City Council for a violation of any provision of this chapter or of any ordinance, law, statute or regulation; provided, however, no 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 the permit. If within the 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 revocation.

(9) *Penalties.* Any person violating any provision of this chapter shall upon conviction thereof be guilty of a misdemeanor.

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 the open space as are required under the provisions of this chapter for a building site in the district in which the lot is situated and having its principal frontage on an improved street.

LOT, CORNER. A lot abutting upon two or more streets at their intersection.

LOT DEPTH. 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.

LOT, DOUBLE FRONTAGE or THROUGH LOT. A lot having a frontage on two streets as distinguished from a corner lot.

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 the definition for yards in this section.

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 the 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 the county or of the County Auditor.

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% of the required lot width except in case of lots on turning circle culs-de-sac, where the 80% requirement shall not apply.

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.

MOTOR COURT or MOTEL. A building or group of buildings used primarily for the temporary residence of motorists or travelers.

NONCONFORMING 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.

OUTDOOR ADVERTISING DISPLAY. 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.

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.

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.

PARKING SPACE. A surfaced area, enclosed or unenclosed, having a width of not less than seven feet and an area of not less than 180 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.

PARKING SPACE, OFF-STREET.

(1) Consists 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.

(2) 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.

SIGN. Signage within the city shall be governed and regulated by §§ 155.225 through 155.236.

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.

STRUCTURE.

(1) Any building or edifice, or any constructed addition to a building or edifice that changes its external dimensions 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**, unless they meet applicable building codes; provided, however, that the storage bins or units and the like are only permitted pursuant a conditional use permit in all zones, except for "I" Zones, in which zone no conditional use permit is required.

(2) Accessory use buildings with a footprint of less than 30 square feet and up to eight feet in height are not considered structures, but are still subject to established setbacks. Buildings with this footprint size are an exception to the accessory building separation setback only and therefore allowed to be placed within five feet of other accessory buildings.

VARIANCE. A change of the terms of the zoning chapter where the 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 chapter 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 nonconformities in the zoning district or uses in an adjoining zoning district.

YARD.

(1) 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.

(2) 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.

(Prior Code, § 1002.01) (Ord. 02-05, passed 4-4-2005; Ord. 01-10, passed 3-15-2010; Ord. 04-15, passed - -2015; Ord. 02-21, passed 11-1-2021; Ord. 04-21, passed 1-3-2022)

§ 155.002 PROVISIONS OF CHAPTER 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.

(Prior Code, § 1002.20)

§ 155.003 COMPLAINTS REGARDING VIOLATIONS.

(A) 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 the violation exists.

(B) 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 or her office. Where appropriate, the Official may also refer matters to the City Administrator or his or her designee for review by the City Attorney and action thereon if deemed appropriate by the City Attorney.

(Prior Code, § 1002.21)

ESTABLISHMENT OF DISTRICTS

§ 155.015 OFFICIAL ZONING MAP.

(A) 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.

(B) The official zoning map shall be identified by the signature of the Mayor, attested by the Clerk-Treasurer, 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.

(C) If, in accordance with the provisions of this chapter and M.S. Ch. 462, as it may be amended from time to time, changes are made in district boundaries or other matter portrayed on the official zoning map, the 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 Clerk-Treasurer. No amendment to this chapter which involves matter portrayed on the official zoning map shall become effective until after the change and entry has been made on the map.

(D) 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 Clerk- Treasurer shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the city. (Prior Code, § 1002.02)

§ 155.016 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 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 Clerk-Treasurer 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.

(Prior Code, § 1002.02)

§ 155.017 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.

(A) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow the centerlines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines.

(C) Boundaries indicated as approximately following city limits shall be construed as following the city limits.

(D) Boundaries indicated as following railroad lines shall be construed as to be midway between the main tracks.

(E) Boundaries indicated as following shore lines shall be construed to follow the 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

centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow the centerlines.

(F) Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (E) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(G) 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 divisions (A) through (F) above, the Board of Adjustment shall interpret the district boundaries.

(H) 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.
(Prior Code, § 1002.02)

§ 155.018 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.

(A) 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.

(B) No building or other structure shall hereinafter be erected or altered:

- (1) To exceed the height or bulk;
- (2) To accommodate or house a greater number of families;
- (3) To occupy a greater percentage of lot area; and
- (4) 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.

(C) 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.

(D) 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.

(E) All territory which may hereafter be annexed to the city shall be considered to be in the "S" Suburban District until otherwise classified.
(Prior Code, § 1002.02) Penalty, see § 10.99

§ 155.019 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:

- (A) "O/R" Open Space/Recreational District;
- (B) "S" Suburban District;
- (C) "R-1a" One Family Residential District;
- (D) "R-1b" One Family Residential District;
- (E) "R-1c" One Family Residential District;
- (F) "R-2" Two Family Residential District;
- (G) "R-3" Apartment Residential District;
- (H) "C-1" Retail District;
- (I) "C-2" Commercial District; and
- (J) "I" Industrial District.

(Prior Code, § 1002.02)

HEIGHT AND AREA REQUIREMENTS

§ 155.030 STANDARDS.

- (A) *General setback requirements.*

- (1) *All dwellings, primary structures.*

General Setback Requirements							
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 § 155.228)	10 acres	250	50	25	50	2.5	35
"S"	5 acres	250	50	25	50	2.5	35
"R-1a"	14,000 sq. ft. **	75***	35	8	25	2.5	35
"R-1b"	7,500 sq. ft.	60***	35	6	25	2.5	35
"R-1c"	32,670 sq. ft.	3/4 Acre*** (150 feet)	35	6	25	2.5	35
"R-2"							
1- Family	7,500 sq. ft.	60	35	6	25	2.5	35
2- Family	3,750 sq. ft.						
"R-3"							
1- Family	7,500 sq. ft.	90	35 (5)	6 (1)	25 (5)	3.0	45
2- Family	3,750 sq. ft.						
Multi-Family	1,500 sq. ft.						
Efficiency	380 sq. ft.						

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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*
"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 § 155.032 for standards, restrictions and the like regarding antennas and the like							
** 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 § 155.036							

(2) *Notes to tables.*

Notes to Tables
(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-1" District adjoins or abuts a residential district, the 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% 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.

(B) The Planning Commission shall make findings on each of these requirements as seen in light of the individual development, the site and surrounding developments.

(Prior Code, § 1002.03) (Ord. 01-11, passed 6-20-2011) Penalty, see § 10.99

§ 155.031 ALLOWABLE PERCENTAGE OF LOT COVERAGE.

(A) All structures placed upon a lot within the city shall conform to the following allowable percentage of lot coverage standards:

District	Percentage
-----------------	-------------------

"O/R"	N/A
"S"	N/A
"R-1"	35%
"R-1a"	35%
"R-1b"	35%
"R-1c"	35%
"R-2"	35%
"R-3"	50%
"C-1"	50%
"C-2"	50%
"I"	75%

(B) *"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 the single-stall garage, there may also be allowed two additional accessory structures in "R-2" and "R-3" Zones.

(C) *"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 the lot may exceed 1,200 square feet in size.

<i>District</i>	<i>Minimum Depth of Front Yard (In Feet)</i>	<i>Minimum Width of Either Side Yard (In Feet)</i>	<i>Minimum Depth of Rear Yard (In Feet)</i>
"O/R" Open Space-Recreation	N/A	N/A	N/A
"S" Suburban	50	25	50
"R-1a" Residential	35	8	25
"R-1b" Residential	35	6	25
"R-1c" 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
"I" Industrial	See (6)	None (3)	None (3)

(D) *Specific setback requirements; structures and accessory buildings.*

<i>Specific Setback Requirements</i>				
<i>Standards for Structures, Accessory Buildings</i>				
<i>Structures and Accessory Buildings</i>	<i>Zone Applicable</i>	<i>Front Yard Setback</i>	<i>Side Yard Setback</i>	<i>Rear Yard Setback</i>
Alleys, impact of	All			1/2 alley

Specific Setback Requirements				
Standards for Structures, Accessory Buildings				
Structures and Accessory Buildings	Zone Applicable	Front Yard Setback	Side Yard Setback	Rear Yard Setback
				width may be used as part of required setback
Alley, lack of	"O/R", "S", all Residential		May use one side yard, minimum 9 ft., for driveway; other side yard must be minimum of 5 ft.	
Apartments, duplexes	"R-2", "R-3" only		Follow rules for single-family zones	
Carport, canopy	All residential		5 ft. setback from side lot line	
Corner lots*	All residential			
(a) Dwellings	"R-1a"		25 ft.	
	"R-1b" - "R-3"		15 ft.	
(b) Detached accessory buildings (includes attached garage, front wall)	"R-1a"		25 ft.	
	"R-1b" - "R-3"		20 ft.	
(c) Educational, religious structure	"R-1a"		35 ft.	
	"R-1b" - "R-3"		25 ft.	
Deck or porch	All		5 ft.	
(a) Open		May project 10 ft. into required front yard	5 ft.	
(b) Closed (maximum 40 sq. ft.)		May project 4 ft. into front yard	5 ft.	
Double lots (frontage)	All	Setback required on		

