Agenda
City Council Meeting
Monday, July 28, 2025, 6:00 PM
City Council Chambers | 2780 Kelley Parkway, Orono, MN 55356
952-249-4600 /oronomn.gov

Roll Call

Pledge of Allegiance

Approval of Agenda

Consent Agenda
These items are considered routine and will be enacted by one motion with no discussion unless a council member or staff requests and the item will be removed from the consent agenda for separate discussion and action.

1. City Council Minutes
2. Claims/Bills
3. Accept a donation from the Minnetonka Beach Civic Association - Resolution 7598
4. Donation to Big Island Park - Resolution 7599
5. Hire Seasonal Employee
6. Appoint Interim Deputy Fire Chief
7. Summary Ordinance Publications, Ordinance 314Â & 315
8. LA25-000028, City Code Recodification, Ordinance 312
9. Upcoming Work Session and Council Training Schedule

Presentations
10. Acceptance of CenterPoint Energy Community Safety Grant Award - Resolution 7600

Public Comments
This is an opportunity for the public to address the City Council. The council will not engage in discussion or take action on items presented at this time. However, the council may refer issues to staff for follow up or consideration at a future meeting. Speakers should state their name and home address at the podium before speaking. Speakers should be mindful of time and limit their remarks to three (3) minutes to allow sufficient opportunity for others to speak. We encourage speakers to address their comments to the mayor and council and to keep their remarks respectful and relevant. Please no personal attacks. Criticism of ideas is acceptable, but attacks against individuals are not tolerated. Please make your statements in a civil manner. Similarly, we ask everyone in the audience to be respectful of speakers and refrain from disruptive behavior, such as shouting, heckling, or making excessive noise.

Community Development Report
11. LA25-000029, City of Orono, Comprehensive Plan Amendment #8, Resolution 7601

Finance Report
12. 2025 Expenditure Budget Overage

Parks Report
13. Purchase Park Signs

Attorney Report

City Administrator/Engineer Report

Council Committee Reports

14. Council Committee and Board Reports

Mayor/Council Report

Adjournment

Upcoming Events

Aug 02 Tour de Tonka
Aug 05 Night to Unite
Aug 05 Park Commission
Aug 11 City Council
Aug 18 Planning Commission
Aug 25 City Council

AGENDA ITEM

Date: July 28, 2025 **Item:** 1

Title: City Council Minutes

Presenter: Christine Lusian, City Clerk

Section: Consent Agenda

1. **Purpose:**
   The purpose of this item is to approve the City Council meeting minutes.

2. **Staff Recommendation:**
   Approve the City Council work session and regular meeting minutes.

COUNCIL ACTION REQUESTED

Approve the City Council work session and regular meeting minutes.

Exhibits

A. 07-14-2025 CC Minutes - work session
B. 07-14-2025 CC Minutes

Minutes
City Council Work Session
Monday, July 14, 2025, 5:00 PM
City Council Chambers | 2780 Kelley Parkway, Orono, MN 55356

ROLL CALL

City Council members present: Mayor Bob Tunheim, City Council Members Alisa Benson, Jacqueline Ricks. Absent: Steve Persian, Jon Schwingler.

Staff present: City Administrator Adam Edwards, Community Development Director Laura Oakden, Planners Melanie Curtis and Matt Kearny, City Clerk Christine Lusian.

AVERAGE LAKESHORE SETBACK

The sixth work session focused on average lakeshore setback regulations, where Orono's 75-foot shore setback for properties on Lake Minnetonka is more restrictive than the MN Department of Natural Resources (DNR) 50-foot model. Seven options for adjusting the Average Lakeshore Setback (ALS) were reviewed, with option seven, applying ALS only when building within the shore setback, receiving attention. There was general support for protecting lake view sightlines (ALS) and regulating shoreline development, though opinions varied on its necessity. The group was in consensus that there was no urgency to make changes and emphasized clarifying the goal behind any potential revision.

CODE ENFORCEMENT PROCESS
The discussion on the code enforcement process was postponed to a future meeting.

There was a note that more time is needed for collaboration and the work session schedule will be revisited again during a regular meeting. The work session on July 28 will be held from 4-6pm.

ADJOURNMENT

Work session ended at 5:55 p.m.

ATTEST: CITY COUNCIL

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Christine Lusian, City Clerk Bob Tunheim, Mayor

Minutes
City Council Regular Meeting
Monday, July 14, 2025, 6:00 PM
City Council Chambers 2780 Kelley Parkway, Orono, MN 55356

Mayor Tunheim called the meeting to order at 6:00 p.m., followed by the Pledge of Allegiance.

ROLL CALL

Orono City Council members present: Mayor Bob Tunheim, City Council Members Alisa Benson and Jacqueline Ricks. Members absent: Steve Persian and Jon Schwingler.

Staff present were City Attorney Soren Mattick, City Administrator/Engineer Adam Edwards, Finance Director Maggie Jin, Police Chief Correy Farniok, City Planner Matthew Karney, City Clerk Christine Lusian, Communication Specialist Rachel Cotter, and Community Development Director Laura Oakden.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA
The agenda was approved by consensus.

CONSENT AGENDA

1. City Council Minutes
2. Claims/Bills
3. Solicitor License
4. Fireworks Display – July 19
5. Donation of K9 Ballistic Vest – Resolution 7597
6. Resignation of Part-Time Firefighters
   This item was removed from the Consent Agenda
7. Hire Temporary Accounting Technician
8. Hire Public Works Maintenance Worker
9. Building Services Contract Agreement
10. Orono Fire Department Relief Association Legal and Audit Fee Approval
11. City Hall and Police Parking Lot Maintenance Award (25-035)
12. Stormwater Drainage Repairs
13. LA25-000021, 2565 Dunwoody Avenue, Average Lakeshore Setback Variance, Resolution 7596

Ricks moved, Benson seconded, to approve the Consent Agenda except for Item 6. VOTE: Ayes 3, Nays 0.

PRESENTATIONS

14. Canine Introduction and Badge Ceremony
    Police Chief Correy Farniok introduced the Orono PD's newest K-9 officer, Onyx, and his handler, Officer Brayden Sherman. Mayor Tunheim administered the oath of Office and presented his badge.

15. LMCD Representative Presentation
    Mayor Tunheim introduced Orono LMCD representative Rich Anderson, who asked to defer his presentation until the whole City Council is present.

PUBLIC COMMENTS

Gabriel Jabbour, 985 Tonkawa Road; Les Delton, 1535 Orchard Beach Place; Clair Rood, 3280 Navarre Lane; and Kelly Grady, Long Lake, provided comments.

6. Resignation of Part-Time Firefighters

Ricks indicated she asked to pull this item from the Consent Agenda to thank the two part-time firefighters who have resigned and wish them well.

Ricks moved, Benson seconded, to approve the resignation of part-time firefighters Taylor Andres and Jake Martin and thank them for their service. VOTE: Ayes 3, Nays 0.

COMMUNITY DEVELOPMENT REPORT

16. LA25-000014, Text Amendment, Chapter 78 Animals, Ordinance 315

The City Council is requested to review the Staff report, receive a presentation, and discuss and adopt the Ordinance Text Amendment.

The Council discussed the item and asked questions of staff.

Ricks moved, Benson seconded, to adopt LA25-000014, Text Amendment, Chapter 78 Animals, Ordinance 315 and the newspaper summary publication. VOTE: Ayes 3, Nays 0.

17. LA25-000088, Text Amendment, Section 78-823 Garage Condo Standards, Ordinance 314

The City Council is requested to review the Staff report, receive a presentation, and discuss and adopt the ordinance text amendment.

The Council discussed the item and asked questions of staff, noting that the Planning Commission had spent a great deal of time on this issue and had made the recommendations regarding parking spaces and driving lanes.

Benson moved, Ricks seconded, to adopt LA25-000088 Text Amendment, Section 78-823 Garage Condo Standards, Ordinance 314 as recommended by the Planning Commission, as well as the newspaper summary publication. VOTE: Ayes 3, Nays 0.

FINANCE DIRECTOR REPORT

18. Paid Family Medical Leave Administrator

The City Council is requested to review the Staff report, receive a presentation, and discuss and approve contracting with Met Life, the low bidder, to administer a paid family leave program for the City of Orono. Employers must begin offering paid family leave beginning in 2026, according to State Law.

The Council discussed the item and asked questions of staff.

Benson moved, Ricks seconded, to enter into a two-year agreement with MetLife as the Paid Family Medical Leave program administrator. VOTE: Ayes 3, Nays 0.

19. Second Quarter Financial Update

Finance Director Jin presented the second quarter financial update, noting revenues and expenditures are mainly on track at the mid-point of the year.

The Council discussed the item and asked questions of staff.

CITY ATTORNEY REPORT

None

CITY ADMINISTRATOR/ENGINEER REPORT

20. Upcoming Work Session and Council Training Schedule

City Administrator Edwards presented suggested topics for work sessions for the remainder of 2025.

The Council discussed the item and asked questions of staff, including options to expand time for work sessions, for example, extending planned work sessions or adding daytime or evening meetings. The consensus of the Council was to add an hour to the next work session on July 28 and plan a two-hour stand-alone meeting later in the summer.

Edwards updated the Council on roads and parks projects, budgeting, and the fire Joint Powers Agreement.

COUNCIL COMMITTEE REPORTS

Tunheim reported on the Fire Advisory Committee meeting.

MAYOR/COUNCIL REPORT

Mayor and Council provided reports.

ADJOURNMENT

Benson moved, Ricks seconded, to adjourn the meeting at 7:59 p.m. to Monday, July 28, 2025, at 6:00 p.m. VOTE: Ayes 3, Nays 0.

ATTEST:

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Christine Lusian, City Clerk Bob Tunheim, Mayor

Minutes approved by Orono City Council July 28, 2025. Meeting videos and transcripts available at oronomn.gov.

AGENDA ITEM

Date: July 28, 2025 **Item:** 2

Title: Claims/Bills

Presenter: Kellie Hoen, Administrative Assistant

Section: Consent Agenda

1. **Purpose:**
   The purpose of this action item is to approve payment of claims made on the City for services and/or products provided to the City.

2. **Background:**
   The attached claims for payment have been received by the City. Staff has reviewed the claims and is recommending approval of the listing for payment. The claims will be paid by checks 126416 to 126510 , and ACH transactions 20130714 to 20130720 totaling $ 507,219.94 .

3. **Staff Recommendation:**
   Staff recommends approval of a motion authorizing payment to the claims listed as presented.

COUNCIL ACTION REQUESTED
Motion to approve the claims list as presented.

Exhibits
A. Check Register 2025-07-23

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
CITY OF WAYZATA	07/23/2025	126336	06.2025 UTIL	602-49450-387	JUNE 2025 SEWER	Sewer	9,734.10-
CITY OF WAYZATA	07/23/2025	126336	06.2025 UTIL	601-49400-387	JUNE 2025 WATER	Water	4,643.66-
Total 126336:							14,377.76-
CAPITOL BEVERAGE SALES L.P	07/18/2025	126416	3148773	613-49830-091	BEER	Golf Course	199.80
CAPITOL BEVERAGE SALES L.P	07/18/2025	126416	3148773	613-49830-092	BEVERAGE	Golf Course	336.70
Total 126416:							536.50
CENTURYLINK	07/18/2025	126417	07.2025 WT	601-49400-321	WTP PHONE/INTERNET 07/04/2025-08/03/2025	Water	150.99
Total 126417:							150.99
DELANO CARQUEST	07/18/2025	126418	6829-325920	701-49800-222	712 BRAKE PARTS-CALIPER	Fleet Services	118.17
Total 126418:							118.17
HIDDEN ACRES PET RESORT	07/18/2025	126419	49427	101-42110-317	K9 BOARDING/ONYX 3 DAYS	Police Department	234.00
Total 126419:							234.00
KODIAK POWER SOLUTIONS	07/18/2025	126420	20324030	602-49450-406	LS# 13 GENERATOR NO START	Sewer	240.00
Total 126420:							240.00
NAVARRE HARDWARE	07/18/2025	126421	350550	101-45200-221	HOSE ATTACHMENTS	Parks	22.57
NAVARRE HARDWARE	07/18/2025	126421	350552	101-45200-221	IRRIGATION SUPPLIES	Parks	3.00-
Total 126421:							19.57
NOVA TECHNOLOGIES	07/18/2025	126422	178695	710-49970-401	PHONE SUPPORT - STATIC ISSUE	IT Services	522.50
Total 126422:							522.50
ONSITE DRUG TESTING & CON	07/18/2025	126423	02362	101-43000-319	DRUG TESTING-CLARK 3RD QUARTER RANDO	Public Works Department	217.50
ONSITE DRUG TESTING & CON	07/18/2025	126423	02362	651-49910-319	DRUG TESTING-CLARK 3RD QUARTER RANDO	Storm Water	217.50
Total 126423:							435.00

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
SAFEBUILT LLC LOCKBOX 8813	07/18/2025	126424	2093025	101-42400-310	BUILDING INSPECTION SERVICES	Building & Zoning	303.75
Total 126424:							303.75
STANDARD SPRING PARTS	07/18/2025	126425	410125	701-49800-222	712 REAR LEAF SPRING PARTS	Fleet Services	110.95
Total 126425:							110.95
SUPERIOR TURF SERVICES	07/18/2025	126426	6801	101-45200-216	PARKS FERTILIZER	Parks	4,698.68
SUPERIOR TURF SERVICES	07/18/2025	126426	6805	613-49830-223	GOLF COURSE FERTILIZER	Golf Course	4,309.10
SUPERIOR TURF SERVICES	07/18/2025	126426	7158	613-49830-216	GOLF COURSE FERTILIZER	Golf Course	1,457.51
SUPERIOR TURF SERVICES	07/18/2025	126426	7172	613-49830-216	GOLF COURSE FERTILIZER	Golf Course	149.64
SUPERIOR TURF SERVICES	07/18/2025	126426	7463	101-45200-216	PARK FERTILIZER	Parks	383.00
Total 126426:							10,997.93
VERIZON WIRELESS	07/18/2025	126427	6118209827	101-43100-321	ARLO CAMERAS - BRUSH SITE	Brush Site	80.02
VERIZON WIRELESS	07/18/2025	126427	6118209827	101-45200-321	ARLO CAMERAS - LURTON DOG PARK	Parks	80.02
VERIZON WIRELESS	07/18/2025	126427	6118209827	101-41900-321	ARLO CAMERAS - SPARE	Central Services	40.01
VERIZON WIRELESS	07/18/2025	126427	6118209827	101-42110-321	ARLO CAMERAS - PD	Police Department	80.02
Total 126427:							280.07
Wright-Hennepin Coop Electric	07/18/2025	126428	3503228270	101-43100-381	BRUSH SITE 06/01/25-07/01/25	Brush Site	30.41
Wright-Hennepin Coop Electric	07/18/2025	126428	3503228270	613-49830-381	GC SECURITY TO 08/31/2025	Golf Course	43.30
Wright-Hennepin Coop Electric	07/18/2025	126428	3503228270	101-43000-381	ELECTRICAL SERVICE 06/01/25-07/01/25	Public Works Department	175.85
Total 126428:							249.56
CITY OF WAYZATA	07/23/2025	126429	06.2025 UTIL	602-49450-387	JUNE 2025 SEWER	Sewer	9,734.10
CITY OF WAYZATA	07/23/2025	126429	06.2025 UTIL	601-49400-387	JUNE 2025 WATER	Water	4,643.66
Total 126429:							14,377.76
ABEL HEATING AND COOLING	07/28/2025	126430	M25-000131	101-20802	BP REFUND - M25-000131 - 2389 BLAIN AVE		7.07
ABEL HEATING AND COOLING	07/28/2025	126430	M25-000131	101-32530	BP REFUND - M25-000131 - 2389 BLAIN AVE		180.00
Total 126430:							187.07
ACROSS THE STREET PRODU	07/28/2025	126431	28184	101-42260-437	BLUECARD ONLINE TRAINING ACCESS FOR DE	Fire Protection Services	770.00

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
Total 126431:							770.00
AHN, PETER	07/28/2025	126432	LA25-000011	101-22205	ESCROW REFUND - LA25-000011 - 3275 CARMA		700.00
Total 126432:							700.00
AIR MECHANICAL	07/28/2025	126433	P25-000005 -	601-39610	BP REFUND - P25-000008 - 3271 CASCO CIR		891.00
AIR MECHANICAL	07/28/2025	126433	P25-000005 -	101-32590	BP REFUND - P25-000008 - 3271 CASCO CIR		926.92
Total 126433:							1,817.92
ALISA BENSON	07/28/2025	126434	07.2025 A. B	101-41110-437	LMC ANNUAL CONFERENCE - BENSON	Mayor & Council	943.92
Total 126434:							943.92
ALLIED MEDICAL TRAINING	07/28/2025	126435	4091	101-42260-437	INITIAL EMT TRAINING - WILSON, SKILLS WEEK-	Fire Protection Services	1,350.00
Total 126435:							1,350.00
AMERICAN PUBLIC WORKS AS	07/28/2025	126436	000891466	101-41300-433	APWA MEMBERSHIP	Administration	266.05
AMERICAN PUBLIC WORKS AS	07/28/2025	126436	000891466	101-43000-433	APWA MEMBERSHIP	Public Works Department	266.05
AMERICAN PUBLIC WORKS AS	07/28/2025	126436	000891466	101-45200-433	APWA MEMBERSHIP	Parks	266.05
AMERICAN PUBLIC WORKS AS	07/28/2025	126436	000891466	651-49910-433	APWA MEMBERSHIP	Storm Water	266.05
AMERICAN PUBLIC WORKS AS	07/28/2025	126436	000891466	602-49450-433	APWA MEMBERSHIP	Sewer	266.05
Total 126436:							1,330.25
BIFFS INC	07/28/2025	126437	INV256818	101-45200-415	BIFF RENTAL-BEDERWOOD PARK	Parks	257.00
BIFFS INC	07/28/2025	126437	INV256819	101-45200-415	BIFF RENTAL-SUMMIT BEACH	Parks	166.00
BIFFS INC	07/28/2025	126437	INV256820	101-45200-415	BIFF RENTAL-HACKBERRY PARK	Parks	182.00
BIFFS INC	07/28/2025	126437	INV256821	613-49830-415	BIFF RENTAL-GOLF COURSE	Golf Course	91.00
BIFFS INC	07/28/2025	126437	INV256822	101-45200-415	BIFF RENTAL-CRYSTAL BAY PLAYGROUND	Parks	91.00
BIFFS INC	07/28/2025	126437	INV256823	101-45200-415	BIFF RENTAL-NAVARRE PLAYGROUND	Parks	166.00
BIFFS INC	07/28/2025	126437	INV256824	101-45200-415	BIFF RENTAL-LURTON PARK	Parks	91.00
BIFFS INC	07/28/2025	126437	INV256825	101-43100-415	BIFF RENTAL-BRUSH SITE	Brush Site	91.00
Total 126437:							1,135.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0000G	101-41600-307	FIRE MATTER 05/25-06/25	Law/Legal Services	3,214.00

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
CAMPBELL KNUTSON	07/28/2025	126438	2717-0000G	101-41600-307	HR MATTERS 05/2025-06/2025	Law/Legal Services	671.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0000G	101-41600-307	UNION NEGOTIATIONS 05/25-06/25	Law/Legal Services	3,438.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0000G	101-41600-307	LIDS MATTER 06/2025	Law/Legal Services	204.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0000G	101-41600-307	MIDCO LEASE 05/2025-06/2025	Law/Legal Services	1,156.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0000G	101-41600-307	LIQUOR COMPLIANCE 06/2025	Law/Legal Services	85.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0000G	101-41600-307	450 OLD CRYSTAL BAY RD MATTER	Law/Legal Services	323.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0000G	101-41600-307	ADMINISTRATION/GENERAL MATTERS 05/25 RE	Law/Legal Services	4,691.00-
CAMPBELL KNUTSON	07/28/2025	126438	2717-0000G	101-41600-307	ADMINISTRATION/GENERAL MATTERS 06/25	Law/Legal Services	2,601.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0004G	101-42110-307	POLICE MATTERS 06/25	Police Department	1,619.58
CAMPBELL KNUTSON	07/28/2025	126438	2717-0069G	101-43280-307	LA24-000069 2300 6TH AVE FINAL PLAT	Special Services	135.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0115G	101-41600-308	3600 IVY PL - CODE ENFORCEMENT	Law/Legal Services	272.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0201G	101-41600-307	MISC RECORDINGS 06/25	Law/Legal Services	777.54
CAMPBELL KNUTSON	07/28/2025	126438	2717-0800G	101-42400-307	B&Z ASSISTANCE 06/25	Building & Zoning	374.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0802G	101-42400-307	B&Z ASSISTANCE 06/25	Building & Zoning	1,955.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0963G	101-43280-307	LA24-000068 - 430 OLD CRYSTAL BAY ROAD	Special Services	348.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0968G	101-43280-307	LA24-000069 2300 6TH AVE	Special Services	299.50
CAMPBELL KNUTSON	07/28/2025	126438	2717-0998G	101-41600-306	PROSECUTION SERVICES 06/25	Law/Legal Services	274.00
CAMPBELL KNUTSON	07/28/2025	126438	2717-0999G	101-41600-306	PROSECUTION SERVICES 06/25	Law/Legal Services	6,161.65
Total 126438:							19,217.27
CECE'SIGNS INC	07/28/2025	126439	9905	602-49450-227	SIGNS FOR LIFT STATIONS, GENERATORS	Sewer	354.00
Total 126439:							354.00
CENTRAL PENSION FUND SOU	07/28/2025	126440	07.24.25 FU	101-21705	CENTRAL PENSION FUND 07.24.2025		2,125.50
Total 126440:							2,125.50
CENTURYLINK	07/28/2025	126441	07.2025 GC	613-49830-321	GC PHONE/INTERNET 07/19/2025-08/18/2025	Golf Course	209.61
Total 126441:							209.61
CHAMBERLAIN FINE CUSTOM	07/28/2025	126442	RPS24-0000	101-22205	ESCROW REFUND - RPS24-000041 - 2925 LILLAI		10,000.00
Total 126442:							10,000.00
CHEVROLET	07/28/2025	126443	27199	701-49800-222	PD 270 USB OUTLET MODULE	Fleet Services	86.17

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
Total 126443:							86.17
CITY OF LONG LAKE	07/28/2025	126444	20250021	101-42260-318	3RD QTR 2025 FIRE SERVICE	Fire Protection Services	156,265.75
CITY OF LONG LAKE	07/28/2025	126444	20250025	101-42260-318	JOINT DUTY CREW - JUNE 2025	Fire Protection Services	3,170.00
Total 126444:							159,435.75
CITY VIEW PLUMBING & HEATI	07/28/2025	126445	156577768	101-41900-404	PLUMBING REPAIR - CITY HALL	Central Services	1,321.74
CITY VIEW PLUMBING & HEATI	07/28/2025	126445	156987634	101-41900-404	PLUMBING REPAIR - CITY HALL	Central Services	729.68
Total 126445:							2,051.42
COLLEEN MANCHESTER	07/28/2025	126446	RPS23-0001	101-22205	ESCROW REFUND - RPS23-000195		1,000.00
Total 126446:							1,000.00
CORREY FARNIOK	07/28/2025	126447	07.2025 C. F	101-42110-226	UNIFORM REIMBURSEMENT	Police Department	112.94
Total 126447:							112.94
DAHLHEIMER BEVERAGE MON	07/28/2025	126448	2518538	613-49830-094	WATER	Golf Course	59.60
DAHLHEIMER BEVERAGE MON	07/28/2025	126448	2518538	613-49830-091	BEER	Golf Course	192.00
Total 126448:							251.60
DELANO CARQUEST	07/28/2025	126449	6829-326338	602-49450-222	LIFT STATION GENERATOR BATTERY FOR ENGI	Sewer	307.27
DELANO CARQUEST	07/28/2025	126449	6829-326440	701-49800-240	MECHANICS TOOLS - SMALL FLUID PUMP	Fleet Services	13.56
DELANO CARQUEST	07/28/2025	126449	6829-326444	613-49830-221	GOLF COURSE UTILITY CART HORN BUTTON	Golf Course	10.87
DELANO CARQUEST	07/28/2025	126449	6829-326639	701-49800-222	PD VEHICLES V-6 ENGINE OIL FILTERS	Fleet Services	54.24
Total 126449:							385.94
EARL F ANDERSEN & ASSOC	07/28/2025	126450	01401143-IN	101-45200-221	PARK SIGNS	Parks	100.45
EARL F ANDERSEN & ASSOC	07/28/2025	126450	0140116-IN	101-43000-224	SIGN POSTS SQUARE	Public Works Department	793.95
Total 126450:							894.40
ECM PUBLISHERS INC	07/28/2025	126451	156651	101-42400-352	PH FOR B&Z - JULY 2025	Building & Zoning	157.50

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
Total 126451:							157.50
EHLERS AND ASSOCIATES	07/28/2025	126452	102104	235-45690-319	2024 TIF REPORTING - SAFES		98.75
Total 126452:							98.75
FACTORY MOTOR PARTS	07/28/2025	126453	1-10540245	701-49800-222	VEHICLE PARTS	Fleet Services	196.38
FACTORY MOTOR PARTS	07/28/2025	126453	1-10540523	701-49800-222	VEHICLE PARTS	Fleet Services	196.38
FACTORY MOTOR PARTS	07/28/2025	126453	1-10850018	701-49800-222	111 WHEEL BEARING	Fleet Services	229.62
FACTORY MOTOR PARTS	07/28/2025	126453	1-10850043	701-49800-222	VEHICLE PARTS	Fleet Services	196.38-
FACTORY MOTOR PARTS	07/28/2025	126453	1-10850045	701-49800-222	VEHICLE PARTS	Fleet Services	182.64
FACTORY MOTOR PARTS	07/28/2025	126453	1-10850047	701-49800-222	VEHICLE PARTS	Fleet Services	196.38-
FACTORY MOTOR PARTS	07/28/2025	126453	1-10850048	701-49800-222	VEHICLE PARTS	Fleet Services	182.64
FACTORY MOTOR PARTS	07/28/2025	126453	1-10884625	701-49800-222	PD TAHOE ENGINE COOLANT EXPANSION TANK	Fleet Services	34.58
FACTORY MOTOR PARTS	07/28/2025	126453	1-10884910	701-49800-222	PD SQUAD 270 ENGINE COOLANT EXPANSION	Fleet Services	34.58
FACTORY MOTOR PARTS	07/28/2025	126453	1-10941077	701-49800-222	TAHOE BRAKES LLFD	Fleet Services	419.94
FACTORY MOTOR PARTS	07/28/2025	126453	128-Z18266	701-49800-222	VEHICLE BATTERIES	Fleet Services	88.96
FACTORY MOTOR PARTS	07/28/2025	126453	6-1700124	701-49800-222	PD 259 FRONT HVAC BLOWER MOTOR ASSEMB	Fleet Services	73.11
FACTORY MOTOR PARTS	07/28/2025	126453	70-592574	701-49800-222	110 VEHICLE PARTS	Fleet Services	30.24
FACTORY MOTOR PARTS	07/28/2025	126453	70-592595	701-49800-222	428 STEERING GEARBOX RETURN	Fleet Services	1,155.72-
FACTORY MOTOR PARTS	07/28/2025	126453	70-593596	701-49800-222	PD SQUAD 264 HVAC BLOWER MOTOR	Fleet Services	61.72
FACTORY MOTOR PARTS	07/28/2025	126453	70-593622	701-49800-222	PD 259 WATER PUMP	Fleet Services	171.20
FACTORY MOTOR PARTS	07/28/2025	126453	70-593625	701-49800-222	PD 259 PARTS THERMOSTAT	Fleet Services	36.93
FACTORY MOTOR PARTS	07/28/2025	126453	70-593717	701-49800-222	PD TAHOE BATTERY	Fleet Services	152.17
FACTORY MOTOR PARTS	07/28/2025	126453	70-593951	701-49800-222	PD 259 WATER PUMP CREDIT	Fleet Services	171.20-
FACTORY MOTOR PARTS	07/28/2025	126453	70-594691	701-49800-222	PD SQUAD 259 TRANSFER CASE FLUID	Fleet Services	37.40
FACTORY MOTOR PARTS	07/28/2025	126453	70-595121	701-49800-222	TAHOE BRAKES LLFD	Fleet Services	206.60
FACTORY MOTOR PARTS	07/28/2025	126453	70-595451	701-49800-222	PD 264 180 DEGREE THERMOSTAT	Fleet Services	38.13
Total 126453:							653.54
FERGUSON WATERWORKS #25	07/28/2025	126454	0550315	601-49400-227	WATER METER HORN GASKETS	Water	118.67
Total 126454:							118.67
FIDELITY SECURITY LIFE INSU	07/28/2025	126455	166868157	101-21716	VISION PLAN 7/2025		313.42
Total 126455:							313.42

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
GENUINE PARTS COMPANY/NA	07/28/2025	126456	628382	602-49450-221	LIFT STATION 18 GENERATOR BATTERY	Sewer	177.64
Total 126456:							177.64
GOPHER ACE	07/28/2025	126457	025731/1	101-43000-226	BRADY PPE	Public Works Department	228.56
GOPHER ACE	07/28/2025	126457	025761/1	101-45200-223	PEST CONTROL	Parks	67.87
GOPHER ACE	07/28/2025	126457	25645-1	101-45200-221	IRRIGATION REPAIR SPRING PARK	Parks	107.96
GOPHER ACE	07/28/2025	126457	25662/1	613-49830-221	NUTS & BOLTS	Golf Course	15.18
GOPHER ACE	07/28/2025	126457	25682/1	101-43000-224	SHOP ITEMS	Public Works Department	50.94
GOPHER ACE	07/28/2025	126457	25700/1	101-41900-223	GARBAGE BAGS	Central Services	16.99
GOPHER ACE	07/28/2025	126457	25709/1	101-42260-240	STATION SUPPLIES	Fire Protection Services	24.77
GOPHER ACE	07/28/2025	126457	25777/1	101-43000-240	DEADBLOW HAMMER	Public Works Department	51.98
Total 126457:							564.25
HAWKINS INC	07/28/2025	126458	7073317	601-49400-216	WATER PLANT CHEMICALS	Water	3,960.37
HAWKINS INC	07/28/2025	126458	7131741	601-49400-216	WATER PLANT CHEMICALS	Water	60.00
Total 126458:							4,020.37
HEATHER OR JOHN TOLER	07/28/2025	126459	UB REFUND	999-10015	UB REFUND -500 SANDHILL DR -TOLER		103.30
Total 126459:							103.30
HENNEPIN COUNTY ACCOUNT	07/28/2025	126460	1000249237	101-42110-437	TRAINING/WINTHRW - REVOLVING PD EXPENS	Police Department	349.00
Total 126460:							349.00
HENNEPIN COUNTY ACCOUNT	07/28/2025	126461	1000248557	101-42110-414	HC RADIO/MDC LEASE FEE	Police Department	3,179.20
HENNEPIN COUNTY ACCOUNT	07/28/2025	126461	1000248573	651-49910-414	PW RADIO LEASE 6/2025	Storm Water	320.43
HENNEPIN COUNTY ACCOUNT	07/28/2025	126461	1000248608	101-42260-414	FIRE RADIO LEASE 6/2025	Fire Protection Services	844.77
HENNEPIN COUNTY ACCOUNT	07/28/2025	126461	1000249362	101-42400-319	PROPERTY RESEARCH	Building & Zoning	10.00
HENNEPIN COUNTY ACCOUNT	07/28/2025	126461	1000250182	101-41600-309	JAIL CHARGES/ALL CITIES	Law/Legal Services	1,925.60
Total 126461:							6,280.00
HIGHVIEW PLUMBING INC	07/28/2025	126462	17680	602-49450-319	I&I INSPECTION	Sewer	1,000.00
Total 126462:							1,000.00

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
HOLTON ELECTRIC CONTRACT	07/28/2025	126463	8303	613-49830-404	GOLF COURSE SHED ELECTRIC REPAIRS	Golf Course	554.00
HOLTON ELECTRIC CONTRACT	07/28/2025	126463	8306	613-49830-404	GOLF COURSE SHED ELECTRICAL POLE	Golf Course	4,248.68
Total 126463:							4,802.68
International Union Local #49	07/28/2025	126464	07.2025	101-21707	LOCAL 49 DUES - 07/2025		472.50
Total 126464:							472.50
JACQUELINE RICKS	07/28/2025	126465	07.2025 J. RI	101-41110-437	LMC ANNUAL CONFERENCE - RICKS	Mayor & Council	1,058.48
Total 126465:							1,058.48
JDAE LLC	07/28/2025	126466	UB REFUND	999-10015	UB REFUND - 2080 NORTH SHORE DR - JDAE LL		240.69
Total 126466:							240.69
JH LARSON COMPANY	07/28/2025	126467	S103414897.	601-49400-405	WATER PLANT LEAK - PARTS FOR FIX	Water	40.98
Total 126467:							40.98
JOHNSON FITNESS & WELLNE	07/28/2025	126468	22-045595	101-42110-403	JOHNSON FITNESS AND WELLNESS/YEARLY E	Police Department	334.00
Total 126468:							334.00
KENNETH SCHMELING	07/28/2025	126469	RPS24-0000	101-22205	ESCROW REFUND - RPS24-000045 - 4423 NORT		1,000.00
Total 126469:							1,000.00
KODIAK POWER SOLUTIONS	07/28/2025	126470	20498890	602-49450-406	REPLACE GFI & CHARGER FOR LS 18	Sewer	841.42
Total 126470:							841.42
LAW ENFORCEMENT LABOR S	07/28/2025	126471	07.2025 DUE	101-21707	LELS DUES - LOCAL 40 07/2025		1,460.92
LAW ENFORCEMENT LABOR S	07/28/2025	126471	07.2025 DUE	101-21707	LELS DUES - LOCAL 168 07/2025		365.00
Total 126471:							1,825.92
LEO WEB PROTECT INC.	07/28/2025	126472	81113128015	710-49970-416	MONTHLY SUBSCRIPTION 7/25	IT Services	143.06

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
Total 126472:							143.06
MACQUEEN EQUIPMENT LLC	07/28/2025	126473	P51539	101-42260-226	FIREFIGHTING BOOTS FOR LIEBL	Fire Protection Services	630.40
MACQUEEN EQUIPMENT LLC	07/28/2025	126473	P51622	101-42260-226	NEW FIRE HELMET FOR LIEBL	Fire Protection Services	201.00
MACQUEEN EQUIPMENT LLC	07/28/2025	126473	P51693	101-42260-226	HELMET SHIELD FOR BROOKS	Fire Protection Services	72.00
MACQUEEN EQUIPMENT LLC	07/28/2025	126473	P51703	101-42260-226	HELMET SHIELD FOR WILSON	Fire Protection Services	72.00
Total 126473:							975.40
MANSFIELD OIL COMPANY	07/28/2025	126474	26724773	701-49800-212	UNLEADED FUEL	Fleet Services	7,064.32
MANSFIELD OIL COMPANY	07/28/2025	126474	26724784	701-49800-212	DIESEL FUEL	Fleet Services	1,946.68
Total 126474:							9,011.00
MARTIN MARIETTA MATERIALS	07/28/2025	126475	46328839	101-43000-224	PATCHING	Public Works Department	75.86
Total 126475:							75.86
MEB ENTERPRISE INC	07/28/2025	126476	1295	651-49910-406	TASK 75362,75367,75368 AND 81493	Storm Water	6,225.00
MEB ENTERPRISE INC	07/28/2025	126476	1309-	651-49910-406	REPAIR STORM SEWER SYSTEM ON WILDHUR	Storm Water	48,560.00
Total 126476:							54,785.00
METLIFE	07/28/2025	126477	08.2025 DEN	101-15998	DENTAL INS -COBRA BR		34.61
METLIFE	07/28/2025	126477	08.2025 DEN	101-15998	DENTAL INS -COBRA ET		66.37
METLIFE	07/28/2025	126477	08.2025 DEN	101-21709	DENTAL INSURANCE 08/25		3,121.77
METLIFE	07/28/2025	126477	ACCIDENT I	101-21721	ACCIDENT 08.2025		366.76
METLIFE	07/28/2025	126477	CRITICAL IN	101-21721	CRITICAL INS 08.2025		153.96
METLIFE	07/28/2025	126477	HOSPITAL I	101-21721	HOSPITAL 08.2025		275.40
Total 126477:							4,018.87
Mid-America Business Systems In	07/28/2025	126478	20250726	710-49970-401	SERVICE AGREEMENT - 7/14/25-7/13/26	IT Services	895.00
Total 126478:							895.00
MINUTEMAN PRESS	07/28/2025	126479	39306	101-41430-322	NEWSLETTER JUL-AUG POSTAGE	Communications	1,133.49
MINUTEMAN PRESS	07/28/2025	126479	39306	101-41430-325	NEWSLETTER JUL-AUG	Communications	1,640.91

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
Total 126479:							2,774.40
MTI DISTRIBUTING INC	07/28/2025	126480	1483200-00	101-41900-221	MOWER REPAIR PARTS	Central Services	129.22
MTI DISTRIBUTING INC	07/28/2025	126480	1483200-01	613-49830-221	MOWER REPAIR - PULL LINK	Golf Course	101.24
Total 126480:							230.46
NAVARRE HARDWARE	07/28/2025	126481	350573	101-42110-240	SHOP SUPPLIES/GARAGE	Police Department	13.99
Total 126481:							13.99
NCPERS GROUP LIFE INS.	07/28/2025	126482	6732000820	101-21710	PERA LIFE 08/2025		416.00
Total 126482:							416.00
ODP BUSINESS SOLUTIONS LL	07/28/2025	126483	4297499670	101-42110-201	OFFICE SUPPLIES	Police Department	89.60
ODP BUSINESS SOLUTIONS LL	07/28/2025	126483	4297514180	101-42110-201	OFFICE SUPPLIES	Police Department	13.16
ODP BUSINESS SOLUTIONS LL	07/28/2025	126483	4297585820	101-42110-201	OFFICE SUPPLIES	Police Department	448.40
ODP BUSINESS SOLUTIONS LL	07/28/2025	126483	4325049420	101-42110-201	OFFICE SUPPLIES	Police Department	75.58
Total 126483:							626.74
OPEIU - LOCAL 12	07/28/2025	126484	07.2025 DUE	101-21707	UNION DUES - LOCAL 12 07/2025		992.00
Total 126484:							992.00
PATRICK FLEMING	07/28/2025	126485	UB REFUND	999-10015	UB REFUND - 4760 NORTH ARM DR W - FLEMIN		2.26
Total 126485:							2.26
PATRICK OR MELISSA MULHER	07/28/2025	126486	UB REFUND	999-10015	UB REFUND - 460 ORCHARD PARK RD -MULHER		181.21
Total 126486:							181.21
PLAISTED COMPANIES INC	07/28/2025	126487	85112	613-49830-223	TOPDRESSING SAND & DIRT	Golf Course	1,202.58
Total 126487:							1,202.58
PRECISION UTILITIES	07/28/2025	126488	2634	602-49450-406	FORCE MAIN BREAK AT LS18	Sewer	6,550.00

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
Total 126488:							6,550.00
PRIORITY TREE EXPERTS LLC	07/28/2025	126489	1016	101-43000-405	REMOVE TREES ON WILDHURST DRAINAGE DI	Public Works Department	7,250.00
Total 126489:							7,250.00
PUTNAM, JANET	07/28/2025	126490	UB REFUND	999-10015	UB REFUND - 2765 CASCO POINT RD		282.36
Total 126490:							282.36
RED CEDAR CONSULTING LLC	07/28/2025	126491	000278	101-42110-319	EXTERNAL INVESTIGATION (OPD)	Police Department	9,555.76
Total 126491:							9,555.76
REVIS STEPHENSON	07/28/2025	126492	RPS23-0000	101-22205	ESCROW REFUND - RPS23-000099 - 3760 WATE		1,000.00
Total 126492:							1,000.00
ROSENBAUER SOUTH DAKOTA	07/28/2025	126493	0100020734	101-42260-402	E1 BUMPER REPAIR	Fire Protection Services	2,459.02
Total 126493:							2,459.02
RYAN AUTO MALL	07/28/2025	126494	276112	701-49800-222	PD DURANGO 259 RADIATOR AND RADIATOR C	Fleet Services	457.44
Total 126494:							457.44
SCHERBER COMPANIES LLC	07/28/2025	126495	SWP24-0000	101-20802	BP REFUND - SWP24-000069 - 1205 TONKAWA R		51.00
Total 126495:							51.00
SECURITY & SOUND CO	07/28/2025	126496	29948	710-49970-575	PD INTERIOR CAMERA UPGRADE	IT Services	3,316.00
Total 126496:							3,316.00
SHAUGHNESSY LAWN CARE	07/28/2025	126497	07.2025	101-45200-404	PARK MOWING 06/15/2025 - 7/15/25	Parks	4,428.57
Total 126497:							4,428.57
SiteOne Landscape Supply LLC	07/28/2025	126498	155679253-0	613-49830-223	GOLF COURSE PAVER PROJECT	Golf Course	192.12-

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
SiteOne Landscape Supply LLC	07/28/2025	126498	155778508-0	613-49830-225	GOLF COURSE DRAINAGE PIPE	Golf Course	55.60
SiteOne Landscape Supply LLC	07/28/2025	126498	156124882-0	613-49830-223	GOLF COURSE SUPPLIES	Golf Course	2.86
SiteOne Landscape Supply LLC	07/28/2025	126498	15614854-00	101-45200-216	CHEMICALS	Parks	180.55
Total 126498:							46.89
STANDARD SPRING PARTS	07/28/2025	126499	409053	701-49800-222	FIRE E-1 FRONT SPRINGS	Fleet Services	34.59
STANDARD SPRING PARTS	07/28/2025	126499	409057	701-49800-222	FIRE E-1 FRONT SPRINGS	Fleet Services	103.77
STANDARD SPRING PARTS	07/28/2025	126499	410391	701-49800-222	FIRE E-1 FRONT SPRINGS	Fleet Services	404.32
STANDARD SPRING PARTS	07/28/2025	126499	410392	701-49800-222	FIRE E-1 FRONT SPRINGS	Fleet Services	22.56
Total 126499:							565.24
STREICHER'S	07/28/2025	126500	I1772267	101-42110-226	UNIFORMS/VARGAS	Police Department	184.99
STREICHER'S	07/28/2025	126500	I1773038	101-42110-226	UNIFORMS/SCHULTZ	Police Department	57.98
Total 126500:							242.97
SUN LIFE FINANCIAL	07/28/2025	126501	07.2025 STD	101-21714	STD- 07/2025		1,134.80
SUN LIFE FINANCIAL	07/28/2025	126501	07.2025 SUP	101-21710	LIFE INSURANCE - 07/2025		1,286.66
Total 126501:							2,421.46
TERMINAL SUPPLY CO	07/28/2025	126502	42904-00	701-49800-215	SHOP SUPPLIES/ METRIC AND GRADE 8 NUTS	Fleet Services	226.12
Total 126502:							226.12
THE HARTFORD	07/28/2025	126503	07.2025 LTD	101-21713	LTD 07/2025		1,899.32
Total 126503:							1,899.32
UNIFIRST CORPORATION	07/28/2025	126504	1410155519	613-49830-223	MATS AND TOWEL -GC	Golf Course	17.74
UNIFIRST CORPORATION	07/28/2025	126504	1410155585	101-45200-226	UNIFORMS - PARKS	Parks	16.31
UNIFIRST CORPORATION	07/28/2025	126504	1410155585	613-49830-226	UNIFORMS-GOLF COURSE	Golf Course	16.31
UNIFIRST CORPORATION	07/28/2025	126504	1410155585	101-41900-226	UNIFORMS-FACILITY	Central Services	2.87
UNIFIRST CORPORATION	07/28/2025	126504	1410155585	101-43000-226	UNIFORMS - STORMWATER	Public Works Department	50.79
UNIFIRST CORPORATION	07/28/2025	126504	1410155585	101-43000-226	UNIFORMS-STREETS	Public Works Department	50.79
UNIFIRST CORPORATION	07/28/2025	126504	1410155585	601-49400-226	UNIFORMS PW-WATER DEPT	Water	25.79
UNIFIRST CORPORATION	07/28/2025	126504	1410155585	602-49450-226	UNIFORMS PW-SEWER DEPT	Sewer	25.79
UNIFIRST CORPORATION	07/28/2025	126504	1410155585	701-49800-226	UNIFORMS - FLEET	Fleet Services	33.85

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
UNIFIRST CORPORATION	07/28/2025	126504	1410155585	101-43000-404	RUGS-PW	Public Works Department	28.73
UNIFIRST CORPORATION	07/28/2025	126504	1410155585	701-49800-221	SHOP TOWELS - PW	Fleet Services	3.91
UNIFIRST CORPORATION	07/28/2025	126504	1410155585	101-41900-223	MOPS/CLEANING TOWELS	Central Services	24.41
UNIFIRST CORPORATION	07/28/2025	126504	1410157099	613-49830-223	MATS AND TOWEL -GC	Golf Course	109.92
UNIFIRST CORPORATION	07/28/2025	126504	1410157106	101-41900-223	MATS AND AIR FRESHENER - CH	Central Services	90.36
UNIFIRST CORPORATION	07/28/2025	126504	1410157154	101-45200-226	UNIFORMS-PARKS	Parks	16.31
UNIFIRST CORPORATION	07/28/2025	126504	1410157154	613-49830-226	UNIFORMS-GOLF COURSE	Golf Course	16.31
UNIFIRST CORPORATION	07/28/2025	126504	1410157154	101-41900-226	UNIFORMS-FACILITY	Central Services	2.87
UNIFIRST CORPORATION	07/28/2025	126504	1410157154	101-43000-226	UNIFORMS - STORMWATER	Public Works Department	50.79
UNIFIRST CORPORATION	07/28/2025	126504	1410157154	101-43000-226	UNIFORMS-STREETS	Public Works Department	50.79
UNIFIRST CORPORATION	07/28/2025	126504	1410157154	601-49400-226	UNIFORMS PW-WATER DEPT	Water	25.79
UNIFIRST CORPORATION	07/28/2025	126504	1410157154	602-49450-226	UNIFORMS PW-SEWER DEPT	Sewer	25.79
UNIFIRST CORPORATION	07/28/2025	126504	1410157154	701-49800-226	UNIFORMS - FLEET	Fleet Services	33.85
UNIFIRST CORPORATION	07/28/2025	126504	1410157154	613-49830-223	MATS AND TOWEL -GC	Golf Course	24.41
UNIFIRST CORPORATION	07/28/2025	126504	1410157154	701-49800-221	SHOP TOWELS - PW	Fleet Services	3.91
UNIFIRST CORPORATION	07/28/2025	126504	1410157154	101-43000-404	RUGS-PW	Public Works Department	28.73
Total 126504:							777.12
US Bank Equipment Finance	07/28/2025	126505	560111288	710-49970-413	COPIERS - 07/25	IT Services	1,573.11
US Bank Equipment Finance	07/28/2025	126505	560111288	101-41900-201	OVERAGE - TONER	Central Services	8.92
Total 126505:							1,582.03
WESTSIDE WHOLESALE TIRE	07/28/2025	126506	966794	701-49800-222	627 TIRES	Fleet Services	584.64
Total 126506:							584.64
WOODDALE BUILDERS	07/28/2025	126507	RPS24-0001	101-22205	ESCROW REFUND - RPS24-000102 - 511 FERND		1,000.00
Total 126507:							1,000.00
WOODHILL COUNTRY CLUB	07/28/2025	126508	LA25-000018	101-22205	ESCROW REFUND - LA25-000018 - 200 WOODHI		700.00
Total 126508:							700.00
XCEL ENERGY	07/28/2025	126509	936805158	101-41900-381	PW BUILDING ELECTRICITY 06/18/25-07/20/25	Central Services	1,970.75
XCEL ENERGY	07/28/2025	126509	936842451	101-43000-386	OCB TRAFFIC SIGNAL 06/18/25-07/20/25	Public Works Department	130.02

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
Total 126509:							2,100.77
ZUMBRO TOOLS	07/28/2025	126510	0709251833	701-49800-240	MECHANICS TOOLS	Fleet Services	154.55
ZUMBRO TOOLS	07/28/2025	126510	0716251855	701-49800-240	MECHANICS TOOLS	Fleet Services	88.60
Total 126510:							243.15
INNOVO BENEFITS ADMINISTR	07/18/2025	20130714	1535130	101-15998	HEALTH INSURANCE - 08.2025 AJ		730.68
INNOVO BENEFITS ADMINISTR	07/18/2025	20130714	1535130	601-49400-135	HEALTH INSURANCE - 08.2025-BR	Water	730.68
INNOVO BENEFITS ADMINISTR	07/18/2025	20130714	1535130	101-42110-135	HEALTH INSURANCE - 08.2025-DM	Police Department	730.68
INNOVO BENEFITS ADMINISTR	07/18/2025	20130714	1535130	101-42110-135	HEALTH INSURANCE - 08.2025-JW	Police Department	730.68
INNOVO BENEFITS ADMINISTR	07/18/2025	20130714	1535130	101-21706	HEALTH INSURANCE - 08.2025		68,131.14
Total 20130714:							71,053.86
MEDSURETY LLC	07/18/2025	20130715	07.15.25 LPF	101-21719	MFSA 6/6/25-7/13/25 FUNDS		22.97
MEDSURETY LLC	07/18/2025	20130715	07.15.25 LPF	101-21719	LPFSA 6.6.25-7.13.25 FUNDS		500.00
MEDSURETY LLC	07/18/2025	20130715	DCAP J. CUT	101-21719	DCAP J. CUTA		104.17
Total 20130715:							627.14
MN DEPT OF LABOR & INDUST	07/18/2025	20130716	Q2 2025 Sur	101-20802	2025 QUARTER 2 SURCHARGE - JUNE		7,378.94
MN DEPT OF LABOR & INDUST	07/18/2025	20130716	Q2 2025 Sur	101-39610	2025 QUARTER 2 SURCHARGE - JUNE		443.87-
Total 20130716:							6,935.07
MN DEPT OF REVENUE-WIRE	07/18/2025	20130717	06.2025 Sale	101-34650	POLICE REPORTS		1.00
MN DEPT OF REVENUE-WIRE	07/18/2025	20130717	06.2025 Sale	601-20806	WATER TAXABLE SALES		1,106.00
MN DEPT OF REVENUE-WIRE	07/18/2025	20130717	06.2025 Sale	601-20806	BULK WATER SALES		26.00
MN DEPT OF REVENUE-WIRE	07/18/2025	20130717	06.2025 Sale	613-37910	GREEN FEES		3,974.00
MN DEPT OF REVENUE-WIRE	07/18/2025	20130717	06.2025 Sale	613-37920	GOLF CART RENTAL		1,601.00
MN DEPT OF REVENUE-WIRE	07/18/2025	20130717	06.2025 Sale	613-37930	ALCOHOL/BEER		350.00
MN DEPT OF REVENUE-WIRE	07/18/2025	20130717	06.2025 Sale	613-37935	POP		27.00
MN DEPT OF REVENUE-WIRE	07/18/2025	20130717	06.2025 Sale	613-37940	CONCESSIONS - SALES TAX		158.00
MN DEPT OF REVENUE-WIRE	07/18/2025	20130717	06.2025 Sale	613-37960	GOLF BALLS		114.00
MN DEPT OF REVENUE-WIRE	07/18/2025	20130717	06.2025 Sale	613-37970	PRO SHOP SALES - SALES TAX		37.00
MN DEPT OF REVENUE-WIRE	07/18/2025	20130717	06.2025 Sale	101-39610	CREDIT - WRITE OFF		6.00-

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
Total 20130717:							7,388.00
AMAZON CAPITAL SERVICE	07/28/2025	20130718	11L7-VCV1-3	101-45200-221	PARKS/ GOLF UTILITY CART STROBE LIGHT	Parks	19.99
AMAZON CAPITAL SERVICE	07/28/2025	20130718	11L7-VCV1-3	101-41900-201	OFFICE CHAIR - FLEET	Central Services	99.99
AMAZON CAPITAL SERVICE	07/28/2025	20130718	11L7-VCV1-3	613-49830-221	GOLF CART STEERING PARTS	Golf Course	50.00
AMAZON CAPITAL SERVICE	07/28/2025	20130718	11L7-VCV1-3	101-43000-489	CAN OP[ENER	Public Works Department	19.99
AMAZON CAPITAL SERVICE	07/28/2025	20130718	11L7-VCV1-3	101-43000-226	PPE FOR NEW PERSON AND REPLACEMENT F	Public Works Department	299.02
AMAZON CAPITAL SERVICE	07/28/2025	20130718	11N3-LHMV-	101-42110-228	FIREARMS SUPPLIES	Police Department	177.73
AMAZON CAPITAL SERVICE	07/28/2025	20130718	11N3-LHMV-	101-42110-439	MEETING SUPPLIES	Police Department	16.18
AMAZON CAPITAL SERVICE	07/28/2025	20130718	11N3-LHMV-	101-42110-240	CSO EQUIPMENT	Police Department	26.99
AMAZON CAPITAL SERVICE	07/28/2025	20130718	1FR9-K9T1-1	101-41900-201	RECYCLING WASTEBASKETS	Central Services	31.64
AMAZON CAPITAL SERVICE	07/28/2025	20130718	1FR9-K9T1-1	101-41900-201	COMPUTER MOUSE PADS	Central Services	14.61
AMAZON CAPITAL SERVICE	07/28/2025	20130718	1HP6-J79L-3	701-49800-221	EQUIPMENT PARTS RETURN	Fleet Services	32.29-
AMAZON CAPITAL SERVICE	07/28/2025	20130718	1JLR-1VJH-3	710-49970-221	POLICE CELL PHONE ACCSESSORIES	IT Services	51.95
AMAZON CAPITAL SERVICE	07/28/2025	20130718	1JLR-1VJH-3	710-49970-221	CITY PHONE HEASETS AND MICROPHONE STA	IT Services	105.69
AMAZON CAPITAL SERVICE	07/28/2025	20130718	1VG9-MKDR	101-41900-201	NAME TAGS	Central Services	149.96
AMAZON CAPITAL SERVICE	07/28/2025	20130718	1VG9-MKDR	101-41900-223	AIR FRESHENER	Central Services	5.48
AMAZON CAPITAL SERVICE	07/28/2025	20130718	1VG9-MKDR	603-49500-489	LOCK FOR ORGANICS SITE	Recycling	20.29
AMAZON CAPITAL SERVICE	07/28/2025	20130718	1VG9-MKDR	101-41900-223	LIGHT COVER FOR COPY ROOM	Central Services	9.99
Total 20130718:							1,067.21
LOGIS-WIRE	07/28/2025	20130719	152302	710-49970-311	NETWORK SERVICES - 06/30/25 - SERVER MAIN	IT Services	1,717.92
LOGIS-WIRE	07/28/2025	20130719	152376	101-42110-310	POLICE MOBILES	Police Department	2,485.00
LOGIS-WIRE	07/28/2025	20130719	152376	101-42110-310	POLICE CAD	Police Department	4,913.00
LOGIS-WIRE	07/28/2025	20130719	152376	101-42110-310	POLICE RECORDS	Police Department	18,948.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-329	FIBER OPTIC SERVICES	IT Services	600.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-329	INTERNET	IT Services	1,986.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-311	HOSTED SERVER - OR WATCHGUARD	IT Services	3,292.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-311	HOSTED SERVER - OR-AD01	IT Services	349.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-311	HOSTED SERVER - OR-AD02	IT Services	381.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-311	HOSTED SERVER - OR-APPS1	IT Services	1,030.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-311	HOSTED SERVER - OR-APPS2	IT Services	2,278.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-311	HOSTED SERVER - OR-FS1	IT Services	3,243.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-311	HOSTED SERVER - RELAY	IT Services	340.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-311	HOSTED SERVER - OR-MAIL01	IT Services	690.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-311	HOSTED BACKUPS	IT Services	4,464.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-311	HOSTED COMPLIANCE ARCHIVE	IT Services	1,775.00
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-311	HOSTED WIRELESS NETWORK MGMT	IT Services	882.00

Payee	Check Issue Date	Check Number	Invoice Number	Invoice GL Account	Description	Department	Invoice Amount
LOGIS-WIRE	07/28/2025	20130719	152376	710-49970-311	HOSTED SERVER - OR-UTILITY	IT Services	660.00
LOGIS-WIRE	07/28/2025	20130719	153236	601-16500	FIBER SLICING FOR NORTH WATER PLANT		2,933.00
Total 20130719:							52,966.92
MEDSURETY LLC	07/28/2025	20130720	6.13.25-7.20.	101-21719	MFSA 6.13.25-7.20.25 FUNDS		87.19
Total 20130720:							87.19
Grand Totals:							507,219.94

AGENDA ITEM

Date: July 28, 2025 **Item:** 3

Title: Accept a donation from the Minnetonka Beach Civic Association - Resolution 7598

Presenter: Correy Farniok, Police Chief

Section: Consent Agenda

1. **Purpose:**
   The purpose of this action item is to gain approval to accept a donation from the Minnetonka Beach Civic Association

2. **Background:**
   The Police Department has received a check in the amount of $100.00. The residents would like to thank the officers for attending the Summer Party 2025 event and greatly appreciate the dedication and all the great work done by the Orono Police Department.

3. **Staff Recommendation:**
   Recommend approval to accept the $100.00 donation.

COUNCIL ACTION REQUESTED

Motion for approval and the resolution to accept the $100.00 donation from the Minnetonka Beach Civic Association.

Exhibits

A. Resolution 7598

CITY OF ORONO

RESOLUTION OF THE CITY COUNCIL

NO. 7598

RESOLUTION ACCEPTING DONATION

WHEREAS, the city of Orono is authorized by Minn. Stat. 465.03 to accept donations of property for the benefit of its people and is specifically authorized to accept gifts; and

WHEREAS, the Minnetonka Beach Civic Association has made a donation to the Orono Police Department; and

WHEREAS, the value of this donation is $100.00; and

WHEREAS, the donation has been donated to Orono for the benefit of its residents; and

WHEREAS, the City Council finds that it is appropriate to accept the donation.

RESOLVED that the Orono City Council gratefully accepts the donation of a $100.00.

FURTHER, police department staff will acknowledge receipt of the donation and express appreciation to the Minnetonka Beach Civic Association.

Adopted by the City Council of Orono, Minnesota at a regular meeting held on July 28, 2025.

ATTEST: **CITY OF ORONO**

_____ _____

Christine Lusian, City Clerk Bob Tunheim, Mayor

AGENDA ITEM

Date: July 28, 2025 **Item:** 4

Title: Donation to Big Island Park - Resolution 7599

Presenter: Joe Ruthenberg, Superintendent - Parks, Facilities

Section: Consent Agenda

1. **Purpose:**
   The purpose of this agenda item is to accept a donation to be used towards the purchase of a tree to be planted at Big Island Park.

2. **Background:**
   The City has established a Park Donation Program to give individuals, families, and organizations the ability to enrich and grow our parks, trails and open spaces. As part of this program, the City has received a donation from Judy Anderson in the amount of $400. The donation is for the purchase of a tree to be planted at Big Island Park. By accepting this donation the City is agreeing to plant a tree at the specified location.

   Authority for cities to accept donation is granted by Minnesota Statute 465.03 which authorizes Minnesota cities to "accept a grant or devise of real or personal property and maintain such property for the benefit of its citizens in accordance with the terms prescribed by the donor." All donations must be accepted by resolution with a 2/3 vote of the Council.

3. **Staff Recommendation:**
   Staff recommends acceptance of the donation and the planting of the tree at Big Island Park.

COUNCIL ACTION REQUESTED

Motion to accept the donation of $400 from Judy Anderson for the planting of a tree at Big Island Park.

Exhibits

A. Resolution 7599

CITY OF ORONO

RESOLUTION OF THE CITY COUNCIL

NO. 7599

A RESOLUTION ACCEPTING A DONATION

WHEREAS, the city of Orono is authorized by Minn. Stat. 465.03 to accept donations of real and personal property for the benefit of its citizens and is specifically authorized to accept gifts;

WHEREAS, Judy Anderson has offered to donate $400.00 to city of Orono for the purchase of a tree to be planted at Big Island Park; and

WHEREAS, the donation is for the benefit of its residents; and

WHEREAS, the City Council finds that it is appropriate to accept the donation.

RESOLVED that the Orono City Council gratefully accepts the donation to be used by the city of Orono.

FURTHER, staff will acknowledge receipt of the donation expressing appreciation.

Adopted by the City Council of Orono, Minnesota at a regular meeting held April 28, 2025.

ATTEST: **CITY OF ORONO**

_____ _____

Christine Lusian, City Clerk Bob Tunheim, Mayor

AGENDA ITEM

Date: July 28, 2025 **Item:** 5

Title: Hire Seasonal Employee

Presenter: DJ Goman, Public Works Superintendent

Section: Consent Agenda

1. **Purpose:**
   The purpose of this agenda item is to gain approval to hire a seasonal employee.

2. **Background:**
   The City hires seasonal employees to accomplish a variety of tasks. The hourly pay is proposed to be $14.50-$17.50 for the Golf Course Clubhouse Attendants and Brush Site Attendants; $14.50-$18.50 for Parks/Golf Course Maintenance Employees and Public Works Maintenance Workers. Seasonal employees fall under the 6-month PERA Classification and are therefore excluded from PERA membership.

3. **Seasonal Employee Appointments and Candidates:**
   Seasonal Employee Appointment and Candidates

Name	Position	Wage (Per Hour)	Remarks
Zaccheaus Gilbertson	Seasonal Public Works	$17.00	New Hire

COUNCIL ACTION REQUESTED
Motion to approve hiring the seasonal employee listed in the table above.

AGENDA ITEM

Date: July 28, 2025 **Item:** 6

Title: Appoint Interim Deputy Fire Chief

Presenter: Shea Chwialkowski, Interm Fire Chief

Section: Consent Agenda

1. **Purpose:**
   The purpose of this council action is to approve the appointment of Thomas Flermoen to the position of Interim Deputy Fire Chief for the Orono Fire Department.

2. **Background:**
   With the May 2025 reorganization of the Orono Fire Department resulted in a vacancy at the Deputy Chief level. Since that time, Fire Captain Thomas Flermoen has effectively assumed many of the responsibilities associated with the role. Thomas brings over 18 years of fire service experience and possesses the education and certifications necessary to serve as Interim Deputy Fire Chief with competence and professionalism.

3. **Staff Recommendation:**
   Staff recommends that the City Council approve the appointment of Thomas Flermoen as Interim Deputy Fire Chief of the Orono Fire Department.

COUNCIL ACTION REQUESTED

Motion to approve the appointment of Thomas Flermoen to the position of Interim Deputy Fire Chief for the Orono Fire Department, effective July 29, 2025, at an hourly rate of $25.00.

AGENDA ITEM

Date: July 28, 2025 **Item:** 7

Title: Summary Ordinance Publications, Ordinance 314 & 315

Presenter: Laura Oakden, Community Development Director

Section: Consent Agenda

1. **Purpose:**
   Adopt summary Ordinances 314 and & 315 for publication.

2. **Background:**
   The City Council adopted two new ordinances at the July 14, 2025 City Council Meeting (Agenda Items 16 and 17) (Video). The full text ordinances were included in the council packet and approved by the City Council:
   1. LA25-000088, Text Amendment: Section 78-823 Garage Condo Standards, Ordinance 314
   2. LA25-000014, Text Amendment: Chapter 78 Animals, Ordinance 315

   Once an ordinance is adopted by the City Council, it must be published in the official news paper (Laker Pioneer) before it is instituted into the City Code and applied. MN State Statue allows the City to publish a summary ordinance so lengthy ordinances do not need to be published in their entirety. A 4/5th vote by the Council is required to publish a summary ordinance. Only 3 members of the City Council were present at the July 14th City Council meeting, not meeting the 4/5th requirement.

3. **Staff Recommendation:**
   Staff recommends approval of the summary ordinances

COUNCIL ACTION REQUESTED
Motion to approve summary Ordinances 314 & 315 for publication.

Exhibits
A. Summary Publication, Ord 314, Garage Condo Parking
B. Summary Publication, Ord 315, Animals

SUMMARY PUBLICATION
ORDINANCE 314
CITY OF ORONO, HENNEPIN COUNTY, MINNESOTA

AN ORDINANCE UPDATING GARAGE CONDO USE

The City Council of Orono, Minnesota updated garage condo parking and accessibility regulations on July 14, 2025. The complete text of this ordinance is available at city hall or oronomn.gov.

CITY OF ORONO
/s/Bob Tunheim, Mayor
Attest:
/s/Christine Lusian, City Clerk

SUMMARY PUBLICATION
ORDINANCE 315
CITY OF ORONO, HENNEPIN COUNTY, MINNESOTA

AN ORDINANCE AMENDING CHAPTER 78 REGARDING THE KEEPING OF FARM ANIMALS

The City Council of Orono, Minnesota, amended City Code Chapter 78 regarding the definitions of animals and the keeping of farm animals on July 14, 2025. The complete text of this ordinance is available at City Hall or oronomn.gov.

CITY OF ORONO
/s/Bob Tunheim, Mayor
Attest:
/s/Christine Lusian, City Clerk

AGENDA ITEM

Date: July 28, 2025 **Item:** 8

Title: LA25-000028, City Code Recodification, Ordinance 312

Presenter: Christine Lusian, City Clerk

Section: Consent Agenda

1. **Purpose:**
   Review and adopt the updated city code.

2. **Background:**
   A well-organized and regularly updated city code ensures that the City of Orono's local laws remain clear, consistent, enforceable, and aligned with state and federal regulations. This helps the city run smoothly, supporting efficient governance and the well-being of the community. It is best practice to perform a full legal review and update of the code every 10 to 15 years.

   In 2021, the city council directed staff to take a fresh look at the city code and make updates. The city clerk led the project with staff and partnered with CivicPlus Municode to conduct a detailed, chapter-by-chapter review of the entire city code. In 2022, CivicPlus code attorneys completed their legal review of our code and provided recommendations to staff for review. In 2023, staff and city attorney prepared draft updates and presented these to council and commissions as needed. In 2024, staff consolidated the updates and provided them to CivicPlus for implementation. In 2025, CivicPlus performed final quality control, processed the tables and index, and shipped the code books for review and adoption. Planning Commission held a public hearing at the July 21 planning commission meeting.

3. **Cost:**
   The legal review was $8,400 and implementation was $16,240. There was also pay supplement costs of $22 per page, which are individual immediate updates made to the code in between each full update every 10-15 years. The annual cost to display the City code online is about $950.

4. **Process:**
   Planning Commission held a public hearing on July 21, 2025. No public comments were made. The Commission reviewed the Land Use Chapter and made a unanimous recommendation for approval. (PC Packet, Video)

   If the City Council adopts the new code, staff will publish the summary in the August 9 newspaper and the new city code becomes effective.

5. **Staff Recommendation:**
   Staff recommends council 1) adopt the code and 2) approve the summary.

COUNCIL ACTION REQUESTED
Motion to adopt Ordinance 312 with the summary publication for the City Code Recodification.

Exhibits
A. City Code - Updated 2025

B. Contract - legal review
C. Contract - implementation
D. Ord 312 City Code Update
E. Ord 312 City Code Update - summary

ORONO, MINNESOTA

CITY CODE

Published in 2025 by Order of the City Council

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OFFICIALS

of the

CITY OF

ORONO, MINNESOTA

AT THE TIME OF THIS RECODIFICATION

Bob Tunheim
Mayor

Alisa Benson
Steve Persian
Jacqueline Ricks
Claire Berrett
City Council

Adam Edwards
City Administrator

Soren M. Mattick with Campbell Knutson
City Attorneys

Christine Lusian, MPA, MCMC
City Clerk

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Orono, Minnesota.

Source materials used in the preparation of the Code were the 2003 Code, as supplemented through November 14, 2022, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 2003 Code, as supplemented, and any subsequent ordinance included herein.

Acknowledgments

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The publisher is most grateful to Christine Lusian, MPA, MCMC, City Clerk, for her cooperation and assistance during the progress of the work on this publication. It is hoped that her efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

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CHAPTER 1.04. GENERAL PROVISIONS

Sec. 1.04.010. How Code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated the "Orono, Minnesota, City Code" and may be so cited. Such ordinances may also be cited as the "Orono Code."
(Code 1984, § 1.11; Code 2003, § 1-1)

State law reference—Authority of city to codify, Minn. Stats. § 415.021.

Sec. 1.04.020. Definitions and rules of construction.

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

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language; but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

City. The term "city" means the City of Orono, Minnesota.

City council, council. The terms "city council" and "council" mean the governing body of the City of Orono, Minnesota.

Code. The term "Code" means the Orono, Minnesota, City Code, as designated in section 1.04.010.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either ... or," the conjunction shall be interpreted as follows:

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

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

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

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

Delegation of authority. A provision that authorizes or requires a city officer or city employee to perform an act or make a decision or authorizes such officer or employee to act or make a decision through subordinates, unless prohibited by law or practice.

Following. The term "following" means next after.

Gender. Words of gender include all genders.

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

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

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

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

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

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

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

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

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

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

Official time. References to a specific time of day are to Central Standard Time or Central Daylight Time, as appropriate.

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

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

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

Preceding. The term "preceding" means next before.

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

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

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

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

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

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

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

Street. The term "street" means any alley, avenue, boulevard, highway, road, lane, viaduct, bridge and its approach, and any other public thoroughfare in the city. The term "street" also means the entire width between abutting property lines. The term "street" includes a sidewalk or footpath.

Tenant and *occupant.* The terms "tenant" and "occupant," as applied to a building or land, include:

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

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

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

Writing. The term "writing" includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is authorized or required, it shall be made in writing in the English language.

Year. The term "year" means a calendar year. (Code 1984, §§ 1.02, 1.03; Code 2003, § 1-2; Ord. No. 286(3rd series), § 1, 12-11-2023)

State law reference—Interpretation of statutes generally, Minn. Stats. ch. 645.

Sec. 1.04.030. Computation of time.

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

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

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

(d) When an application, payment, return, claim, statement or other document is to be delivered to or filed with a department, agency or instrumentality of the city on or before a prescribed date and the prescribed date falls on a Saturday, Sunday or legal holiday, it is timely delivered or filed if it is delivered or filed on the next succeeding day which is not a Saturday, Sunday or legal holiday.
(Code 2003, § 1-3)

State law reference—Similar provisions, Minn. Stats. §§ 645.13—645.151.

Sec. 1.04.040. Catchlines of sections; history notes references.

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

(b) The history or source notes appearing in parentheses after sections in this Code have no legal effect and only indicate legislative history. Editor's notes, cross references and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.
(Code 2003, § 1-4)

State law reference—Similar provisions, Minn. Stats. § 645.49.

Sec. 1.04.050. Effect of repeal or amendment of ordinances.

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

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.
(Code 2003, § 1-5)

State law reference—Similar provisions, Minn. Stats. §§ 645.35, 645.36.

Sec. 1.04.060. Amendments to Code effect of new ordinances; amendatory language.

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

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

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

(d) All provisions desired to be repealed should be repealed specifically by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.
(Code 2003, § 1-6)

Sec. 1.04.070. Supplementation of Code.

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

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

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

(1) Arrange the material into appropriate organizational units.

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

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

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

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

(6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.
(Code 2003, § 1-7)

Sec. 1.04.080. General penalty; continuing violations.

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

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

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

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

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

(c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by a fine of not more than $700.00, imprisonment for a term not exceeding 90 days, or any combination thereof. Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.

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

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

(f) The violator and the property owner of record, where applicable, shall be responsible for any city costs in enforcing the provisions of this Code, including reinspection fees or other fees, charges, or penalties that are imposed as permitted by law.

(Code 1984, § 1.06; Code 2003, § 1-8; Ord. No. 144(3rd series), § 1, 4-13-2015)

State law reference—Authorized penalty for ordinance violations, Minn. Stats. §§ 412.231, 609.034.

Sec. 1.04.090. Severability.

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

(Code 1984, § 1.08; Code 2003, § 1-9)

Sec. 1.04.100. Provisions deemed continuation of existing ordinances.

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

(Code 2003, § 1-10)

Sec. 1.04.110. Code does not affect prior offenses or rights.

(a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.

(b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.

(Code 2003, § 1-11)

Sec. 1.04.120. Certain ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance:

(1) Annexing property into the city.

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

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

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

(5) Fixing city fees or city charges.

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

(7) Making or approving any appropriation or budget.

(8) Granting any right or franchise.

(9) Adopting or amending the comprehensive plan.

(10) Levying or imposing any special assessment.

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

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

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

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

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

(16) Fixing, amending or modifying rates for utilities.

(17) Rezoning specific property.

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

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

(20) The purpose of which has been accomplished.

(21) Declaring a moratorium for a specific period of time.

(b) The ordinances designated in subsection (a) of this section continue in full force and effect to the same extent as if published at length in this Code.
(Code 2003, § 1-12)

CHAPTER 1.08. ADMINISTRATION*

ARTICLE I. IN GENERAL

Sec. 1.08.010. Rules of procedure for appeals and other hearings.

The council may adopt by resolution certain written rules of procedure to be followed in all administrative appeals not covered or in conflict with section 1.08.160 and other hearings to be held before the council or other bodies authorized to hold hearings and determine questions presented. Such rules of procedure shall be effective 30 days after adoption and shall be for the purpose of establishing and maintaining order and decorum in the proceedings.
(Code 1984, § 2.08; Code 2003, § 2-1; Ord. No. 286(3rd series), § 2, 12-11-2023)

Sec. 1.08.020. Issuance of citations.

(a) Except as otherwise provided by statute, only a peace officer and part-time peace officer may:

(1) Ask a person receiving a citation to give a written promise to appear in court; or

(2) Take a person into custody as permitted by Minn. Stats. § 629.34.

(b) The following city individuals may issue citations in lieu of arrest or continued detention for violations of this Code. Areas of jurisdiction will be contained in city policy as set forth in resolution form by the city council.