<i>Specific Setback Requirements</i>				
<i>Standards for Structures, Accessory Buildings</i>				
<i>Structures and Accessory Buildings</i>	<i>Zone Applicable</i>	<i>Front Yard Setback</i>	<i>Side Yard Setback</i>	<i>Rear Yard Setback</i>
		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 and the like	All			May project 5 ft. into rear yard setback
Garage, lack of, see Alley, lack of				
Nonconforming lots	Residential (see also § 155.035)			
(a) "R-1a"		Lots less than 60 ft. frontage: minimum side yard setback, 5 ft.		
(b) "R-1b" - "R-2"		Lots less than 50 ft. frontage: if garage on premises, minimum aggregate side yard, 12 ft.		
Projecting sills, eaves and the like. General rule: cannot project beyond a required line running along any street/road	All residential	Minimum of 18 in. from front yard setback	Minimum of 18 in. from required side yard setback (see rear yard for accessory structures)	Minimum of 18 in. from rear yard for main structure; accessory structures: 5 ft. minimum side yard set

<i>Specific Setback Requirements</i>				
<i>Standards for Structures, Accessory Buildings</i>				
<i>Structures and Accessory Buildings</i>	<i>Zone Applicable</i>	<i>Front Yard Setback</i>	<i>Side Yard Setback</i>	<i>Rear Yard Setback</i>
				back measured from closest point of structure to side lot line
Rear yards, general rules	All residential	Rear yard must be set back 60 ft. from front property line	5 ft. setback required from eaves of accessory structure to side lot line	See § 155.032 for maximum heights: 20 ft., "R- 3", "C-1" and above; 18 ft., "R-1" and "R-2". Also, accessory structure must be: 10 ft. from main structure 5 ft. from rear lot line 5 ft. from any other structure If no accessory structure in rear yard, parking area cannot exceed 90% of required rear lot.
Walls, fences and the like** See §§ 155.037	All			
Filling station pumps	"C", "I"	Pumps or islands may be in required front yard setback, but must be a		

<i>Specific Setback Requirements</i>				
<i>Standards for Structures, Accessory Buildings</i>				
<i>Structures and Accessory Buildings</i>	<i>Zone Applicable</i>	<i>Front Yard Setback</i>	<i>Side Yard Setback</i>	<i>Rear Yard Setback</i>
		minimum of 15 ft. from road; 50 ft. from any "R" District		
* See also § 155.037(C)				
** Cannot exceed 2 1/2 feet or 30 inches in height along front except by variance in "R" Zone. See § 155.037(G) and (H), 6 ft. general restriction in height for commercial districts.				
Subject to conditional use permit provided in §§ 155.270 through 155.276 if requested setback is to be less than 5 ft.				

(Prior Code, § 1002.03) (Ord. 01-11, passed 6-20-2011; Ord. 03-11, passed 12-19-2011; Ord. 07-17, passed 10-16-2017)

§ 155.032 EXCEPTIONS FOR HEIGHT.

(A) The height regulations prescribed in this chapter 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.

(B) 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.

(C) The limitation on number of stories shall not apply to buildings used exclusively for storage purposes; provided, that the buildings do not exceed the height in feet permitted in the district in which they are located.

(D) Antenna structures.

(1) The 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 forms of energy utilized in wireless communication.

(2) The antennas shall be considered accessory uses in all zoning districts within the city subject to the following restrictions and standards.

(a) 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 the structure is anchored or immediately adjacent.

(b) 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 the structure. In no case shall the antenna structures, when ground mounted, exceed 30 feet in height from the ground adjacent to the structure.

(c) Satellite television receive antennas, citizens' band antennas, residential television reception antennas.

1. In any commercial, industrial or multi-family residential zone, the antenna structures may be located anywhere on the lot or buildings thereon.

2. In a noncommercial or single-family zone, subject to the provisions contained herein, the antenna structure shall be located only in the rear yard of any lot. If usable signals cannot be obtained from the rear yard, the antenna structure may be located on the side yard.

3. In the event that usable signals cannot be received by locating the antenna structure on the rear or side yard of the property, the 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 the installation. The 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 the permit.

(d) Amateur radio antennas. Antenna structures owned, operated, erected and maintained by residents of the city for purposes of amateur radio reception and transmission and licensed therefor by the FCC shall not exceed the height limitations set forth above at division (D)(1) above and shall be placed in the priority set forth at divisions (D)(2)(e)1., (D)(2)(e)2. and (D)(2)(e)3. below.

(e) Standards.

1. In all zones, all noncommercial antenna structures shall be located and designed to reduce visual impact from surrounding properties at street level and from public streets.

2. 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.

3. 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 city public utility by any person owning, maintaining, using or erecting any antenna.

4. Every antenna structure must be adequately grounded for protection against a direct strike of lightning with an adequate ground wire.

5. 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.

6. a. All noncommercial 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% setback requirement).

b. 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.

(f) Commercial broadcast and non-broadcast antennas. For the purposes of this division (D), 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.

(g) Site location process for commercial antennas. For commercial antennas, as defined in division (D)(2)(f) above, installing of commercial antennas shall follow the requirements of § 155.270 through 155.276.

(h) Permits and regulations. All antenna structures above-described at division (D)(2)(g) above shall be erected or installed within the city as follows.

1. Applicants for installation of the antenna structures shall pay the applicable building permit fee required by the fee ordinances and shall have the plans and specifications for the proposed structure reviewed by the Building Inspector.

2. All commercial broadcast and non-broadcast FCC regulated installations shall be subject to approval by the FCC, if required.
(Prior Code, § 1002.03)

§ 155.033 EXCEPTIONS FOR FRONT YARD.

(A) The purpose of this section is to render front yards setbacks relatively consistent in neighborhoods where structures do not comply with the required front yard setback. When 40% or more of the frontage on one side of the street have structures thereon, which structures have observed, with a variation of six feet or less, deviation from the required front yard setback, a proposed improvement shall be allowed to be constructed, provided:

(1) The setback shall not be less than 50% of the setback required by ordinances; and

(2) The setback shall not be less than the lesser of the setbacks on the two adjoining lots.

(B) On lots having double frontage, the required front yard shall be provided on both streets.

(C) An open, uncovered porch or paved terrace may project into a required front yard for a distance of not more than ten 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 four feet.

(D) 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.

(E) 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.

(F) In the "I" District, if a lot is less than 250 feet in average depth, the required front yard shall be 10% of the average depth of the lot; provided, that in no event shall the front yard be reduced to less than ten feet.

(Prior Code, § 1002.03)

§ 155.034 EXCEPTIONS FOR SIDE YARDS.

(A) 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; provided, however, that the buildable width of a lot of record on date of adoption shall not be reduced to less than 60 feet.

Structure Use	Zoning Districts	
	"R-1a"	"R-1b" through "R-3"
For dwellings	25 ft.	15 ft.
Detached accessory buildings and front wall of attached garage	25 ft.	20 ft.
Educational, religious, institutional and recreational buildings	35 ft.	25 ft.

(B) No accessory building shall project beyond a required line along any street.

(C) 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.

(D) A porte-cochere, carport or canopy may project into a required side yard; provided, that every part of the porte-cochere, carport or canopy is unenclosed, except for necessary structural supports and not less than five feet from any side lot line.

(E) For the purpose of side yard regulations, a two-family dwelling, multiple dwelling or two dwellings shall be considered as one building occupying one lot.

(F) Where a lot of record on date of adoption is less than 60 feet in width, no side yard shall be less than five feet.

(G) 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.

(H) Where no garage facilities are provided and the alley is not developed for access at the time the dwelling is constructed in an "R-1b" or "R-2" District, there shall be provided one side yard of a minimum of nine feet for a driveway and the other side yard shall have a minimum width of five feet.

(I) On the lots in the "R-1b" 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. (Prior Code, § 1002.03)

§ 155.035 EXCEPTIONS FOR REAR YARD.

(A) Where a lot abuts upon an alley, one-half of the alley width may be considered as part of the required rear yard.

(B) An accessory building may not occupy in excess of 30%, and unenclosed parking spaces may not occupy in excess of 90%, of the area of a required rear yard; but no accessory building or private swimming pool shall be closer than ten feet to the main building, or any dwelling no closer than five feet to any rear lot line, nor closer than five feet 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 five feet, shall be measured from that portion of the accessory building closest to the side property line.

(C) The ordinary projections of sills, belt courses, cornices and ornamental features may extend to distance not to exceed 18 inches into a required rear yard.

(D) 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 five feet when these are so placed as not to obstruct light and ventilation.

(Prior Code, § 1002.03) (Ord. 01-11, passed 6-20-2011; Ord. 01-22, passed 3-21-2022)

§ 155.036 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 chapter, the 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.

(Prior Code, § 1002.03)

§ 155.037 FENCES, WALLS AND HEDGES.

(A) *Standards.* All fences, walls and other screening, which is not natural growth or foliage and which is erected within the city, shall be subject to all the requisites of the 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.

(B) *Intersections in residential districts.* On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in a manner as to materially impede vision between a height of two and one-half feet and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of the corner lots and a line joining points along the street lines 50 feet from the point of the intersection.

(C) *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 two and one-half feet in height; further provided that no fence, wall or hedge shall be placed or constructed within five feet of an alley right-of-way.

(D) *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 six feet unless any part above the height has at least 50% of the surface uniformly open and unobstructed or unless the adjoining lot is not in a residential district.

(E) *Residential fences.* Fences constructed in any of the following residential districts, "R-1a", "R-1b", "R-1c", "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 "I" Districts only as set forth at division (K)(1) below.

(F) *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 means of recognizable ingress shall be provided. The location of the ingress points shall be positioned at any point paralleling the front lot line, between the side lot property line and the principal structure.

(G) *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.

(H) *Construction and maintenance.*

(1) Every fence shall be constructed in a substantial workmanlike 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.