(1) Peace officers and part-time peace officers.

(2) Reserve officers.

(3) Community service officers.

(4) Building inspector.

(5) Building official.

(6) Septic inspector.

(7) Community development director.

(8) Fire chief or marshal.

(9) Public works superintendent.

(10) As designated, subject to council approval.
(Code 1984, § 2.38; Code 2003, § 2-2; Ord. No. 286(3rd series), § 3, 12-11-2023)

Sec. 1.08.030. Disposal of unclaimed property.

(a) The term "abandoned property" means tangible or intangible property that has lawfully come into the possession of the city in the course of municipal operations, remains unclaimed by

*State law reference—Statutory cites generally, Minn. Stats. ch. 412.

the owner, and has been in the possession of the city for at least 60 days and has been declared such by a resolution of the council.

(b) If the city administrator knows the identity and whereabouts of the owner, he shall serve written notice upon him at least 30 days prior to a declaration of abandonment by the council. If the city acquired possession from a prior holder, the identity and whereabouts of whom are known by the city administrator, notice shall also be served upon him. Such notice shall describe the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the council after the expiration of 30 days from the date of such notice.

(c) Upon adoption of a resolution declaring certain property to be abandoned property, the city administrator shall give ten days' published notice, describing the property found or recovered to be sold, together with the names (if known) and addresses (if known) of prior owners and holders of such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. The notice shall be published at least once in a legal newspaper published in the city. If there is none in the city, the notice shall be published in the county. Sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the council in its resolution declaring property abandoned and stated in the notice.

(d) All proceeds from such sale shall be paid into the general fund of the city and expenses paid from such fund. The former owner, if he makes claim within six months from the date of publication of the notice, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received for the property, less a pro rata share of the expenses of storage, publication of notice, and sale expenses, but without interest. Such payment shall be also made from the general fund.

(e) No employee of the city who is a member of the administrative staff, department head, a member of the council, or an advisor serving the city in a professional capacity may be a purchaser of property under this section. Other city employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least one week's published or posted notice of sale is given. It is unlawful and punishable as provided in section 1.04.080 for any person to be a purchaser of property under this section if such purchase is prohibited by the terms of this section.

(Code 1984, § 2.61(2), (4); Code 2003, § 2-3; Ord. No. 286(3rd series), § 4, 12-11-2023)

State law reference—Disposal of unclaimed property, Minn. Stats. § 471.195.

ARTICLE II. CITY COUNCIL*

Sec. 1.08.110. Terms of office.

The mayor shall be elected for a four-year term. Two members of the city council other than the mayor shall be elected for four-year terms at each biennial city election. The mayor and councilmember terms shall commence in accordance with Minn. Sats. § 412.02 following the election.

(Code 1984, § 2.03(2); Code 2003, § 2-36; Ord. No. 218(3rd series), § 1, 12-10-2018)

State law reference—Similar provisions, Minn. Stats. §§ 412.02, 412.021, 412.023.

Sec. 1.08.120. City council composition and action.

The city council shall consist of the mayor and the four councilmembers. A majority of all the members shall constitute a quorum although a smaller number may adjourn from time to time. Every ordinance shall be enacted by a majority vote of all members of this council except where a different number is required by law. All other actions shall be decided by a majority vote of a quorum at a council meeting except when a different number is required by law. A quorum of the council shall be three or more councilmem-

*State law reference—Council generally, Minn. Stats. § 415.191 et seq.

bers or two or more councilmembers and the mayor, present at a regular, special or emergency council meeting.
(Code 1984, § 2.02; Code 2003, § 2-37; Ord. No. 286(3rd series), § 5, 12-11-2023)

State law reference—Similar provisions, Minn. Stats. § 412.191.

Sec. 1.08.130. Salaries of mayor and councilmembers.

(a) Salaries of the mayor and councilmembers, effective January 1, 1997, and which amounts are deemed reasonable, are fixed as follows:

(1) The salary of the mayor shall be $4,200.00 per year, paid monthly.

(2) The salary of each councilmember shall be $3,500.00 per year, paid monthly.

(b) In accordance with Minn. Stats. § 415.11, any changes in the salaries set forth in subsection (a) of this section shall be by ordinance and shall not take effect until after the next succeeding city election.
(Code 1984, § 2.17; Code 2003, § 2-38; Ord. No. 150(2nd series), § 1, 8-26-1996; Ord. No. 164(3rd series), § 1, 2-22-2016; Ord. No. 286(3rd series), § 6, 12-11-2023)

State law reference—Salaries of mayor and council, Minn. Stats. § 415.11.

Sec. 1.08.140. Council meetings.

Special meetings of the council may be called by the mayor or by any two members of the council by writing filed with the city clerk, who shall then mail or deliver a notice to all the members of the time and place of meeting at least one day before the meeting. An emergency meeting may be called because of circumstances that require immediate consideration by the city council. Posted or published notice is not required for an emergency meeting, but notice that includes the subject of the meeting shall be given to councilmembers by telephone or any other method used to notify members. The public body shall also make good faith efforts to provide notice as soon as is reasonably practicable of the emergency meeting to each news medium that has filed a written request for notice if the request includes the news medium's telephone number.
(Code 1984, § 2.04; Code 2003, § 2-39; Ord. No. 286(3rd series), § 7, 12-11-2023)

State law references—Calling of special meetings, Minn. Stats. § 412.191, subd. 2; notice of meetings, Minn. Stats. § 13D.04.

Sec. 1.08.150. Council procedure at regular meetings.

(a) The city clerk shall prepare the following items:

(1) An agenda for the forthcoming meeting;

(2) A copy of a compiled list of all claimants who have filed verified accounts claiming payment for goods or services rendered the city during the preceding month, such list to be called the "check register" and bearing headings information regarding purpose and amount; and

(3) A copy of all minutes to be considered.

(b) The city clerk shall forthwith cause to be delivered or mailed to the mayor and each councilmember copies of all such documents. Robert's Rules of Order, Newly Revised, shall govern all council meetings as to procedural matters not set forth in this Code. The order of business at regular meetings shall be as set out by resolution.

(c) Matters inappropriate for consideration at a meeting, or not in the order specified, shall not be considered except with the unanimous consent of the members of the council or scheduled public hearings or bid lettings at the time stated in the notice. If, at an emergency meeting, matters not directly related to the emergency are discussed or acted upon at such meeting, the minutes of the meeting shall include a specific description of the matters.
(Code 1984, § 2.05; Code 2003, § 2-40; Ord. No. 286(3rd series), § 8, 12-11-2023)

State law reference—Authority of council to regulate its procedures, Minn. Stats. § 412.191, subd. 2.

Sec. 1.08.160. Right to administrative appeal.

Except as otherwise provided, if any person shall be aggrieved by any administrative decision of the city administrator or any other city official, or any board or commission not having within its structure an established review schedule or an appellate procedure, such aggrieved person is entitled to a full hearing before the council upon serving a written request upon the mayor and city clerk. Such request shall contain a general statement setting forth the administrative decision to be challenged by the appellant. An appeal under this section shall be filed no later than ten days following the decision. Failure to file an appeal within ten days of the decision shall constitute a waiver of the person's right to a hearing. A hearing on the appeal shall occur at the next regularly scheduled council meeting that is at least seven days after the appeal is served. At such hearing, the appellant may present any evidence he deems pertinent to the appeal; but the city shall not be required to keep a verbatim record of the proceedings. The mayor, or other officer presiding at the hearing, may, in the interest of justice or to comply with time requirements and on the mayor's own motion or the motion of the appellant, the city clerk, or a member of the council, adjourn the hearing to a more convenient time or place; but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening. An employee of the city who is aggrieved by an action or decision of another city employee that relates to their employment shall exhaust the grievance procedures set forth in the administrative and personnel policy before requesting a hearing before the city council. The city council's decision on appeal may only be appealed to the state court of appeals. This section shall not apply to hearing officer decisions under section 5.12.120; decisions of an administrative officer under chapter 6.12; decisions of an administrative officer under chapter 6.20; decisions of the community development director under section 6.12.840; code enforcement letters that warn a person of a potential criminal, civil, or administrative penalties; or any matter regarding a pending or actual criminal charge based on a violation of this Code.
(Code 1984, § 2.07; Code 2003, § 2-41; Ord. No. 178(3rd series), § 1, 10-10-2016; Ord. No. 253(3rd series), § 1, 2-8-2021; Ord. No. 286(3rd series), § 9, 12-11-2023)

ARTICLE III. OFFICERS AND EMPLOYEES*

Division 1. Generally

Sec. 1.08.210. Interim emergency succession.

(a) *Purpose.* Due to the existing possibility of a nuclear attack or a natural disaster requiring a declaration of a state of emergency, it is found urgent and necessary to ensure the continuity of duly elected and lawful leadership of the city to provide for the continuity of the government and the emergency interim succession of key governmental officials by providing a method for temporary emergency appointments to their offices.

(b) *Succession to local offices.* In the event of a nuclear attack upon the United States or a natural disaster affecting the vicinity of the city, the mayor, council and city administrator shall be the interim emergency council and shall be forthwith notified by any one of such persons and by any means available to gather at the city hall. If safety or convenience dictates, an alternative place of meeting may be designated. Those gathered shall proceed as follows:

(1) By majority vote of those persons present, regardless of number, they shall elect a chairperson and secretary to preside and keep minutes, respectively.

(2) They shall review and record the specific facts relating to the nuclear attack or natural disaster and injuries to persons or damage to property already done, or their imminence.

*State law reference—Authority of council to appoint officers and fix their duties, Minn. Stats. § 412.111.

(3) They may, based on such facts, declare a state of emergency.

(4) By majority vote of those persons present, regardless of number, they shall fill all positions on the council, including the office of mayor, of those persons upon whom notice could not be served or who are unable to be present.

(5) Such interim successors shall serve until such time as the duly elected official is again available and returns to that position, or the state of emergency has passed and a successor is designated and qualifies as required by law, whichever shall occur first.

(c) *Duties of the interim emergency council.* The interim emergency council shall exercise the powers and duties of their offices and appoint other key government officials to serve during the emergency.
(Code 1984, § 2.10; Code 2003, § 2-71)

Sec. 1.08.220. Workers' compensation.

All officers of the city elected or appointed for a regular term of office or to complete the unexpired portion of any such regular term shall be included in the definition of employee as that term is defined in state law relating to coverage for purposes of workers' compensation entitlement. The term "employee" shall include, but not by way of limitation, police reserve officers.
(Code 1984, § 2.16; Code 2003, § 2-72)

State law reference—Authority to expand workers' compensation coverage to persons elected or appointed for regular term of office, Minn. Stats. § 176.011, subd. 9(6).

Sec. 1.08.230. Computerized criminal history and driver's license history inquiries.

(a) *Purpose.* The purpose of this section is to authorize the city to conduct computerized criminal history (CCH) and driver's license history inquiries on persons who are finalists for certain employment positions in the city and who are volunteers in city programs providing services to children or vulnerable adults. Access for these purposes shall be limited to state CCH public data only. Nothing in this section shall be construed to preclude the city from conducting comprehensive background investigations of applicants for city employment positions, including, but not limited to, accessing public data through other automated and non-automated sources and contacting references. Nothing in this section shall be construed to preclude the city from periodically conducting a driver's license inquiry upon employees or volunteers where possession of a valid driver's license is an essential qualification of the position.

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

Computerized criminal history inquiries means criminal histories obtained through the state bureau of criminal apprehension's computerized criminal history system.

Driver's license history inquiries means driver's license violations recorded by the state department of public safety.

(c) *Findings of the city council.* The city council makes the following findings regarding the need to conduct computerized criminal history and driver's license history inquiries on persons who are finalists for certain city positions and who are applying to volunteer in city programs providing services to children or vulnerable adults, recognizing that the city council has a significant interest in protecting the general public in the performance of government services:

(1) Certain city employees and volunteers work independently with and provide public services to some of the most vulnerable members of society: children, senior citizens, developmentally disabled individuals, and mentally ill persons. Protection of these vulnerable persons warrants the investigation of persons who are finalists to fill these certain employment positions with the city and who are applying to volunteer in city programs that provide services to these members of the public.

(2) Some city employees and volunteers work closely with public funds and accounts and are in positions that have access to property or assets of the city where losses are difficult to detect or prevent. In order to minimize the risk that the public trust will be violated, computerized criminal history inquiries of those individuals who are finalists to be employed in such positions are necessary.

(3) Some city employees and volunteers enter the private homes of city residents in the performance of necessary and worthwhile public services. Computerized criminal history inquiries on persons who are finalists for such positions are deemed necessary to minimize the risk that the personal safety of residents in their homes will be violated.

(4) Many city employees and some volunteers operate, on a regular basis, heavy machinery, buses, street maintenance equipment, and/or other city-owned motor vehicles on public rights-of-way. In order to minimize the loss of public property and the loss of life in serious traffic accidents, computerized criminal history inquiries and driver's license history inquiries of finalists for such positions are appropriate.

(5) In accordance with the state policy of encouraging the rehabilitation of criminal offenders, the computerized criminal history and driver's license history inquiries prescribed herein shall not be an automatic bar to public employment but rather used in assessing the rehabilitation of the finalist in accordance with Minn. Stats. §§ 364.01 to 364.10.

(6) This section cannot guarantee that groups or individuals will be protected from the criminal acts of employees or volunteers; rather, its intent is to minimize certain risks in the performance of government services to the general public.

(d) *Computerized criminal history and driver's license history inquiries authorized.* Data obtained from computerized criminal history and driver's license history inquiries shall be released only to authorized personnel. The city administrator or the city administrator's designee is authorized to conduct computerized criminal history and driver's license history inquiries in accordance with the following procedures:

(1) Only persons who are finalists for the positions of employment specified in subsection (e) of this section or who are applying to volunteer in city programs providing services to children or vulnerable adults shall be subject to the computerized criminal history and driver's license history inquiries prescribed herein.

(2) The person who is a finalist for a position detailed in subsection (e) of this section shall be presented with an informed consent form indicating that the person may consent to the computerized criminal history inquiry and/or driver's license history inquiry or may refuse. If the finalist refuses to sign the consent, the person shall not be allowed to continue in the employment process for the position sought.

(3) Persons who are applying to volunteer in programs that provide services to children or vulnerable adults shall be notified that computerized criminal history and/or driver's license history inquiries will be conducted prior to their participation in the program.

(e) *Applicability.*

(1) *Employees.* Computerized criminal history inquiries and driver's license history inquiries shall be conducted in accordance with this section on persons who are finalists for the following city positions or position types:

a. Assessors, property appraisers, and meter readers;

b. Public health nurses and aides and similarly situated public health personnel;

c. Employees operating street maintenance equipment and heavy machinery;

d. Employees operating any motor vehicle owned by or operated for the city;

e. Employees directly providing recreation services to the public;

f. Employees handling public funds or criminal evidence on a regular basis;

g. Employees who have access to non-public information;

h. Inspectors, sanitarians, and program specialists; and

i. Department heads.

(2) *Volunteers.* Computerized criminal history inquiries and driver's license history inquiries shall be conducted in accordance with this section on persons who are applying to volunteer in city programs that provide services to children or vulnerable adults.

(f) *Failure of computerized criminal history or driver's license history inquiries.* Should the city reject the applicant's request for employment due, partially or solely, to the applicant's prior conviction of a crime, subject to the exception set forth in Minn. Stats. § 364.09, the city administrator shall notify the applicant in writing of the grounds and reasons for the denial.

(g) *Good faith reliance on record accuracy.* The city may in good faith rely on the accuracy of the criminal history information received from federal, state, and county authorities in conducting the computerized criminal history or driver's license history inquiry prescribed herein.

(h) *Verification of identity.* Questioned identity situations may occur which could require fingerprint verification where it is not clear if a record based on a name and date of birth search actually belongs to the subject of the computerized criminal history or driver's license history inquiry.
(Code 2003, § 2-73; Ord. No. 25(3rd series), § 1, 5-23-2005)

Division 2. City Administrator

Sec. 1.08.310. Position established.

The position of city administrator is established.
(Code 1984, § 2.06(1); Code 2003, § 2-96; Ord. No. 182(2nd series), § 1(2.06(1)), 1-25-1999)

Sec. 1.08.320. Appointment and removal.

The city administrator shall be appointed by the council for an indefinite term. He shall not be removed except by affirmative action taken by the council twice at two regular meetings held within 60 days. The action taken at the first such meeting shall be an expression of intent to vote thereon at the second such regular meeting not to be held sooner than ten days thereafter. If, at any time after the administrator has completed six months of continuous service, the council takes such action, the city administrator may, within 30 days after written notice of removal, request a public hearing which the council must grant and which must be started within 30 days after the request.
(Code 1984, § 2.06(2); Code 2003, § 2-97; Ord. No. 182(2nd series), § 1(2.06(2)), 1-25-1999)

Sec. 1.08.330. Qualifications.

The city administrator shall be selected solely on the basis of his executive and administrative qualifications, with special reference both to his experience and formal education, as well as knowledge of accepted practices pertaining to the duties of the office.
(Code 1984, § 2.06(3); Code 2003, § 2-98; Ord. No. 182(2nd series), § 1(2.06(3)), 1-25-1999)

Sec. 1.08.340. Deputy city clerk.

The city administrator shall, by virtue of that position, be a deputy city clerk.
(Code 1984, § 2.06(6); Code 2003, § 2-99; Ord. No. 182(2nd series), § 1(2.06(6)), 1-25-1999)

Sec. 1.08.350. Duties.

The city administrator shall be the chief administrative officer of the city, and he shall be responsible to the council for the proper

administration of all affairs of the city and to that end shall have the power and shall be required to:

(1) Supervise the administration of all departments, offices and divisions of the city except as otherwise provided by law and carry out any other responsibilities placed under the administrator's jurisdiction by this chapter or by subsequent council action. The administrator shall interview and screen all prospective city employees as permitted by law and may make recommendations to the council before the council makes any appointment. The administrator, with the concurrence of the council, shall appoint department heads, who shall be responsible and accountable to the administrator. All personnel shall be responsible and accountable to the administrator. The city administrator may suspend any employee until the next council meeting. If the city council does not act to modify or rescind the suspension, the suspension shall be deemed ratified by the city council.

(2) Develop and issue all administrative policies, rules, regulations and procedures necessary to ensure the proper functioning of all departments and offices under the administrator's jurisdiction as permitted by law and council approval.

(3) Prepare and submit an annual budget to the council and keep the council advised of the financial condition of the city and make such recommendations as may from time to time be determined desirable and necessary.

(4) Attend and participate in discussions at all meetings of the council and other official bodies as directed by the council. The city administrator shall also represent the city at all official or semiofficial functions as may be directed by the council and not in conflict with the prerogatives of the mayor.

(5) See that all laws and provisions of this Code are duly enforced.

(6) Make or let purchases and contracts when the amount or nature of claims does not exceed council-approved purchasing policies. The city administrator shall receive all other estimates, quotations, sealed bids, purchases or contracts and present them to the council for official action.

(7) Recommend from time to time the adoption of such measures as he may deem necessary or expedient for the health, safety and welfare of the community or for the improvement of the administration.

(8) Perform such other duties as may be required by the council and consistent with state statute and this Code.

(Code 1984, § 2.06(4); Code 2003, § 2-100; Ord. No. 182(2nd series), § 1(2.06(4)), 1-25-1999; Ord. No. 286(3rd series), § 10, 12-11-2023)

State law reference—Contracts, Minn. Stats. § 471.345.

Sec. 1.08.360. General supervisory capacity.

No member of the council shall in any manner interfere with or prevent the city administrator from exercising the administrator's own judgment in the administration of the city. Except for the purpose of inquiry, no member of the council shall deal with or exercise control over the administration of the city; and no member shall give orders to any department head or employee of the city, either publicly or privately, except through a majority vote of the council.

(1) If a councilmember receives information regarding a matter of concern related to the administration of the city, the councilmember shall forward the information to the administrator at the earliest possible time. The administrator shall then forward the information to the other councilmembers.

(2) If an individual councilmember directly contacts a staff member for the purpose of obtaining information, the information shall be provided to all councilmembers

and to the administrator, if the staff member contacted is other than the administrator.

(3) If the response to a councilmember's inquiry will require significant time and effort, the staff person shall refer the councilmember to the administrator to determine whether the request can be accommodated within the current workload priorities. If the request conflicts with other workload priorities, the administrator may refer the request to the full council to determine whether the request should displace other council priorities.

(4) Concerns raised by city employees regarding the administration of the city shall be addressed through the chain of command. The city's administrative policy shall set out the process to be used for addressing a concern through the chain of command.

(5) Concerns raised by city employees regarding pay, benefits, and other employment-related matters shall be addressed through the grievance policy set out in the city's personnel policy.

(Code 1984, § 2.06(7); Code 2003, § 2-101; Ord. No. 182(2nd series), § 1(2.06(7)), 1-25-1999; Ord. No. 286(3rd series), § 11, 12-11-2023)

Sec. 1.08.370. Acting administrator.

The administrator may appoint an acting administrator to discharge the duties of the administrator's office when the administrator is on vacation, sick leave, leave, or out of the area on business. If the city council does not rescind or modify the appointment at the next city council meeting, the appointment shall be deemed ratified. If the city administrator no longer holds the position, the mayor may appoint an acting administrator subject to concurrence of the council at their next regular scheduled meeting. The appointment shall state the powers and authority granted to the acting administrator.
(Code 1984, § 2.11; Code 2003, § 2-102)

ARTICLE IV. DEPARTMENTS

Sec. 1.08.410. City departments established.

City departments shall be established as needed to provide for the delivery of city services. The heads of such departments shall report to the city administrator and shall perform such duties as assigned by the city administrator.
(Code 2003, § 2-137; Ord. No. 286(3rd series), § 13, 12-11-2023)

Sec. 1.08.420. Department heads.

(a) All department heads and employees shall be appointed by the city administrator, subject to approval by the council. All appointments shall be for an indeterminate term.

(b) The heads of all departments and the employees who are members of such departments shall be under the direct supervisory authority of the city administrator, and all communications (excepting inquiry) between members of the council and heads of departments shall be through the city administrator.

(c) At the direction of the city administrator, the department heads will have the following duties:

(1) Be immediately responsible to the city administrator for the effective administration of their respective department and subordinate sections. Department heads have the power to establish work rules and to initiate disciplinary proceedings in accordance with established civil service rules.

(2) Keep informed as to the latest practices in their particular field and will implement, with the approval of the city administrator, such new practices as appear to be of benefit to the service and to the public.

(3) Submit reports of the activities of their departments to the city administrator as requested.

(4) Establish and maintain a system of records and reports in sufficient detail to

furnish all information necessary for proper control of section activities and to form a basis for the periodic reports to the city administrator.

(5) Be responsible for the proper maintenance of all city property and equipment used in their sections.

(6) Cooperate with each other and furnish, upon the request of the city administrator, any other department such service, labor and materials as may be requisitioned by the head of such department, and as its own facilities permit through the same procedure and subject to the same audit and control as other expenditures are incurred.

(7) Be responsible for recommending to the city council through the city administrator changes in codes, ordinances, and internal organizations which will improve the operations of their sections.

(8) Be responsible for submitting an annual budget request to the city administrator which will include proposed additions or deletions in staff, adjustments in salary schedules and additions to plant and equipment.

(9) Have responsibility for keeping the city administration advised as to the programs and policies of other governmental agencies which might affect the city's operations within their area of responsibility.

(10) Have authority to hire subject to the approval of the city council and established civil service rules all part-time and temporary employees for their sections and departments.

(Code 1984, § 2.30(1), (5); Code 2003, § 2-140; Ord. No. 286(3rd series), § 14, 12-11-2023)

Sec. 1.08.430. Legal department.

(a) A legal department is hereby established.

(b) The council shall appoint a city attorney, who shall be head of the legal department, together with such assistants as may be necessary who shall serve at the pleasure of the council. The city attorney shall perform such duties as are required of him by law or referred to him by the council. He shall cooperate with, but not be subject to, direction from the city administrator. Duties include:

(1) Appearing for the city in all cases or hearings in which it is a party;

(2) Advising the council, its committees, or any city officer on all legal questions arising in the conduct of the city's business;

(3) Preparing or revising ordinances when so requested by the council, its committees, or by the city administrator;

(4) Performing such additional legal duties as may be necessary upon request;

(5) It shall be the official duty of the city attorney to act as revisor of ordinances.

(c) The council shall appoint a city prosecuting attorney, who shall be responsible for prosecuting all penal offenses committed within the city. (Code 1984, § 2.34; Code 2003, § 2-138; Ord. No. 286(3rd series), § 15, 12-11-2023)

Sec. 1.08.440. Finance department.

(a) A finance department is hereby established.

(b) The head of this department shall be the city treasurer and finance officer. It is the duty of the city treasurer and finance officer to maintain complete and accurate records as to all financial matters of the city as required by law.

(c) The director of finance who will have responsibilities for financial planning and management, budgeting preparation and debt management, staff services to the city administrator and such additional duties as assigned. The director of finance also has the responsibility of investment of city funds as city treasurer.

(d) The finance department will have the following sections/responsibilities:

(1) Accounting/budgeting, responsible for the control of receipts, accounts payable, fixed assets, special assessments, budgeting, and financial reporting of all city funds.

(2) Human resources, responsible for various personnel management duties, including such matters as pay and fringe benefit studies, employee grievance procedures and job classification studies;

(3) Information technology, responsible for the hardware, software, operating systems and network for all city facilities as well as the maintenance and governance of the city's telecommunication and wireless networks.

(Code 1984, § 2.35; Code 2003, § 2-139; Ord. No. 286(3rd series), § 16, 12-11-2023)

Sec. 1.08.450. Police department.

(a) A police department is hereby established.

(b) The police department will be headed by the police chief with responsibilities for ensuring the efficient operation of the police department, seeing that order is maintained, that laws and ordinances are enforced and taking the necessary measures to prevent crime and to protect lives and property. The chief of police will be responsible for training, assignment, supervision, and discipline of all department personnel. (Ord. No. 286(3rd series), § 17(2-140), 12-11-2023)

Sec. 1.08.460. Fire department.

(a) A fire department is hereby established.

(b) Council may contract for services. The council may contract with one or more governmental units for fire protection for all or a portion of the city, and, in such case, the following shall be observed:

(1) *Fire service districts.* The city shall be divided into fire service districts corresponding to the areas of the city which are provided with fire protection by separate fire departments as established by mutual agreement between the city and one or more contracting municipalities. Establishment of such districts shall not preclude or otherwise affect mutual aid agreements between fire departments. An official map shall be prepared and kept current to show all fire service districts in the city.

(2) *Protected areas.* All land within the city shall be included in one of the fire service districts established in subsection (b)(1) of this section and shall be provided with fire protection service by the fire department having contractual jurisdiction.

(3) *Jurisdiction.* The fire department of the city is the fire department having jurisdiction in each of the several fire service districts, and the fire chief is the person holding such position in each such department.

(c) The fire department is led by the city fire chief.

(1) The city fire chief shall retain primary responsibility and authority for determining response to fire calls and for fire scene command.

(2) The city fire chief shall be responsible for coordinating enforcement policy and activities between the respective fire service districts and the building official.

(3) The city fire chief, or their authorized representative, shall be responsible for coordinating enforcement of the fire code set forth in chapter 5.08, with enforcement of the state building code adopted in chapters 6.12 and 6.24.

(4) Fire prevention. The fire chief may conduct fire prevention inspections or educational programs within the fire service district of each respective fire department consistent with provisions of the fire code, provisions of the applicable fire prevention contract, standard practices of the fire department and applicable provisions of this Code.

(d) Right of entry. The members of the fire, police or other city departments shall have the right to enter upon property to investigate a report of or the actual siting of a fire, to take appropriate action to control an illegal fire as defined in chapter 5.24, article IV, or legal fire

that has been left unsupervised, conducted in an unpermitted area, or which otherwise poses a threat to the public health, safety or welfare.
(Ord. No. 286(3rd series), § 17(2-141), 12-11-2023)

Sec. 1.08.470. Public works department.

(a) The public works department is hereby established.

(b) The public works department will be headed by the public works superintendent with responsibilities for matters relating to maintenance, management, and operation of the physical property of the city assigned to the department. The public works department will consist of the following divisions:

(1) Streets and stormwater: responsible for maintenance of city streets, parking lots, sidewalks and care of trees on street rights-of-way as well as the maintenance and management of the city's stormwater systems.

(2) Utilities: responsible for sewerage collection, water distribution, water treatment, and water meters.

(3) Fleet: responsible for equipment maintenance of city vehicles and equipment.

(Ord. No. 286(3rd series), § 17(2-142), 12-11-2023)

Sec. 1.08.480. Parks department.

(a) A parks department is hereby established.

(b) The parks department will be headed by the parks superintendent who will have responsibilities for the acquisition and development of the city's park system, maintenance of all city-owned or leased land and buildings, and the care of trees on street rights-of-way and on park property.
(Ord. No. 286(3rd series), § 17(2-143), 12-11-2023)

Sec. 1.08.490. Community development department.

(a) A community development department is hereby established.

(b) The community development director will have supervisory responsibility over the functions of planning and zoning, inspections, economic development and building safety. This section will be headed by a director who will be responsible to the city administrator for the efficient operation of the departments under the director's jurisdiction. The community development department will consist of the following sections/functions:

(1) Planning and zoning. Enforcing compliance with the city's land development code and the comprehensive plan; reviewing and recommending revisions of the same; supporting and guiding the planning commission, preparing reports and plans for the development of the city relative to growth, subdivisions, zoning, environmental review, annexations and other related problems.

(2) The building safety department will be headed by the chief building official, who will have responsibilities for the enforcement of all laws and ordinances relating to the construction of buildings.

(Ord. No. 286(3rd series), § 17(2-144), 12-11-2023)

Sec. 1.08.500. Administrative department.

(a) An administrative department is hereby established.

(b) The administrative department is headed by the city clerk with responsibilities for the issuance of licenses and permits, recording and custody of official documents, legal publication, the administration of elections, and city communications.
(Ord. No. 286(3rd series), § 17(2-145), 12-11-2023)

Sec. 1.08.510. Engineering department.

(a) An engineering department is hereby established.

(b) The department is headed by the city engineer who will be a registered engineer under state law with responsibilities for all project engineering, traffic engineering, and subdivision services, related code enforcement, capital project construction planning and management and engineering studies.
(Ord. No. 286(3rd series), § 17(2-146), 12-11-2023)

ARTICLE V. FINANCE*

Sec. 1.08.610. Fees to be established by resolution; effect of absence of resolution.

(a) Except as otherwise specifically provided by law or ordinance, all fees required or charged by the city shall be as established by resolution.

(b) If the city has not established a particular fee by resolution, but has established such fee by ordinance, such fee shall be as established by ordinance; however, the city may reestablish or alter such fee by resolution.
(Code 2003, § 2-171)

Sec. 1.08.620. Disposal of excess property.

(a) The city administrator may recommend to the council that certain personal property (chattels) owned by the city is no longer needed for a municipal purpose and should be sold. By action of the council, such property shall be declared surplus, the value estimated and the city authorized to dispose of such property in the manner stated in this section.

(b) The city administrator may sell surplus property with a total value of less than $100.00 through negotiated sale.

(c) The city administrator shall offer for public sale, to the highest bidder, surplus property with a total estimated value over $100.00. Notice of such public sale shall be given, stating time and place of sale and generally describing property to be sold, at least ten days prior to the date of sale by publication once in the official newspaper. Such sale shall be by auction or to the person submitting the highest bid.

(d) All receipts from sales of surplus property under this section shall be placed in the general fund.

(e) No employee of the city who is a member of the administrative staff, department head, a member of the council, or an advisor serving the city in a professional capacity may be a purchaser of property under this section. Other city employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least one week's published or posted notice of sale is given. It is unlawful and punishable as provided in section 1.04.080 for any person to be a purchaser of property under this section if such purchase is prohibited by the terms of this section.
(Code 1984, § 2.61(3), (4); Code 2003, § 2-172)

ARTICLE VI. BOARDS AND COMMISSIONS

Sec. 1.08.710. Appointments; removal.

All board and commission appointments authorized by ordinance shall be made by the council at the first regular meeting in January of each year unless another appointment date is established elsewhere by ordinance. The term of each appointee shall be established and stated at the time of his appointment, and terms of present board and commission members may be reestablished and changed so as to give effect to this section. New appointees shall assume office immediately. All appointees to boards and commissions shall hold office until their successor is appointed and qualified. All vacancies shall be filled in the same manner as for an expired term, but the appointment shall be only for the unexpired term. No appointed board or commission member shall be an employee of the city, but an ex officio member may be so employed. All appointed board and commission members shall serve without remuneration but may be reimbursed for out-of-pocket expenses incurred in the performance of their duties when such expenses have been authorized by the council before they were incurred. In order to balance

*State law reference—Municipal finance, Minn. Stats. chs. 426—435.

the need for consistency, with the desire to provide ongoing opportunities for new members, the council, in general, will reappoint commission members for up to two additional three-year terms beyond their initial three-year term. Any board or commission member may be removed by the council for any reason and his position filled as any other vacancy. Each board and commission shall hold its regular meetings at a time established and approved by the council. Boards and commissions created by resolution shall terminate when the purpose for which they were created has been accomplished or upon the expiration of their terms stated in the resolution. Except as otherwise provided, this section shall apply to all boards and commissions.
(Code 1984, § 2.50; Code 2003, § 2-206; Ord. No. 115(2nd series), 5-24-1993)

CHAPTER 1.12. ELECTIONS*

Sec. 1.12.010. Date of election.

The regular city election shall be held biennially on the first Tuesday after the first Monday in November in every even-numbered year.
(Code 1984, § 2.03(1); Code 2003, § 6-1)

Sec. 1.12.020. Definitions.

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

General election means an election held at regular intervals on a day determined by law or charter at which the voters of the state or any of its subdivisions choose by ballot public officials or presidential electors.

Special election means an election held at any time to fill vacancies in public offices.

Vacancy. A vacancy occurs for the reasons stated in Minn. Stats. § 351.02 or other state law.
(Ord. No. 307(3rd Series), § 1(6-2), 2-10-2025)

Sec. 1.12.030. Special election timing.

After a vacancy is declared on the city council and a person appointed to fill the vacancy, a special election shall be held pursuant to Minn. Stats. § 412.02, subd. 2a, if there are more than 365 days remaining until the next general election. The council may by resolution establish the dates of filing affidavits of candidacy for the office, the time for absentee balloting, and the dates of the special election, as well as other provisions for the effective administration of the election. The special election must be held on one of the uniform election dates pursuant to Minn. Stats. § 205.10, subd. 3a.
(Ord. No. 307(3rd Series), § 1(6-3), 2-10-2025)

State law reference—Similar provisions, Minn. Stats. §§ 412.023, 205.07.

CHAPTER 1.16. SPECIAL ASSESSMENTS†

Sec. 1.16.010. Prepayment authorized.

Property owners assessed for public improvement projects may partially prepay their assessment in the following manner:

(1) No interest shall be charged for partial prepayments made within 30 days from the date of adoption of the assessment.

(2) Partial prepayments made after 30 days from the adoption date of the assessment and before November 15 of the year of the assessment shall incur interest based upon the entire assessment through December 31 of the year of the assessment.

(Code 2003, § 10-1; Ord. No. 160(2nd series), 5-12-1997)

State law references—Partial prepayments of special assessments, Minn. Stats. § 429.061, subd. 3; special assessments, Minn. Stats. ch. 429.

Sec. 1.16.020. Deferment of special assessments.

(a) The council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older, or

*State law references—Minnesota Election Law, Minn. Stats. chs. 200, 201, 202A, 203B, 204B, 204C, 204D, 205, 205A, 206, 208, 209, 211A, 211B, 211C; municipal elections, Minn. Stats. ch. 205.

†State law references—Special assessments, Minn. Stats. ch. 429; authority to defer special assessment, Minn. Stats. § 435.193; termination of deferment, Minn. Stats. § 435.195.

who is retired by virtue of permanent and total disability; and the city clerk is authorized to record the deferment of special assessments where the following conditions are met:

(1) The applicant must apply for the deferment not later than 90 days after the assessment is adopted by the council.

(2) The applicant must be 65 years of age, or older, or retired by virtue of permanent and total disability, which shall be deemed prima facie to exist when the applicant presents a statement by a medical doctor attesting that the that fact or by submittal of a copy of a social security disability certification.

(3) The applicant must be the owner of the property.

(4) The applicant must occupy the property as his principal place of residence.

(5) There must be a hardship for the applicant to make the payments. A hardship shall be deemed prima facie to exist when the applicant's income from all sources shall not exceed the low income limit as established by the Department of Housing and Urban Development as used in determining the eligibility for Section 8 housing. In determining a hardship, the city council may also consider exceptional and unusual circumstances pertaining to an applicant not covered by the above standards, but any such determination shall be made in a non-discriminatory manner and shall not give the applicant an unreasonable preference or advantage over other applicants.

(b) The deferment shall be granted for as long a period of time as the hardship exists and the conditions as mentioned in subsection (a) of this section have been met. However, it shall be the duty of the applicant to notify the city clerk of any change in his status that would affect eligibility for deferment.