(2) All fences, except hedge fences, in front yards shall be constructed of chain link or wood fencing. Materials such 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.

(3) (a) 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.

(b) Any 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.

(4) Link fences, wherever permitted, shall be constructed in a manner that no barbed ends shall be at the top.

(I) *Commercial and industrial district fences.* Fences in all commercial and industrial districts shall not exceed six feet in height except that:

(1) Boundary line fences abutting other zoning districts shall conform to those conditions applying to the most restrictive district; and

(2) (a) 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 seven feet and a maximum of eight feet above the ground surface.

(b) The term **ARMS** shall be defined as those supports extending above the main fencing upon which barbed or electric wire may be placed.

(J) *Special purpose fences.*

(1) (a) Fences for special purposes and fences differing in construction, height or length may be permitted in any district in the city by issuance of a conditional use permit approved by the Planning Commission and the City Council.

(b) Findings shall be made that the fence is necessary to protect, buffer or improve the premises for which the fence is intended.

(2) An amortization period of 60 days shall be established for the removal of all nonconforming fences stipulated in this section.

(K) *Harmful fencing.* Hazardous fences and walls such as barbed wire, electrical fences (except as allowed in division (G) above), 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:

(1) Security fences, as defined in division (I)(2) above 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.

(2) Fencing on nonresidential property required for screening exterior storage may exceed the limitations herein, but only by a special permit issued by the Planning Commission. See division (J) above regarding conditional use permits. The permit process to be used is that set forth at § 155.271.

(Prior Code, § 1002.03)

§ 155.038 ACCESSORY BUILDINGS.

No accessory building shall be erected in any required yard, and no separate accessory building shall be erected within five feet of any other building.

(Prior Code, § 1002.03)

§ 155.039 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.
(Prior Code, § 1002.03)

“O/R” OPEN SPACE/RECREATIONAL DISTRICT

§ 155.050 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.
(Prior Code, § 1002.031)

§ 155.051 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:

- (A) Management and utilization of forest resources;
 - (B) Non-intrusive livestock grazing or other farm operation; each farm parcel shall measure at least 20 acres in size;
 - (C) Compatible recreational uses; and
 - (D) Services, utilities and ancillary structures intended to serve the principal permitted use.
- (Prior Code, § 1002.031)

§ 155.052 CONDITIONAL USE PERMIT PROCESS.

(A) *Generally.* In addition to the uses permitted above in § 155.051, the district shall also be governed by the conditional use permit process at §§ 155.270 through 155.276.

(B) *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 §§ 155.270 through 155.276 and shall require that any conditional use protect and preserve the open space/recreational character and appeal of the property; no use shall be allowed which will be likely to directly or indirectly pollute, impair or destroy critical environmental features.

(C) *Conditional uses permitted.* The only conditional uses permitted in the “O/R” District shall be as follows:

- (1) Cemetery;
- (2) Non-intrusive recreation development;
- (3) Campground (public or commercial);
- (4) Riding stable;
- (5) Hospital, clinic or other medical treatment facility;
- (6) Community building or recreation area;
- (7) Golf course; and
- (8) Single-family residence occupied by owner, renter or manager of

any allowed conditional use or “O/R” use. The residence shall comply with all zoning regulations applicable to the “S” District.

(Prior Code, § 1002.031)

§ 155.053 MINIMUM PARCEL SIZE.

Each parcel within the “O/R” District shall be a minimum of ten acres except as otherwise required herein.

(Prior Code, § 1002.031)

“S” SUBURBAN DISTRICT

§ 155.065 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.

(Prior Code, § 1002.04)

§ 155.066 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:

- (A) One-family dwelling;
- (B) Church or other place of worship or Sunday school;
- (C) 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;
- (D) Universities and colleges;

(E) 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;

(F) Hospital or institution of an educational, religious, charitable or philanthropic nature; provided, that the buildings shall occupy not more than 10% 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;

(G) Home occupation;

(H) Accessory building or use, customarily incident to the above uses; provided, that any accessory building shall be erected at the same time or after the construction of the principal building; and

(I) Signs. All signage in the "S" District is governed by §§ 155.225 through 155.236.

(Prior Code, § 1002.04)

§ 155.067 CONDITIONAL USES.

See §§ 155.270 through 155.276.

(Prior Code, § 1002.04)

"R-1a" ONE-FAMILY RESIDENTIAL DISTRICT

§ 155.080 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-1a" One-Family Residential District.

(Prior Code, § 1002.05)

§ 155.081 PERMITTED USES.

A building or premises in the "R-1a" 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:

(A) One-family dwelling;

(B) 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;

(C) Publicly owned or operated forest reserve, park, playground or community building, museum, library or art gallery; provided, that any building shall be located not less than 25 feet from any side lot line;

(D) Church or other place of worship or Sunday school; provided, that any building shall be located not less than 25 feet from any side lot line;

(E) 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 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;

(F) Home occupation;

(G) 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 accessory building shall be erected at the same time or after the construction of the principal building; and

(H) Signs. All signage in the “R-1a”, “R-1b” and “R-2” Districts is governed by §§ 155.225 through 155.236.

(Prior Code, § 1002.05)

§ 155.082 CONDITIONAL USES.

See §§ 155.270 through 155.276.

(Prior Code, § 1002.05)

“R-1b” ONE-FAMILY RESIDENTIAL DISTRICT

§ 155.095 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-1b” One-Family Residential District.

(Prior Code, § 1002.06)

§ 155.096 PERMITTED USES.

The use regulations in the “R-1b” One-Family Residential District are the same as those in the “R-1a” One-Family Residential District.

(Prior Code, § 1002.06)

“R-1c”

§ 155.110 GENERALLY.

“R-1c” shall follow the restrictions and requirements of “R-1b” Zones except as to height and area requirements described.
(Prior Code, § 1002.06A)

“R-2” TWO-FAMILY RESIDENTIAL DISTRICT

§ 155.125 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.
(Prior Code, § 1002.07)

§ 155.126 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:

- (A) Any uses permitted in the “R-1a” One-Family Residential District; and
 - (B) Two-family dwelling provided the dwelling is under one roof and not of an add-on design such as a renovated garage.
- (Prior Code, § 1002.07)

§ 155.127 TEMPORARY FAMILY HEALTH CARE DWELLINGS.

Pursuant to authority granted by M.S. § 462.3593, subd. 9, as it may be amended from time to time, the city opts out of the requirements of M.S. § 462.3593, as it may be amended from time to time, which defines and regulates temporary family health care dwellings.
(Ord. 03-16, passed 9-6-2016)

“R-3” APARTMENT RESIDENTIAL DISTRICT

§ 155.140 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.

(Prior Code, § 1002.08)

§ 155.141 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:

- (A) Any use permitted in the “R-2” Two-Family Residential District;
 - (B) Multiple dwellings containing seven or fewer units per building;
 - (C) Attached single-family dwellings;
 - (D) Signs. All signage in the “R-3” District is governed by §§ 155.225 through 155.236; and
 - (E) Accessory building or uses customarily incidental to any of the uses in this section; provided, that any accessory building shall be erected at the time or after the construction of the principal building.
- (Prior Code, § 1002.08)

§ 155.142 CONDITIONAL USES.

See §§ 155.270 through 155.276.

- (A) Multiple dwelling with eight or more units per building;
 - (B) Day care center, rooming house, boardinghouse, short term rental;
 - (C) Religious, educational, charitable institution of a philanthropic nature, but not a penal or mental institution;
 - (D) 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 § 155.273);
 - (E) Nursing, rest or convalescent home;
 - (F) Private club, fraternity, sorority or lodge, excepting one the chief activity of which is a service customarily carried on as a business; and
 - (G) Professional offices.
 - (1) 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; and
 - (2) This provision does not apply to offices located within a residential structure subject to the home occupation provisions of this chapter.
 - (H) Accessory building or uses customarily incidental to any of the uses in this section; provided, that any accessory building shall be erected at the time or after the construction of the principal building; and
 - (I) Light retail.
- (Prior Code, § 1002.08) (Ord. 03-11, passed 12-19-2011)

“C-1” RETAIL DISTRICT

§ 155.155 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.
(Prior Code, § 1002.09)

§ 155.156 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:

- (A) Any use permitted in the “R-3” Zone;
 - (B) Apartment complex and condominiums;
 - (C) Automobile, light truck, boat, and/or motor, lawn and garden repair sales and display, and mini-storage facilities, **pursuant to conditional use permit only**; (See § 155.157 *Conditional Uses*)
 - (D) Bank, credit union or savings and loan;
 - (E) Medical, dental, chiropractic or other health care clinic, including pharmacies;
 - (F) Retail sales and service establishments;
 - (G) Movie theater; dance, play or stage theater; dinner theater; gymnasiums, health clubs;
 - (H) 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 the store;
 - (I) Hotels and motels;
 - (J) Restaurants;
 - (K) The storage and repair of motor vehicles by a public entity; and
 - (L) 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.
- (Prior Code, § 1002.09) (Ord. 01-20, passed 8-3-2020)

§ 155.157 CONDITIONAL USES.

(A) *Generally.* In addition to the uses permitted above in § 155.156, the following uses may be permitted pursuant to a conditional use permit as allowed under §§ 155.270 through 155.276.

(B) *Planning Commission review.* The Planning Commission, in determining the acceptability and approval of any conditional use permit, shall follow the procedures outlined in §§ 155.270 through 155.276 and shall require that any 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 § 155.156(H) shall apply to any 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 the appliances. In addition, wholesale sales of the 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; and
 - (11) Printing and finishing of textiles and fibers into fabric goods.
- (Prior Code, § 1002.09) (Ord. 12-05, passed 8-16-2005; Ord. 08-17, passed 10-16-2017; Ord. 01-18, passed 5- -2018)

§ 155.158 HEIGHT AND AREA REGULATIONS.

The height and area regulations set forth in §§ 155.030 through 155.039 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; provided, however, that single-family residences shall be subject to setbacks as provided for in “R-1a” Zones.

(Prior Code, § 1002.09) (Ord. 01-18, passed 5- -2018)

§ 155.159 LANDSCAPING REQUIREMENTS.

- (A) All exposed surfaces shall be covered with vegetation, wood chips, crushed rock or similar cover.
 - (B) Trees, shrubs and other vegetative growth, existing or planted, must be located around the site in planters and/or in the required yards.
 - (C) Off-street parking areas must be screened with vegetative growth, wood fencing or other suitable materials.
 - (D) 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.
- (Prior Code, § 1002.09)

§ 155.160 BUFFER AREA BETWEEN “C-1” AND RESIDENTIAL ZONES.

There shall be a buffer area of not less than 50 feet 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 the buffer area. The buffer area shall be arranged or designed in a way to minimize the disturbance created by the uses therein to adjacent “R” Districts.

(Prior Code, § 1002.09)

“C-2” COMMERCIAL DISTRICT

§ 155.175 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.

(Prior Code, § 1002.10)

§ 155.176 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:

- (A) All uses allowed in “C-1” except that no conditional uses shall be issued for an attached single- family dwelling unit as allowed in § 155.157(C)(5);
- (B) Wholesale supply and/or display;
- (C) Bowling alley; indoor rifle, pistol or archery range;
- (D) 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;
- (E) Automobile, light truck, boat and/or motor, lawn and garden repair sales and display;

- (F) Veterinary clinic and/or hospital;
 - (G) Commercial laundry or car wash (non-self serve);
 - (H) Trade or business school, not including industrial technical school;
 - (I) College or university;
 - (J) Publishing, job printing, blue-lining;
 - (K) Wholesale furniture sales, furniture repair and refinishing, business or office supplies sales;
 - (L) Shopping center or mall;
 - (M) Accessory buildings incidental to uses in divisions (A) to (L) above.
- (Prior Code, § 1002.10) (Ord. 01-20, passed 8-3-2020)

§ 155.177 CONDITIONAL USES.

(A) *Generally.* In addition to the uses permitted above in § 155.176, the following uses may be permitted pursuant to a conditional use permit as allowed under §§ 155.270 through 155.276.

(B) *Planning Commission review.* The Planning Commission, in determining the acceptability and approval of any conditional use permit, shall follow the procedures outlined in §§ 155.270 through 155.276 and shall require that any 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 services;
 - (2) 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 or light service and repair of a similar nature;
 - (3) Industrial technical school;
 - (4) Wholesale nursery or greenhouse;
 - (5) Licensed contractor’s shop or garage; provided, no heavy equipment shall be stored nor repaired within the premises located in a “C-2” Zone;
 - (6) Open air or cooperative produce market; and
 - (7) 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.
- (Prior Code, § 1002.10)

§ 155.178 LANDSCAPING REQUIREMENTS.

(A) All exposed surfaces shall be covered with vegetation, wood chips, crushed rock or similar cover.

(B) There shall be trees, shrubs and other vegetation, existing or newly planted, located on the site.

(C) Off-street parking areas should be screened with vegetation, wood fencing or other suitable materials.

(Prior Code, § 1002.10)

§ 155.179 BUFFER AREA BETWEEN “C-2” AND RESIDENTIAL ZONES.

There shall be a buffer area of not less than 50 feet 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 the buffer area. The buffer area shall be arranged or designed in a way to minimize the disturbance created by the uses therein to adjacent “R” Districts.

(Prior Code, § 1002.10)

“I” INDUSTRIAL DISTRICT

§ 155.190 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.

(Prior Code, § 1002.11)

§ 155.191 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:

- (A) All uses permitted in “C-2” as permitted or by conditional uses;
- (B) Truck stop or center;
- (C) The manufacturing of the following products:
 - (1) Ice manufacture, including dry ice;
 - (2) Pharmaceutical products;
 - (3) Clay stone and glass products;
 - (4) Concrete products (except central mixing and proportioning plant);
 - (5) Pottery and porcelain products;
 - (6) Bakery products, wholesale (manufacturing permitted);
 - (7) Beverage blending and bottling (all types);
 - (8) Confection, wholesale (manufacturing permitted);
 - (9) Dairy products;
 - (10) Gelatin products;
 - (11) Glucose and dextrine;

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- (12) Ice cream, wholesale (manufacturing permitted);
- (13) Macaroni and noodle manufacture;
- (14) Malt products manufacture (except breweries);
- (15) Meat and fish products, packaging and processing (no slaughtering);
- (16) Agricultural or farm implements;
- (17) Aircraft and aircraft parts;
- (18) Aluminum extrusion, rolling, fabrication and forming;
- (19) Automobile, truck, trailer, motorcycle and bicycle assembly;
- (20) Boat manufacture (vessels less than five tons);
- (21) Bolts, nuts, screws, washers and rivets;
- (22) Container (metal);
- (23) Culvert;
- (24) Firearms;
- (25) Foundry products manufacture (electrical only);
- (26) Heating, ventilating, cooking and refrigeration supplies and appliances;
- (27) Machinery manufacture;
- (28) Nails, brads, tacks, spikes and staples;
- (29) Needle and pin;
- (30) Plumbing supplies;
- (31) Safe and vault;
- (32) Sheet metal products;
- (33) Silverware and plated ware;
- (34) Stove and range;
- (35) Tool, die, gauge and machine shops;
- (36) Tools and hardware products;
- (37) Vitreous enameled products;
- (38) Bedding (mattress, pillow and quilt);
- (39) Carpet, rug and mat;
- (40) Hat bodies of fur and wool felt manufacture (including men's hats);
- (41) Hosiery mill;
- (42) Knitting, weaving, printing, finishing of textiles and fibers into fabric goods;
- (43) Rubber and synthetic treated fabrics (excluding all rubber and synthetic processing);
- (44) Yarn, threads and cordage;
- (45) Basket and hamper (wood, reed, rattan and the like);
- (46) Box and crate;
- (47) Cooperate works (except cooperate stock mill);
- (48) Furniture (wood, reed, rattan and the like);
- (49) Pencils;
- (50) Pulp goods, pressed or molded (including paper-mache products);
- (51) Shipping container (corrugated board, fiber or wire bound);
- (52) Trailer, carriage and wagon;
- (53) Veneer;

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- (54) Wood products;
- (55) Button manufacture; and
- (56) Leather goods manufacture, but not including tanning operations.
- (D) The compounding, processing and packaging of:
 - (1) Cosmetics and toiletries (compounding only);
 - (2) Ink manufacture (mixing only);
 - (3) Perfumes and perfumed soap (compounding only);
 - (4) Soap, wash or cleaning, powder or soda (compounding only);
 - (5) Chocolate, cocoa and cocoa products, processing and packaging;
 - (6) Coffee, tea and spices, processing and packaging;
 - (7) Condensed and evaporated milk processing and canning;
 - (8) Flour, feed and grain (packaging, blending and storage only, with no high-rise storage elevator in excess of three stories);
 - (9) Fruit and vegetable processing (including canning, preserving, drying and freezing);
 - (10) Grain blending and packaging, but not milling; and
 - (11) Margarine (compounding and packaging only).
- (E) Other commercial operations as follows:
 - (1) Creamery and dairy operations;
 - (2) Planing and millwork;
 - (3) Animal pound;
 - (4) Building materials (cement, lime, sand, gravel, lumber and the like), storage and sales;
 - (5) Semi-tractor/trailer garage and repair shop;
 - (6) Cleaning and dyeing of garments, hats and rugs;
 - (7) Coal and coke storage and sales;
 - (8) Contractor's shop and storage;
 - (9) Fur finishing;
 - (10) Storage, repair and/or sales of buses, heavy trucks, heavy equipment and/or farm implements;
 - (11) Industrial technical school, including internal combustion engines;
 - (12) Laboratories, research, experimental, including combustion type motor testing;
 - (13) Laundries;
 - (14) Market, wholesale;
 - (15) Printing, publishing and engraving;
 - (16) Produce and storage warehouse;
 - (17) Tire retreading and vulcanizing shop;
 - (18) Air, truck, rail or other transfer terminal or yard, including airport;
 - (19) Wholesale houses and distributors; and
 - (20) Bulk fuel and petroleum products storage facility.
 - (a) The storage of the products for wholesale or retail sale by the owner of the facility where the express business and intent of the owner is to sell the products in bulk quantity sufficient to differentiate the business from convenience stores (as defined in § 155.156(H) and from services stations and the like (as defined in § 155.176(H)) shall be limited to the "I" District.

(b) 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 the facility.

(c) Mixing and/or blending of fuels is permitted at the facility, but no manufacturing, distilling or refining of any fuel or petroleum-based product is permitted under this division (E)(20).

(d) 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.
(Prior Code, § 1002.11)

§ 155.192 LANDSCAPING REQUIREMENTS.

(A) All exposed surfaces shall be covered with vegetation, wood chips or similar cover.

(B) Trees, shrubs and other vegetative growth, existing or planted, must be located around the site in planters and/or in the required yards.