(c) The entire amount of deferred special assessments shall be due within 60 days after loss of eligibility by the applicant. If the special assessment is not paid within 60 days, the city clerk shall add thereto interest at eight percent per annum from the due date through December 31 of the following year and the total amount of principal and interest shall be certified to the county auditor for collection with taxes the following year. Should the applicant plead and prove, to the satisfaction of the council, that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the council may order that the applicant pay within 60 days a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date (including principal and interest) with the balance thereafter paid according to the terms and conditions of the original special assessment.

(d) The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following:

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

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

(3) Loss of homestead status on the property.

(4) Determination by the council for any reason that there would be no hardship to require immediate or partial payment.

(Code 1984, § 2.62; Code 2003, § 10-2; Ord. No. 286(3rd series), § 18, 12-11-2023)

State law references—Authority to defer special assessment, Minn. Stats. § 435.193; termination of deferment, Minn. Stats. § 435.195.

Title II

UTILITIES

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CHAPTER 2.04. UTILITIES GENERALLY*

ARTICLE I. IN GENERAL

Sec. 2.04.010. Definitions.

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

Best management practice (BMP) means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

Discharge means adding, introducing, releasing, leaking, spilling, casting, throwing, or emitting any pollutant, or placing any pollutant in a location where it is likely to pollute waters of the state.

Erosion means the group of natural processes, including weathering, dissolution, abrasion, corrosion, and transportation, by which material is worn away from the earth's surface or the erosive process of washing away soil by water.

Groundwater is water contained below the surface of the earth in the saturated zone, including, without limitation, all waters whether under conned, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations deeper underground.

Illicit connection means either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system (including any non-stormwater discharge), including sewage, process wastewater, and wash water and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a residential, commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge means any direct or indirect non-stormwater discharge to the storm sewer system, except as exempted in this chapter.

MPCA means the Minnesota Pollution Control Agency.

Municipal separate storm sewer system (MS4) means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the city and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements under sections 307, 318, 402, and 405 of the Clean Water Act, 33 USC 1317, 1328, 1342, and 1345.

Person means any individual, firm, corporation, partnership, franchise, association or governmental entity.

Pollutant.

(1) The term "pollutant" means any substance which, when discharged, has potential to or does any of the following:

a. Interferes with state designated water uses;

b. Obstructs or causes damage to waters of the state;

*State law references—Municipal water and sewer systems, Minn. Stats. ch. 444; municipal ownership of public utilities, Minn. Stats. ch. 452.

c. Changes water color, odor, or usability as a drinking water source through causes not attributable to natural stream processes affecting surface water or subsurface processes affecting groundwater;

d. Adds an unnatural surface film on the water;

e. Adversely changes other chemical, biological, thermal, or physical condition, in any surface water or stream channel;

f. Degrades the quality of groundwater; or

g. Harms human life, aquatic life, or terrestrial plant and wildlife.

(2) The term "pollutant" includes, but is not limited to, dredged soil, solid waste, incinerator residue, garbage, wastewater sludge, chemical waste, biological materials, radioactive materials, rock, sand, dust, industrial waste, sediment, nutrients, toxic substance, pesticide, herbicide, trace metal, automotive fluid, petroleum-based substance, and oxygen-demanding material.

Pollute means to discharge pollutants into waters of the state.

Pollution means the direct or indirect distribution of pollutants into waters of the state.

State designated water uses means uses specified in state water quality standards.

Storm sewer system is a conveyance or system of conveyances that is owned and operated by the city or other entity and designed or used for collecting or conveying stormwater.

Stormwater means precipitation runoff, stormwater runoff, snow melt off, and any other surface runoff and drainage.

Surface waters means all waters of the state other than groundwaters, which include ponds, lakes, rivers, streams, tidal and nontidal wetlands, public ditches, tax ditches, and public drainage systems except those designed and used to collect, convey, or dispose of sanitary sewage.

Waters of the state has the meaning given it in Minn. Stats. § 115.01, subd. 22.
(Code 1984, § 3.01; Code 2003, § 14-1; Ord. No. 56(3rd series), § 1, 4-13-2009)

Sec. 2.04.020. Contractual contents.

Provisions of this chapter relating to municipal utilities shall constitute portions of the contract between the city and all consumers of municipal utility services, and every such consumer shall be deemed to assent to the same. All contracts between franchisees and consumers of utility services other than municipal shall be in strict accord with the provisions of this chapter.
(Code 1984, § 3.04; Code 2003, § 14-2)

ARTICLE II. PUBLIC UTILITIES

Sec. 2.04.110. Underground utility construction.

(a) *Underground construction required.* All utility lines installed, constructed or otherwise placed within the city for electric, telephone, TV cable or other like or similar services to serve residential, commercial and industrial customers in newly platted areas, and which utilize metallic conductors to carry electric current, whether owned, installed or constructed by the supplier, consumer or any party, shall be installed and placed underground, subject only to the exceptions stated in this section; however, above-ground placement, construction, modification or replacement of meters, gauges, transformers, streetlighting and service connection pedestals shall be allowed. The requirements of this section shall apply equally outside of the corporate limits of the city coincident with city jurisdiction of platting, subdivision regulation or comprehensive planning as may be allowed by law. All companies installing and operating lines such as those described in this section shall be referred to as utility companies for purposes of this section.

(b) *Exceptions to application.* The following exceptions to the strict applicability of this section shall be allowed upon the conditions stated:

(1) *Transmission lines.* Above-ground placement, construction, modification or

replacement of those lines commonly referred to as high-voltage transmission lines upon which the conductor's normal operating voltage equals or exceeds 23,000 volts (phase to phase) shall be allowed; however, 60 days prior to commencement of construction of such a project, the city shall be furnished notice of the proposed project and, upon request, the utility company involved shall furnish any relevant information regarding such project to the city. This section shall not be construed as waiving the requirements of any other ordinance or regulation of the city as it may apply to any such proposed project.

(2) *Technical and economic feasibility.* Above-ground placement, construction, modification or replacement of lines shall be allowed in residential, commercial and industrial areas where the council, following consideration and recommendation by the planning commission, finds that:

a. Underground placement would place an undue financial burden upon the landowner or the utility company or deprive the landowner of the preservation and enjoyment of substantial property rights; or

b. Underground placement is impractical or not technically feasible due to topographical, subsoil or other existing conditions which adversely affect underground utility placement.

(3) *Temporary service.* Above-ground placement of temporary service lines shall only be allowed:

a. During the new construction of any project for a period not to exceed 24 months.

b. During any emergency to safeguard lives or property within the city.

c. For a period of not more than seven months when soil conditions make excavation impractical.

d. Where specifically waived by the council based on facts presented to it.

(c) *Repair and maintenance of existing installations.* Nothing in this section shall be construed to prevent repair, maintenance, replacement or modification of existing overhead utility lines.

(d) *Developer responsibility.* All owners, platters or developers are responsible for complying with the requirements of this section, and prior to the final approval of any plat or development plan, shall submit to the planning commission written instruments from the appropriate utility companies showing that all necessary arrangements with such companies for installation of utilities have been made.

(e) *Placement.*

(1) All utility lines shall be placed within appropriate easements or dedicated public ways so as to cause minimum conflict with other underground services. Whenever feasible, all utilities shall be placed within the same trench.

(2) All utility companies shall submit annually to the building inspector current maps revealing locations of underground installations and whether such installations were installed prior to or after April 1, 1984.

(Code 1984, § 12.40; Code 2003, § 14-36)

Sec. 2.04.120. Fixing rates and charges for public utilities.

Public utility company rates and charges may be fixed and determined by the respective franchisees in compliance with this section, as follows:

(1) No rate or charge involving an increase shall become effective until approved by the council, unless the council has delegated its rate-setting authority to another authority. To request such increase, the franchisee shall prepare its written petition setting forth the then-current and proposed rates and charges, the effective date of the proposed increases (which may not be within 90 days of

filing the petition), and the reasons necessitating the proposed increase or increases. Such petition shall be filed with the council by serving the petition on the city clerk in person or by certified mail, return receipt requested.

(2) Within 30 days of such filing, the council shall adopt a resolution and serve the resolution upon the resident superintendent of the franchisee in like manner as the petition may be served, either approving the proposed increases or ordering a hearing to be held within 60 days. If no such action is taken by the council, such increase shall take effect on the date stated in the franchisee's petition as though approved by the council.

(3) Prior to the hearing date, the franchisee shall, without delay, comply with the city's reasonable requests for examination and copying of all books, records, documents and other information relating to the subject matter of the petition. Should the franchisee unreasonably delay, fail or refuse such requests, such action shall be grounds for a continuance of the hearing date.

(4) Notice of hearing shall be in the form and manner stated in the resolution. At the hearing, all persons wishing to be heard on the matter shall be afforded a reasonable opportunity. Findings and a decision shall be made by the council within 15 days after the hearing and served upon the franchisee.

(Code 1984, § 3.03; Code 2003, § 14-37)

ARTICLE III. CITY UTILITIES

Division 1. Generally

Sec. 2.04.210. Ownership of municipal utilities.

Ownership of all municipal utilities, plants, lines, mains, extensions and appurtenances shall be and remain in the city; and no person shall own any part or portion of the utilities. However, private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership. All private extensions of public utilities shall be constructed and maintained in accordance with city standards.
(Code 1984, § 3.05(4); Code 2003, § 14-71)

Sec. 2.04.220. Municipal utility service outside the city.

The city administrator is authorized to furnish municipal utility service to consumers outside the city, provided such consumers specifically agree to all the terms of this Code, including, but not limited to, rules, regulations and rates adopted under this Code and the right to specially assess delinquent services, charges and penalties.
(Code 1984, § 3.05(10); Code 2003, § 14-72)

Sec. 2.04.230. Right of entry.

The city has the right to enter in and upon private property, including buildings and dwelling houses, in or upon which is installed a municipal utility, or connection with a municipal utility, at all times reasonable under the circumstances, for the purpose of reading utility meters, for the purpose of inspection and repair of a utility system, or any part of the system, or public or private connection with the system, and for the purpose of connecting and disconnecting service.
(Code 1984, § 3.05(5); Code 2003, § 14-73)

Sec. 2.04.240. Application, connection and sale of service.

Application for municipal utility services shall be made upon forms supplied by the city, and strictly in accordance with such forms. No connection shall be made until a permit has been issued by the city to a licensed plumber and consent has been received from the city to make the connection, and all fees, charges and assessments required by this chapter have been paid in full. All municipal utilities shall be sold and delivered to consumers under the then applicable rate applied to the amount of such utilities taken as metered or ascertained in connection with such rates. Where no stub is provided, or where the customer desires a different location, the cost

of extending service to the main, including tapping, filling and permanent repair, shall be at the customer's expense. No utility connection permit shall authorize street openings or excavations of the roadway surface, curb or gutter, without a permit issued in accordance with chapter 3.04, article IV.
(Code 1984, § 3.05(2); Code 2003, § 14-74)

Sec. 2.04.250. Discontinuance of service.

(a) *Grounds for discontinuance.* All municipal utilities may be shut off or discontinued whenever it is found that:

(1) The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any related requirement of this Code or any connection with the system;

(2) Any charge for a municipal utility service, or any other financial obligation imposed on the present owner or occupant of the premises served, is unpaid after due notice; or

(3) There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges.

(b) *Notice and procedure.*

(1) It is city policy to annually certify delinquent utility accounts to the county for collection with the following year's property tax levy. If it is deemed more appropriate to discontinue utility service by reason of nonpayment of bills, it is the policy of the city to discontinue utility service to customers only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

a. That all bills are due and payable on or before the date set forth on the bill;

b. That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

c. That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(3) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, and must be in accordance with section 2.04.280, as that section may be amended from time to time.

(c) *Cold weather rule.* Pursuant to Minn. Stats. § 216B.097, as it may be amended from time to time, no service of a residential customer shall be disconnected if the disconnection affects the primary heat source for the residential unit when the disconnection would occur during the period between October 1 and April 30, the customer has declared inability to pay on forms provided by the city, the household income of the

customer is at or below 50 percent of the state median household income as documented by the customer to the city, and the customer's account is current for the billing period immediately prior to October 1 or the customer has entered into a payment schedule and is reasonably current with payments under the schedule. The city clerk shall, between August 1 and October 30 of each year, notify all residential customers of these provisions.
(Code 1984, § 3.05(3); Code 2003, § 14-75; Ord. No. 289(3rd series), § 1, 2-26-2024)

Sec. 2.04.260. Damage to municipal utility equipment.

Any person causing damage to any municipal utility equipment or appurtenance, including, but not limited to, meters, streetlights, water hydrants and curb cocks, shall pay the reasonable value of such equipment or appurtenance to the city, including labor for renewal and installation of any equipment, and shall be, in effect, an insurer of any equipment in his possession or with which he comes in contact.
(Code 1984, § 3.05(9); Code 2003, § 14-76)

Sec. 2.04.270. Permission required for connection.

It is unlawful for any person to make any connection with, opening into, use, extend or alter in any way any municipal utility system without first having applied for and received written permission to do so from the city.
(Code 1984, § 3.05(7)(B); Code 2003, § 14-77)

Sec. 2.04.280. Permit required for turning on discontinued service.

It is unlawful for any person to turn on or connect a utility when the utility has been turned off or disconnected by the city for nonpayment of a bill, or for any other reason, without first having obtained a permit to do so from the city.
(Code 1984, § 3.05(7)(C); Code 2003, § 14-78)

Sec. 2.04.290. Certification required prior to tapping or connection.

(a) Prior to issuance of a permit to tap or connect a lot or parcel of land with a municipal utility, the city shall issue a certificate of compliance with one of the subsections of this section. Any certificate issued under this section shall provide that in the event of a subsequent assessment for such utility, the amount of the assessment shall be credited against the subsequent assessment.

(b) The certificate shall state that such lot or parcel has been specially assessed for its share of the cost of construction of the sewer or water main, as the case may be, and that no installments are delinquent or permit fees unpaid.

(c) The certificate shall state that such lot or parcel has not been specially assessed for its share of the cost of construction of the sewer or water main, as the case may be, but that proceedings have been, or will be, commenced, and that no permit fees are unpaid.

(d) The certificate shall state that such lot or parcel has not been specially assessed for its share of the cost of construction of the sewer or water main, as the case may be, but that a sum equal to such share has been paid to the city, and that no permit fees are unpaid.
(Code 1984, § 3.06; Code 2003, § 14-79)

Sec. 2.04.300. Separate services.

Each separate occupied property or each separate building or occupancy on a single property shall be served by and shall utilize a separate service connection not shared by any other property or occupancy, including each unit of any townhouse development, or each commercial occupancy under separate ownership. Exceptions are:

(1) Duplex dwellings consisting of two residential units in one building, on one parcel of property, owned by one owner;

(2) Condominium, residential or commercial uses having more than one owner within the same building, where the land and/or common areas of the building, including service areas, are owned in common or by an association; or

(3) Apartment buildings or leasehold commercial or industrial buildings having one owner but multiple tenants.

(Code 1984, § 3.05(11); Code 2003, § 14-80)

Sec. 2.04.310. Water meters.

(a) *Requirement.* All properties connected to the city water system must have a properly functioning and calibrated radio-read water meter of the appropriate size and type to obtain an accurate recording of the water used at the full range of anticipated flow rates.

(1) *Maintenance, repair and replacement.* The city shall maintain and repair or replace all meters when rendered unserviceable through ordinary wear and tear. Where replacement, repair or adjustment of any meter is rendered necessary by the act, neglect or carelessness of the owner or occupant of any premises, any expense caused by the city thereby shall be charged against and collected from the owner or occupant of the premises.

(2) *City property.* Water meters shall be and remain the property of the city and may be removed or replaced or changed as to size and type by the city whenever deemed necessary.

(3) *Access to read meters.* City employees delegated for that purpose shall have free access at reasonable hours of the day to all parts of every building and premises connected with the municipal water supply system for reading of meters and inspections. The city shall be authorized to make adjustments in water charges where, in their opinion, the amount billed is erroneous due to meter deficiency or other mistake.

(b) *Meter replacement.* Installation of a radio-read capacity water meter shall be required on all structures served by the municipal water system. If a property owner does not authorize entry onto the property to allow installation of the meter within 60 days after the city requests entry, a surcharge fee as set forth in fee schedule will be applied.

(c) *New construction.* A city-provided water meter and remote reader is required before either a temporary or permanent certificate of occupancy will be issued for any building with city water service. The property owner shall be responsible for retaining the services of a licensed plumber for the installation of all required water meters and remote readers.

(d) *Meter reading.* The city normally reads water meters and bills for water usage on a quarterly basis. If the city is unable to obtain an accurate water meter reading because of a non-functioning or inaccessible water meter or remote reader, the city will estimate the quarterly water bill based on the past water usage for the property.

(1) *Failure to read.* The city will provide notification to the property owner of the inability to obtain an accurate water meter reading and the city's need to obtain access to the property to allow for correction of the problem by the city. The property owner shall cooperate with the city to allow for correction of the situation in a prompt manner. If the property owner is nonresponsive or uncooperative in coordinating with the city to allow for repair of the water meter and remote reader, the city reserves the right to add a nonrefundable service charge for a nonfunctioning or inaccessible water meter to the next water bill.

(2) *Service charge.* The amount of this service charge shall be determined by ordinance and listed in the city fee schedule. This service charge will be added to future quarterly water bills and the water bill estimated until the property has a properly functioning and accessible radio-read water meter. The city also reserves the right to shutoff water service to any property that has had a nonfunctioning or inaccessible water meter or remote reader for more than six months after the property owner is notified of the situation.

(Code 1984, § 3.10(10); Code 2003, § 14-81; Ord. No. 217(2nd series), 3-25-2002; Ord. No. 226(3rd series), § 1, 6-10-2019)

Sec. 2.04.320. Meter test.

Whenever a consumer shall request the city to test any utility meter in use by him, such a

request shall be accompanied by a fee in the amount prescribed by the current city fee schedule for each meter to be tested. If any such meter is found to be inaccurate, it shall be replaced with an accurate meter and the deposit refunded. If the meter shall be found to be accurate in its recordings or calculations, it shall be reinstalled and the deposit shall be retained by the city to defray the cost of such test.
(Code 1984, § 3.05(6); Code 2003, § 14-82)

Division 2. Rates and Charges

Sec. 2.04.410. Fixing rates and charges for municipal utilities.

All rates and charges for municipal utilities, including, but not by way of limitation, rates for service, permit fees, connection and meter reading fees, disconnection fees, reconnection fees, including penalties for nonpayment, if any, and fire hydrant availability fees, shall be fixed, determined and amended by the council and adopted by resolution.
(Code 1984, § 3.02(1); Code 2003, § 14-106)

Sec. 2.04.420. Unmetered service.

Unmetered service may be provided for construction, flooding skating rinks, swimming pools and any other purpose upon approval by the city. Such service shall be at a duly adopted rate. Where it is difficult or impossible to accurately measure the amount of water taken, unmetered service may be provided and the unmetered rate applied; however, by acceptance the consumer agrees to have the city estimate the water used. In so estimating, the city shall consider the use to which the water is put and the length of time of unmetered service.
(Code 1984, § 3.10(9); Code 2003, § 14-107)

Sec. 2.04.430. Metered water not discharged.

If a portion of the water furnished to any premises is not directly or indirectly discharged into the sewerage system, the quantity of such water shall be deducted in computing the sewerage service charge or rental, provided a separate meter shall be installed and operated to register the quantity not discharged into the sewerage system; provided, also, that where it is not practicable to meter the portion of the water not discharged into the sewerage system, such adjustment may be made as shall be fair and equitable in order to determine the amount of such service charge or rental; but until such adjustment shall be effected, water consumption basis shall remain in full force and effect.
(Code 1984, § 3.20(3); Code 2003, § 14-108)

Sec. 2.04.440. Unmetered water supply.

If any nonresidential premises discharge normal sewage or industrial waste into the sanitary sewerage system, either directly or indirectly, obtain part or all of the water used on the premises from sources other than the city, and the water so obtained is not measured by a meter of equivalent specifications to the meters used by the city, the city shall permit the discharge of normal sewage or industrial waste into its sanitary sewerage system only when the owner of such premises or some other interested party shall, at his own expense, install and maintain for the purpose of metering such water supply a water meter of equivalent specifications to those installed by the city in connection with the city water system. Each water meter shall be installed to measure all water received on such premises, and the above charges and rates shall be applied to the quantity of water received as measured by such meter. If, because of the nature of the source of the water supply, the city deems it impracticable to thus meter the water on any premises, the council may by resolution establish a flat charge per month in accordance with the estimated use of water on such premises.
(Code 1984, § 3.20(7); Code 2003, § 14-109; Ord. No. 129(2nd series), § 2, 10-24-1994)

Sec. 2.04.450. Billing, payment and delinquency.

(a) All municipal utilities shall be billed monthly, and a utilities statement shall be mailed to each consumer. All utility charges shall be delinquent if they remain unpaid after 21 days from the date of the bill. Payments received on or before the 21st day shall be deemed as paid within that period. A penalty of eight percent

shall be added to and become part of all delinquent utility bills. If service is suspended due to delinquency, it shall not be restored at that location until a reconnection charge has been paid for each utility reconnected in addition to amounts owed for service and penalties. If delinquent charges are specially assessed under subsection (b) of this section, an additional sum of eight percent computed on the delinquent amount of charges and penalties shall be added to and become part of the amount so assessed to cover administrative costs of making the assessment.

(b) Payment for service and charges provided for in this section shall be the primary responsibility of the owner of the premises served and shall be billed to them unless otherwise authorized in writing by the tenant and owner and consented to by the city. The city may collect the payment in a civil action or, in the alternative and at the option of the city, as otherwise provided in this subsection. Each such charge is made a lien upon the premises served. All such charges which are on September 1 of each year more than 30 days past due shall be certified by the city clerk to the county auditor on or before December 1 of each year; and the city clerk in so certifying such charges to the county auditor shall specify the amount, the description of the premises served, and the name of the owner. The amount so certified shall be extended by the auditor on the tax rolls against such premises in the same manner as other taxes, collected by the county treasurer, and paid to the city along with other taxes.
(Code 1984, § 3.05(1), (8); Code 2003, § 14-110; Ord. No. 246(3rd series), § 1, 6-22-2020)

Division 3. Water Service

Sec. 2.04.510. Deficiency of water and shutting off water.

The city is not liable for any deficiency or failure in the supply of water to customers whether occasioned by shutting the water off for the purpose of making repairs or connections or by any other cause whatever. In case of fire, or alarm of fire, water may be shut off to ensure a supply for firefighting. In making repairs or construction of new works, water may be shut off at any time and kept off so long as may be necessary.
(Code 1984, § 3.10(1); Code 2003, § 14-131)

Sec. 2.04.520. Connection fees.

Service shall be furnished only after proper application has been made and connection permit fees paid in full.
(Code 1984, § 3.10(12); Code 2003, § 14-132)

Sec. 2.04.530. Code requirement.

Failure to install or maintain water service in accordance with the state plumbing code or failure to have or permit required inspections shall, upon discovery by the city, be an additional ground for termination of water service to any consumer.
(Code 1984, § 3.10(11); Code 2003, § 14-133)

Sec. 2.04.540. Service pipes.

Every service pipe must be laid in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than seven feet below the surface in all cases so arranged as to prevent rupture and stoppage by freezing. It is the responsibility of the property owner or building occupant to repair frozen service pipes between the curb stop into the house or other building. Service pipes must extend from the curb stops to the inside of the building, or, if not taken into a building, then to the hydrant or other fixtures which they are intended to supply. A valve the same size as the service pipe shall be placed close to the inside wall of the building, ahead of the meter and well protected from freezing. Joints on copper tubing shall be flared and kept to a minimum. Not more than one joint shall be used for a service up to 70 feet in length. All service pipes, including joints, shall be left uncovered until inspected. Minimum size connection with the water mains shall be three-fourths inch in diameter. The strength of all pipes shall be as prescribed by the city.
(Code 1984, § 3.10(4); Code 2003, § 14-134; Ord. No. 137(3rd series), § 1, 2-9-2015)

Sec. 2.04.550. Private water supplies.

No water pipe of the city water system shall be connected with any pump, well, pipe, tank or any device that is connected with any other source of water supply; and, when such are found, the city shall notify the owner or occupant to disconnect the device, and, if not immediately done, the city water shall be turned off. Before any new connections to the city system are permitted, or at the time such new connection is inspected, the city shall ascertain that no cross connections will exist when the new connection is made. When a building is connected to city water, the private water supply may be used only for such purposes as the city may allow.
(Code 1984, § 3.10(5); Code 2003, § 14-135)

Sec. 2.04.560. Regulating the use of water during periods of water shortage.

(a) *Purpose.* In order to avoid a water shortage due to inadequate capacity in water systems, to ensure an adequate water supply for fire protection, to protect the environment of Lake Minnetonka, to ensure the protection of subterranean aquifers, to maintain the quality of domestic water supplies, and to protect the general health, safety and welfare of the residents, the regulations on nonessential water uses prescribed in this section shall apply during periods of water shortages.

(b) *Implementation of restrictions.* Whenever the city council shall determine that a shortage of water threatens the city, it may enact by resolution the restrictions for nonessential water use set forth in this section. The resolution shall become effective 24 hours after passage and publication. The resolution shall contain the following information:

(1) Uses of water that will be restricted;

(2) Types of water supply which will be restricted, such as the public water system, private wells, lakes or other surface water systems;

(3) Times during which the restriction will apply;

(4) Whether the use restrictions will apply to all property in the city or will vary depending upon location or identification of property;

(5) When the restrictions will be implemented and when they will terminate; and

(6) Whether the restrictions will be voluntary or involuntary.

(c) *Notification of public.* Whenever the city council enacts the restrictions in this section, it shall take such action as is reasonably practicable to notify the general public of the restrictions. The notice shall be posted on the city's bulletin board and shall be published in the local newspaper. The notice shall include the information described in subsection (b) of this section.

(d) *Types of water supply.* The restrictions in this section shall, at the discretion of the city council, apply to the public water system, private wells, lakes or other surface water systems, or any combination.

(e) *Restrictions.*

(1) During a water shortage, the city council may order one or any combination of the following restrictions:

a. A complete or partial ban on water use for watering lawns, trees and shrubs, irrigation, car washing, filling swimming pools, air conditioning, other uses determined by the city to be nonessential, or any combination;

b. An odd/even watering ban in which residents of addresses ending in an even digit may water on even-numbered calendar days and residents of addresses ending in an odd digit may water on odd-numbered calendar days;

c. A limitation of water use for specified hours of the day;

d. A voluntary or involuntary restriction;

e. A use restriction applicable to all or part of the city or based on land use or property identification; and

f. Any other appropriate restrictions.

(2) Newly seeded or sodded lawns shall be exempt from these provisions for a period of 30 days after installation, although no new seeding or sodding may begin after any applicable water use restriction is instituted.

(3) The council delegates to the city administrator or his designee the authority to declare an odd/even or total sprinkling ban or a complete water use ban of municipal users of any public system in the city when, in the opinion of the administrator or his designee, municipal water supplies have reached the point that it could endanger the supply for domestic sanitation and/or fire protection purposes. This would require ratification by resolution at the council's next regularly scheduled council meeting.

(f) *Termination.* Any water use restrictions imposed by the council during a water shortage shall terminate by resolution of the city council. (Code 1984, § 3.10(14); Code 2003, § 14-136)

Sec. 2.04.570. Water emergencies.

(a) Whenever, in the judgment of the city administrator, the water pressure and available water in the municipal water system reaches a level which endangers the public health or safety of residents and other persons in the city, he may declare a state of water emergency, which shall continue until such time as he shall determine that the danger to public health or safety no longer exists. Forthwith upon the declaration of a state of water emergency, notice shall be given to the news media; and all orders of the city administrator shall be enforced after one hour has elapsed from the time of such notice.

(b) During the existence of a state of water emergency, the city administrator may, by order:

(1) Prohibit any sprinkling, irrigation or other utilization of water from the city's municipal water system for lawn, grass or turf;

(2) Prohibit sprinkling, irrigation or other utilization of water from the city's municipal water system for lawn, grass or turf, except in those areas stated in the notice that such utilization of water may be used on odd- or even-numbered days of the month; or

(3) Curtail industrial water usage.

(c) Upon written request and approval by the city administrator and subject to such terms and conditions imposed by the city administrator with respect to such approval, the following persons may be authorized to sprinkle, irrigate or otherwise utilize water from the city's municipal water system at times other than permitted in subsection (b) of this section:

(1) Any person owning or operating a commercial or business enterprise whose economic well-being is dependent upon sprinkling, irrigating or watering of a lawn, grass or turf owned, leased or operated by it;

(2) Employees and agents of the city, in such instances wherein lawn, grass or turf used for playfields or areas owned or operated by the city require more frequent watering to prevent unreasonable damage to such areas;

(3) Owners and lessees, and their employees and agents, of lands newly sodded or grass seeded which requires sprinkling or irrigation to prevent loss of new sod, seed or immature turf or grasses.

(Code 1984, § 3.10(6); Code 2003, § 14-137)

Sec. 2.04.580. Repair of leaks.

It is the responsibility of the consumer or owner to maintain the service pipe from the curb stop into the house or other building. In case of failure upon the part of any consumer or owner to repair any leak occurring in his service pipe within 24 hours after oral or written notice has been given the owner or occupant of the premises, the water may be shut off and will not be turned on until a reconnection charge has been paid and the water service has been repaired. When the waste of water is great or when damage is likely

to result from the leak, the water will be turned off if the repair is not proceeded with immediately.
(Code 1984, § 3.10(2); Code 2003, § 14-138)

Sec. 2.04.590. Private fire protection systems.

Owners of structures with self-contained fire protection systems may apply for and obtain permission to connect the street mains with hydrants, large pipes and hose couplings, for use in case of fire only, at their own installation expense and at such rates as the council may adopt by resolution, and upon such conditions as the council may prescribe, including unmetered connections. Any system so installed may be used for fire protection purposes on the premises or adjacent premises.
(Code 1984, § 3.10(7); Code 2003, § 14-139)

Sec. 2.04.600. Opening hydrants.

It is unlawful for any person, other than members of the fire department or other person duly authorized by the city, in pursuance of lawful purpose, to open any fire hydrant or attempt to draw water from the hydrant or in any manner interfere with the hydrant. It is also unlawful for any person so authorized to deliver or suffer to be delivered to any other person any hydrant key or wrench, except for the purposes strictly pertaining to their lawful use.
(Code 1984, § 3.10(8); Code 2003, § 14-140)

Sec. 2.04.610. Abandoned services penalties.

Whenever ordered by the city, all service installations connected to the water system that have been abandoned or, for any reason, have become useless for further service shall be disconnected at the main. The owner of the premises served by this service shall pay the cost of the excavation. The city shall perform the actual disconnection, and all pipe and appurtenances removed from the street right-of-way shall become the property of the city. When new buildings are erected on the site of old ones, and it is desired to increase the old water service, a new permit shall be taken out; and the regular tapping charge shall be made as if this were a new service. It is unlawful for any person to cause or allow any service pipe to be hammered or squeezed together at the ends to stop the flow of water, or to save expense in improperly removing such pipe from the main. Such improper disposition shall be corrected by the city, and the cost incurred shall be borne by the person causing or allowing such work to be performed.
(Code 1984, § 3.10(3); Code 2003, § 14-141)

Division 4. Sewers and Sewage Disposal

Subdivision I. In General

Sec. 2.04.710. Definitions.

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

I&I means inflow and infiltration.

Industrial waste means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing, trade or business, or from development of any natural resources.

Infiltration means an indirect connection or discharge of clear water into the sanitary sewer system.

Inflow means any direct connection of clear water into the sanitary sewer system.

Sewage means water-carried waste products from residences, public buildings, institutions or other buildings or premises, including the excrement or other discharge from the bodies of human beings or animals, together with such groundwater infiltration and surface water as may be present.

Sewer service lateral or *service lateral* means the portion of the sanitary sewer system that generally is perpendicular to the sewer main and extends from the sewer main to the structure being served.

Sewerage service means the use of and benefit from the sewerage system, including the availability, collection, transportation, pumping, treatment and final disposal of sewage.

Sewerage system includes all street lateral, main and intersecting sewers and structures by which sewage or industrial wastes are collected, transported, treated and disposed of, provided that this shall not include plumbing inside or a part of a building or premises served, or building sewers or service stubs from a building to the street lateral.
(Code 1984, § 3.20(1); Code 2003, § 14-166; Ord. No. 247(3rd series), § 1, 6-8-2020)

Sec. 2.04.720. Construction, maintenance and repair.

The customer shall be responsible for all repairs and maintenance from the main to the house or other building.
(Code 1984, § 3.20(2); Code 2003, § 14-167)

Subdivision II. Discharge Restrictions

Sec. 2.04.810. Classification of industrial wastes.

The city shall have the power to classify the industrial wastes from any lot, parcel of land, building or premises discharged into the sewerage system of the city, taking into consideration the quantity of sewage produced and its concentration and composition, as specified in the Metro Waste Control Commission regulations, and of any other factors entering into the cost of its disposal, for the purpose of fixing and prescribing a distinct rate of rental or use charge. Should it be found that as to such sewer uses the water basis consumption does not provide a practicable method for the premises, but until so determined and such distinct rate fixed, the water consumption basis hereinbefore prescribed shall remain in full force and effect as to such commercial or industrial users. The city may require and prescribe pretreatment on the consumer's premises.
(Code 1984, § 3.20(4); Code 2003, § 14-186)

Sec. 2.04.820. Deleterious substances.

No sewage, including industrial wastes, shall contain any substance which is deemed deleterious by the city to the operation of the sewerage system or to any plant or facilities used in the treatment or disposal of such sewage. If a user of the sewerage system discharges excessive loads or any deleterious substances therein which are likely to retard or injuriously affect sewerage operations, he shall discontinue such practice; and such practice is hereby declared to be a violation of this section. Each day of such violation continuing after having been notified in writing by the city clerk to discontinue such practice shall be deemed a separate violation.
(Code 1984, § 3.20(5); Code 2003, § 14-187)

Sec. 2.04.830. Unlawful discharge.

It is unlawful to discharge any of the following described wastes into the sewerage system:

(1) Liquids having a temperature higher than 150 degrees Fahrenheit.

(2) Water or waste which contains more than 100 parts per million (ppm) by weight of fat, oil or grease.

(3) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(4) Garbage, except such as has been properly shredded.

(5) Ashes, cinders, shavings, feathers, tar or other liquid or viscous substance capable of causing obstruction to the flow in the sewerage system or other interference with the proper operation of the system.

(6) Noxious or malodorous substances capable of creating a public nuisance.

(Code 1984, § 3.20(6); Code 2003, § 14-188; Ord. No. 129(2nd series), § 1, 10-24-1994)

Sec. 2.04.840. Prohibited discharges of groundwater/stormwater into the sanitary sewerage system.

(a) No person shall discharge or cause to be discharged, directly or indirectly, any stormwater, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any sanitary sewer. Any person having a roof drain, sump pump, unauthorized swimming pool discharge, cistern overflow pipe or surface drain

connected and/or discharging into the sanitary sewer shall disconnect and remove any piping or system conveying such water to the sanitary sewerage system.

(b) Inspection. Every person owning improved real estate that discharges into the city's sanitary sewerage system shall allow inspection by authorized city employees or its agents of all properties or structures connected to the sanitary sewerage system to confirm there is no sump pump or other prohibited discharge into the sanitary sewerage system.

(1) In lieu of authorizing a city inspection of the property, the property owner may furnish a certificate from a licensed plumber, in a form acceptable and provided by the city, certifying that the property has no prohibited discharge in the municipal sanitary sewer system. All inspections and inspection reports must include a date-stamped video record of the complete lateral line from the property to sewer main. All inspections must be performed and reports completed in accordance with city standards and specifications within 60 days of written notification of the inspection requirement. Once a sewer service line is televised and the line is deemed to be in good working order by the public works department, the line does not need to be re-televised for ten years.

(2) Connection and disconnection permit inspections. Any property owner or consumer applying for a sewer connection or disconnection permit from the city shall agree to an inspection of the structure's sump pump, footing or foundation drain discharge and sanitary sewer service lateral for compliance with this Code. No permanent occupancy for a new structure shall be issued without a certificate of I&I compliance. These inspections must be completed by a city inspector.

(c) Any owner of any property found to be in violation of this section shall make the necessary changes to comply with this division, and such change shall be verified by authorized city employees or agents. Any property or structure not inspected or not in compliance shall, following notification from the city, comply within 90 calendar days or be subject to the surcharge as provided in subsection (f) of this section.

(d) Existing buildings with sump pumps and all newly constructed buildings with sumps shall have a discharge pipe installed to the outside wall of the building. The pipe attachment must be of rigid permanent-type plumbing, such as PVC, copper or galvanized pipe. The discharge shall extend outside of the foundation and may not be pumped directly onto any public right-of-way unless approved by the public service director or his designee. Any disconnects or openings in the sanitary sewer shall be closed and repaired in compliance with applicable codes.