(C) Off-street parking areas must be screened with vegetative growth, wood fencing or other suitable materials.

(D) 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.

(Prior Code, § 1002.11)

§ 155.193 BUFFER AREA BETWEEN "I" AND RESIDENTIAL ZONES.

There shall be a buffer area of not less than 50 feet 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 the buffer area. The buffer area shall be arranged or designed in a way to minimize the disturbance created by the uses therein to adjacent "R" Districts.

(Prior Code, § 1002.11)

OFF-STREET PARKING

§ 155.205 REQUIRED PARKING SPACES.

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(A) 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:

Bowling alley	5 parking spaces for each alley
Business, professional or public office building, studio, bank, medical or dental clinic	3 parking spaces plus 1 additional parking space for each 400 square feet of floor area over 1,000 square feet
Church or temple	1 parking space for each 8 seats in the main auditorium
College or high schools	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
Community center, library, museum or art gallery	10 parking spaces plus 1 additional space for each 300 square feet of floor area in excess of 2,000 square feet
Dance hall, assembly or exhibition hall without fixed seats	1 parking space for each 100 square feet of floor area used therefor
Dwellings three stories or less	1 parking space for each dwelling unit
Fraternity or sorority	1 parking space for each 6 beds
Furniture or appliance store, hardware store, wholesale establishments, machinery or equipment sales and service, clothing or shoe repair or service shop	2 parking spaces plus one additional parking space for each 300 square feet of floor area over 1,000 square feet
Golf club	1 parking space for every 400 square feet of clubhouse area
Hospital	1 parking space for each 4 beds
Hotel	1 parking space for each 3 sleeping rooms or suites plus 1 space for each 200 square feet of commercial floor area contained therein
Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment	1 parking space for each 2 employees on the maximum working shift, but no less than 1 space for every 1,000 square feet of floor area
Mortuary or funeral home	1 parking space for each 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms
Multiple dwelling over three stories or apartment hotel	2 parking spaces for each 3 dwelling units or suites
Private club or lodge	1 parking space for every 400 square feet of floor area
Restaurant, night club, café or similar recreation or amusement establishment	1 parking space for each 100 square feet of floor space

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Retail store, billiard parlor or personal service establishment, except as otherwise specified herein	1 parking space for each 200 square feet of floor area
Rooming or boardinghouse	1 parking space for each 2 sleeping rooms
Sanatorium, convalescent home, home for the aged or similar institution	1 parking space for each 6 beds
School, except high school or college	1 parking space for each 10 seats in the auditorium or main assembly room or 1 space for each classroom, whichever is greater
Seasonal camp or cabin	1 parking space for each 2 beds or for each cabin or sleeping unit, whichever is greater
Sports arena, stadium or gymnasium (except school)	1 parking space for each 5 seats or seating spaces
Theater or auditorium (except school)	1 parking space for each 5 seats or bench seating spaces
Tourist home, cabin or motel	1 parking space for each sleeping room or suite

(B) In all other cases, the required parking spaces shall be determined by the Planning Commission prior to issuance of any permits or licenses.
(Prior Code, § 1002.12)

§ 155.206 RULES FOR COMPUTATION OF PARKING SPACES.

In computing the number of parking spaces required by this subchapter, the following rules shall govern.

(A) **FLOOR AREA** shall mean the gross floor area of the specific use.

(B) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.

(C) 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.

(D) Whenever a building or use is enlarged to the extent of 50% or more in floor area or in the area used, the building or use shall then and thereafter comply with the parking requirements set forth in this section for the entire use.

(E) 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.

(Prior Code, § 1002.12)

§ 155.207 PARKING SPACES TO BE LOCATED ON SAME LOT; EXCEPTION.

All parking spaces required by this subchapter 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 the 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 nonresidential 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 the spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for those 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.

(Prior Code, § 1002.12)

§ 155.208 SHARING OF PARKING SPACES.

Up to 50% of the parking spaces required for:

(A) Theaters, public auditoriums, bowling alleys, dance halls, night clubs or cafés and up to 100% 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 division (A) above; provided, that written agreement thereto is properly executed and filed as specified in the preceding section.

(Prior Code, § 1002.12)

§ 155.209 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.

(Prior Code, § 1002.12)

§ 155.210 REQUIRED LOADING SPACE.

(A) 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:

Industrial use	1 space for each 5,000 to 25,000 square feet of gross floor area in the “I” District
	1 additional space for each 75,000 square feet of gross floor area in the “I” District
Office space and hotels	1 space for each 5,000 to 50,000 square feet of gross floor area in the “C-1” and “C-2” Districts

	1 space for each 20,000 to 50,000 square feet of gross floor area in the "I" District, 2 spaces for each 50,000 to 200,000 square feet of gross floor area in any district
	1 additional space for each 75,000 square feet of gross floor area above 200,000 square feet in any district
Retail or service establishments or wholesale commercial use	1 space for each 2,000 to 20,000 square feet of gross floor area in the "C-1" and "C-2" Districts
	1 space for each 4,000 to 20,000 square feet of gross floor area in the "I" District
	2 spaces for each 20,000 to 100,000 square feet of gross floor area in any district
	1 additional space for each 75,000 square feet of gross floor area above 100,000 square feet in any district

(B) 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 subchapter.

(C) 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 subchapter. (Prior Code, § 1002.12)

§ 155.211 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 the equipment or not. No 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 that use. (Prior Code, § 1002.12)

§ 155.212 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 §§ 71.40 through 71.42 of this code of ordinances. (Prior Code, § 1002.12) Penalty, see § 10.99

§ 155.213 BUFFER AREA BETWEEN COMMERCIAL OR INDUSTRIAL ZONES AND RESIDENTIAL ZONES.

(A) There shall be a buffer area of not less than 25 feet 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 the buffer area.

(B) The 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:

(1) Off-street parking areas must be screened with vegetative growth, wood fencing or other suitable materials; and

(2) All objectionable views must be screened with trees, shrubs, wood fencing or other suitable materials.

(Prior Code, § 1002.12)

§ 155.214 GRANDFATHERING OF NONCONFORMING PARKING, DOWNTOWN AREA.

(A) *Definition.* For purposes of this chapter, **DOWNTOWN AREA** is defined 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) *Restriction.* Where on May 2, 2005, if a lawful use of land located in the downtown area exists, and the parking related to the use of land does not conform to the city code as of the date, the parking shall be deemed lawful in the event of a transfer of ownership of the property and a continuation of the 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.

(Prior Code, § 1002.12) (Ord. 04-05, passed 5-2-2005)

SIGNS

§ 155.225 PURPOSE.

(A) It is the purpose of this subchapter 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.

(B) It is also the purpose of this subchapter to authorize all visual communicative devices which:

(1) Are compatible with their surroundings;

- (2) Are appropriate to the type of activity to which they pertain;
 - (3) Are safely located with respect to vehicular and pedestrian traffic;
 - (4) Will preserve and promote the aesthetics of location, area and community as a whole; and
 - (5) Will protect the value of land, buildings and landscapes.
- (Prior Code, § 1002.13)

§ 155.226 INTENT.

The intent of this subchapter is to protect the health, safety and public welfare through the control of all signs so as to achieve the following:

- (A) To control signs which violate privacy or which increase the likelihood of accidents by distracting attention or obstructing vision;
 - (B) 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;
 - (C) 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
 - (D) To provide signs which are compatible with their surroundings and appropriate to the type of activity to which they pertain.
- (Prior Code, § 1002.13)

§ 155.227 DEFINITIONS.

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

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 the 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.

ADDRESS SIGN. A sign identifying street address only, either written or numerical.

AREA IDENTIFICATION SIGN. A freestanding, 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.

BANNERS AND PENNANTS. Advertising or attention-getting devices which resemble flags, streamers and similar devices and are made of paper, cloth or plastic

materials. **BANNERS AND PENNANTS** are only permitted in the "O/R" Zone or in association with a community festival pursuant to City Council resolution.

CHANGING SIGN (AUTOMATIC).

(1) 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.

(2) The following are examples of this type of sign.

(a) **MESSAGE CENTER SIGN.** Any sign which contains a changing message within the copy area that remains on for a specified period of time.

(b) **PUBLIC SERVICE INFORMATION SIGN.** Any sign intended primarily to promote messages of general interest to the community such as time, temperature, date, events, news and the like.

(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.

FLASHING SIGN. Any illuminated sign which when operated does not maintain a uniform light, intensity or color at all times.

FREESTANDING 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.

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.

IDENTIFICATION SIGN. Freestanding signs which indicate the name of a subdivision, neighborhood or business center.

ILLUMINATED SIGN. Any sign which depends upon any artificial light source either directed at the sign or as an integral component of the sign.

INFORMATIONAL/DIRECTIONAL SIGN. A sign which has the purpose of informing or directing visitors, employees or delivery vehicles on the premises of a business. The signs shall not contain any advertising messages.

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.

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.

NONCONFORMING SIGN. Any advertising device or sign which was designed, converted or adopted for a use prior to the adoption of provisions prohibiting the advertising device or sign in that location.

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 the premises.

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.

POLITICAL CAMPAIGN SIGN. Signs, posters or banners which pertain to an upcoming election of a candidate and/or political issue.

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.

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.

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.

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.

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.

TEMPORARY. Ninety days or less.

WALL SIGN. A sign affixed flush and flat to the wall of a building, dwelling or other solid structure.

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 which advertises the wares, business, function, price, quality or quantity of items sold by the business.

(Prior Code, § 1002.13) (Ord. 17-05, passed 2-6-2006; Ord. 01-19, passed 4-1-2019)

§ 155.228 GENERAL PROVISIONS.

(A) *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.

(B) *Application.* An application for a sign permit shall be made upon blanks obtained from the City Building Inspector and shall state or have attached thereto the following information:

(1) 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;

(2) A drawing of the plans, specifications and method of construction or attachment to a structure on the ground; and

(3) The 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:

(a) Submission of blueprints, scale drawings or other engineering design documentation reflecting the installation design has been approved by a licensed engineer;

(b) Adherence to national standards as set forth in any nationally recognized and engineer-approved reference guide for the construction of signage. Applicants utilizing the design standards must provide the city with copies of the reference standards relied upon prior to approval of any applications hereunder; and

(c) Compliance with the Uniform Sign Code's Construction Standards as amended by the city code.

(C) *Fees.*

(1) *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.

(2) *Initial inspection.* All sign installations for which a permit is required shall be subject to inspection by the Building Inspection Department to insure that the signs are safely secured, supported and braced.

(3) *Fee charged.*

(a) The fee to be charged for any applications relative to this sign subchapter shall be in lieu of the fees charged for building permits and inspections.

(b) Any fee charged shall thus be based upon the project cost of the sign, based upon the following schedule:

Valuation	Fees
\$1 to \$500	Amount set by City Council from time to time by resolution
\$501 to \$600	Amount set by City Council from time to time by resolution
Etc. @ \$1.50 per \$100.00 up to \$2,000.00	
\$2,001 to \$3,000	Amount set by City Council from time to time by resolution
\$3,001 to \$4,000	Amount set by City Council from time to time by resolution
\$4,001 to \$5,000	Amount set by City Council from time to time by resolution
\$5,001 to \$6,000	Amount set by City Council from time to time by resolution
\$6,001 to \$7,000	Amount set by City Council from time to time by resolution
\$7,001 to \$8,000	Amount set by City Council from time to time by resolution
\$8,001 to \$9,000	Amount set by City Council from time to time by resolution

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\$9,001 to \$10,000	Amount set by City Council from time to time by resolution
\$10,001 to \$11,000	Amount set by City Council from time to time by resolution
\$11,001 to \$12,000	Amount set by City Council from time to time by resolution
\$12,001 to \$13,000	Amount set by City Council from time to time by resolution
\$13,001 to \$14,000	Amount set by City Council from time to time by resolution
\$14,001 to \$15,000	Amount set by City Council from time to time by resolution
\$15,001 to \$16,000	Amount set by City Council from time to time by resolution
\$16,001 to \$17,000	Amount set by City Council from time to time by resolution
\$17,001 to \$18,000	Amount set by City Council from time to time by resolution
\$18,001 to \$19,000	Amount set by City Council from time to time by resolution
\$19,001 to \$20,000	Amount set by City Council from time to time by resolution
\$20,001 to \$21,000	Amount set by City Council from time to time by resolution
\$21,001 to \$22,000	Amount set by City Council from time to time by resolution
\$22,001 to \$23,000	Amount set by City Council from time to time by resolution
\$23,001 to \$24,000	Amount set by City Council from time to time by resolution
\$24,001 to \$25,000	Amount set by City Council from time to time by resolution
\$25,001 to \$26,000	Amount set by City Council from time to time by resolution
\$26,001 to \$27,000	Amount set by City Council from time to time by resolution
\$27,001 to \$28,000	Amount set by City Council from time to time by resolution
\$28,001 to \$29,000	Amount set by City Council from time to time by resolution
\$29,001 to \$30,000	Amount set by City Council from time to time by resolution
\$30,001 to \$31,000	Amount set by City Council from time to time by resolution

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Valuation	Fees
\$31,001 to \$32,000	Amount set by City Council from time to time by resolution
\$32,001 to \$33,000	Amount set by City Council from time to time by resolution
\$33,001 to \$34,000	Amount set by City Council from time to time by resolution
\$34,001 to \$35,000	Amount set by City Council from time to time by resolution
\$35,001 to \$36,000	Amount set by City Council from time to time by resolution
\$36,001 to \$37,000	Amount set by City Council from time to time by resolution
\$37,001 to \$38,000	Amount set by City Council from time to time by resolution
\$38,001 to \$39,000	Amount set by City Council from time to time by resolution
\$39,001 to \$40,000	Amount set by City Council from time to time by resolution
\$40,001 to \$41,000	Amount set by City Council from time to time by resolution
\$41,001 to \$42,000	Amount set by City Council from time to time by resolution
\$42,001 to \$43,000	Amount set by City Council from time to time by resolution
\$43,001 to \$44,000	Amount set by City Council from time to time by resolution
\$44,001 to \$45,000	Amount set by City Council from time to time by resolution
\$45,001 to \$46,000	Amount set by City Council from time to time by resolution
\$46,001 to \$47,000	Amount set by City Council from time to time by resolution
\$47,001 to \$48,000	Amount set by City Council from time to time by resolution
\$48,001 to \$49,000	Amount set by City Council from time to time by resolution
\$49,001 to \$50,000	Amount set by City Council from time to time by resolution

(c) In addition to the above, plan checking fees (if applicable) shall be included.

(D) *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 the revocation may appeal the action to the Board of Zoning Adjustment within 60 days after the revocation.

(E) *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 the sign shall be refunded.

(Prior Code, § 1002.13) Penalty, see § 10.99

§ 155.229 ON-PREMISES SIGNS.

(A) *Exempted signs.* The following signs are exempt from all of the requirements of this subchapter and do not require a permit or permit fee:

- (1) Informational/directional signs not exceeding two square feet in area;
- (2) Memorial plaques, cornerstones and historical tablets;
- (3) 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 six square feet in area; and
- (4) 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.

(B) *Allowed signs, exempt from permit or permit fee.* The following allowed signs do not require a permit or permit fee. The structural, design and other requirements of this subchapter shall apply:

- (1) Informational signs not exceeding two square feet;
- (2) Memorial plaques, cornerstones and historical tablets;
- (3) 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;
- (4) Temporary window signs;
- (5) 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; and
- (6) 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 subchapter 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, the signs may not exceed 20 square feet in surface area.

(C) *Prohibited signs.*

- (1) No signs shall be attached to trees or utility poles.
- (2) 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.
- (3) 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.

(4) All other signs not expressly permitted by this chapter.

(D) *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 mph or more shall not exceed 200 square feet, or 10% of the gross silhouette of the front of the structure, whichever is less. On-premises signs in commercial zones for use in connection with commercial structures located in the I-35 Corridor shall not exceed 400 square feet, or 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.
(Prior Code, § 1002.13) (Ord. 05-14, passed 11-17-2014) Penalty, see § 10.99

§ 155.230 DISTRICT REGULATIONS FOR ON-PREMISES SIGNS.

(A) *Residential.* In zoning districts "O/R", "R-1a", "R-1b", "R-1c", "R-2" and "R-3" only the following signs shall be permitted to be erected.

(1) *Type of signs.* The type of signs allowed is as follows:

- (a) Political campaign signs;
- (b) Real estate signs;
- (c) Nameplate signs;
- (d) Identification signs;
- (e) Institutional signs; and
- (f) Banners and pennants.

(2) *Restrictions on residential signs.* The restrictions on these type of signs are as follows.

(a) Political campaign banners and pennants and real estate signs shall not exceed 12 square feet in area or be located not less than five 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.

(b) Nameplate signs shall not exceed 12 square inches in area and be within the building lines of the property.

(c) Institutional signs where required shall not exceed 20 square feet or be located less than five feet from the property line. This sign may be illuminated.

(d) No signs shall be attached to trees or utility poles.

(e) 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.

(f) No permit or permit fee shall be required for the above-stated types of signs.

(B) *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.

(1) *Types of signs.* The type of signs allowed are as follows:

- (a) All residential signs;
- (b) Changing sign (automatic);
- (c) Message center sign;
- (d) Reader board sign;

- (e) On-premises sign (business sign);
- (f) Portable sign;
- (g) Roof sign; and
- (h) Wall sign.

(2) *Restrictions on signs.* The restrictions on these types of signs are as follows.

(a) There shall be no signs having blinking, flashing or fluttering lights or having a changing brightness or colors.

(b) All other illuminated signs may be permitted; provided they do not constitute a traffic or safety hazard to the public.

(c) The aggregate square footage of sign surface shall not exceed the sum of two square feet per lineal foot of street frontage, but in no case shall the sign area exceed 100 square feet.

(d) The sign shall not exceed three feet in height above the roof line of the building.

(e) The sign shall contain only the name of the business establishment, the principal product, the services sold on the premises, or all three.

(f) The changing sign shall become part of the total sign area allowed on the property.

(C) *Industrial District "I".* In zoning district "I" only the following permitted uses will be allowed:

(1) *Types of signs.* The type of signs allowed is as follows: all signs allowed in "C-1" and "C-2".

(2) *Restrictions on signs.* The restrictions on these types of signs are as follows: restrictions as stated under "C-1" and "C-2" Commercial.

(Prior Code, § 1002.13) (Ord. 17-05, passed 2-6-2006; Ord. 01-19, passed 4-1-2019) Penalty, see § 10.99

§ 155.231 DISTRICT REGULATIONS FOR OUTDOOR ADVERTISING SIGNS (OFF-SITE SIGNS).

(A) 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.

(B) For purposes of this section, 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 division (B), 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.

(C) 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 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 the 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 the outdoor advertising signs along the same side of the street or highway.