(e) Upon verified compliance with this division, the city reserves the right to reinspect such property or structure or require the property owner to provide a certificate of compliance from a licensed plumber in a form acceptable to the city. Any property found not to be in compliance upon reinspection by the city shall, following notification from the city, comply within 90 calendar days or be subject to the surcharge provided for in subsection (f) of this section.

(f) A surcharge set by the annual fee schedule adopted by the city council is imposed and shall be added to every utility billing to properties not in compliance with this division. The surcharge shall be added to every utility billing until the property is in compliance as determined by the city. If the surcharge is not paid in a timely manner, the delinquent payments may be certified for collection with the following years' property taxes.

(g) The city administrator, upon recommendation of the city engineer, shall hear and decide requests for temporary waivers from the provisions of this division where strict enforcement would cause a threat to public safety because of circumstances unique to the individual property under consideration. Any request for a temporary waiver shall be submitted to the city administrator in writing within 30 calendar days of notification of noncompliance. Upon approval of a

temporary waiver from the provisions of this division, the property owner shall agree to pay an additional fee for sanitary sewerage services based on the number of gallons discharged into the sanitary sewerage system as estimated by the city engineer.

(h) If a city drain tile or storm sewer system is available to the property, stormwater and all other unpolluted discharges may be connected to it subject to approval by the city engineer. If a public system is not available, these discharges must be accommodated on the owner's property.

(i) The imposition of the surcharge shall not limit the right of the city to seek an injunction in district court ordering the person to disconnect the nonconforming connection to the sanitary sewer or from pursuing any other legal remedies available; or in the alternative, the city may correct the violation and certify the costs of correction as an assessment against the property on which the correction was made.
(Code 2003, § 14-189; Ord. No. 129(2nd series), § 2, 10-24-1994; Ord. No. 50(3rd series), § 1, 10-13-2008; Ord. No. 247(3rd series), § 2, 6-8-2020)

Sec. 2.04.850. Point of sale certificate of inflow and infiltration compliance.

(a) *Required.* No person shall sell, give or transact a change in title or property ownership of real property with one or more buildings or structures that is served by municipal sanitary sewer, without first obtaining a certificate of I&I compliance from the city.

(b) *Inspection.* The applicant for a certificate of I&I compliance is responsible for providing and inspection of the property after making application and payment of fees. The inspection shall be made by the city to determine whether the property is in accordance with city sanitary sewer regulations as provided in section 2.04.840. The inspection will also look for potential illicit discharges into the stormwater system.

(1) A certificate of compliance shall be issued by the city upon successful completion of an inspection. A certificate of compliance shall be valid for ten years.

(2) In lieu of authorizing a city inspection of the property, the inspection requirement may be met by having the property owner contract with a licensed plumber to perform the inspection. The plumber must inspect the property's sump pump, sewer service lateral, and groundwater drainage system, and upon completion, return an inspection form provided by the city documenting the results of the inspection. The date-stamped video record shall be submitted to the city and reviewed and approved by the city for assessment of compliance with this section. All costs associated with an inspection by a privately retained plumber shall be the responsibility of the property owner.

(c) *Compliance.*

(1) Upon inspection, when the property use is in accordance with city sanitary sewer services regulations, a certificate of I&I compliance will be issued by the city.

(2) A certificate of I&I compliance is valid to be used for the transfer of property.

(d) *Corrections.* Upon notice that the discharge of clear water on a property is not in compliance with this division, the owner or occupant of the property shall cease from discharging clear water in violation of this division and shall make the necessary repairs and corrections to discharge the clear water in accordance with this division.

(1) Discharge of clear water in compliance with this division shall be completed within 90 days of the date of notice of noncompliance, or as determined by the public works director.

(2) If an inspection discloses that use of a property is not in accordance with city sanitary sewer service regulations, a correction notice may be issued by the city permitting the transfer of property, providing:

a. An agreement by the new owner or the new owner's representative has been executed with the city, whereby the new owner or the new owner's representative agrees to complete

corrections to the property necessary to bring it within compliance of the city sanitary sewer service regulations within 180 days of the transfer of property.

b. The seller shall provide proof to the city that funds were placed in an escrow account at closing to cover the required repairs. The security shall be placed in an escrow with a licensed real estate closer, licensed attorney-at-law or a federal or state chartered financial institution. The amount escrowed shall be equal to 110 percent of a written estimate to install or line the service line by a licensed and certified installer. After a complying service line has been installed or lined and a certificate of compliance issued, the city shall provide the escrow agent a copy of the certificate of compliance. This escrow requirement may be waived if the property contains a principle structure that will be demolished and the agreement referenced in subsection (d)(2)a of this section includes an acknowledgment by the new owner that the demolition and reconstruction will result in the requirement for a new sanitary sewer service line.

c. The owner (or transferor) or owner's representative involved in the transaction are responsible for disclosing the correction notice to the transferee and all other persons or entities involved in the transaction. The responsibility for repairing any nonconformance with the sanitary sewer service regulations runs with the land and not only rests with the owner or transferor but is also an obligation of the transferee of the property. If repairs are not completed within one year of the first inspection, the inspection becomes invalid and the process starts again, which includes paying the applicable inspection fee.

(e) *Penalties.* A monthly surcharge in an amount duly adopted by the city council and set forth in the city's fee schedule shall be assessed against any property found to be in violation of this section. A surcharge will be assessed for every month during which the property is not in compliance. This charge shall cease when the property has been inspected and acceptable certification of compliance is submitted to the city.

(Code 2003, § 14-190; Ord. No. 247(3rd series), § 3, 6-8-2020)

Sec. 2.04.860. Appeals.

Application for appeal of any administrative determination made pursuant to this division shall be addressed to the city administrator within 30 days of the determination. Applications shall at a minimum identify the property for the appeal sought, the name of the property owner, and describe in detail the determination which is being appealed. Within 60 days of receipt of the application, the city council shall make its decision on the matter and send a written copy of such decision to the property owner by mail.

(Code 2003, § 14-191; Ord. No. 247(3rd series), § 4, 6-8-2020)

Division 5. Storm Sewer System

Subdivision I. In General (Reserved)

Subdivision II. Drainage and Erosion Control

Sec. 2.04.1010. Drainage plan.

In the development, improvement or alteration of land, the direction, quantity or quality of drainage shall not be changed unless plans for the development are submitted to the city engineer, and are found to be in compliance with the city's stormwater management policies. Runoff shall be properly channeled into a storm drain, watercourse, ponding area or other public facility.

(Code 2003, § 14-231; Ord. No. 213(2nd series), § 1(10(1)), 12-10-2001; Ord. No. 214(2nd series), § 1(11(1)), 12-10-2001)

Sec. 2.04.1020. Erosion and sediment control plan.

Prior to the issuance of a building or grading permit for any development, improvement or alteration of land, a plan for erosion and sedimentation control shall be presented with the site plan. The erosion and sedimentation control plan shall specify the measures to be used before, during and after construction until the soil and slope are stabilized by permanent cover. These control measures shall be maintained in good working order until site stabilization occurs.
(Code 2003, § 14-232; Ord. No. 213(2nd series), § 1(10(2)), 12-10-2001; Ord. No. 214(2nd series), § 1(11(2)), 12-10-2001)

Sec. 2.04.1030. Approval.

Plans and provisions required for compliance with this subdivision must be submitted to the city engineer for approval.
(Code 2003, § 14-233; Ord. No. 213(2nd series), § 1(10(3)), 12-10-2001; Ord. No. 214(2nd series), § 1(11(3)), 12-10-2001)

Subdivision III. Stormwater Drainage Utility

Sec. 2.04.1110. Statutory authority.

Minn. Stats. § 444.075 authorizes cities to impose just and reasonable charges for the use and availability of storm sewer facilities (charges). By this subdivision the city elects to exercise such authority.
(Code 2003, § 14-251; Ord. No. 213(2nd series), § 1(1), 12-10-2001)

Sec. 2.04.1120. Findings and determinations.

In providing for such charges, the findings and determinations set out in this section are made.

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

(2) The system, as constructed, heretofore has been financed and paid for through the imposition of special assessments and ad valorem taxes. Such financing methods were appropriate to the circumstances at the time they were used. It is now necessary and desirable to provide an alternative method of recovering some or all of the future costs of improving, maintaining and operating the system through the imposition of charges as provided in this subdivision.

(3) In imposing charges, it is necessary to establish a methodology that undertakes to make them just and equitable. Taking into account the status of completion of the system, past methods of recovering system costs, the topography of the city and other relevant factors, it is determined that it would be just and equitable to assign responsibility for some or all of the future costs of operating, maintaining and improving the system on the basis of the expected stormwater runoff from the various parcels of land within the city during a standard five-year rainfall event.

(4) Assigning costs and making charges based upon expected typical stormwater runoff cannot be done with mathematical precision but can only be accomplished within reasonable and practical limits. The provisions of this subdivision undertake to establish a reasonable and practicable methodology for making such charges.

(Code 2003, § 14-252; Ord. No. 213(2nd series), § 1(2), 12-10-2001)

Sec. 2.04.1130. Excluded lands.

No charge for system availability or service shall be made against land which is:

(1) Public or private street right-of-way;

(2) Vacant and unimproved land with substantially all of its surface having vegetation as ground cover;

(3) Land owned by the city; or

(4) Park land owned by other governmental agencies.

(Code 2003, § 14-253; Ord. No. 213(2nd series), § 1(7), 12-10-2001)

Sec. 2.04.1140. Establishing basic rate.

The basic system rate to be charged against an average single-family residence shall be included in the city fee schedule and shall be changed as necessary by resolution of the council. The charge to be made against all other nonresidential properties shall be made in accordance with section 2.04.1150.

(Code 2003, § 14-254; Ord. No. 213(2nd series), § 1(4), 12-10-2001)

Sec. 2.04.1150. Rates and charges.

(a) *Residential equivalent factor.* Rates and charges for the use and availability of the system shall be determined through the use of a residential equivalent factor (REF). For the purposes of this subdivision, one REF is defined as the average volume of surface water runoff coming from an average single-family residential lot of 2.0 acres of land and 20 percent impervious surface.

(b) *Standardized acreage.* For the purpose of simplifying and equalizing charges against property used for average single-family residential purposes, such properties shall be considered to have an acreage of 2.0 acres.

(c) *Determination of REFs; nonresidential properties.* REFs for all land uses other than residential uses shall be based on the percentage of impervious surface and size of the property as listed in the following table. The minimum fee for any property shall be based upon one REF.

Percent Impervious	*Runoff (inches)*	*REF/2 acre*	*REF/1 acre*
0	0.50	0.62	0.31
5	0.58	0.72	0.36
10	0.66	0.82	0.41
15	0.74	0.92	0.46
20	0.80	1.00	0.50
25	0.98	1.22	0.61
30	1.16	1.45	0.73
35	1.34	1.68	0.84
40	1.50	1.87	0.94
45	1.68	2.10	1.05
50	1.86	2.33	1.16
55	2.04	2.55	1.23
60	2.20	2.75	1.38
65	2.38	2.98	1.49
70	2.56	3.20	1.60
75	2.74	3.43	1.72
80	2.90	3.62	1.81
85	3.08	3.85	1.93
90	3.26	4.02	2.01
95	3.44	4.30	2.15
100	3.60	4.50	2.25

(Code 2003, § 14-255; Ord. No. 213(2nd series), § 1(3), (5), 12-10-2001)

Sec. 2.04.1160. Responsibilities of user.

(a) *Supplying information.* The owner, occupant or person in charge of any premises shall supply the city with such information as the city may reasonably request related to the use, development and area of the premises. Willful failure to provide such information or to falsify it is a violation of this subdivision.

(b) *Estimated charges.* If the owner, occupant or person in charge of any premises fails or refuses to provide the information requested, as provided in subsection (a) of this section, the charge for such premises shall be estimated and billed in accordance with such estimate, based upon information then available to the city.

(Code 2003, § 14-256; Ord. No. 213(2nd series), § 1(8), (9), 12-10-2001)

Sec. 2.04.1170. Adjustments of charges.

The city council may, by resolution, from time to time, adopt policies providing for the adjustment of charges for parcels or groups of parcels, based upon hydrologic data supplied by affected

property owners, demonstrating an actual hydrologic response substantially different from the REF being used for the parcel. Such adjustment shall be made only after receiving the recommendation of the city engineer and shall not be made effective retroactively.
(Code 2003, § 14-257; Ord. No. 213(2nd series), § 1(6), 12-10-2001)

Subdivision IV. Stormwater Trunk Fee

Sec. 2.04.1210. Statutory authority.

Minn. Stats. § 444.075 authorizes cities to impose just and reasonable charges for the use and availability of storm sewer facilities (charges). By this subdivision, the city elects to exercise such authority.
(Code 2003, § 14-281; Ord. No. 214(2nd series), § 1(1), 12-10-2001; Ord. No. 149(3rd series), § 1, 5-26-2015)

Sec. 2.04.1220. Findings and determinations.

In providing for such charges, the findings and determinations set out in this section are made.

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

(2) The system, as constructed, heretofore has been financed and paid for through the imposition of special assessments and ad valorem taxes. Such financing methods were appropriate to the circumstances at the time they were used. It is now necessary and desirable to provide an alternative method of recovering some or all of the future costs of improving, maintaining and operating the system through the imposition of charges as provided in this subdivision.

(3) Development of land changes the characteristics of the stormwater runoff from the property and results in the need for improved stormwater facilities, and also increases the demand on the stormwater system, which results in greater maintenance and operational costs of the system.

(4) In imposing charges, it is necessary to establish a methodology that undertakes to make them just and equitable. Taking into account the status of completion of the system, past methods of recovering system costs, the topography of the city and other relevant factors, it is determined that it would be just and equitable to assign responsibility for some or all of the future costs of operating, maintaining and improving the system on the basis of the acreage of land to be developed.

(5) Assigning costs and making charges based upon expected typical stormwater runoff cannot be done with mathematical precision but can only be accomplished within reasonable and practical limits. The provisions of this subdivision undertake to establish a reasonable and practicable methodology for making such charges.

(Code 2003, § 14-282; Ord. No. 214(2nd series), § 1(2), 12-10-2001; Ord. No. 149(3rd series), § 1, 5-26-2015)

Sec. 2.04.1230. Rates and charges.

(a) *Establishing.* The stormwater trunk fee charges, for various land uses, shall be included in the city fee schedule and shall be changed as necessary by resolution of the council.

(b) *Determination.* The city has developed a surface water management plan that includes design criteria for stormwater systems and preliminary design information for a comprehensive stormwater system in the city. In general, stormwater trunk fees are calculated by dividing the total cost of system construction, by the number of developable acres the system will

serve. The appropriate base trunk fee per acre, to be used on a citywide basis, shall be determined as necessary using this methodology.

(c) *Acreage equivalency factors.* Recognizing that different types of land use generate different amounts of stormwater runoff, an equivalency factor multiplier is assigned to each land use type. The two-acre residential lot is considered as the standard in the city, because a large percentage of the land in the city is zoned for two-acre single-family residential land use. The two-acre single-family residential lot will be assigned an equivalency factor of 1.0. The table below lists the equivalency factors for different land uses. These equivalency factors will be applied to the base trunk fee per acre.

Land Use	*Equivalency Factor*
Single-family residential 5-acre zone	0.8
Single-family residential 2-acre zone	1.0
Single-family residential 1-acre zone	1.3
Single-family residential ½-acre zone	1.5
Multifamily residential 4 units/acre or less	1.8
Multifamily residential greater than 4 units/acre	2.1
Commercial or industrial	2.4

(d) *Trunk fee calculation, credits and reductions.* The following calculation, credits and reductions shall be applicable to new development projects as defined in section 2.04.1240:

(1) *Trunk fee charged on per lot basis.* For the five-acre, two-acre, one-acre and half-acre zoning districts, the trunk fee shall be charged on a per-lot basis. Only acreage platted as building lots shall be charged the trunk fee. Acreage platted as road rights-of-way or outlots for other purposes shall not be charged the trunk fee. The dollar amount, calculated by multiplying the number of new lots by the zoning district base acreage per lot by the base trunk fee per lot established in the city fee schedule, shall be deemed the base development trunk fee.

(2) *Maximum fee, five acre.* For the five-acre zoning district, any lot exceeding 5.0 gross acres, including wetland, shall be charged a maximum trunk fee equal to the trunk fee for a 5.0 acre parcel.

(3) *Maximum fee, two acre.* For the two-acre zoning districts, any lot exceeding 2.0 gross acres, including wetland, shall be charged a maximum trunk fee equal to the trunk fee for a 2.0 acre parcel.

(4) *Fee credits.* For the two-acre and five-acre zoning districts, a combined reduction of up to 50 percent of the base development trunk fee shall be allowed for the percentage of the total development property acreage in one or more of the following categories:

a. Acreage of newly-created wetland.

b. Acreage of stormwater ponding or similar improvements that provide additional treatment benefits beyond what is required to treat the stormwater runoff from the development site.

c. Acreage of conservation easements resulting from conservation design process.

(5) *Maximum fee, one acre.* For the one-acre zoning districts, any lot exceeding 1.0 gross acre, including wetland, shall be charged a maximum trunk fee equal to the trunk fee for a 1.0 acre parcel.

(6) *Maximum fee, half acre.* For the half-acre zoning districts, any lot exceeding 0.5 gross acres, including wetland, shall be charged a maximum trunk fee equal to the trunk fee for a 0.5 acre parcel.

(7) *Multifamily and high-density single family developments.* Trunk fees shall be charged on a per-acre basis, except that the following acreages will not be subject to the trunk fee:

a. All wetland acreage up to the delineation line.

b. Acreage of stormwater ponding or similar improvements that provide additional treatment benefits beyond

what is required to treat the stormwater runoff from the development site.

c. Acreage of conservation easements resulting from conservation design process.

(e) *Payment.* All applicable stormwater trunk fee charges set forth in this subdivision shall be paid in full before any building or land alteration permits are issued for the project.
(Code 2003, § 14-283; Ord. No. 214(2nd series), § 1(3), (4), (9), 12-10-2001; Ord. No. 222(2nd series), § 1, 11-12-2002; Ord. No. 149(3rd series), § 1, 5-26-2015)

Sec. 2.04.1240. New development projects.

For the purposes of this subdivision, the term "new development projects" means any land subdivision that creates new building lots; or construction of structures on a previously vacant parcel. New development projects shall pay the base trunk fee per acre of land developed adjusted using the appropriate land use equivalency factor as set forth in this subdivision per the provisions of section 2.04.1230. Additionally, the following provisions for new development projects shall apply:

(1) When property is subdivided to create new building lots, only the newly created vacant lots will be charged the trunk fee. A lot that has an existing home or principal structure which is intended to remain post-subdivision will not be charged the trunk fee.

(2) For a subdivision that results in separation of a property into an existing house lot (house to remain) and a large further-subdividable vacant lot, the trunk fee shall be charged only for the further-subdividable vacant lot, in an amount equal to the per-lot trunk fee for the underlying zoning district based on one lot.

(3) For a subdivision that results in separation of a property into a large further subdividable lot with an existing house to stay, and a new small (not further subdividable) lot on which a new home will be constructed, the trunk fee shall be charged only for the new small lot.

(4) When outlots are created that are intended via appropriate zoning documentation for future development subject to future further subdivision or no development allowed until converted to a lot, then no trunk fee shall be collected until such further development occurs.
(Code 2003, § 14-284; Ord. No. 214(2nd series), § 1(5), 12-10-2001; Ord. No. 149(3rd series), § 1, 5-26-2015)

Sec. 2.04.1250. Responsibility to supply information.

The owner, occupant or person in charge of the property subject to this subdivision shall supply the city with such information as the city may reasonably request related to the use, development and area of the property. Willful failure to provide such information or to falsify such information is a violation of this subdivision.
(Code 2003, § 14-286; Ord. No. 214(2nd series), § 1(10), 12-10-2001; Ord. No. 149(3rd series), § 1, 5-26-2015)

Sec. 2.04.1260. Adjustment of charges.

The intent of the stormwater trunk fee is to provide funding for improvements to the stormwater system as the result of development in the city. Current regulations require property owners to provide stormwater treatment for the stormwater from the development property. The city reserves the right to develop policies to provide stormwater trunk fee credits for stormwater improvements on developing properties that provide additional treatment benefits beyond what is required to treat the stormwater runoff from the development site.
(Code 2003, § 14-287; Ord. No. 214(2nd series), § 1(8), 12-10-2001; Ord. No. 149(3rd series), § 1, 5-26-2015)

Sec. 2.04.1270. Credit for past payments.

Past trunk fee payments made with respect to a specific property shall be credited as follows:

(1) Once the trunk fee is paid for a lot created by a new subdivision, it will not

be charged again when a house is built on that lot, nor when that house is later expanded.

(2) If a lot for which the trunk fee was paid under a past subdivision is then itself subdivided, no additional trunk fee will be charged if the original trunk fee was based on the entire acreage of the parcel now being divided. However, if the original trunk fee was based on an acreage amount less than the acreage of the parcel now being divided, then a supplementary fee shall be required in an amount to be calculated as follows:

(Number of new lots being created × base per-lot acreage for zone) - (number of acres originally charged) = number of acres to be charged.

(Code 2003, § 14-288; Ord. No. 149(3rd series), § 1, 5-26-2015)

Subdivision V. Stormwater Illicit Discharge and Illicit Connection

Sec. 2.04.1310. Purpose.

The purpose of this subdivision is to promote, preserve and enhance the natural resources within the city and protect them from adverse effects occasioned by non-stormwater discharges by regulating discharges that would have an adverse and potentially irreversible impact on water quality and environmentally sensitive land. (Code 2003, § 14-301; Ord. No. 56(3rd series), § 2, 4-13-2009)

Sec. 2.04.1320. Findings.

The city council hereby finds that non-stormwater discharges to the city's municipal separated storm sewer system are subject to higher levels of pollutants that enter into receiving water bodies adversely affecting the public health, safety and general welfare by impacting water quality, creating nuisances, and impairing other beneficial uses of environmental resources. (Code 2003, § 14-302; Ord. No. 56(3rd series), § 2, 4-13-2009)

Sec. 2.04.1330. Administration.

The city and its authorized representatives are authorized to administer, implement, and enforce the provisions of this subdivision. (Code 2003, § 14-303; Ord. No. 56(3rd series), § 2, 4-13-2009)

Sec. 2.04.1340. Illegal disposal and dumping.

(a) No person shall throw, deposit, place, leave, maintain, or keep any substance upon any street, alley, sidewalk, storm drain, inlet, catch basin conduit or drainage structure, business place, or upon any public or private land, so that the same might be or become a pollutant, unless the substance is in containers, recycling bags, or any other lawfully established waste disposal device.

(b) No person shall intentionally dispose of grass, leaves, dirt, or landscape material into a water resource, buffer, street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain or any fabricated natural conveyance. (Code 2003, § 14-304; Ord. No. 56(3rd series), § 2, 4-13-2009)

Sec. 2.04.1350. Prohibition of illicit discharges and connections.

(a) No person shall cause any illicit discharge to enter the storm sewer system or any surface water unless such discharge:

(1) Consists of non-stormwater that is authorized by an NPDES point source permit obtain from the MPCA;

(2) Is associated with firefighting activities or other activities necessary to protect public health and safety;

(3) Is one of the following exempt discharges: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air

conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, dechlorinated swimming pools and any other water source not containing pollutant;

(4) Consists of dye testing as long as the city provided a verbal notification prior to the time of the test.

(b) No person shall use any illicit connection to intentionally convey non-stormwater to the city's storm sewer system.

(c) The construction, use, maintenance or continued existence of illicit connections to the storm sewer system is prohibited. This prohibition expressly includes, 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.

(d) A person is considered to be in violation of this subdivision if the person connects a line conveying sewage to the storm sewer system, or allows such a connection to continue.
(Code 2003, § 14-305; Ord. No. 56(3rd series), § 2, 4-13-2009)

Sec. 2.04.1360. General provisions.

All owners or occupants of property shall comply with the following general requirements:

(1) No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets or storm sewer system may occur. This section shall apply to both actual and potential discharges.

a. Individual septic systems must be maintained to prevent failure, which has the potential to pollute surface water.

b. Recreational vehicle sewage shall be disposed to a proper sanitary waste facility. Waste shall not be discharged in an area where drainage to streets or storm sewer systems may occur.

c. For pools, water must be allowed to sit seven days without the addition of chlorine to allow for chlorine to evaporate before discharging in an area where drainage to streets or storm sewer systems may occur.

(2) Runoff of water into the storm sewer system shall be minimized to the maximum extent practicable. Runoff of water into the storm sewer system from the washing down of paved areas is prohibited unless necessary for health or safety purposes.

(3) Mobile washing companies (carpet cleaning, mobile vehicle washing, etc.) shall dispose of wastewater to the sanitary sewer. Wastewater must not be discharged where drainage to streets or storm sewer system may occur.

(4) Storage of materials, machinery and equipment must comply with the following requirements:

a. Objects, such as motor vehicle parts containing grease, oil or other hazardous substances, and unsealed receptacles containing hazardous materials shall not be stored in areas susceptible to runoff.

b. Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain leaks, spills, or discharges.

(5) Debris and residue shall be removed as follows:

a. All motor vehicle parking lots and private streets shall be swept at least once a year in the spring to remove debris. Such debris shall be collected and properly disposed.

b. Fuel and chemical residue or other types of potentially harmful material, such as animal waste, garbage or batteries shall be removed as soon as possible and disposed of properly. Household hazardous waste may be disposed of through the

county collection program or at any other appropriate disposal site and shall not be placed in a trash container.

(Code 2003, § 14-306; Ord. No. 56(3rd series), § 2, 4-13-2009)

Sec. 2.04.1370. Industrial activity discharges.

Any person subject to an industrial activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city prior to the allowing of discharges to the storm sewer system. All facilities that have stormwater discharges associated with industrial activity must adhere to the following provisions:

(1) Any person responsible for a property or premises who is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the storm sewer system.

(2) These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

(Code 2003, § 14-307; Ord. No. 56(3rd series), § 2, 4-13-2009)

Sec. 2.04.1380. Notification of spills.

Notwithstanding other requirements of law, as soon as any person 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 in or may result in illegal discharges or pollutants discharging into the storm sewer system, or water of the state said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the city no later than the next business day.

(Code 2003, § 14-308; Ord. No. 56(3rd series), § 2, 4-13-2009)

Sec. 2.04.1390. Suspension of storm sewer system access.

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

(b) Suspension due to the detection of illicit discharge. All persons discharging to the MS4 in violation of this subdivision may have their access terminated if such termination serves to abate or reduce an illicit discharge. It is a violation of this subdivision to reinstate access to premises that have been terminated pursuant to this section without the prior approval of the city.

(Code 2003, § 14-309; Ord. No. 56(3rd series), § 2, 4-13-2009)

Sec. 2.04.1400. Enforcement; notice of violation.

A violation of this subdivision is a public nuisance. When the city finds that a person has violated a prohibition or failed to meet a requirement of this section, the person is deemed to have created a public nuisance subject to abatement and assessment, as provided in section 5.36.050. In addition to any order issued pursuant to section 5.36.050, the city may require the following:

(1) The performance of monitoring, analysis, and reporting;

(2) The implementation of source control or treatment BMPs; and

(3) Any other requirement deemed necessary.

(Code 2003, § 14-310; Ord. No. 56(3rd series), § 2, 4-13-2009)

Other Public Property

Title III

STREETS, PARKS AND OTHER PUBLIC PROPERTY

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Sec. 3.04.020. Obstructions.
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CHAPTER 3.04. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

ARTICLE I. IN GENERAL

Sec. 3.04.010. Definitions.

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

Corner means the point of intersection of the extension of lines of two public or private curb faces or the edges of the street pavement or shoulders.

Curb cut means the opening along a street curb line or pavement edge for the purpose of motor vehicle ingress and egress from a roadway. Curb cut width shall include the width of the driveway approach and of the curb returns, if any.

Curb return means that portion of a curb next to a driveway approach which includes the radius or curvature or the ramp-type lug on commercial or industrial type pavements and which connects the driveway approach to the public or private road curb.

Driveway means a paved or otherwise delineated area on private property for the operation of automobiles and other vehicles.

Driveway approach means a paved or otherwise delineated area on the right-of-way between the roadway of a public or private road and private property, intended to provide ingress and egress for vehicles from a private or public road to private property. A driveway approach must provide access to a parking area, a driveway, a door intended and used for the entrance of vehicles, or other similar structure or facility.

Degradation means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

Encroachment agreement means an agreement between the city and a property owner that allows placement of an obstruction or structure in a public right-of-way, as defined in this section.

Excavate or *excavation* means to dig into or in any way remove or physically disturb or penetrate any public right-of-way paved or ground surface, or any portion thereof.

Facility means anything tangible, including equipment, which is required to provide utility services.

Frontage means the lot line abutting a public or private street.

Obstruct or *obstruction* means to place or the placement of any object in a public right-of-way, or to remove or the removal of an existing structure, or any portion thereof, from a public right-of-way that interferes with the free use of the public right-of-way.

Parcel of land means a lot or contiguous lots or a tract officially registered under one ownership.

Patch or *patching* means a method of roadway surface replacement or restoration that consists of:

(1) The compaction of the sub-base and aggregate base; and

(2) The replacement, in kind, of the existing roadway surface for a minimum of two feet beyond the edges of the defined excavation in all directions.

Private road means the entire area dedicated to private use or contained in a plat, an easement or other conveyance, grant or by adverse possession and includes, but is not limited to, roadways, boulevards, sidewalks, trails and other property between lateral property lines in which a private roadway lies.

Public right-of-way means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the local government unit has an interest, includ-

*State law reference—General powers as to streets, Minn. Stats. § 412.221, subds. 6, 7, 18.

ing other dedicated rights-of-way for travel purposes and utility easements of local government units.

Public road means the entire area dedicated to public use, or contained in a plat, an easement or other conveyance, grant or by adverse possession, to the city or other governmental body, and shall include, but is not limited to, roadways, boulevards, sidewalks, trails, alleys and other public property between lateral property lines in which a public roadway lies. Where traveled public roadways exist in a location not shown on the platting map, the right-of-way shall not be less than ten feet wide on each side of the actual paved or traveled roadway surface.

Utility service means services provided by:

(1) A public utility as defined in state statutes;

(2) A telecommunications, pipeline, community antenna television, fire and alarm communications, water, sewer, electricity, light, heat, cooling energy, or power services, including wind generation;

(3) A corporation organized for the purposes set forth in state statutes;

(4) A district heating or cooling system; or

(5) A cable communication system as defined in state statutes.

(Code 1984, § 6.01; Code 2003, § 18-1; Ord. No. 77(2nd series), § 1, 1-8-1990; Ord. No. 296(3rd series), § 1(18-1), 2-26-2024)

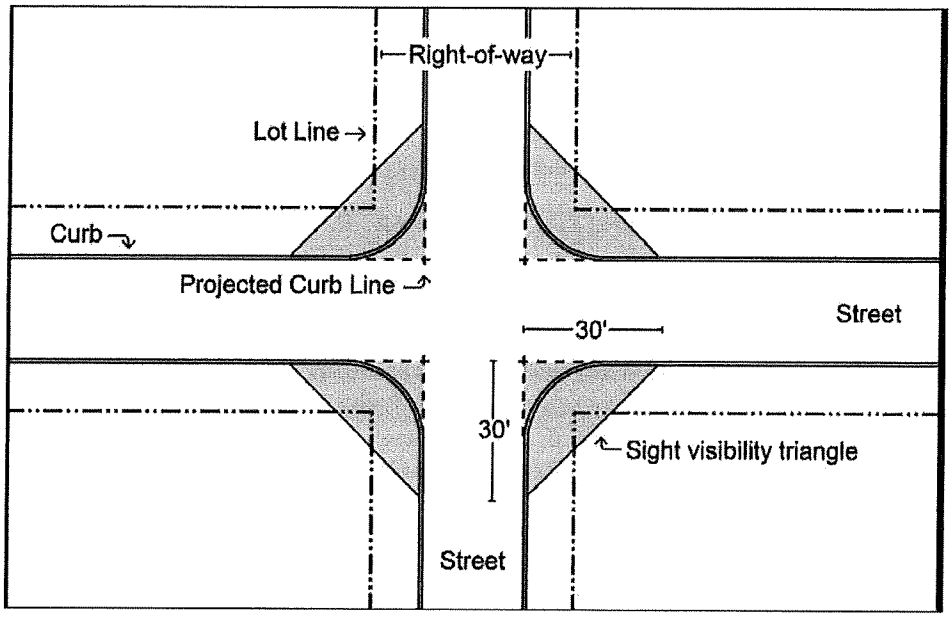
Sec. 3.04.020. Obstructions.

It is a misdemeanor for any person to place, deposit, display or offer for sale any obstructions upon any street or private road without first having obtained a written permit from the city, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is included, but not by way of limitation, within the definition of an obstruction. This shall not apply to the actions of any city, county, or state road authorities, their agents, employees, contractors, and utilities in carrying out their duties imposed by law or contract.

(Code 1984, § 6.07(1); Code 2003, § 18-2; Ord. No. 296(3rd series), § 1(18-2), 2-26-2024)

Sec. 3.04.030. Visibility triangle; street/roadway intersections.

Except for a governmental agency for the purposes of screening or noise attenuation, visibility at corner lots where two or more streets/roadways intersect shall be unobstructed between a height of 3 ½ feet and eight feet above grade (as measured along the elevation of the lowest abutting segment of street/roadway) within a triangular area described as beginning at a point where the projected curblines (or projected road bed lines, including any shoulder in the absence of curbing) intersect, thence 30 feet along one street/roadway, thence diagonally to a point 30 feet from the point of beginning along the other street/roadway. The exception to the regulations in this section shall be where there are plantings and/or other features within the visibility triangle that do not result in obstructions totaling more than three feet in width. Nothing in this section authorizes the use of public right-of-way for installation of fencing, walls, plantings, or other features. The regulations contained in this section shall not apply to conditions that legally existed prior to the effective date of the ordinance from which this section is derived unless the city, or the county or state transportation department, determines that such conditions constitute a traffic safety hazard.



(Ord. No. 296(3rd series), § 1(18-3), 2-26-2024)

Sec. 3.04.040. Fires.

It is a misdemeanor for any person to build or maintain a fire upon a street or private road. (Code 1984, § 6.07(2); Code 2003, § 18-3; Ord. No. 296(3rd series), § 1(18-4), 2-26-2024)

Sec. 3.04.050. Signs and other structures.

It is a misdemeanor for any person to place or maintain a sign, advertisement or other structure in any street or the right-of-way of any city road. (Code 1984, § 6.07(4); Code 2003, § 18-4; Ord. No. 296(3rd series), § 1(18-5), 2-26-2024)

Sec. 3.04.060. Placing snow or ice in a roadway.

It is a misdemeanor for any person, not acting under a specific contract with the city or without special permission from the city, to remove snow or ice from private property and place it in the roadway of any street or private road. (Code 1984, § 6.07(5); Code 2003, § 18-5; Ord. No. 296(3rd series), § 1(18-6), 2-26-2024)

Sec. 3.04.070. Roadway tampering.

It is a misdemeanor for any person to deface, paint, mar, damage, or tamper with any structure, work, material, equipment, tools, signs, markers, signals, paving, guardrails, drains or any other highway appurtenance on or along any street, sidewalk or right-of-way, except as such work may be done by city employees acting within the course or scope of their employment. This section shall not apply to sidewalk maintenance and repair activities under section 3.04.080, uniformly coloring concrete or other surfacing, or uniformly painted house numbers, as such coloring may be approved by the city. (Code 1984, § 6.12; Code 2003, § 18-6; Ord. No. 296(3rd series), § 1(18-7), 2-26-2024)

Sec. 3.04.080. Public sidewalk maintenance and repair.

(a) *Primary responsibility.* It is the primary responsibility of the owner of property upon which there is abutting any public sidewalk to keep and maintain such sidewalk in safe and serviceable condition.

(b) *Construction, reconstruction and repair specifications.* All construction, reconstruction or repair of public sidewalks shall be done in strict accordance with specifications on file in the city offices.
(Code 1984, § 6.16; Code 2003, § 18-7; Ord. No. 296(3rd series), § 1(18-8), 2-26-2024)

Sec. 3.04.090. Encroachment in public easements.

Placement of any structure in public rights-of-way or on city property must comply with chapter 6.12. Placement of structures that have a foundation is prohibited in a public easement, unless the structure is exempted under chapter 6.12. The erection or placement of a structure without a foundation in a public easement requires an encroachment agreement application together with council approval. The application shall include a written request for the encroachment, a description of the proposed structure or obstruction, a plan, drawing, or sketch that shows the proposed structure of obstruction, as well as the location of the easements affected, and payment of an application fee as specified in the city fee schedule. Applications shall be submitted to the city engineer. Upon receipt of a completed application, the city engineer will review the application and will consider factors such as the type and use of the existing easements, as well as the type and use of the proposed structure or obstruction, when making a decision to recommend approval or denial of the requested encroachment. If an approval recommendation is made, the applicant will be required to sign an encroachment agreement, prepared by the city, before the city engineer's recommendation is forwarded to the council for consideration. If the encroachment agreement is approved by the council, the encroachment agreement will be executed and recorded against the subject property of record.
(Ord. No. 296(3rd series), § 1(18-9), 2-26-2024)

Sec. 3.04.100. Public right-of-way vacation.

(a) *Reservation of right.* If the city vacates a public right-of-way which contains the equipment or facilities of a public right-of-way user and the vacation does not require the relocation of the equipment or facilities, the city shall reserve, to and for itself and the public right-of-way user, the right to install, maintain and operate any equipment and facilities in the vacated public right-of-way and to enter upon such public right-of-way at any time for the purpose of reconstruction, inspecting, maintaining or repairing the same, in accordance with Minn. R. 7819.3200.

(b) *Relocation of facilities.* If the vacation requires the relocation of the public right-of-way user's equipment or facility, and the vacation proceedings are initiated by the public right-of-way user or the city for a public project, the public right-of-way user shall pay the relocation costs. If the vacation proceedings are initiated by a person other than the public right-of-way user or the city, the initiating person shall pay the relocation costs.

(c) *Administration; vacation of right-of-way and easements.* The city council may vacate the easement by resolution on its own motion or on petition of a majority of the owners of land abutting on the street, alley, public grounds, public way, easement, or part thereof to be vacated.

(1) *Procedure.* A request for vacation of a right-of-way or easement shall be filed in writing with the city. In the case of a request for vacation of a right-of-way or easement, the written request shall be signed by a majority of the landowners directly abutting such right-of-way or easement.

(2) *Filing.* A written request to vacate a right-of-way or an easement shall be accompanied by the following:

a. Information, both written and graphic, that describe the reason for, and location of, the proposed vacation;

b. A fee as set forth in the fee schedule;

c. For requests involving the vacation of right-of-way, the applicant shall submit the addresses of all properties directly abutting the right-of-way to be vacated; and

d. For requests involving the vacation of an easement, the applicant shall submit a legal description of the area to be vacated.

(3) *Public hearing required.*

a. Upon receipt of a complete vacation request, the city shall set a public hearing following proper notification.

b. Notice of said hearing shall be published once in the official newspaper at least 14 calendar days prior to the hearing, and shall be mailed at least ten calendar days prior to the hearing to all landowners of property directly abutting the area to be vacated and to all utility companies serving the area. When platted streets are vacated, notice must be sent to all owners or occupants of the land within the platted area. The notice will contain, at minimum, a copy of the petition or proposed resolution as well as the time, place, and date of the hearing.

c. If a street is to be vacated and any part of it terminates at, abuts on, or is adjacent to any public water, written notice will be served by certified mail upon the commissioner of natural resources at least 60 days before the public hearing. The city will consult with the commissioner at least 15 days prior to convening the public hearing to review the proposed vacation and will document the consultation. The city will address the concerns raised in the commissioner's evaluation in its formal findings of fact granting or denying the vacation.

d. The city staff shall prepare technical reports where appropriate, and provide general assistance in preparing a recommendation of the action to the council.

(4) *Council action.*

a. The council shall consider possible adverse effects of the requested vacation. In order to grant a vacation, the council must find that the vacation is in the interest of the public. A determination that the vacation is in the interest of the public shall be based upon (but not limited to) the following factors:

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the city's comprehensive plan, including public facilities and capital improvement plans.

2. The proposed action meets the purpose and intent of this chapter.

3. The proposed action has been considered in relation to the future needs of the city, utility companies and surrounding property owners.

b. The council and city staff shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this chapter.

c. The applicant or a representative thereof may appear before the council in order to present information and answer questions concerning the proposed request.

d. Upon receiving the report and recommendation of the city staff, the council shall conduct the public hearing in a manner that allows members of the public a chance to speak and be heard.

e. The council shall render its decision by adopting a resolution either granting or denying the vacation. The resolution shall include the city's reasons for granting or denying the vacation and include detailed findings of fact. The staff recommendation shall be entered in and made part of the permanent written record of the council meeting.

f. When there has been a petition for vacation, approval of a right-of-way or easement vacation shall require passage by a majority vote of the entire council. When there has been no petition, the resolution must be adopted by a vote of four-fifths of all members of the city council.

g. Whenever an application for a right-of-way or easement vacation has been considered and denied by the council, a similar application for a vacation shall not be considered again by the council for at least six months from the date of its denial.

(5) *Notice of completion.* After a resolution granting a vacation is adopted, the city clerk shall prepare a notice of completion of the proceedings in accordance with the requirements under Minn. Stats. § 412.851.

(Ord. No. 296(3rd series), § 1(18-10), 2-26-2024)

ARTICLE II. FRANCHISES

Sec. 3.04.210. Definitions.

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

Franchise means any special privilege granted to any person in, over, upon or under any of the streets or public places of the city, whether such privilege has heretofore been granted by it or by the state or shall hereafter be granted by the city or by the state.

(Code 1984, § 2.60(1); Code 2003, § 18-41)

Sec. 3.04.220. Franchise ordinances.

The council may grant franchises by ordinance. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All persons desiring to make any burdensome use of the streets or public places, inconsistent with the public's right in such places, or desiring the privilege of placing in, over, upon or under any street or public place any permanent or semipermanent fixtures for the purpose of constructing or operating railways, telegraphing or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the city or its inhabitants transportation facilities, water, light, heat, power, gas or any other such utility, or for any other purpose, shall be required to obtain a franchise before proceeding to make such use of the streets or public places or before proceeding to place such fixtures in such places.

(Code 1984, § 2.60(2); Code 2003, § 18-42)

State law reference—When franchise required, Minn. Stats. § 300.05.

Sec. 3.04.230. Power of regulation reserved.

The city shall have the right and power to regulate and control the exercise by any person, of any franchise, however acquired, and whether such franchise has been heretofore granted by the city or by the state.

(Code 1984, § 2.60(3); Code 2003, § 18-43)

State law reference—Local control of franchisees, Minn. Stats. § 300.04.

Sec. 3.04.240. Conditions in every franchise.

All conditions specified in this section shall be a part of every franchise even though they may not be expressly contained in the franchise:

(1) The grantee shall be subject to and will perform on its part all the terms of this section and will comply with all pertinent provisions of this Code.

(2) The grantee shall in no case claim or pretend to exercise any power to fix fares, rates and charges; but such fares, rates and charges shall at all times be

just, fair and reasonable for the services rendered and shall in all cases be fixed and from time to time changed, unless regulated by an agency of the state, in the manner following:

a. A reasonable rate shall be construed to be one which will, with efficient management, normally yield, above all operating expenses and depreciation, a fair return upon all money invested.

b. If possible, maximum rates and charges shall be arrived at by direct negotiation with the council.

c. If direct negotiations fail to produce agreement, the council shall, not less than 30 days before the expiration of any existing rate schedule or agreement, appoint an expert as its representative; the franchisee shall likewise appoint an expert as its representative; and the two of them shall appoint a third person, preferably an expert; and the three of them shall constitute a board of arbitration. The board shall report its findings as soon as possible, and the rates and charges it shall agree upon by majority vote shall be legal and binding, subject only to review by a court of competent jurisdiction upon application of one of the parties.

(3) The council shall have the right to require reasonable extensions of any public service system and to make such rules and regulations as may be required to secure adequate and proper service and to provide sufficient accommodations for the public.

(4) The grantee shall not issue any capital stock on account of the franchise or the value of the franchise, and the grantee shall have no right to receive, upon condemnation proceedings brought by the city to acquire the public utility exercising such franchise, any return on account of the franchise or its value.

(5) No sale or lease of the franchise shall be effective until the assignee or lessee shall have filed with the city an instrument, duly executed, reciting the facts of such sale or lease, accepting the terms of the franchise, and agreeing to perform all the conditions required of the grantee under the franchise.

(6) Every grant in the franchise which includes permission for the erection of poles, masts or other fixtures in the streets and for the attachment of wires, or for the laying of tracks in, or of pipes or conduits under the streets or public places, or for the placing in the streets or other public places of any permanent or semipermanent fixtures whatsoever, shall be subject to the condition that the council shall have the power to require such alterations or relocation or rerouting as the council may at any time deem necessary for the safety, health or convenience of the public, and particularly that it shall have the power to require the removal of poles, masts and other fixtures bearing wires and the placing underground of all facilities for whatsoever purpose used.

(7) Every franchise shall contain a provision granting the city the right to acquire the franchise in accordance with statute.

(8) The franchisee may be obligated by the city to pay the city fees to raise revenue or defray increased costs accruing as a result of utility operations, or both, including, but not limited to, a sum of money based upon gross operating revenues or gross earnings from its operations in the city.

(Code 1984, § 2.60(4); Code 2003, § 18-44)

Sec. 3.04.250. Further provisions of franchises.

The enumeration and specification of particular matters which must be included in every franchise or renewal or extension shall not be construed as impairing the right of the city to insert in any such franchise or renewal or extension such

other and further conditions and restrictions as the council may deem proper to protect the city's interests, nor shall anything contained in this article limit any right or power possessed by the city over existing franchises.
(Code 1984, § 2.60(5); Code 2003, § 18-45)

ARTICLE III. CONSTRUCTION, REPAIR AND IMPROVEMENT OF PUBLIC WAYS

Sec. 3.04.310. Methods of procedure.

Abutting or affected property owners may contract for, construct or reconstruct roadway surfacing, sidewalk or curb and gutter, driveway, driveway turnaround, driveway approaches or curb cuts in accordance with this article.
(Code 1984, §§ 6.05(1), 6.06(1); Code 2003, § 18-76)

Sec. 3.04.320. Construction requirements generally.

In addition to the rules, regulations and specifications as outlined in this article by the public services director with respect to the improvements listed in this article, the following requirements shall be complied with when work is done under the provisions of this article:

(1) All driveway approaches shall intersect the road pavement at an angle to be approved by the public services director based upon the physical characteristics of the public road, driveway approach and the parcel of land being accessed. Such angle shall be as close as is reasonably practical, in the judgment of the public services director, to a right angle to the pavement of the public road.

(2) No curb cuts shall be made in such a way that the curb return extends beyond any property line as projected, except when consented to, in writing, by the adjoining property owner involved. This consent, if necessary, shall be submitted to the public services director prior to the issuance of a permit.

(3) The top of the paving of the driveway approach slab at the curbline shall be 1 ⅝ inches above the flowline of the gutter, and shall not extend into the gutter beyond the face of the curb or beyond the gutter line, and shall not be constructed in a manner that will in any way interfere with the use of the road for the purpose of travel or maintenance. The constructed road shall not be excavated in the process of constructing the driveway unless previous approval, in writing, has been granted by the public services director.

(4) Driveway culverts shall be provided and installed by the owner as required by the public works superintendent or city engineer.

(5) Driveways shall not be constructed over curb stops, catchbasins or other structures, if at all possible. If there is no other feasible location for the driveway, it shall be the responsibility of the applicant to set the curb stop, catchbasin cover, or any other structures flush with the final driveway surface.

(6) The owner and contractor shall protect the public from injury or damage during the construction of the sidewalk, curb and gutter, driveway, driveway approach, driveway turnaround, curb cuts, roadway surfacing or private improvement in any street or public property in the city; and any permit issued pursuant to this article shall contain the agreement of the applicant that the city shall not be liable for damage which may arise from the result of work, and that the applicant will hold the city harmless for any liability incurred by the city as a result of such activity.

(7) Trees or shrubs shall not be placed adjacent to a driveway so as to constitute a sight distance problem.

(Code 1984, §§ 6.05(8), 6.06(8); Code 2003, § 18-81; Ord. No. 296(3rd series), § 2(18-77), 2-26-2024)

Sec. 3.04.330. Residential driveway connections, approaches and turnaround.

(a) Residential driveway approaches shall not exceed 20 feet in width at the intersected right-of-way line.

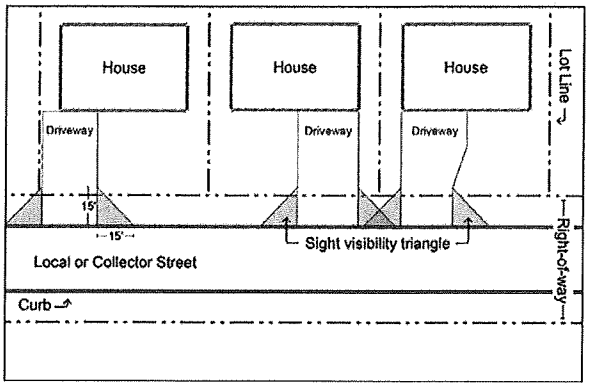
(b) The total width of driveway approaches to up to two single parcels of land from a single road shall not exceed 20 feet.

(c) A curb cut shall not exceed the width of the driveway approach at the property line by more than ten feet.

(d) No portion of a driveway approach, except the curb return, shall be constructed within 30 feet of a corner where feasible.

(e) Driveway approaches and that part of the driveway and turnarounds which drain to the road shall be paved with bituminous concrete blacktop or equivalent paving. This requirement shall not be construed to reduce paving otherwise required by performance standards in chapter 6.12 or required as a condition to the granting of a conditional use permit, lot division, subdivision or as designated in the approved site plan.

(f) Visibility from driveways to a local or collector street shall be unobstructed between a height of 3 ½ feet and eight feet above grade (as measured along the driveway elevation) within triangular areas described as beginning at the point where driveway edges meet the street curb (or street pavement in the absence of a curb), thence 15 feet along the driveway edge, thence diagonally to a point 15 feet from the point of beginning along the street curb (or edge of street pavement in the absence of a curb). The owner of the property where any fence, wall, tree, shrubbery, vegetation, or other feature is proposed shall keep such obstructions out of the visibility triangles for their driveway and out of the visibility triangle for driveways on directly-abutting properties. The exception to the regulations in this subsection shall be where there is a mailbox and/or plantings within the visibility triangle that do not result in obstructions totaling more than three feet in width. Nothing in this subsection authorizes the use of public right-of-way for installation of fencing, walls, or plantings. The regulations contained in this section shall not apply to conditions that legally existed prior to the effective date of the ordinance from which this article is derived unless the city determines that such conditions constitute a traffic safety hazard.



(Code 1984, §§ 6.05(9), 6.06(9); Code 2003, § 18-136; Ord. No. 296(3rd series), § 2(18-136), 2-26-2024)

Sec. 3.04.340. Business driveways, approaches and turnarounds.

(a) The business driveway approach shall not exceed the width of the access road or 32 feet at the property line, whichever is less, in a business or industrial district. The curb cut shall not exceed the width of the driveway approach at the property line by more than 20 feet unless approved as part of a site plan.

(b) All business driveways and driveway approaches shall be paved with asphaltic concrete or equivalent material.

(c) No portion of a driveway approach, except the curb return, shall be constructed within 100 feet of a comer in a business, commercial or industrial area.

(d) Driveway turnarounds shall be required on all driveways or driveway approaches entering onto a state highway, county road or a collector roadway and on all entrances to roads within the city where deemed necessary by the city engineer based upon traffic counts, sight distances, street grades and other relevant factors. Such requirements shall be stated on any permit issued by the city engineer pursuant to this article.

(Code 1984, §§ 6.05(10), 6.06(10); Code 2003, § 18-137; Ord. No. 296(3rd series), § 2(18-137), 2-26-2024)

Sec. 3.04.350. Maintenance and removal.

(a) Every driveway approach or entrance to abutting property shall be maintained and kept in a safe condition by the owner of the abutting property or by the homeowners' association; and any such driveway approach which shall not be so maintained and kept in a safe condition or which shall interfere with or obstruct the drainage carried by the adjoining road or interfere with or obstruct the use of the adjoining road for purposes of travel shall be repaired to conform with the specifications of this article and the city's requirements, or it shall be removed by the owner of the abutting property or the homeowners' association.

(b) Upon removal of such driveway approach, that portion of the street or right-of-way occupied by the owner or homeowners' association shall be restored to its former condition; and all curbing shall be replaced to its former condition by the owner or homeowners' association of the abutting property at their expense.
(Code 1984, §§ 6.05(11), 6.06(11); Code 2003, § 18-138; Ord. No. 296(3rd series), § 2(18-138), 2-26-2024)

Sec. 3.04.360. Regulatory signs.

The city shall require the erection of regulatory signs adjacent to a driveway serving two or more parcels of land, at its intersection with a road. The sign shall be purchased, erected and maintained by the property owner. If the property owner does not have the sign erected within a reasonable length of time, the city shall erect the sign and bill the property owner for all costs.
(Code 1984, §§ 6.05(12), 6.06(12); Code 2003, § 18-139)

ARTICLE IV. RIGHT-OF-WAY MANAGEMENT

Sec. 3.04.410. Election to manage the public right-of-way.

Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant to Minn. Stats. § 237.163, to manage the right-of-way within its jurisdiction.
(Code 2003, § 18-171; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.420. Definitions.

The definitions included in Minn. Stats. § 237.162 and Minn. R. 7810.0100, subps. 1 through 25 are hereby adopted by reference and are incorporated into this article as if set out in full.
(Code 2003, § 18-172; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.430. Permit requirement.

(a) *Permit required.* Except as otherwise provided in this Code, no person may obstruct, excavate or install or place any facilities in any right-of-way without first having obtained the appropriate right-of-way permit from the city to do so.

(1) *Excavation permit.* An excavation permit is required 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.

(3) *Small wireless facility permit.* A small wireless facility permit is required to erect or install a wireless support structure or collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, to the extent specified therein, provided that such permit shall

remain in effect for the length of time the facility is in use unless lawfully revoked.

(4) *Curb cut/driveway connection.* A curb cut permit is required for any new or alteration to an existing curb cut/driveway approach. If the curb cut is part of a building permit, a separate right-of-way permit is not required.

(b) *Permit extension.* No person may excavate or obstruct or install or place any facilities in the right-of-way beyond the date or dates specified in the permit unless:

(1) Such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and

(2) The new permit or permit extension is granted.

(c) *Delay penalty.* In accordance with Minn. R. 7819.1000, subp. 3, and notwithstanding subsection (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 and in placing new wireless support structures and small wireless facilities.

(d) *Permit display.* Permits issued under this article shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.
(Code 2003, § 18-173; Ord. No. 207(3rd series), § 1, 5-29-2018; Ord. No. 296(3rd series), § 3, 2-26-2024)

Sec. 3.04.440. Permit applications.

Application for a permit is made to the city. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(1) Submission of a completed permit application form including all required attachments and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

a. Each permittee's name, Gopher One-Call registration certificate number, address and email address, if applicable, and telephone and facsimile numbers.

b. The name, address, and email address, if applicable, and telephone and facsimile numbers of a local representative or designee shall be available at all times.

c. A certificate of insurance or self-insurance:

1. 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 city.

2. Verifying that the permittee is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:

(i) Use and occupancy of the right-of-way by the permittee, its officers, agents, employees and permittees; and

(ii) Placement and use of facilities and equipment in the right-of-way by 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.

3. 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.

4. Requiring that the city be notified 30 days in advance of cancelation of the policy or material modification of a coverage term.

5. Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

6. The city may require a copy of the actual insurance policies.

7. If the person is a corporation, a copy of the certificate required to be filed with the secretary of state as recorded and certified to by the secretary of state.

8. A copy of the person's order granting a certificate of authority from the state public utilities commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such certificates from said commission or other state or federal agency.

(2) Payment is due to the city for:

a. Permit fees, estimated restoration fees and other management costs;

b. Prior obstructions, excavations, and installations and placements of wireless support structures and small wireless facilities;

c. Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the right-of-way or installation of new wireless support structures or collocation of small wireless facilities;

d. Franchise fees or other charges, if applicable.

(Code 2003, § 18-174; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.450. Issuance of permit; conditions.

(a) *Permit issuance.* If the applicant has satisfied the requirements of this article, the city shall issue a permit.

(b) *Conditions.* The following conditions shall apply to all permits:

(1) Barricades, warning signs and warning lights on all street excavations shall be placed in accordance with the state uniform traffic control service manual.

(2) A permittee shall take precautions to avoid creating unsafe or unsanitary conditions.

(3) A permittee shall not obstruct a public right-of-way, except as expressly authorized by a permit, so as to hinder the natural, free and clear passage of water through the gutters or other waterways.

(4) A permittee shall provide owners of property abutting the right-of-way where work will occur written notice 48 hours in advance of such work.

(5) A permittee shall provide proper trench protection as required by OSHA to prevent any cave-in, injury to property or persons, or enlargement of the excavation.

(6) Excavations, trenches and jacking pits off the roadway surface area or adjacent to the roadway or curbing shall be sheathed and braced. When unattended, all excavations, trenches and jacking pits shall be protected to prevent erosion from surface drainage.

(7) A permittee shall protect the root growth of significant trees and shrubbery located

within the public right-of-way and adjacent thereto. A permittee shall protect sprinkler systems, pet containment systems, and sod located adjacent to the public right-of-way.

(8) A permittee shall coordinate project work and installation of facilities in co-locations with other public right-of-way users.

(9) A permittee shall maintain access to all properties and cross streets during project work, including emergency vehicle access.

(10) A permittee shall physically locate property lines abutting the project work. The permittee shall replace, with the services of a state-licensed surveyor, any property corners or monuments disturbed as a result of the project.

(11) A permittee shall remove daily all dirt from sidewalks, trails, public and private roadway surfaces and curbs and gutters during project work.

(12) Fiber facilities shall be buried in a proper conduit and at a depth of no less than three feet deep and no more than four feet deep; copper facilities below concrete or bituminous paved roadway surfaces shall be buried no less than three feet deep and no more than four feet deep, and all other copper facilities shall be buried no less than 30 inches deep and no more than four feet deep.

(13) All underground facilities which cross streets or hard surfaced driveways shall be bored and installed in conduit when requested by the city. Gas mains and services do not need to be installed in conduit.

(14) When using trenchless installation methods to cross an area where an existing utility is located or when directed by the city, the permittee shall excavate an observation hole to expose the existing utility prior to crossing such utility to ensure that existing utilities are not damaged. When an observation hole must be excavated in an existing pavement section, the pavement must be cut using the coring method. Saw cutting, jack hammering or any other means of excavating the observation hole shall be strictly prohibited without prior approval from the city engineer.

(15) Unless approved by the city engineer, all above-ground appurtenances shall be located no closer than ten feet to city hydrants, waterline valves, manholes, lift stations, catch basins; shall be located no closer than two feet from sidewalks or trails; and shall not be located in front of any city or private sign, monument or amenity for facilities or parks.

(16) Underground facilities shall not be installed within five feet of hydrants, waterline valves, lift stations, manholes or catch basins unless approved by the city engineer.

(17) The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

(18) A permittee shall comply with all requirements of local, state and federal laws, including, but not limited to, Minn. Stats. §§ 216D.01 through 216D.09 (Gopher One Call Excavation Notice System) and Minn. R. ch. 7560.

(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 Minn. Stats. ch. 216D and Minn. R. ch. 7560, and shall require potholing or open cutting over existing underground utilities before excavating as determined by the city.

(d) *Small wireless facility conditions.* In addition to subsections (b) and (c) of this section, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:

(1) A small wireless facility shall only be collocated on the particular wireless sup-

port structure, under those attachment specifications, and at the height indicated in the applicable permit application.

(2) No new wireless support structure installed within the right-of-way shall exceed 50 feet above ground level in height without the city's written authorization, provided that a wireless support structure that replaces an existing wireless support structure in the public right-of-way that is greater than 50 feet above ground level in height may be placed at the height of the existing wireless support structure, subject to such conditions or requirements as may be imposed in the applicable permit.

(3) No wireless facility may extend more than ten feet above its wireless support structure.

(4) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure.

(5) Where an applicant proposes collocation on a decorative wireless support structure, sign, or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance, or intended purpose of such structure.

(6) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

(e) *Small wireless facility agreement.* A small wireless facility shall only be collocated on a wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of the following:

(1) Management costs;

(2) Rent on the city structure as provided in Minn. Stats. § 237.163, subd. 6(g);

(3) Maintenance associated with the collocation as provided in Minn. Stats. § 237.163, subd. 6(g);

(4) A monthly fee for electrical service as provided in Minn. Stats. § 237.163, subd. 6(g).

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit; provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant.

(f) *Deadline for action.* The city shall approve or deny a small wireless facility permit application within 90 days after receiving a complete application. The small wireless facility permit, and any associated encroachment or building permit shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

(g) *Consolidated applications.* An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed by the city, provided that all small wireless facilities in an application:

(1) Are located within a two-mile radius;

(2) Consist of substantially similar equipment; and

(3) Are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

(h) *Tolling of deadline for action.* The 90-day deadline for action may be tolled if:

(1) The city receives applications within a single seven-day period from one or more applicants seeking approval of permits for more than 30 small wireless facilities. In such case, the city may extend the 90-day deadline for all such applications by an additional 30 days by informing the affected applicants in writing of such extension.

(2) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 business days of receipt of the application, clearly and specifically delineating all missing documents or information. Information delineated in the notice is limited to documents or information publicly required as of the date of application and reasonably related to the city's determination whether the proposed equipment falls within the definition of a small wireless facility and whether the proposed deployment satisfies all health, safety, and welfare regulations applicable to the small wireless facility permit request. Upon applicant's submittal of additional information in response to a notice of incompleteness, the city has ten days to notify the applicant in writing of any information requested in the initial notice of incompleteness that is still missing. Second or subsequent notices of incompleteness may not specify documents or information that were delineated in the original notice of incompleteness. Requests for information not requested in the initial notice of incompleteness do not toll the 90-day deadline for action.

(3) The city and applicant may agree in writing to toll the review period.

(Code 2003, § 18-175; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.460. Permit fees.

(a) *Excavation permit fee.* The city shall establish an excavation permit fee in an amount sufficient to recover the following costs:

(1) City management costs;

(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 city management costs.

(c) *Small wireless facility permit fee.* The city shall impose a small wireless facility permit fee for the placement of small wireless facilities and wireless support structures in the public right-of-way in an amount sufficient to recover:

(1) Management costs; and

(2) City engineering, make-ready, and construction costs associated with collocation of small wireless facilities.

(d) *Cost of initial work associated with collocation.* Any initial engineering survey and preparatory construction work associated with collocation must be paid by the cost causer in the form of a one-time, nonrecurring, commercially reasonable, nondiscriminatory, and competitively neutral charge to recover costs associated with a proposed attachment.

(e) *Payment of permit fees.* No excavation permit, obstruction permit or small wireless facility permit shall be issued without payment of excavation, obstruction, or small wireless facility permit fees. The city may allow applicant to pay such fees within 30 days of billing.

(f) *Nonrefundable.* Permit fees that were paid for a permit that the city has revoked for a breach as stated in section 3.04.540 are not refundable.

(g) *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.

(Code 2003, § 18-176; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.470. 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 herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work is prohibited as unseasonal or unreasonable.

(b) *Patch and restoration.* The permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

(1) *City restoration.* If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If, following such restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall pay to the city within 30 days of billing, all costs associated with correcting the defective work.

(2) *Permittee restoration.* If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit, post a construction performance bond in accordance with the provisions of Minn. R. 7819.3000.

(3) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

(c) *Standards.* The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. R. 7819.1100.

(d) *Duty to correct defects.* The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the city shall correct all restoration work to the extent necessary, using the method required by the city. Said work shall be completed within five calendar days of receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable.

(e) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do such work. In that event, the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.
(Code 2003, § 18-177; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.480. Supplementary applications.

(a) *Limitations 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 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.
(Code 2003, § 18-178; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.490. Denial of permit.

The city may deny a permit for failure to meet the requirements and conditions of this article 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. Any denial of a right-of-way or small wireless facility permit shall be in writing and must document the basis for the denial. The city must notify the telecommunications right-of-way user within three business days of the decision to deny the permit. If the permit application is denied, the telecommunications right-of-way user may cure the deficiencies identified by the city and resubmit its application. If the telecommunications right-of-way user resubmits the application within 30 days of receiving written notice of the denial, it may not be charged an additional filing or processing fee. The city must approve or deny the revised application within 30 days after the revised application is submitted.
(Code 2003, § 18-179; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.500. Installation requirements.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. R. 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minn. Stats. §§ 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minn. R. ch. 7560 and this Code. Service lateral installation is further subject to those requirements and conditions set forth by the city in applicable permits and/or agreements referenced in section 3.04.550(b).
(Code 2003, § 18-180; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.510. Inspection.

(a) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minn. R. 7819.1300.

(b) *Site inspection.* Permittee shall make the work-site available to the city and to all others authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(c) *Authority of city.*

(1) At the time of inspection, the city 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 city 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 city that the violation has been corrected. If such proof has not been presented within the required time, the city may revoke the permit pursuant to section 3.04.540.

(Code 2003, § 18-181; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.520. Work done without a permit.

(a) *Emergency situations.*

(1) Each permittee shall immediately notify the city of any event regarding its facilities that it considers to be an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two business days after the occurrence of the emergency, the 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 article 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 other fees required by the city ordinance, 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 article.
(Code 2003, § 18-182; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.530. 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 city of the accurate information as soon as this information is known.
(Code 2003, § 18-183; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.540. 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 permittee's 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 section 3.04.510.

(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 may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(c) *Response to notice of breach.* Within 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan acceptable to the city that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

(d) *Revocation.* Revocation of a right-of-way permit or small wireless facility permit shall be made in writing within three business days of the decision to revoke the permit and shall document the basis for the revocation.

(e) *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 attorney's fees incurred in connection with such revocation.
(Code 2003, § 18-184; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.550. Mapping data.

(a) *Information required.* Each permittee shall provide mapping information required by the city in accordance with Minn. R. 7819.4000 and 7819.4100. Within 90 days following completion of any work pursuant to a permit, the permittee shall provide the city accurate maps and drawings certifying the as-built location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall be provided consistent with the city's electronic mapping system. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit.

(b) *Service laterals.* All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. R. 7560.0150, subp. 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the city reasonably requires it. Permittees or their subcontractors shall submit to the city evidence satisfactory to the city of the installed service lateral locations. Compliance with this subsection 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:

(1) Payments to contractors working on a public improvement project, including those under Minn. Stats. ch. 429; and

(2) City approval under development agreements or other subdivision or site plan approval under Minn. Stats. ch. 462. 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 future permits to the offending permittee or its subcontractors.

(Code 2003, § 18-185; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.560. Location facilities.

(a) *Placement, location, relocation.* Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minn. R. 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

(b) *Corridors.*

(1) The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of 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.

(2) Any permittee who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

(c) *Nuisance.* One year after the passage of the ordinance from which this article is derived, any facilities found in the right-of-way that have not been registered shall be deemed a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

(d) *Limitation of space.* To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the city shall have the power or prohibit or limit the placement of new or additional facilities within

the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.
(Code 2003, § 18-186; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.570. Pre-excavation facilities location.

In addition to complying with the requirements of Minn. Stats. §§ 216D.01 through 216D.09 (One Call Excavation Notice System) before the start date of any right-of-way excavation, each permittee who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of said facilities. Any permittee whose facilities are less than 20 inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.
(Code 2003, § 18-187; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.580. Damage to other facilities.

When the city does work in the right-of-way and finds it necessary to maintain, support, or move a permittee's facilities to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to the 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 damage. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another permittee caused during the city's response to an emergency occasioned by the permittee's facilities.
(Code 2003, § 18-188; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.590. 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 Minn. R. 7819.3200.
(Code 2003, § 18-189; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.600. Indemnification and liability.

By applying for and accepting a permit under this article, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. R. 7819.1250.
(Code 2003, § 18-190; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.610. Abandoned and unusable facilities.

(a) *Discontinued operations.* A permittee who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the permittee's obligations for its facilities in the right-of-way under this article have been lawfully assumed by another permittee.

(b) *Removal.* Any person who has abandoned facilities in any right-of-way shall remove them from the right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.
(Code 2003, § 18-191; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.620. Appeal.

A right-of-way user that has been denied a permit; has had a permit revoked; believes that the fees imposed are invalid; or disputes any determination of the city under this article 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 request at its next regularly scheduled meeting. A decision by the city council affirming the

denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.
(Code 2003, § 18-192; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.630. Reservation of regulatory and police powers.

A permittee's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances as necessary to protect the health, safety and welfare of the public.
(Code 2003, § 18-193; Ord. No. 207(3rd series), § 1, 5-29-2018)

Sec. 3.04.640. Severability.

If any portion of this article is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this article precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.
(Code 2003, § 18-194; Ord. No. 207(3rd series), § 1, 5-29-2018)

ARTICLE V. VEGETATION

Sec. 3.04.710. City to control tree planting; standards.

The city shall have control and supervision of planting shrubs and trees upon or overhanging all streets or other public property. The city may establish and enforce uniform standards relating to the species and types of trees to be planted, their placement, maintenance and removal. Such standards shall be kept on file in the office of the city administrator and may be revised by action of the council upon the recommendation of the public works superintendent.
(Code 1984, § 6.09(1); Code 2003, § 18-236; Ord. No. 296(3rd series), § 4(18-236), 2-26-2024)

Sec. 3.04.720. Permit to plant or remove trees.

It is a misdemeanor for any person to plant or remove any tree within the city right-of-way or overhanging streets without first procuring from the city a permit in writing to do so.
(Code 1984, § 6.09(2); Code 2003, § 18-237; Ord. No. 296(3rd series), § 4(18-237), 2-26-2024)

Sec. 3.04.730. Duty of property owners to cut grass and weeds and maintain trees and shrubs.

(a) Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or weeds in such a place attain a height in excess of eight inches, it shall be prima facie evidence of a failure to comply with this section. Every owner of property abutting on any street shall, subject to the provisions in this article requiring a permit, trim, cut, remove and otherwise maintain all trees and shrubs in unhazardous and healthy condition, from the line of such property nearest to such street to the center of the street.

(b) Managed natural landscapes are allowed in accordance with Minn. Stats. § 412.925. The term "managed natural landscape" means a planned, intentional, and maintained planting of native or nonnative grasses, wildflowers, forbs, ferns, shrubs, or trees, including, but not limited to, rain gardens, meadow vegetation, and ornamental plants. Managed natural landscapes do not include turfgrass lawns left unattended for the purpose of returning to a natural state.

(c) The city may, in cases of failure to comply with this article, perform such work, keeping an accurate account of the cost for each lot, piece or parcel of land abutting upon such street.

(d) If maintenance work described in subsection (c) of this section is performed by the city, the public works superintendent shall forthwith upon completion of the work ascertain the cost attributable to each lot, piece or parcel of abutting land. The public works superintendent shall send a statement to the abutting property owner and, if the amount remains unpaid for 15 days,

present a certificate to the council and obtain its approval. When such certificate has been approved, it shall be extended as to the cost as a special assessment against such abutting land, and such special assessment shall at the time of certifying taxes to the county auditor be certified for collection as other special assessments are certified and collected.
(Code 1984, § 6.09(3)—(5); Code 2003, § 18-238; Ord. No. 296(3rd series), § 4(18-238), 2-26-2024)

ARTICLE VI. PUBLIC LAKESHORE, LAKESHORE RIGHTS-OF-WAY AND DOCKS

Sec. 3.04.810. Definitions.

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

Dock means any wharf, pier, boat ramp, boat slip, or other structure constructed or maintained in, upon, or into the water of a lake from either public property or public rights-of-way.

Dock accessories means all structures and materials used in conjunction with a dock, including, but not limited to, boat lifts, buoys, fences or other obstructions and permanent or semipermanent steps, ramps or other structures leading to the shoreline.

Dock site means the property designated in the license issued pursuant to this section and as designated on the dock location map to be maintained by the city.

Public property or *public rights-of-way* means all publicly owned property and all public rights-of-way that are immediately adjacent to a lakeshore, as designated on the dock location map to be maintained at all times by the city pursuant to this section.
(Code 2003, § 38-900; Ord. No. 239(3rd series), § 1, 3-9-2020; Ord. No. 259(3rd series), 7-26-2021)

Sec. 3.04.820. License required.

No person shall erect, place, keep, or maintain a dock or other structure from on public property or public rights-of-way without a dock license for Crystal Bay Road dock sites. No person shall use a dock on a dock site on public rights-of-way without a dock license for Big Island dock sites.
(Code 2003, § 38-901; Ord. No. 239(3rd series), § 1, 3-9-2020; Ord. No. 259(3rd series), 7-26-2021)

Sec. 3.04.830. Applications.

Applications for dock licenses shall contain the following information and such other information as the city deems necessary:

(1) Full name of applicant;

(2) Address;

(3) Preferred dock location on the dock location map and, if applying for Crystal Bay Road dock site, dock specifications;

(4) Boat license number of any boats to be moored at the dock;

(5) An application fee as established by the city council. The application fee shall be refunded if the applicant is not awarded a dock license;

(6) Proof of ownership of residential lot.
(Code 2003, § 38-902; Ord. No. 239(3rd series), § 1, 3-9-2020; Ord. No. 259(3rd series), 7-26-2021)

Sec. 3.04.840. Eligible applicants.

(a) *Crystal Bay Road.* Property owners of land adjacent to city owned lakeshore parcels as described in the table below are eligible to apply for a dock license for said site or sites. Only one individual per household may apply for a dock license and only one license shall be issued per city owned parcel.