(d) The spacing requirements of this division (C)(4) shall apply to any outdoor advertising sign, outdoor advertising display or off-site sign constructed pursuant to this division (C)(4) or pursuant to any other provision of this zoning chapter.

(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 division (C)(4)(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.
(Prior Code, § 1002.13)

§ 155.232 IDENTIFICATION SIGNS.

Identification signs shall be permitted for the purpose of permanent identification. At each principal entrance to an area, a maximum of one sign, not to exceed 20 square feet of sign area per side with a maximum of two sides, excluding decorative landscaping and sign base, will be permitted on private property. The maximum height on the signs shall be six feet above the natural grade including the base, or two and one-half feet above natural grade including the based if located within 50 feet of the cross-section of an intersection, in which the case the sign may be located up to the property line. When the 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.
(Prior Code, § 1002.13) (Ord. 17-05, passed 2-6-2006)

§ 155.233 VARIANCES FOR SIGNAGE.

The variance procedure established in § 155.310 shall apply to all signs covered and regulated by this chapter.
(Prior Code, § 1002.13)

§ 155.234 NONCONFORMING USES/SIGNAGE.

(A) 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.

(B) Nonconforming signs shall comply with the following requirements.

(1) Permanent nonconforming or premises signs shall be allowed to continue, and reasonable maintenance of the sign shall be allowed, but the 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 § 155.253 regarding nonconforming structures and shall be deemed nonconforming structures.

(Prior Code, § 1002.13)

§ 155.235 MAINTENANCE AND REMOVAL OF SIGNS.

(A) 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.

(B) 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 the notice, 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.

(Prior Code, § 1002.13) (Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

§ 155.236 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 Clerk-Treasurer a continuing bond in the penal sum of an amount set by City Council from time to time by resolution 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.

(Prior Code, § 1002.13)

NONCONFORMING USES AND STRUCTURES

§ 155.250 NONCONFORMITIES.

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. Nonconforming uses are declared by this subchapter to be incompatible with permitted uses in the districts involved. Therefore, it is the intent of this subchapter to permit these nonconformities to continue until they are removed but not to encourage their survival. It is further the intent of this subchapter that nonconformities shall not be enlarged upon, expanded or extended, nor the use for adding other structures or uses prohibited elsewhere in the same district. A nonconforming use or structure, a nonconforming use of land or a nonconforming 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 subchapter

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, the excavation, demolition or removal shall be deemed to be actual construction; provided that work shall be carried on diligently.
(Prior Code, § 1002.14)

§ 155.251 NONCONFORMING 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 subchapter, notwithstanding the limitations imposed by other provisions of this subchapter. The lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though the 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 the 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 subchapter 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 subchapter, and no portion of the 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.
(Prior Code, § 1002.14)

§ 155.252 NONCONFORMING 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:

- (A) No nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than on November 3, 1975;
- (B) No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use on November 3, 1975;

(C) If any nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of the land shall conform to the regulations specified by this chapter for the district in which the land is located; and

(D) No additional structure not conforming to the requirements of this chapter shall be erected in connection with the nonconforming use of land.

(Prior Code, § 1002.14) (Ord. 15-05, passed 10-17-2005)

§ 155.253 NONCONFORMING 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, the structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(B) Should the nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 80% 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 the 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% of its replacement cost at time of destruction.

(C) Should the 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.

(D) With regard to accessory buildings, it shall be deemed an expansion or enlargement of a nonconformity in the event any addition or enlargement to a nonconforming portion of the accessory building is made; or in the event that repair or rebuilding of the nonconforming portion of the accessory building is made or done which has the effect of adding to or enlarging the nonconforming portion thereof.

(Prior Code, § 1002.14) (Ord. 15-05, passed 10-17-2005)

§ 155.254 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION.

If lawful use involving individual structures with a replacement cost of an amount set by City Council from time to time by resolution 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.

(A) 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.

(B) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for the use at the time of adoption or amendment of this chapter, but no use shall be extended to occupy any land outside the building.

(C) If no structural alterations are made, any nonconforming use of a structure or structure and premises may as a special exception be changed to another nonconforming 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 than the existing nonconforming use. In permitting the change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this chapter.

(D) Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be reused.

(E) When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for one 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.

(F) (1) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(2) **DESTRUCTION** for the purposes of this section is defined as damage to an extent of more than 80% of the replacement cost at the time of destruction.

(Prior Code, § 1002.14) (Ord. 15-05, passed 10-17-2005)

§ 155.255 REPAIRS AND MAINTENANCE.

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or nonrepair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding 10% of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be; provided that the cubic content existing when it became nonconforming shall not be increased. The repairs shall be performed only after issuance of proper building permits. If a nonconforming structure or portion of a structure containing a nonconforming 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 the official.

(Prior Code, § 1002.14)

CONDITIONAL USES

§ 155.270 PERMIT FROM CITY COUNCIL.

Subject to the provisions of §§ 155.271 and 155.272, the Council may, by resolution, grant a special permit for the special uses set out in this subchapter 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 the permits only after a hearing and recommendation thereon by the Planning Commission.

(Prior Code, § 1002.15)

§ 155.271 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 Clerk- Treasurer a filing fee of an amount set by City Council from time to time by resolution for all conditional use permits other than community unit plans. In the case of community unit plans, the 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 the fees is to help defray the cost of reviewing and hearing the application. Prior to the Planning Commission hearing required in § 155.270, notice to all affected landowners, as defined at § 155.310 shall be provided.

(Prior Code, § 1002.15) (Ord. 02-05, passed 4-4-2005)

§ 155.272 COMPLIANCE.

Any proposed conditional use shall otherwise comply with all the regulations set forth in this chapter for the district in which the use is located and, in addition, shall comply with the following:

(A) Will not be detrimental to or endanger the public health, safety, morals, comfort, convenience or general welfare of the neighborhood or the city;

(B) Will be harmonious with the general and applicable specific objectives of the comprehensive plan of the city and this chapter;

(C) 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;

- (D) Will not be hazardous or disturbing to existing or future neighboring uses;
 - (E) 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 the facilities and services provided by the persons or agencies responsible for the establishment of the proposed use;
 - (F) 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;
 - (G) 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;
 - (H) 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;
 - (I) Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance; and
 - (J) Will conform to specific standards of this chapter applicable to the particular use.
- (Prior Code, § 1002.15)

§ 155.273 USES ENUMERATED.

The following are the conditional uses for which the Council may issue a conditional use permit upon finding that the conditions of § 155.272 have been met:

- (A) Amusement park, but not within 300 feet of any other “O/R”, “S” or “R” parcel;
- (B) Circus or carnival grounds, but not within 300 feet of any other “O/R”, “S” or “R” parcel;
- (C) Commercial, recreational or amusement development for temporary or seasonal periods;
- (D) 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% of the total area, and shall be set back from all yard lines at least two feet for each foot of building height;
- (E) Privately operated community building or recreation field;
- (F) Any public or government owned or leased building not permitted in a particular district; provided, that the permit shall run for not less than ten years from date of permit;
- (G) Riding stable;
- (H) Radio or television broadcasting tower or station;
- (I) Tourist or trailer camp; provided, that the tourist or trailer camp shall comply with the applicable provisions of this code and the laws of the state;

(J) Day care center, early learning center, nursery school, or the like licensed and regulated by the state. Residential day care homes licensed by the county shall not require a conditional use or home occupation permit; and

(K) Other conditional uses as set forth in the provisions applicable to each specific zone.

(Prior Code, § 1002.15)

§ 155.274 PROTECTIONS REQUIRED.

Whenever a conditional use is granted under this chapter, the following area protections and requirements shall be imposed and observed.

(A) *Storage.* 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) *Buffering.* 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, the uses shall have an opaque fence screening the business premises from the "O/R", "S" or "R" properties adjacent to it; the plans for the 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 the permit to the City Council, place upon the operation the protections and constraints as are deemed necessary to protect the public health, welfare, safety, peace and quiet, and enjoyment. (Prior Code, § 1002.15)

§ 155.275 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-1a"; provided, that the application for the construction conforms to the following requirements.

(A) *Lot size.* The lot size shall comply with lot sizes and specifications in "R-1b".

(B) *Site location.* Same as for § 155.274(A).

(C) *Site design.* Same as § 155.274(B) plus the following additional requirements.

(1) 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.

(2) 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.

(3) Manufactured homes shall be separated from each other and from other buildings and structures by at least 12 feet. Structures such as awnings, porches and the like, which are attached to the manufactured home shall, for the purposes of separation requirements, be considered a part of the manufactured home.

(4) 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.

(5) 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.

(6) The minimum width of any manufactured housing unit shall be 12 feet.

(D) *Operation and maintenance.*

(1) No space shall be rented for residential use of a manufactured home in any 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.

(2) All refuse shall be stored in fly-tight, water-tight, 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. The 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 city code. (See Chapter 50 of this code of ordinances.)

(3) 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 ensure passage by motor vehicles and pedestrians.

(4) The park management shall operate the park in compliance with this chapter and in accord with the following restrictions.

(a) 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.

(b) 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.

(c) The park management is hereby forbidden to enter a manufactured home on his or her lot which he or she does not own without the prior approval of the owner of the manufactured home, except in instances of emergency where the manufactured home, a person and/or adjacent property may be damaged.

(d) 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.

(E) *Procedures and approval.* Section 155.274 shall apply to this section.
(Prior Code, § 1002.15) (Ord. 02-04, passed 3-1-2004)

§ 155.276 PROCEDURE FOR HEARING.

Prior to any recommendation being submitted by the Planning Commission to the City Council regarding proposed and planned community unit development or a manufactured housing park, the hearing and notice provisions of § 155.271 shall be complied with by the Commission.

(Prior Code, § 1002.15)

ENFORCEMENT

§ 155.290 BUILDING INSPECTOR.

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 Council members present at the first regular meeting of each year.

(Prior Code, § 1002.16)

BOARD OF ADJUSTMENT

§ 155.305 BOARD ESTABLISHED.

A Board of Adjustment is hereby established and vested with administrative authority as is hereinafter provided. The Board shall consist of three citizens of the city serving as Planning Commission members, selected by the Chairperson thereof as set forth at § 150.01(E).

(Prior Code, § 1002.17)

§ 155.306 PROCEEDINGS OF 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 Chairperson and at those other times as the Board may determine. The Chairperson or, in his or her absence, the Acting Chairperson, 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 the 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.

(Prior Code, § 1002.17)

§ 155.307 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. The appeals shall be taken within a reasonable time, not to exceed 60 days or a 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.

(Prior Code, § 1002.17)

§ 155.308 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 or her that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life

and property. In that 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.

(Prior Code, § 1002.17)

§ 155.309 POWERS AND DUTIES.

The Board of Adjustment shall have powers and duties:

(A) *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; and

(B) *Special exceptions.* To hear and decide only special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide those 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:

(1) 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;

(2) 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 or her agent shall be notified by mail. Notice of the 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.

(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 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; and

(5) 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:

(a) 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;

(b) Off-street parking and loading areas where required, with particular attention to the items in division (B)(5)(a) above and the economic, noise, glare or odor effects of the special exception of adjoining properties and properties generally in the district;

(c) Refuse and service areas, with particular reference to the items in divisions (B)(5)(a) and (B)(5)(b) above;

- (d) Utilities, with reference to locations, availability and compatibility;
 - (e) Screening and buffering, with reference to type, dimensions and character;
 - (f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
 - (g) Required yards and other open space; and
 - (h) General compatibility with adjacent properties and other property in the district.
- (Prior Code, § 1002.17)

§ 155.310 VARIANCES.

(A) To authorize upon appeal in specific cases the 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.

(B) 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) The 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) 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) The special conditions and circumstances do not result from the actions of the applicant; and
 - (d) 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 nonconforming use of neighboring lands, structures or buildings in the same district and no permitted or nonconforming 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 § 155.355;
- (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; and

(6) The 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 the 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 the district.
(Prior Code, § 1002.17)

§ 155.311 REVERSING DECISION OF ADMINISTRATIVE OFFICIAL.

In exercising the above-mentioned powers, the Board of Adjustment may, so long as the 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.
(Prior Code, § 1002.17)

§ 155.312 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 the 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.
(Prior Code, § 1002.17)

FEES, CHARGES AND EXPENSES

§ 155.325 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 § 150.01 for a listing of fees; see also Chapter 37 of this code of ordinances.

(Prior Code, § 1002.18)

APPEAL OF PLANNING COMMISSION

§ 155.340 PROCEDURE WITH RESPECT TO DECISIONS CONCERNING “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 § 155.371(C)(2) (review of building permits for “R-2” and higher zones), the City Council 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 hearing held before the City Council.

(Prior Code, § 1002.18A)

AMENDMENTS

§ 155.355 NOTICE.

(A) 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.

(B) Following the 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.

(Prior Code, § 1002.19)

§ 155.356 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.

(Prior Code, § 1002.19)

PLANNING COMMISSION

§ 155.370 PLANNING COMMISSION ESTABLISHED.

(A) A Planning Commission is hereby established and vested with the 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. The Commission shall be composed of five members, only one of whom may be an elected official of the city, member of the Public Utilities Commission or employee of the city or its Utilities Commission.

(Prior Code, § 1002.22)

(B) All members of the Commission shall be residents of the city, except that a building official of the city may be appointed to the Commission even if he or she is not a resident of the city.

(Ord. 05-20, passed 3-16-2020)

§ 155.371 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 the hearing.

(2) Additionally, prior to the 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 this zoning chapter;
- (2) Serve as members of the following bodies or review and appeal:
 - (a) Building Code Board of Appeals;
 - (b) Board of Adjustment; and
 - (c) Design Review Board.
- (3) Indirectly supervise the duties and job performance of the City Building Official as it relates to Chapter 154 and this chapter, 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, this chapter or related documents;
- (5) Perform those duties set forth in Chapter 154 and this chapter; and
- (6) Complete all other matters assigned to it by the various chapters and sections of the city 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 Chapter 154 and this chapter.

(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 the zones, the Building Official or his or her designee may issue a building permit.

(Prior Code, § 1002.22)

TABLE OF SPECIAL ORDINANCES

Table

- I. **ANNEXATIONS**
- II. **FRANCHISES**

III. PROPERTY FORFEITURES

TABLE I: ANNEXATIONS

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
01-12	2-13-2012	Annexing land located in Midway Township, described as the east half of the northeast quarter of Section 21, Township 49, Range 15, except that part platted as John's Acres, being 120 acres or less.
03-14	8-18-2014	Annexing land located in Midway Township, described as being 120 acres or less.
03-19	8-19-2019	Annexing land located in Midway Township, described as being 11 acres, more or less.
01-21	2-1-2021	Repealing Ord. 03-19 annexing land located in Midway Township.

TABLE II: FRANCHISES

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
01-17	2-6-2017	Granting Minnesota Energy Resources, its successors and assigns, a natural gas franchise for a period of 25 years.

TABLE III: PROPERTY FORFEITURES

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
Res. 02-15	1-20-2015	Authorizing and directing the city to acquire tax forfeited properties described in Exhibit A attached to this resolution.

PARALLEL REFERENCES

References to Minnesota Statutes

References to Prior Code

References to Resolutions

References to Ordinances

REFERENCES TO MINNESOTA STATUTES

<i>M.S. Section</i>	<i>Code Section</i>
12.25	36.01, 36.04
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65A.50, subd. 8	35.003
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115A.552, subd. 1	50.01
115A.552, subd. 2	50.01
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444.075, subd. 4	51.23
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<i>Prior Code</i>	<i>2020 Code</i>
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1100.11	35.089
1100.12	35.090
1100.13	35.091
1100.14	35.092
1100.15	35.093
1100.16	35.094
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1200.01	35.105
1200.02	35.106
1200.03	35.107
1200.04	35.110
1200.05	35.111
1200.06	35.112
1200.07	35.113
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<i>Prior Code</i>	<i>2020 Code</i>

REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
04-14	2-3-2014	35.003
02-15	1-20-2015	TSO III

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
—	--	34.21, 34.22
—	--	37.01
—	- -2004	132.01—132.04, 132.99
01-04	3-1-2004	11.01—11.10
02-04	3-1-2004	155.275
03-04	5-17-2004	112.15—112.26, 112.99
04-04	6-7-2004	154.02
05-04	6-7-2004	154.07
06-04	6-7-2004	91.007
08-04	1-18-2005	151.20, 154.06
07-04	2-22-2005	52.01
01-05	3-7-2005	120.066
02-05	4-4-2005	11.11, 32.01, 34.03, 37.01, 50.12, 51.16, 51.19, 51.20, 51.22, 51.23, 52.01, 52.15, 52.17, 52.25, 52.26, 70.99, 71.99, 90.07, 90.09, 91.006, 91.999, 92.03, 94.99, 112.02, 113.03, 115.05, 116.06, 116.16, 117.06, 117.07, 118.36, 119.05, 120.066, 120.067, 120.085, 120.999, 130.05, 130.99, 150.01, 151.01, 155.001, 155.235, 155.271

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07-05	6-6-2005	120.004
08-05	6-6-2005	91.006
09-05	7-18-2005	118.30
11-05	8-1-2005	150.02
10-05	8-16-2005	51.19, 51.99
12-05	8-16-2005	155.157
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15-05	10-17-2005	155.252—155.254
16-05	11-21-2005	132.30, 132.99
17-05	2-6-2006	155.227, 155.230, 155.232
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02-06	6-5-2006	150.01
03-06	7-5-2006	150.01
04-06	7-5-2006	112.15—112.17
05-06	8-21-2006	154.06
06-06	11-20-2006	110.02
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04-07	7-2-2007	119.06
05-07	7-2-2007	91.082
07-07	1-7-2008	111.01—111.03
08-07	1-22-2008	120.021, 120.066, 120.067
01-08	2-19-2008	120.036
02-08	6-16-2008	150.01
04-08	8-18-2008	34.03
05-08	11-17-2008	91.080—91.090
06-08	11-17-2008	110.03, 115.03
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09-08	12-15-2008	132.99
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04-11	11-21-2011	35.081
03-11	12-19-2011	155.031, 155.142
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04-12	8-20-2012	51.50—51.63
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03-14	8-18-2014	TSO I
05-14	11-17-2014	155.229
06-14	12-15-2014	34.03
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07-15	1-19-2016	34.20—34.24
01-16	2-1-2016	91.105—91.107
02-16	9- -2016	34.03
03-16	9-6-2016	155.127
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02-17	5-1-2017	118.01
03-17	5-1-2017	118.33
04-17	6-19-2017	120.004

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08-17	10-16-2017	155.157
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01-19	4-1-2019	155.227, 155.230
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03-20	3-2-2020	31.04
04-20	3-16-2020	121.01—121.18
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