Residential Lot		*Dock Site PID*
3445 Crystal Bay Road	is eligible for	1711723430123
3435 Crystal Bay Road	is eligible for	1711723430119
3415 Crystal Bay Road	is eligible for	1711723430117
3407 Crystal Bay Road	is eligible for	1711723430115

(b) *Big Island.* The city has identified seven lake accesses on Big Island on the official dock site map maintained in the office of the city clerk. Inland lot of record owners on Big Island may apply for a dock license on city-owned property or right-of-way for the express purpose of facilitating access to their property via boat. Renters of inland lots of record are not eligible to obtain a license on a city dock.
(Code 2003, § 38-903; Ord. No. 239(3rd series), § 1, 3-9-2020; Ord. No. 259(3rd series), 7-26-2021)

Sec. 3.04.850. Application approval and denial.

(a) The dock administrator shall provide a recommendation to the city council who shall approve or deny all applications. No application shall be approved if there are any outstanding noncompliance orders against the applicant or if the proposed dock will not comply with all terms of this Code.

(b) Applications will be reviewed in the order in which they are received.
(Code 2003, § 38-904; Ord. No. 239(3rd series), § 1, 3-9-2020; Ord. No. 259(3rd series), 7-26-2021)

Sec. 3.04.860. Terms of license.

Before a dock license is issued for Crystal Bay Road dock sites, the applicant must sign a license agreement containing the following terms and conditions and other provisions as the council may require:

(1) *Rights and liabilities.* Except as otherwise provided, a city dock license entitles the license holder to the exclusive use and control of the dock site and the same rights, obligations and liabilities as a private property owner. In addition to the provisions of this section, all dock license sites shall fully comply with LMCD regulations and all applicable state laws and regulations.

(2) *Indemnification.* Dock license holders shall be solely responsible for the dock license site and all activities thereon. The license holder shall indemnify, defend, and hold the city, its officers, boards, commissions, agents, and employees harmless from and against any and all lawsuits, claims, causes of action, liability, and costs, of any nature that the city may at any time, directly or indirectly, suffer, sustain in any way connected with the grant of a dock license or activities on the dock license site.

(3) *Docks.* The license holder shall maintain only one dock at the dock license site.

(4) *License plates.* Dock license plates shall be issued by the city after approval of the license application. The license plate must be securely fixed to the streetside end of the licensed dock. License plates shall be maintained by the licensee and shall remain the property of the city.

(5) *Transferability.* Dock licenses may not be sold, assigned, licensed, or otherwise transferred in any way to any person, partnership or corporation, except that the license may be transferred to a purchaser of the license holder's residential property within the city. Dock space may not be rented.

(6) *Removal of docks.* Upon termination of a dock license, the license holder must completely remove the licensed dock and all accessory items, including, but not limited to, stairs leading to the dock from the public property or public right-of-way. Any dock or accessory item that has not been removed will be removed by the city and all costs the responsibility of the last license holder for that dock site.

(7) *Dock construction; specifications and dimensions.*

a. Docks on dock sites shall comply with LMCD regulations.

b. Docks shall be constructed of materials approved by the dock inspector; docks shall be of plank or rail construction; and all dock posts shall be of equal height above the dock;

c. Docks shall not be located closer than ten feet to a neighboring dock

license site or private property line. The dock administrator may refer, and the city council may grant exceptions where there are unusual circumstances and such an exception will not have a detrimental impact on the lake. The city council may impose conditions on any exception granted under this subsection.

d. Docks may not be permanently installed.

(8) *Dock accessories.* All dock accessories must be approved in writing prior to use at a dock site.

(9) *Dock storage.* Docks must be removed from the water no later than November 1. Docks and dock accessories may not be stored on the dock site between November 1 and April 1 of the following year.

(10) *Declaration of watercraft.*

a. Requirements. Watercraft that are moored at a city dock or multiple slip site must be declared on the dock license application. The applicant must provide the city with a copy of the current DNR watercraft registration or U.S. Coast Guard documentation or recently applied for DNR watercraft registration or U.S. Coast Guard documentation for each watercraft, at the time of application. This DNR registration or U.S. Coast Guard documentation must verify that the watercraft is in the name of the licensee. If a declared watercraft is removed from the city dock program, the site holder may substitute a replacement watercraft upon providing the city with required documentation as stated above. Newly declared replacement watercraft may be subject an additional LMCD fee.

b. Allowable mooring of non-owned watercraft. Mooring of watercraft not owned by the dock licensee is permitted for a period of up to 48 hours, two times in a calendar year.

c. Unless permitted under subsection (10)a or b of this section, no watercraft shall be moored at a city dock site.

(11) *Subject to inspections.* All licensed docks are subject to inspection at reasonable times by the dock inspector or his or her designee.

(12) *City access.* The city shall be free to enter the dock site for any reason at any reasonable time and to perform maintenance and regulatory functions to be specified in the terms of the dock license agreement.

(13) *Costs.* All costs of maintaining licensed docks and dock accessories are the responsibility of the license holder.

(14) *Term.* All dock licenses on Crystal Bay Road shall be valid for ten years.

(15) *License fee.*

a. The city council shall establish license fees. License fees shall not increase during the term of a license. A licensee must pay a license fee in full at the beginning of the term of the license by April 1 of each calendar year of the term of the license. Failure to pay the license fee by April 1 shall result in the termination the license agreement.

b. In the event the licensee paid a license fee at the beginning of the term, and the license is terminated, the city may refund a prorated amount of the license fee, based on the number of years remaining at the time of refund request, unless the licensee owes the city for costs and expenses as outlined in the license agreement.

(Code 2003, § 38-905; Ord. No. 239(3rd series), § 1, 3-9-2020; Ord. No. 259(3rd series), 7-26-2021)

Sec. 3.04.870. Terms of license for Big Island dock sites.

Dock sites on Big Island are offered to provide dockage opportunity for inland lot of record

owners to access their property via public right of way. Before a dock license is issued for Big Island dock sites, the applicant must sign a license agreement containing the following terms and conditions and other provisions as the council may require.

(1) *Rights and liabilities.* The licensee shall be permitted to use the property for the purposes described in this section and shall not use the property for any other purposes. In addition to the provisions of this section, all dock license sites shall fully comply with LMCD regulations and all applicable state laws and regulations.

(2) *Indemnification.* Dock license holders shall be solely responsible for the dock license site and all activities thereon. The license holder shall indemnify, defend, and hold the city, its officers, boards, commissions, agents, and employees harmless from and against any and all lawsuits, claims, causes of action, liability, and costs, of any nature that the city may at any time, directly or indirectly, suffer, sustain in any way connected with the grant of a dock license or activities on the dock license site.

(3) *Docks.* The license holder household may obtain only one license.

(4) *License plates.* Dock license plates shall be issued by the city after approval of the license application. The license plate must be securely fixed to the lakeside end of the licensed dock. License plates shall be maintained by the licensee and shall remain the property of the city.

(5) *Transferability.* Big Island dock licenses may not be sold, assigned, licensed, or otherwise transferred in any way to any person, partnership, or corporation. Only the license holder may store a boat at the dock.

(6) *Storage items.* The license holder shall not store any accessory items at the dock site except for the boat. The city may remove any accessory items from the dock site and treat it as abandoned property in accordance with law.

(7) *Removal of boat.* Upon termination of a dock license, the license holder must remove the boat. Any item that has not been removed will be removed by the city and treated as abandoned property in accordance with law.

(8) *Dock specifications.* Docks within right-of-way on Big Island will not extend more than 24 feet from the ordinary high-water line (OHW).

(9) *Dock accessories.* All dock accessories must be approved in writing prior to use at a dock site.

(10) *Dock and dock site usage.* Docks and dock sites may only be used after the city places the dock on the dock site. The city will endeavor to place docks on dock sites by May 1. The license holder shall not be entitled to a prorated license fee if the city places the dock on the dock site after May 1. The license holder shall cease using the dock and dock site on November 1 of each year. The license holder shall remove the boat from the dock site no later than November 1 of each year.

(11) *Declaration of watercraft; requirements.* Watercraft that are moored at a city dock or multiple slip site must be declared on the dock license application. The applicant must provide the city with a copy of the current DNR watercraft registration or U.S. Coast Guard documentation or recently applied for DNR watercraft registration or U.S. Coast Guard documentation for each watercraft, at the time of application. This DNR registration or U.S. Coast Guard documentation must verify that the watercraft is in the name of the licensee. If a declared watercraft is removed from the city dock program, the site holder may substitute a replacement watercraft upon providing the city with required

documentation as stated above. Newly declared replacement watercraft may be subject an additional LMCD fee.

a. Unless permitted under subsections (9) and (10) of this section, no watercraft shall be moored at a city dock site.

b. A license grants the licensee one boat per dock site. Up to two license holders may share a dock allowing a total of two boats.

(12) *Subject to inspections.* All licensed docks are subject to inspection at reasonable times by the dock inspector or his or her designee.

(13) *City access.* The city shall be free to enter the dock site for any reason at any reasonable time and to perform maintenance and regulatory functions to be specified in the terms of the dock license agreement.

(14) *Costs.* All costs of maintaining licensed docks and dock accessories are the responsibility of the license holder.

(15) *Term.* Big Island Dock licenses expire November 1 of each year.

(16) *License fee.* The city council shall establish license fees. License fees shall not increase during the term of a license. A licensee must pay a license fee in full at the beginning of the term of the license by April 1 of each calendar year of the term of the license. Failure to pay the license fee may be cause the denial of the license application.

(Code 2003, § 38-906; Ord. No. 259(3rd series), 7-26-2021)

Sec. 3.04.880. Administration.

(a) *Dock administrator.* The city council shall appoint a dock administrator who shall be responsible for the administration of the city dock licensing program, to include processing applications, and maintaining the dock location map.

(b) *Dock location map.* There shall be on file with the city a map maintained by the dock administrator showing the approved locations of docks on public land and public rights-of-way. The map shall contain the following information:

(1) Locations of public property and public rights-of-way;

(2) Specific dock locations;

(3) A numerical designation for each dock location to correspond with a list of license holders;

(4) Restrictions applicable to certain areas of shoreline;

(5) Shoreline access points;

(6) Shoreline areas available for winter storage.

(c) *Inspections; license revocation.* The dock administrator or designee shall from time to time inspect any dock erected or maintained on public property or public rights-of-way. If there are any violations of this Code, state statute or state regulation, the dock license holder shall be notified in writing of the way the dock or dock area does not comply. The license holder shall have 14 days to remove the dock or otherwise bring the dock license site into compliance. If the violation is not corrected after 14 days, the license shall be revoked and all property removed from the dock license site unless, within the 14 days, the dock administrator receives from the license holder a written request for a hearing.

(d) *Appeals.* Appeals from any decision of the dock administrator shall be as provided for in section 1.08.160.

(Code 2003, § 38-907; Ord. No. 239(3rd series), § 1, 3-9-2020; Ord. No. 259(3rd series), 7-26-2021)

CHAPTER 3.08. PARKS AND RECREATION*

ARTICLE I. IN GENERAL (RESERVED)

ARTICLE II. PARK COMMISSION

Sec. 3.08.110. Established.

A park commission is established.
(Code 1984, § 2.52(1); Code 2003, § 22-31; Ord. No. 112(2nd series), § 1, 1-11-1993)

Sec. 3.08.120. Members.

The park commission is composed of seven members, who serve staggered three-year terms. The council may by majority vote appoint one or more alternate park commission members to serve when regular members are absent. One staff member and one councilmember shall be members of the commission ex officio and without vote and are in addition to the seven-member commission.
(Code 1984, § 2.52(1); Code 2003, § 22-32; Ord. No. 112(2nd series), § 1, 1-11-1993; Ord. No. 180(3rd series), § 1, 1-9-2017)

Sec. 3.08.130. Powers and duties.

The park commission shall be only an advisory body to the council. The commission shall study and consider the continuing needs of the city for parks and recreation areas and facilities of all kinds, including, but not limited to, problems involving public use of Lake Minnetonka and other lakes in the city, and portions of its shorelines. The commission shall report to the council.
(Code 1984, § 2.52(2); Code 2003, § 22-33)

ARTICLE III. PUBLIC CONDUCT IN PARKS AND PUBLIC SWIMMING AREAS

Sec. 3.08.210. Definitions.

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

Animal means all animals, reptiles and fowls of every kind and description, whether domesticated or such as may be tame, but are of a species commonly found in wild habitat, but excluding domesticated dogs and cats.

Fighting words means an expression likely to provoke the average person to retaliation and thereby cause a breach of the peace.

Motorized vehicle means any self-propelled vehicle equipped with a unit for its propulsion by means of energy stored on the vehicle, including a vehicle designed to be propelled by means of such energy alternatively or in combination with human power, and includes vehicles designed to be drawn by self-propelled vehicles, but excludes such vehicles designed exclusively for operation on metal tracks.

Nudity means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

Obscenities means an expression that, taken as a whole, appeals to the prurient interest in sex and depicts or describes in a patently offensive manner sexual conduct and which, taken as a whole, does not have serious literary, artistic, political, or scientific value.

Park means an area reserved, designated or used for active or passive public recreation, except a swimming beach, that is owned, operated or controlled by the city.

Sexual conduct means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

*State law reference—General authority relative to parks, Minn. Stats. § 412.491.

Swimming beach means an area reserved, designated or used for scheduled or open public swimming which is owned, operated or controlled by the city.

Threats occur when the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.
(Code 1984, § 9.31(2); Code 2003, § 22-86; Ord. No. 290(3rd series), § 1, 2-26-2024)

Sec. 3.08.220. Application.

This article shall apply to all parks and swimming beaches and supplements and is in addition to those provisions of this Code which, by their terms, apply only to specific recreational areas.
(Code 1984, § 9.31(1); Code 2003, § 22-87)

Sec. 3.08.230. Exceptions.

This article does not apply to city employees or authorized emergency personnel acting within the course and scope of their employment.
(Code 1984, § 9.31(3); Code 2003, § 22-88)

Sec. 3.08.240. Unlawful acts.

It is unlawful for any person to:

(1) Enter upon any park between the hours of 10:00 p.m. and 6:00 a.m. of the day next following, when notice is given by signposting.

(2) Enter upon any swimming beach between the hours of 8:00 p.m. and 10:00 a.m. of the day next following, when notice is given by signposting.

(Code 1984, § 9.31(3)(A), (3)(B); Code 2003, § 22-89)

Sec. 3.08.250. Damage to, theft of equipment, objects.

No person shall mark, paint, write or post bills upon, deface or in any other way damage, destroy, remove or carry away any equipment, manmade, natural or cultivated plantings, or other thing that is used or situated upon a park or swimming beach.
(Code 1984, § 9.31(3)(O); Code 2003, § 22-90)

State law reference—Malicious mischief, Minn. Stats. § 609.595.

Sec. 3.08.260. Sales, advertisements.

No person shall sell or by any means advertise for sale any goods, wares, merchandise or services of any kind, nature or description in a park or swimming beach.
(Code 1984, § 9.31(3)(P); Code 2003, § 22-91)

Sec. 3.08.270. Motor vehicle operations, standing.

No person shall:

(1) Operate a motorized vehicle in any park or swimming beach except such portion as is graded, paved, designated or maintained as a public street, parking area or boat launching area.

(2) Leave a motorized vehicle standing in any park not designated as a parking area.

(Code 1984, § 9.31(3)(C), (3)(D); Code 2003, § 22-92)

Sec. 3.08.280. Riding bicycles, nonmotorized vehicles.

No person shall ride a bicycle or other nonmotorized vehicle in any park or swimming beach except on designated pathways, and then only in such manner as to not threaten or endanger the person or property of others.
(Code 1984, § 9.31(3)(M); Code 2003, § 22-93)

Sec. 3.08.290. Operation of model airplanes.

No person shall operate a model airplane in a park or swimming beach.
(Code 1984, § 9.31(3)(N); Code 2003, § 22-94)

Sec. 3.08.300. Animal regulations.

No person shall:

(1) Except as provided in Minn. Stats. § 256C.02, bring or keep an animal owned

or under his control into or upon a park. This subsection does not prohibit dogs or cats that are on leashes or dogs in an area designated as an off leash area, provided that the person having custody of the animal:

a. Is present with the animal;

b. Has a current off leash permit; and

c. Is acting in compliance with the rules and regulations of the off leash areas.

(2) Except as provided in Minn. Stats. § 256C.02, bring or keep an animal, dog or cat owned or under his control into or upon a swimming beach.

(3) Bring or keep a dog or cat owned or under his control into or upon a park unless such dog or cat is effectively restrained by means of a leash or chain and is kept from disturbing persons, wild animals and wildfowl, or bring a dog or cat owned or under his control into or upon a park where prohibited by signs.

(4) Bring or keep a dog or cat owned or under his control into or upon a park without such person having in his possession at all times equipment for the removal of any feces deposited by such dog or cat; and, upon such deposit being made, using such equipment for the immediate removal and sanitary disposition of such feces.

(Code 1984, § 9.31(3)(E)—(3)(H); Code 2003, § 22-95; Ord. No. 209(2nd series), § 1, 11-13-2001; Ord. No. 176(3rd series), § 1, 8-22-2016)

Sec. 3.08.310. Use of alcohol.

No person shall sell, possess or consume any alcoholic beverage in any park or swimming beach. For the purpose of this section, the term "possess" shall not relate to a container which is kept in the trunk of a vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk.
(Code 1984, § 9.31(3)(I); Code 2003, § 22-96)

Sec. 3.08.320. Building fires.

No person shall build or maintain a fire in a park or swimming beach.
(Code 1984, § 9.31(3)(J); Code 2003, § 22-97)

Sec. 3.08.330. Discharging fireworks.

No person shall discharge fireworks in a park or swimming beach.
(Code 1984, § 9.31(3)(K); Code 2003, § 22-98)

Sec. 3.08.340. Nudity, sexual conduct, obscenities, threats, fighting words.

In a park or swimming beach, no person shall engage in nudity or sexual conduct, or direct threats at a particular individual or group of individuals, or utter fighting words likely to provoke an average person to retaliation and thereby cause a breach of the peace.
(Code 1984, § 9.31(3)(L); Code 2003, § 22-99; Ord. No. 290(3rd series), § 2, 2-26-2024)

State law reference—Indecent exposure, Minn. Stats. § 617.23.

Sec. 3.08.350. Fishing.

No person shall fish at any swimming beach.
(Code 1984, § 9.31(3)(Q); Code 2003, § 22-100)

Sec. 3.08.360. City docks.

(a) All docks owned or maintained by the city shall be subject to the regulations in this section and are referred to as "city docks."

(b) It is unlawful for any person to:

(1) Dive, jump or fish from or otherwise use a city dock or the adjacent area in a manner so as to disturb or endanger any other person;

(2) Dock any watercraft except for the temporary purpose of boarding or discharging passengers, and then not in any dock within a swimming beach;

(3) Use a city dock or the surrounding area for any purpose between the hours of 10:00 p.m. and sunrise the next morning; or

(4) Deposit or leave any paper, can, bottle, glass or other refuse on or near a city dock except in approved containers placed by the city for such purpose.

(c) It is unlawful for any person to disobey any order of a police or health officer relating to the use of a city dock, or to disobey any sign-posted regulation or rule.
(Code 1984, § 9.33; Code 2003, § 22-101)

Sec. 3.08.370. Off leash dog areas; permits and regulations.

(a) Dogs may be unrestrained by chain or leash in areas designated for off leash activities by the city. No person shall use a designated off leash area without first having obtained a permit for each dog using such an area from the city. A dog deemed a dangerous animal, or as a dangerous or potentially dangerous dog as defined under Minn. Stats. § 347.50, is not permitted to use off leash areas.

(b) The annual fee for an off leash area permit shall be set city council and published in the annual fee schedule. A permit may only be issued upon verification of rabies vaccination. Permits shall be valid from the time they are issued until December 31 next after the date of issuance.

(c) Upon application for a permit, the applicant shall be provided with the rules for use of off leash areas. As a condition for the issuance of a permit, the applicant shall sign and agree to abide by these rules.

(d) Feces clean up. Any person having the custody or control of any dog or domestic animal shall have the responsibility for cleaning up any feces of the animal and disposing of such feces in a sanitary manner. It shall furthermore be the duty of any person having custody or control of any dog or domestic animal on or about any public place to have in such person's possession suitable equipment for picking up, removal and sanitary disposal of animal feces. Violations of this provision may result in an administrative fine.

(e) The person responsible for a dog must have the dog restrained when entering and leaving an off leash area. If so directed by a law enforcement officer, animal care and control officer, or animal warden, persons using an off leash area must immediately restrain their dogs and remove them from the off leash area.

(f) Enforcement.

(1) *Compliance required.* All persons shall comply with the park signs and markers installed by the city.

(2) *Enforcement authority.* Designated city officials and law enforcement authorities shall have the jurisdiction to enforce any violation of these rules and any state or local laws which occur on park property.

(3) *Violation a misdemeanor.* Any infraction of a duly adopted park rule constitutes a misdemeanor and is punishable by law or through an administrative offense fee. Fees are listed in the city fee schedule.

(4) *Permit revocation.* A permit may be revoked for failure of the applicant, or any person who takes the dog into an off leash recreation area, to abide by these rules, or for violation of any of the provisions of this chapter or ordinances that occur within an off leash area.
(Code 2003, § 22-02; Ord. No. 176(3rd series), § 2, 8-22-2016)

ARTICLE IV. SPECIAL REGULATIONS FOR BIG ISLAND NATURE PARK

Sec. 3.08.410. Purpose.

(a) Through mutual collaboration between the city and the Minnehaha Creek Watershed District, Big Island Nature Park is intended to be preserved, maintained and improved as a passive recreational, ecological and educational asset to the Lake Minnetonka community and its visitors. A conservation easement has been established over the park property that restricts the level of improvements and activities to ensure these goals are accomplished.

(b) The rules within this article are established as written guidelines for the use of Big Island Nature Park. These rules are intended to ensure that visitors to the park enjoy a safe and positive experience, while protecting and preserving its natural and cultural amenities.
(Code 2003, § 22-111; Ord. No. 74(3rd series), § 1, 6-28-2010)

Sec. 3.08.420. Regulation of public use.

(a) *Park hours.* Big Island Nature Park shall be open to the public from 6:00 a.m. to 10:00 p.m. daily. It shall be unlawful for any person to enter or remain in the park between 10:00 p.m. and 6:00 a.m.

(b) *Closed areas.* Any section or part of the park may be declared closed to the public by the city at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses as the city shall find reasonably necessary. It shall be unlawful for any person to enter an area in the park posted as "closed to the public."

(c) *Reservations.* No facilities within Big Island Nature Park shall be reserved nor designated for exclusive use by any individual, group or organization.

(d) *Special events, private events, large assemblies.* No activity for which a permit is required per the provisions of chapter 4.20 or 5.32, article VI, shall be allowed unless such permit is obtained.
(Code 2003, § 22-112; Ord. No. 74(3rd series), § 1, 6-28-2010)

Sec. 3.08.430. Regulation of general conduct.

(a) *Alcohol.* The sale, possession or consumption of alcoholic beverages in the park is prohibited.

(b) *Gambling.* It shall be unlawful for any person to gamble or participate in any game of chance in the park.

(c) *Nuisance.* It shall be unlawful commit any act within the park that constitutes a nuisance as defined by this Code or state statute.

(d) *Littering and sanitation.* It is unlawful to litter or dump trash in the park. Garbage and recyclables shall remain in the possession of the park user and shall be removed from the park upon leaving the park property.

(e) *Glass containers.* Glass beverage containers are prohibited in the park.

(f) *Dangerous weapons/fireworks.* Explosives, slingshots, bows and arrows, and paintball guns are prohibited in the park at all times. Discharge of firecrackers or fireworks or detonation of explosive devices of any kind in the park is prohibited.

(g) *Interference with employee performance of duty.* It is unlawful for any person to impersonate a park employee or city official or to interfere with, harass, or hinder any employee or city official in the discharge of his/her duties.
(Code 2003, § 22-113; Ord. No. 74(3rd series), § 1, 6-28-2010)

Sec. 3.08.440. General park operation regulations.

(a) *Commercial activity.* No person shall sell or by any means advertise for sale any goods, wares, merchandise, liquids, edibles or services of any kind, nature or description in the park.

(b) *Sign posting.* The posting, distribution and display of private signs, notices, posters or advertisements is prohibited within the park property.

(c) *Noise/amplification of sound.* The operation or use of loudspeakers, sound amplifiers, or other devices for the production or reproduction of sound is prohibited in the park. The operation or use of any radio, phonograph, television or other machine or device for the production or reproduction of sound in such a manner as to be disturbing or a nuisance to reasonable persons of normal sensitivity within the area of audibility is prohibited in the park. Live bands are prohibited in the park.

(d) *Fires.* Open fires are prohibited everywhere in the park, including the swimming beach. Open fires include campfires and charcoal grills. Propane grills are allowed.

(e) *Motorized vehicles.* The operation and use of motorized vehicles in the park is prohibited. The city or its designees may utilize motorized vehicles as necessary for park operations, maintenance, emergency vehicles or handicap accessibility.

(f) *Bicycles.* The operation of mountain bikes or other bicycles within the park is prohibited.

(g) *Engine-powered models and toys.* It shall be unlawful for any person to start, fly or use any fuel- or battery-powered model aircraft, model car, or rocket or like powered toy or model within the park.

(h) *Animals and pets.* Animals and pets brought into the park shall be under the owner's physical control and effectively restrained by means of a leash or chain no more than six feet in length, and shall be kept from disturbing persons, wild animals and wildfowl. Animals and pets are prohibited in the swimming beach area. The owner of an animal or pet shall have in his possession at all times equipment for the removal of any feces deposited by such pet; and, upon such deposit being made, shall use such equipment for the immediate removal and sanitary disposition of such feces. Animals and pets shall not be tethered to a tree, plant, building or park equipment nor left unattended. Horses are prohibited within the park.

(i) *Regulation of recreation activity.*

(1) *Camping.* Overnight camping within the park is prohibited.

(2) *Picnicking.* Picnicking in the park is allowed subject to the following:

a. No person or group shall assume exclusive use of a picnic site or shelter.

b. No person or group shall set up temporary shelters, tents, tarps, canopies and other such devices without authorization by permit.

(3) *Swimming.* Swimming in Lake Minnetonka is at the individual's own risk. Life guards are not provided.

(4) *Boating and dock use.* It shall be unlawful to land a watercraft or leave a watercraft unattended except at locations designated for that purpose. The docks at the main landing area are intended solely for the purpose of loading and unloading boats. No overnight docking is allowed. It shall be unlawful to fish, lounge, sunbathe or otherwise loiter on said docks. It shall be unlawful to dive or jump from the docks. It shall be unlawful to use the docks in a manner so as to disturb or endanger any other person.

(5) *Hunting and fishing.* Hunting and trapping are prohibited in the park at all times. Shore fishing is allowed except in the designated swimming beach area. Fishing from the boat docks at the main landing area is prohibited. It is unlawful to fish in an area designated as a "no fishing" area.

(6) *Golf practice.* Hitting golf balls in the park is prohibited.

(7) *Research activity.* Research activity within the park shall be by permit only.

(Code 2003, § 22-114; Ord. No. 74(3rd series), § 1, 6-28-2010)

Sec. 3.08.450. Protection of property, structures and natural resources.

(a) *Vandalism.* The intentional defacement, destruction, alteration, injury, removal or disturbance of any park property is prohibited. It is unlawful to intentionally deface, destroy, cover, damage, tamper with or remove any placard, notice or sign, or parts thereof, whether permanent or temporary, posted or exhibited by the city or by the Minnehaha Creek Watershed District.

(b) *Disturbance of natural resources.*

(1) *Plant life.* All plant life within the boundaries of Big Island Nature Park is protected. Patrons shall not intention-

ally alter, mutilate, cut, prune, trim, injure, destroy, or remove any live or dead tree, shrub, vine, wildflower, grass, sedge, fern, moss lichen, fungus or any other member of the plant kingdom or portion thereof, except upon approval by the city and the Minnehaha Creek Watershed District. No person shall collect or harvest dead wood or plants, or portions thereof, except upon written approval. Introduction of non-native species is prohibited. This section shall not apply to employees or designees of the city or the Minnehaha Creek Watershed District performing property maintenance or invasive species control under an approved management plan.

(2) *Wildlife.* All wildlife within the boundaries of Big Island Nature Park is protected. No person may kill, harm, harass, pursue, hunt, trap, remove, feed or in any manner disturb or caused to be disturbed any species of wildlife, except fishing in designated areas pursuant to the state game laws, except upon written approval of the city and the Minnehaha Creek Watershed District. No person shall intentionally remove, alter, injure, or destroy habitat used by any species, including, but not limited to, nests, dams or burrows. No person shall allow a pet to act in violation of these regulations.

(3) *Harmful or foreign substances.* No use of pesticides or biocides is allowed, including insecticides, fungicides, rodenticides, herbicides, or "bug-zappers," except that this limitation shall not apply to employees or agents of the city or the Minnehaha Creek Watershed District performing invasive species control under an approved management plan. No person shall place any debris, pollutant or other agent in or upon the park or adjacent waters. No person shall discharge wastewater or any other wastes in the park except into designated containers or receptacles, except as authorized by the city or the Minnehaha Creek Watershed District.

(4) *Topography.* No alteration of topography is allowed, including ditching, draining, diking, filling, excavation, dredging, mining, drilling, or removal of earth materials except as minimally necessary to effect a permitted use.

(c) *Interference with park property.*

(1) *Cultural resources.* All sites, objects, buildings, artifacts, implements, and locations of historical, archaeological, geologic, scientific or educational interest of every character located in, on, or under the surface of Big Island Nature Park are protected. No person may remove, excavate, take, dig into, or destroy any site, object, building, artifact, implement or location of archaeological, geological, scientific or historical interest without having first obtained written permission from the city.

(2) *Fences, gardening, etc.* It shall be unlawful for any person to encroach on park property with such items as fences or gardens, or to disturb the natural landscape, vegetation, or structures on park property or otherwise use park property for private use.

(Code 2003, § 22-115; Ord. No. 74(3rd series), § 1, 6-28-2010)

Sec. 3.08.460. Enforcement.

(a) *Compliance required.* All persons shall comply with the park signs and markers installed by the city or Minnehaha Creek Watershed District.

(b) *Enforcement authority.* Designated city officials and law enforcement authorities, including, but not limited to, the county sheriff office deputies and special deputies, Three Rivers Park police and the department of natural resources, shall have the jurisdiction to enforce any violation of these rules and any state or local laws which occur on park property.

(c) *Violation a misdemeanor.* Any infraction of a duly adopted park rule constitutes a misdemeanor and is punishable by law.

(d) *Permit revocation.* The city shall have the right and authority to immediately revoke for good cause any permit issued for use of the park. (Code 2003, § 22-116; Ord. No. 74(3rd series), § 1, 6-28-2010; Ord. No. 163(3rd series), § 1, 2-22-2016)

Title IV

BUSINESS, LICENSING, LIQUOR REGULATION

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CHAPTER 4.04. BUSINESSES

ARTICLE I. IN GENERAL (RESERVED)

ARTICLE II. BUSINESS LICENSES

Sec. 4.04.110. Definitions.

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

Applicant means any person making an application for a license under this article.

Application means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his request for a license, furnished by the city and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

Bond means a corporate surety document in the form and with the provisions acceptable and specifically approved by the city attorney.

Business means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this article.

License means a document issued by the city to an applicant permitting him to carry on and transact a business.

License fee means the money paid to the city pursuant to an application and prior to issuance of a license to transact and carry on a business.

Licensee means an applicant who, pursuant to his application, holds a valid, current, unexpired and unrevoked license from the city for carrying on a business.

Sale, sell and *sold* mean all forms of barter and all manner or means of furnishing merchandise to persons.
(Code 1984, § 5.01; Code 2003, § 26-31)

Sec. 4.04.120. Applications.

All applications for a license shall be made as follows:

(1) All applications shall be made at the office of the city clerk upon forms that have been furnished by the city for such purposes.

(2) All initial applications shall be accompanied by an investigation fee as set by the council by resolution.

(3) All such applications must be subscribed, sworn to, and include, but not be limited to, the following:

a. The applicant's name, age and citizenship.

b. The applicant's present address and length of time he has lived at that address.

c. The applicant's occupation and length of time so engaged.

d. The applicant's addresses and occupations for the three years last preceding the date of application.

e. Names and addresses of the applicant's employers, if any, for the three years last preceding the date of application.

f. Whether or not the applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations and, if so, the date and place of conviction and the nature of the offense.

g. Type of license and location of premises for which application is made.

h. At least four character references if the applicant has not resided in the city for two years last preceding the date of application.

i. Such other information as the council shall deem necessary considering the nature of the business for which license application is made.

(4) It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work an automatic refusal of license or, if already issued, shall render any license or permit issued void and of no effect to protect the applicant from prosecution for violation of this article.

(5) The city clerk shall, upon receipt of each application completed in accordance with this section, forthwith investigate the truth of statements made in the application and the moral character and business reputation of each applicant for license to such extent as he deems necessary, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. For such investigation, the city clerk may enlist the aid of the chief of police. The council shall not consider an application before such investigation has been completed.

(6) Applications for renewal licenses may be made in such abbreviated form as the council may by resolution adopt.

(Code 1984, § 5.02; Code 2003, § 26-32; Ord. No. 25(3rd series), § 1, 5-23-2005)

State law reference—False statements, Minn. Stats. § 609.48.

Sec. 4.04.130. Action on application, transfer, termination and duplicate license.

(a) *Granting.* The council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this article.

(b) *Issuing.* If an application is approved, the city clerk shall forthwith issue a license in the form prescribed by the council upon proof of ownership, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified in this article as to particular businesses. Unless otherwise specified in this article, license fees shall be prorated on the basis of 1/12 for each calendar month or part of a month remaining in the then current license year. For licenses where the fee is less than $100.00, a minimum license fee equal to half the annual license fee shall be charged. Licenses shall be valid only at one location and on the premises described in the license.

(c) *Transfer.* A license shall be transferable between persons upon consent of the council and payment of the investigation fee. No license shall be transferable to a different location without prior consent of the council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this subsection.

(d) *Termination.* Licenses shall terminate only by expiration or revocation.

(e) *Refusal and revocation.* The council may, for any reasonable cause, refuse to grant any application or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the council shall give notice to the licensee and grant such licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing.

(f) *Duplicate license.* Duplicates of all original licenses may be issued by the city clerk, without action by the council, upon the licensee's affidavit that the original has been lost, and upon payment of a fee in the amount established by resolution for issuance of the duplicate. All duplicate licenses shall be clearly marked "duplicate."

(Code 1984, § 5.03; Code 2003, § 26-33)

Sec. 4.04.140. Moral character.

(a) In this Code, the phrase "good moral character" shall be construed to mean the propensity of the person to serve the public in the licensed area in a fair, honest and open manner.

(b) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used in and of itself as proof of a person's lack of good moral character. It may be used as evidence in the determination, and when so used, the person shall be notified and shall be permitted to rebut the evidence by showing that:

(1) At the current time, he has the ability to, and is likely to, serve the public in a fair, honest and open manner; and

(2) He is rehabilitated, or that the substance of the former offense is not reasonable related to the occupation or profession for which he seeks a license or permit.

(Code 2003, § 26-34)

Sec. 4.04.150. License fees.

All licenses provided for in this article shall be issued only upon payment in full of license fees fixed and determined by resolution.
(Code 1984, § 5.04; Code 2003, § 26-35)

Sec. 4.04.160. Carrying or posting.

All solicitors shall, at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in their place of business near the licensed activity. However, in the case of machine or other device licensing, the city may provide a sticker for the current license year which shall be affixed to each machine or device requiring such sticker. All licensees shall display their licenses upon demand by any officer or citizen.
(Code 1984, § 5.05; Code 2003, § 26-36)

Sec. 4.04.170. Penalty for property owner.

It is unlawful for any person to knowingly permit any real property owned or controlled by him to be used, without a license, for any business for which a license is required by this article.
(Code 1984, § 5.06; Code 2003, § 26-37)

Sec. 4.04.180. Responsibility of licensee.

The conduct of agents or employees of a licensee, while engaged in performance of their duties for their principal or employer under such license, shall be deemed the conduct of the licensee.
(Code 1984, § 5.07; Code 2003, § 26-38)

Sec. 4.04.190. Conditional licenses.

Notwithstanding any provision of law to the contrary, the council may, upon a finding of the necessity for such action, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.
(Code 1984, § 5.08; Code 2003, § 26-39)

Sec. 4.04.200. Renewal of licenses.

Applications for renewal of an existing license shall be made at least 60 days prior to the date of expiration of the license and shall contain such information as is required by the city. This time requirement may be waived by the council for good and sufficient cause.
(Code 1984, § 5.09; Code 2003, § 26-40)

Sec. 4.04.210. License denial and fixing rates; hearing.

(a) *Right to deny.* The council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this article where such business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or the public health, safety and convenience. The council may also consider the location of such business in making such determination. However, before making such determination, the council shall hold a public hearing pursuant to such notice to interested parties and the public as it may deem necessary or proper in action calling for such hearing.

(b) *Rates.* Where under specific provisions of this article the council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, such rates shall be uniform for each category or class of service; and no licensee or proprietor of a regulated business shall claim or demand payment in excess of such rates.

(c) *Hearing.* Any applicant or licensee under this article who challenges denial of a license or rates fixed or approved by the council shall have a right to a hearing before the council upon written request. Notice of time, place and purpose of such hearing shall be given to such persons and by such means as the council may determine in calling the hearing.
(Code 1984, § 5.10; Code 2003, § 26-41)

Sec. 4.04.220. Insurance requirements.

Whenever insurance is required by a section of this article, after approval by the council, but before the license shall issue, the applicant shall file with the city clerk a policy or certificate of public liability insurance showing that the limits are at least as high as required, that coverage is effective for at least the license term approved, and that such insurance will not be canceled or terminated without 30 days' written notice served upon the city clerk. Cancellation or termination of such coverage shall be grounds for license revocation.
(Code 1984, § 5.11; Code 2003, § 26-42)

ARTICLE III. HOME OCCUPATIONS

Sec. 4.04.310. License.

(a) *Required.* It is unlawful for any person to engage in or carry on a Level 2 home occupation, as that term is defined in chapter 6.12 without first having obtained a license from the city. Level 1 home occupations as defined in chapter 6.12 are not required to be licensed as long as all conditions set forth in chapter 6.12 are fully met.

(b) *Regulation.* Licenses will only be issued if the specific use is permitted or otherwise allowed by chapter 6.12 and if all conditions set forth in chapter 6.12 are fully complied with.

(c) *License period.* All licenses for Level 2 home occupations shall expire on September 30 of each year. Application for renewal of an existing Level 2 home occupation license shall be made to the city clerk at least 60 days prior to the expiration date.

(d) *Public notification and hearing.* The city council shall hold a public hearing for all home occupations required to be licensed. The owners of all parcels within 350 feet of the property, or a larger area at the discretion of the city, shall be notified ten days prior to the public hearing.
(Code 1984, § 5.40; Code 2003, § 26-76; Ord. No. 140(2nd series), § 1, 8-28-1995; Ord. No. 221(2nd series), § 1, 9-23-2002)

ARTICLE IV. RENTAL LICENSING

Sec. 4.04.410. Purpose.

The city council finds that to promote the health, safety, and welfare of the residents of the city, assure preservation of the existing housing supply, maintain property values, eliminate substandard and deteriorating rental housing, and maintain a living environment that contributes to healthful individual and family living, it is in the best interest of the residents of the city to require a license for all residential rental property.
(Code 2003, § 26-80; Ord. No. 204(3rd series), § 1, 3-27-2018)

Sec. 4.04.420. Definitions.

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

Applicant means a person, as that term is defined in this section, who completes or signs an application for a license to rent real estate individually or on behalf of a business.

Dwelling means a single-family residence or habitation providing living facilities for one or more persons.

Lease means a written agreement creating a tenancy in real property.

License holder means the owner of property licensed to rent to residents.

Manager means an individual who is hired or is applying to be hired by a licensee and who has or would have the means, within the scope of the individual's duties, to enter tenants' dwelling units.

Occupant means any person living, sleeping, cooking, and eating in a rental dwelling unit.

Owner means any person who, alone, jointly, or severally with others, shall be in actual possession of, or have charge, care or control of, any rental dwelling unit within the city as titleholder, employee or agent of titleholder, operator, or trustee or guardian of the estate or person of the titleholder. Any such person representing the actual titleholder shall be bound to comply with the provisions of this article to the same extent as the titleholder.

Person means one or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.

Qualifying relative means a parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew or niece. This relationship may be either by blood or marriage.

Rent means leasing, subleasing, letting, or hiring for occupancy.

Rental means a residential living unit that is occupied by people other than the owner and/or qualifying relatives.

Rental charge means any compensation, either monetary or "in lieu of" payments, such as, but not limited to, utilities, upkeep, or repair.

Rental dwelling unit means a dwelling or portion thereof for rent.

Residential building means a structure designed and used for residential rather than commercial or industrial purposes.

Tenant means any adult person granted temporary use of a rental dwelling unit in exchange for rent payable to the owner of the rental unit.

Unit means a dwelling.
(Code 2003, § 26-81; Ord. No. 204(3rd series), § 1, 3-27-2018)

Sec. 4.04.430. License required.

No person shall operate a rental dwelling unit anywhere within the city without first having obtained a license and paying a license fee.

(1) *Application.* An application for a license to rent real property shall be made on a form provided by the city. The application shall include, but is not limited to, requiring the full name of the applicant, property owner, and property manager; the applicant, owner, and property manager business address, email address, and telephone numbers, including a 24-hour contact phone number; the name of the proposed license holder; and the address for which the license is sought. The completed application along with the application fee shall be submitted to the city administrator or designee for review. If the city administrator or designee determines that an application is incomplete, he or she shall return the application to the applicant with notice of the deficiencies. Should any application information change during the license period, the applicant shall notify the city within seven business days. Failure to do so may be considered a license violation.

(2) *Action.* The city council or its designee may either approve or deny the license, or may delay action for up to 60 days to permit the city to complete any investigation of the application or the applicant as deemed necessary. If the city council or its designee approves the license, a license shall be issued to the applicant. If the city council or its designee denies the application, a notice of denial shall be issued to the applicant at the business address provided on the application along

with the reasons for the denial. The notice shall also inform the applicant of their right to appeal the decision to the city council pursuant to the process set forth in section 4.04.210. If a license is mistakenly issued or renewed to an applicant or license holder, it shall be revoked by the city administrator or designee upon the discovery that the person, applicant, or license holder was ineligible for the license under this article.

(3) *Term.* All licenses are issued for a period of two years. Licenses shall expire December 31 of the second year. Refunds of license fees will not be given.

(4) *Adverse license action.* Any license issued under this article may be suspended, revoked or not renewed as provided in section 4.04.450.

(5) *Transfers.* All licenses issued under this article shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the city administrator or designee.

(6) *Renewals.* The renewal of a license under this article shall be handled in the same manner as the original application. Sixty days prior to the expiration of a rental dwelling license, the city will notify the licensee of the upcoming renewal deadline within which to file the rental dwelling license renewal application. The rental dwelling license renewal application shall be submitted a minimum of 30 days prior to the then current license expiration. Renewal applications received after the due date but before the license expiration date shall be subject to late fees as determined by city council resolution. The issuance of a license under this article shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

(7) *License standards.* No license may be issued or renewed unless all of the following conditions are met:

a. The owner shall provide the city and any tenant with a 24-hour emergency contact that will be available to respond to complaints regarding the condition, operation, or conduct of occupants of a rental unit at the rental property within 60 minutes.

b. The rental property must have a visible house number that can be easily seen by from the street both day and night.

c. All advertising for the rental shall include the city issued license number.

d. The primary overnight and daytime occupant of a rental unit must be an adult 18 years of age or older. This adult must provide a telephone number to the owner and shall be accessible to the owner by telephone at all times.

e. Minimum of two off-street parking spaces shall be provided. The maximum number of vehicles allowed at a rental property shall be limited to the number of available off street parking spaces.

f. The owner of a rental property shall provide sufficient trash collection containers and service to meet the demands of the occupants.

(8) *Denials.* The following shall be grounds for denying the issuance or renewal of a license under this article. The following list is not exhaustive or exclusive:

a. The applicant has more than one license to lease rental property revoked within the preceding 12 months of the date of the application.

b. The applicant fails to provide any information required on the city

license application or license fee, or provides false or misleading information.

c. A development contract or land use requirement that restricts rental units.

d. The applicant fails to meet or comply with the license standards enumerated in subsection (7) of this section.

e. The applicant fails to take any action required by section 4.04.480.

(9) *Consideration of suspension or revocation.* At any time during the license period, if a rental property does not meet or exceed the criteria established for the current license, the license may be brought forth to the city council for consideration of license suspension or revocation.

(Code 2003, § 26-82; Ord. No. 204(3rd series), § 1, 3-27-2018)

Sec. 4.04.440. Exceptions.

A property owner that leases the subject property as set forth on the following list is exempt from the rental licensing requirements of this article but not other regulations or codes applicable to structures or properties:

(1) Retail/commercial/industrial rental activities.

(2) Rental property which is licensed as a nursing home or boarding care home by the state department of health and state-licensed residential facilities. This exception shall not apply if no services are provided to the tenants, or the services are incidental to, or independent of, the landlord/tenant relationship.

(3) Residential property that is occupied by the owner or the owner's qualifying relative and two or less tenants where the owner and the tenants share all living space within the dwelling.

(4) Residential property that has been sold on contract for deed so long as the vendee occupies the property and the sale document used to memorialize the sale is a state uniform conveyancing blank or is recorded with the county recorder's office and a copy is provided to the city upon request.

(5) Residential property that is owned by a person commonly referred to as a "snowbird" when the property is rented or occupied to another person for a period of less than 120 consecutive days while the owner is residing out of the state. The owner must occupy the property during the remainder of the year.

(6) Dwellings owned by a member of the United States armed services who is on active duty and the property is rented to another person during the time of active duty. The owner must provide the city with a copy of the owner's current military orders and must occupy the property when not on active duty as the owner's primary residence.

(Code 2003, § 26-83; Ord. No. 204(3rd series), § 1, 3-27-2018)

Sec. 4.04.450. License suspension, revocation, and nonrenewal.

(a) The actions enumerated in subsection (b) of this section by property owners or license holders are misdemeanors and are subject to civil penalties, may constitute the basis for suspension, revocation, or nonrenewal of licenses, and may result in injunctive action by the city. The property owner shall be responsible for the conduct of its agents and employees while engaged in normal business activities on the licensed premises. Any violation of this article shall be considered an act of the property owner or license holder for purposes of imposing a civil penalty or license suspension or revocation. If a license is suspended or revoked, it is unlawful for the owner to permit new occupancy of any vacant rental unit, or any units that become vacant during the license injunction.

(b) Basis for sanctions. The city administrator or designee may revoke, suspend, or decline to renew any license issued under this article for

part or all of a rental residential building or rental dwelling unit upon the following grounds:

(1) *Leasing without a license.* Leasing residential units without a license or units subject to license suspension or revocation.

(2) *Violations of codes.* Violation of the building, fire, or safety code.

(3) *Commission of a felony.* Commission of a felony related to the licensed activity by the property owner or manager.

(4) *Updated application information.* Failure to provide updated application information during the license period.

(5) *False statements.* False statements on any application or other information or report required by this article to be given by the applicant or licensee.

(6) *Fees.* Failure to pay any application fee or penalty required by this article or city council resolution.

(7) *Delinquent taxes or fines.* Real estate or personal property taxes have become delinquent or unpaid fines.

(8) *Failure to meet license standards.* Failure to meet the license standards enumerated in section 4.04.430(7).

(9) *Disorderly use.* Failure to take any action required by section 4.04.480.

(c) Upon denial, suspension, revocation or other enforcement action on a license, the city will notify all affected tenants of the action against the license. If the license is revoked or suspended the licensee may not let, rent, or allow to be occupied any vacant dwelling units, or dwelling units that become vacant during the revocation or suspension period.

(d) The minimum penalty for three or more violations of this article relate to the same license within a 12-month period is suspension of the rental license for 12 months.
(Code 2003, § 26-84; Ord. No. 204(3rd series), § 1, 3-27-2018)

Sec. 4.04.460. Inspections.

(a) The city may conduct an inspection of the rental property as deemed necessary or prudent prior to issuance or renewal of a license and without limitation based upon any complaints or violations that occur.

(b) Any Code violation noted by the city must be remedied in a timely fashion by the property owner and re-inspected for compliance by the city. The applicant is responsible for re-inspection costs.
(Code 2003, § 26-85; Ord. No. 204(3rd series), § 1, 3-27-2018)

Sec. 4.04.470. Short-term rentals prohibited.

No person may rent or lease a rental dwelling unit for a term less than 30 days except that a rental license may be issued and used for rental terms less than 30 days if all of the following conditions are met:

(1) The rental dwelling unit is located in a home that is homesteaded and owner occupied.

(2) The rental dwelling unit to be rented is no more than two bedrooms.

(3) All license standards enumerated in section 4.04.430(7) are adhered to.
(Code 2003, § 26-86; Ord. No. 204(3rd series), § 1, 3-27-2018)

Sec. 4.04.480. Disorderly use by tenants.

The owner shall ensure that the occupants and guests of a rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any provision of this Code or any state law pertaining to noise, disorderly conduct, overcrowding, the consumption of alcohol, or the use of illegal drugs. Owners are expected to take any measures necessary to abate disturbances, including, but not limited to, directing the occupants and guests of a rental to cease the disturbing conduct, removing the occupant and/or guest or taking any other action necessary to immediately abate the disturbance.
(Code 2003, § 26-87; Ord. No. 204(3rd series), § 1, 3-27-2018)

Sec. 4.04.490. Penalties.

A violation of this article is a misdemeanor under state law. In addition, the city may impose a civil penalty in the amount of $1,000.00 for renting, leasing, or occupying a rental residential building or rental dwelling unit or part thereof without a license. Failure to pay civil fines or penalties may result in future license ineligibility. Nothing in this article may be construed to limit the city's other available legal remedies for any violation of law. Each day that the property owner or license holder is in violation of this article constitutes a separate violation.
(Code 2003, § 26-88; Ord. No. 204(3rd series), § 1, 3-27-2018)

CHAPTER 4.08. TEMPORARY SHORT-TERM MERCHANTS

ARTICLE I. IN GENERAL

Sec. 4.08.010. Purpose.

The city council finds that hawkers, peddlers, solicitors and transient merchants, by virtue of the temporary nature of their business and the lack of permanent location for their operations, present unique consumer protection problems. In order to protect the health, safety, and welfare of the community and pursuant to the authority granted by Minn. Stats. § 329.15, the city herein licenses and regulates all hawkers, peddlers, solicitors, and transient merchants operating within the city. The purpose of this chapter is to prevent fraud and criminal activity, such as burglary, theft, and assault and to protect the privacy of residents in their homes by requiring hawkers, peddlers, solicitors and transient merchants to be licensed and to impose restrictions on their operations within the city that are narrowly tailored to address the risks these operations pose to the public health, safety and welfare. It is not the purpose of this article to burden interstate commerce or interfere with constitutionally protected rights under the First Amendment of the United States Constitution or Minn. Const. art. I, § 3.
(Code 2003, § 30-1; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.020. Definitions.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Canvasser means a person who attempts to make personal contact with a resident at his/her residence without specific invitation or appointment from the resident, for the primary purpose of:

(1) Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause; or

(2) Distributing a handbill or flyer advertising a non-commercial event or service.

Goods means any tangible thing of value, but not including money, things in action or intangible personal property other than merchandise certificates or coupons. The term "goods" includes such chattels as are furnished or used at the time of sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part of such property whether or not severable from such property. The term "goods" also includes merchandise certificates or coupons, issued by a retail seller, not redeemable in cash and to be used in their face amount in lieu of cash, in exchange for goods or services sold by such seller.

Hawker or *peddler* means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, other personal property that the person is carrying or otherwise transporting.

Person means any natural individual, group, organization, corporation, partnership or associa-

tion. As applied to groups, organizations, corporations, partnerships and associations, the term "person" shall include each member, officer, partner, associate, agent or employee.

Regular business day means any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

Services means work, labor or services of any kind.

Solicitee means a person who is solicited.

Solicitor means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term "solicitor" also includes any person who, without invitation, goes upon private property, to request contribution of funds of anything of value, or sell goods or services for political, charitable, religious, or other non-commercial purposes.

Transient merchant means any person engaging in transient merchant activities.

Transient merchant activities means the act of engaging in any temporary, intermittent, or transient sales or exchanges of any goods, wares or services to other businesses by setting up an outdoor stand or structure, by using any truck, automobile or any other vehicles, or by using an empty store front for such purposes at any point or place in the city.
(Code 2003, § 30-2; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.030. Exceptions to definitions.

(a) For the purpose of the requirements of this chapter, the terms "peddler," "solicitor," and "transient merchant" shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms "peddler," "solicitor," and "transient merchant" also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(b) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of peddlers, solicitors, and transient merchants, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale.

(c) This chapter does not apply to children, age 17 years or younger, soliciting for school-sponsored activities or for charitable organizations.

(d) Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or this chapter.
(Code 2003, § 30-3; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.040. Prohibited activities.

No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

(1) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell,

crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

(2) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way.

(3) Conducting business in a way so as to create a threat to the health, safety and welfare of any individual or the general public.

(4) Conducting business before 8:00 a.m. or after 8:00 p.m.

(5) Failing to provide proof of license and/or identification, when requested; or using the license of another person.

(6) No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license to that person.

(7) Transient merchant activities can only be conducted on commercially zoned properties.

(8) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.

(Code 2003, § 30-4; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.050. Exclusion by placard.

No canvasser, peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property where the properly is marked with a sign or placard with the words "peddlers or solicitors prohibited" or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.

(Code 2003, § 30-5; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.060. Violation a misdemeanor.

Every person violates a section, subdivision, paragraph or provision of the chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and up conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(Code 2003, § 30-6; Ord. No. 58(3rd series), § 1, 4-27-2009)

ARTICLE II. LICENSE

Sec. 4.08.110. Required; exemption.

(a) *County license required.* No person shall conduct business as a peddler, solicitor or transient merchant within the city limits without first having obtained the appropriate license from the county if the county licenses peddlers, solicitors or transient merchants.

(b) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as a peddler, solicitor, or a transient merchant without first having obtained a license from the city. Canvassers need not be licensed.

(Code 2003, § 30-36; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.120. Application.

Application for a city license shall be made at least 14 regular business days before the applicant desires to begin conducting business within the city. Each individual seeking to conduct business as a peddler, solicitor, or transient merchant shall complete an application. Application for a license shall be made on a form provided by the city clerk and shall include the following information:

(1) Applicant's full legal name.

(2) All other names under which the applicant conducts business or to which applicant officially answers.

(3) Full address of applicant's permanent residence.

(4) Telephone number of applicant's permanent residence.

(5) Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent.

(6) Full address of applicant's regular place of business (if any).

(7) Any and all business-related telephone numbers of the applicant.

(8) The type of business for which the applicant is applying for a license.

(9) The dates during which the applicant intends to conduct business (maximum ten days).

(10) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business.

(11) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses,

(12) A list of the three most recent locations where the applicant has conducted business as a peddler, solicitor or transient merchant.

(13) Proof of any required county license.

(14) The current address of the applicant and addresses for five years immediately preceding the date of application.

(15) Whether the applicant has been the subject of an investigation by any consumer protection agency, state attorney general, better business bureau or similar group, and if so, the type of investigation, the date of the investigation, the agency or office conducting the investigation, and the outcome.

(16) Whether the applicant or any of its agents, employees, or sub-contractors has applied for a license pursuant to Minn. Stats. ch. 326.

(17) An executed data privacy advisory and consent form authorizing the release of criminal history information from each of the applicant's officers, partners, employees, agents, and subcontractors.

(18) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.

(19) A general description of the items to be sold or services to be provided.

(20) All additional information deemed necessary by the city council.

(21) One of the following valid forms of legal identification of the applicant:

a. Driver's license or identification card issued by the state, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;

b. A military identification card issued by the United States Department of Defense;

c. Passport issued by the United States; or

d. In the case of a foreign national, by a valid passport.

An expired photo ID will be accepted only with valid temporary permit showing renewal of ID is in process.

(22) The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

(Code 2003, § 30-37; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.130. Fee.

All applications for a license under this chapter shall be accompanied by the fee established in

the ordinance adopting the fee schedule, which may be amended from time to time, except that any solicitor taking or attempting to take orders to be filled by goods, wares or merchandise delivered to the purchaser from other states shall not be required to pay a license fee. No refunds shall be made on unused portions of licenses, except by resolution of the city council.
(Code 2003, § 30-38; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.140. Bond.

All applications for a solicitors license under this chapter shall be accompanied by a bond in the penal sum of $1,000.00 executed by a surety company, conditioned upon making a final delivery of the goods ordered or services to be performed in accordance with the terms of such order, or failing therein, that the advance payment on such order be refunded. Any person injured or damaged by the action of any such solicitor shall have a right of action on the bond for the recovery of moneys or damages or both.
(Code 2003, § 30-39; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.150. Investigation, approval or disapproval.

(a) Upon receipt of the completed application and payment of the license fee, the city clerk, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the city clerk determines that the application is incomplete, the city clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the city clerk must refer it to the chief of police, and by her/him or other person acting in his stead, investigate as to its truth, including background checks and criminal history necessary to verify the information provided with the application, and as to any other factor which may result in a hazard or danger to persons or property. The chief of police or designee shall have ten business days within which to investigate and make a recommendation.

(b) If the chief of police or designee finds no past history of the applicant indicating violations similar to those declared unlawful in this chapter, and if she/he finds that to grant the application is not likely to result in hazard or danger to persons or property, he shall recommend issuing a license; and the city administrator or designee shall issue a license, upon payment of the fee, to the approved applicant.

(c) If the chief of police or designee finds a past history of the applicant indicating violations similar to those declared unlawful in this chapter, or if he finds that to grant the application is likely to result in a hazard or danger to persons or property, he shall recommend denial of the license. In all matters of recommended denial, the applicant shall be forthwith so advised; and the application shall be referred to the council and considered by it at its next regular or special meeting occurring more than ten days thereafter. The applicant shall be afforded an opportunity to be heard at such meeting.
(Code 2003, § 30-40; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.160. Duration.

All licenses issued under this chapter shall be valid for a maximum of ten days per calendar year. The city council at its sole discretion may grant an extension for up to 50 additional days per calendar year upon application for an extension.
(Code 2003, § 30-41; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.170. Exemptions.

(a) *Farm products.* No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(b) *Canvassers.* No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place when the activity is for the purpose of exercising that person's state or federal Constitutional rights such as the freedom of speech, press, religion and the like,

except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.

(c) *Exempt organizations.* No license shall be required of any person soliciting for a charitable, religious, political or educational organization if such organization is registered with the secretary of state pursuant to the provisions of Minn. Stats. § 309.52 as a charitable organization or is exempted therefore pursuant to the provisions of Minn. Stats. § 309.515.

(d) *Professional fundraisers.* Professional fundraisers working on behalf of an otherwise exempt group shall not be exempt from the licensing requirements of this chapter.
(Code 2003, § 30-42; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.180. Ineligibility.

The following shall be grounds for denying a license under this chapter:

(1) The failure of the applicant to obtain and show proof of having obtained any required county license.

(2) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of the application.

(3) The conviction of the applicant within the past five years from the date of the application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include, but not be limited to, burglary, theft, larceny, drug, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

(4) The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant.

(5) The applicant is found to have a history of poor business practices. Evidence of a history of poor business practices shall include, but not be limited to, the existence of more than three complaints against the applicant with the better business bureau, the attorney general's office, or other similar business or consumer rights office or agency, within the preceding 12 months, or within the preceding five years.

(Code 2003, § 30-43; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.190. Certificate.

(a) Upon the granting of a license, the city clerk shall issue to each individual employee, agent, representative, or salesperson a license certificate. Such license certificate shall contain a photograph of such employee, agent, representative, or salesperson, his/her name, age, address, a brief physical description, the name of the supplier for whom he/she is an employee, agent, representative or salesperson, and the trade or brand name of its goods or services being sold or promoted by him/her. On the license certification shall be printed the word "solicitor," "peddler," or "transient merchant," the valid dates of the license, and the license certificate number registered with the city clerk. Every solicitor licensed hereunder shall have his/her license certification upon his/her person at all times while engaged in solicitation and shall exhibit the same in plain view.

(b) In the case of a license issued to an organization under this chapter, such license shall authorize any member of such organization or any duly authorized volunteer worker the right to solicit for said organization, provided that each such member or volunteer worker shall be required to have a license certificate in his or her possession, as provided for this in section.

(c) Every person required to obtain a license under the provisions of this chapter shall exhibit the license when requested to do so by any prospective customer or city employee.
(Code 2003, § 30-44; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.200. Suspension and revocation.

(a) *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the city council for violation of any of the following:

(1) Fraud, misrepresentation or incorrect statements on the application form.

(2) Fraud, misrepresentation or false statements made during the course of the licensed activity.

(3) Conviction of any offense for which granting of a license could have been denied under section 4.08.180.

(4) Violation of any provision of this chapter.

(b) *Notice.* Prior to revoking or suspending any license issued under this chapter, except in an emergency situation as prescribed in subsection (e) of this section, the city shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

(c) *Public hearing.* Upon receiving the notice provided in subsection (b) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the city clerk within the ten regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated timeframe, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the city council shall notify the licensee of its decision.

(d) *Emergency.* If, in the discretion of the chief of police or other person acting in his/her stead, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the chief of police may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in subsection (c) of this section.

(e) *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.
(Code 2003, § 30-45; Ord. No. 58(3rd series), § 1, 4-27-2009)

Sec. 4.08.210. Transferability.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.
(Code 2003, § 30-46; Ord. No. 58(3rd series), § 1, 4-27-2009)

CHAPTER 4.12. MASSAGE THERAPY CENTERS

ARTICLE I. IN GENERAL

Sec. 4.12.010. Intent and findings.

It is found and determined that massage therapy center businesses are legitimate businesses contributing to the morals, health, safety and general welfare of the community; however, such businesses also have the potential to become a nuisance. In order to insure the morals, health, safety, and general welfare of the community, licensure standards are required to control and regulate such businesses.
(Code 2003, § 31-1; Ord. No. 71(3rd series), § 1, 6-28-2010)

Sec. 4.12.020. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings

ascribed to them in this section, except where the context clearly indicates a different meaning:

Massage means the systematic and scientific manipulation of the soft tissues of the human body of another by rubbing, pressing, stroking, kneading, tapping, pounding, vibrating, or stimulating with the hands, arms, or feet, or by mechanical devices and tools which mimic or enhance manual actions, for hire or for consideration, with the intention of positively affecting the health and well-being of the client, including the application of heat, cold, water, mild abrasives, heliotherapy, topical preparations not classified as prescription drugs and instruction in self-care and stress management. The term "massage" does not include such activities performed exclusively on a person's hands and/or feet in conjunction with a manicure or pedicure. The practice is distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry. Persons duly licensed by the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, nurses or persons performing therapeutic massages who work solely under the direction of such persons, athletic directors and trainers, certified by an accrediting agency and employed by an accredited and licensed educational institution shall be exempt from the provisions of this chapter.

(Code 2003, § 31-2; Ord. No. 71(3rd series), § 1, 6-28-2010; Ord. No. 87(3rd series), § 1, 4-11-2011)

ARTICLE II. LICENSES

Sec. 4.12.110. General rule; number of licenses.

No person shall engage in the business of operating a massage therapy center business either exclusively or in connection with any other business without being licensed as provided in this section. Each individual massage therapy center must have a license notwithstanding the fact a license has been granted to another establishment owned by the same individual or entity.

(Code 2003, § 31-11; Ord. No. 71(3rd series), § 1, 6-28-2010)

Sec. 4.12.120. License applications.

All applications shall be made as follows:

(1) All applications shall be made at the office of the city clerk upon forms that have been furnished by the city for such purposes.

(2) All initial applications shall be accompanied by an investigation fee as set by ordinance of the city council.

(3) All such applications must be subscribed, sworn to, and include, but are not limited to, the following:

a. The applicant's name and age.

b. The applicant's present address and length of time he or she has lived at that address.

c. The applicant's occupation and length of time so engaged.

d. The applicant's addresses and occupations for the three years last preceding the date of application.

e. Names and addresses of the applicant's employers, if any, for the three years last preceding the date of application.

f. Whether or not the applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations and, if so, the date and place of conviction and the nature of the offense.

g. Location of premises for which the massage therapy center license is made.

h. At least four character references if the applicant has not resided in the city for two years last preceding the date of application.

i. The name, date of birth, and address of all employees or independent contractors performing massage at the applicant's massage therapy center.

j. Such other information as the city council shall deem necessary considering the nature of the massage therapy center business.

(4) It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work an automatic refusal of license or, if already issued, shall render any license issued void and of no effect to protect the applicant from prosecution for violation of this article.

(5) The city clerk shall, upon receipt of each application completed in accordance with this division, forthwith investigate the truth of statements made in the application and the moral character and business reputation of each applicant for license to such extent as he or she deems necessary, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant and all employees or independent contractors listed as performing massage in the application. For such investigations, the city clerk may enlist the aid of the chief of police. The city council shall not consider an application before such investigation has been completed.

(6) Applications for renewal may be made in such abbreviated form as the city council may adopt under this chapter.

(Code 2003, § 31-12; Ord. No. 71(3rd series), § 1, 6-28-2010; Ord. No. 87(3rd series), § 2, 4-11-2011)

Sec. 4.12.130. Granting, refusal, issuing, transferring, and duplicating of licenses.

(a) *Granting.* License applications shall be reviewed by the police department, planning department, county health department and such other departments as the city administrator shall direct. The review shall include an inspection of the premises covered by the application to determine whether the premises conform to all requirements of this Code. Recommendations of each department shall be made in writing to the administrator. Thereafter, licenses shall be granted or denied by the city council.

(b) *Issuing.* If an application is approved, the city clerk shall forthwith issue a license in the form prescribed by the city council upon proof of ownership of the business, payment of the appropriate license fee, and approval of insurance, if required. All licenses shall be on a calendar year basis. All applications for a license under this chapter shall be accompanied by the fee established in the ordinance adopting the fee schedule. The city council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. License fees shall be prorated on the basis of 1/12 for each calendar month or part of a month remaining in the then current license year. The license shall be displayed on the licensed premises so it is visible to anyone who enters the premises.

(c) *Refusal.* The city council may, for any reasonable cause based on the conditions governing the issuance of licenses, refuse to grant any application. No license shall be granted to a person of questionable moral character or business reputation.

(d) *Transferring.* No license issued under this chapter shall be transferred to any person or entity other than the person or entity to whom the license was issued or to a different location without the consent of the city council and payment of the investigation fee. It is unlawful to make any transfer in violation of this subsection.

(e) *Duplicates.* Duplicates of original licenses issued under this chapter may be issued by the city clerk without action by the city council upon the licensee's affidavit that the original has been lost or destroyed, and upon payment of a fee in the amount established by resolution for issuance of the duplicates. All duplicate licenses shall be clearly marked "duplicate."

(Code 2003, § 31-13; Ord. No. 71(3rd series), § 1, 6-28-2010)

Sec. 4.12.140. Conditions governing issuance of licenses.

(a) No license shall be issued if the applicant or any of its owners, managers, employees, independent contractors, or agents do not demonstrate good moral character.

(b) Licenses shall be issued only if the applicant and all of its owners, managers, employees, independent contractors, and agents are free of convictions of convictions for offenses which involve moral turpitude or which relate directly to such person's ability, capacity or fitness to perform the duties and discharge the responsibilities of the licensed activity.

(c) Licenses shall be issued only to applicants who have not, within one year prior to the date of application been denied licensure, or who have not within such period had a same or similar license revoked.

(d) Licenses shall be issued only to applicants who have provided all of the information requested in the application, have paid the full license fee and have cooperated with the city in review of the application.

(e) If the applicant is a natural person, a license shall be granted only if such person is 18 years of age or older.

(f) Licenses may be granted only for locations in the districts classified as nonresidence districts under the Zoning Code and subject to the provisions of the Zoning Code.

(g) Licenses shall be granted only to establishments which meet the safety, sanitary, and building code requirements of the state and city.

(h) A license shall not be granted if granting the license would be inconsistent with the comprehensive plan of the city, or would otherwise have a detrimental effect upon other property or properties in the vicinity.

(i) The establishment shall meet the requirements of section 4.12.160.

(j) Notwithstanding any provision of law to the contrary, the city council may, upon a finding of necessity for such action, place additional conditions and restrictions as it, in its discretion, deems reasonable and justified.
(Code 2003, § 31-14; Ord. No. 71(3rd series), § 1, 6-28-2010)

Sec. 4.12.150. Restrictions and regulations.

(a) *Compliance with law.* The licensee and the persons in its employ shall comply with all applicable regulations and laws of the city and state relating to safety and morals.

(b) *Persons in charge; manager.* If the licensee is a partnership or corporation, the applicant shall designate a person to be manager and in responsible charge of the business. This person must be 18 years of age or older. The manager shall remain responsible for the conduct of the business until another suitable person has been designated in writing by the licensee. The licensee shall promptly notify the police department in writing of any such change indicating the name and address of the new manager and effective date of such change.

(c) *Employees and independent contractors.* The licensee shall furnish the police department with a list of current employees and independent contractors. The list shall include the employees' and/or independent contractors' names, addresses, and which employees or independent contractors are practicing massage as part of their duties. The licensee shall promptly notify the police department of any change in the list.

(d) *Hours.* The licensed premises shall not be open for business nor shall patrons be permitted on the premises between the hours of 1:00 a.m. and 6:00 a.m. of the same day.

(e) *Inspection.* The licensee shall permit and allow the inspection of the premises during business hours by all appropriate city employees.

(f) *Identification.* Upon demand by any police officer, any person employed in any licensed premises shall identify himself or herself by giving his or her true legal name and his or her correct address.

(g) *Minors.* No person under 18 years of age shall be employed as a massage therapist in any establishment requiring a license under the provisions of this Code. An individual who is legally old enough to work may work at an establishment requiring a license under this Code as long as the individual is not employed as a massage therapist.
(Code 2003, § 31-15; Ord. No. 71(3rd series), § 1, 6-28-2010)

Sec. 4.12.160. Construction and maintenance requirements.

(a) *Restrooms.* All restrooms shall be provided with mechanical ventilation with two cubic feet per minute (cfm) per square foot of floor area, a hand washing sink equipped with hot and cold running water under pressure, sanitary towels, and a soap dispenser.

(b) *Lighting.* The licensed premises' massage room shall be capable of being illuminated with not less than 30 foot-candles of illuminations. All other rooms, including restrooms, bathrooms, janitor's closet, hallways, reception areas and any room used by customers shall be reasonably illuminated.

(c) *Refuse.* Such establishments shall provide adequate refuse receptacles which shall be emptied as required.

(d) *Door locks.* The doors to the individual massage rooms may be equipped with locking device and shall not be blocked or obstructed from either side. Door locks shall be used only at the request of the patron. In the case of an emergency, the door must be capable of being opened from the outside. The licensed facility may not use sliding bolts, door chains, or other similar devices preventing access from the room's exterior.
(Code 2003, § 31-16; Ord. No. 71(3rd series), § 1, 6-28-2010)

Sec. 4.12.170. Termination.

Licenses shall terminate only by expiration, revocation, voluntary surrender, the business ceasing to operate, or death or dissolution of the license holder.
(Code 2003, § 31-17; Ord. No. 71(3rd series), § 1, 6-28-2010)

Sec. 4.12.180. Revocation and suspension of license.

(a) *City administrator action.* The license may be revoked, suspended, or not renewed by the city administrator upon showing that the licensee, its owner, employee, independent contractor or agent has engaged in any of the following conduct:

(1) Fraud, deception or misrepresentation in connection with securing of the license.

(2) Fraud, misrepresentation or false statements made during the course of the licensed activity.

(3) Habitual drunkenness or intemperance in the use of drugs, including, but not limited to, the use of drugs defined in either federal or state laws, barbiturates, hallucinogenic drugs, amphetamines, Benzedrine, Dexedrine, or other sedatives, depressants, stimulants, or tranquilizers.

(4) Conduct inimical to the interests of public health, safety, welfare, or morals.

(5) Acts demonstrating or involving moral turpitude.

(6) Failure to fully comply with the requirements of this Code.

(7) Conviction of prostitution or other offense involving moral turpitude by any court of competent jurisdiction.

(8) Failure to make required supplemental disclosures.

(9) Permitting any individual to perform massage on the licensed premises after the city clerk has found, in the course of conducting a background check pursuant to section 4.12.120(5) or 4.12.210(3), that the individual has been convicted of prostitution or another offense involving moral turpitude by any court of competent jurisdiction.

(10) Engaging in any conduct which would constitute grounds for refusal to issue a license under this chapter.

(b) *Notice.* Prior to revoking or suspending any license issued under this chapter, except in an emergency situation as prescribed in subsection (d) of this section, the city clerk shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent business address listed on the license application.

(c) *Public hearing.* Upon receiving notice provided for in subsection (b) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the city clerk within the ten regular business days following service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated timeframe, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the city council shall notify the licensee of its decision. The city council may choose to:

(1) Uphold the revocation, suspension or non-renewal of the license.

(2) Lift the city administrator's revocation, suspension or non-renewal and return the license to the licensee.

(3) Base its action upon any additional terms, conditions, and stipulations which it may, in its discretion, impose.

(d) *Emergency.* If, in the discretion of the chief of police or other person acting in his or her stead, imminent harm to the public health or safety may occur because of the actions of the operation of a licensed establishment under this chapter, the chief of police may immediately suspend the establishment's license and provide notice of the right to request a subsequent public hearing as prescribed in subsection (c) of this section.

(e) *Fees.* No part of the annual fee shall be returned to the applicant unless by the city council's action in the case of suspension or revocation.

(f) *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.
(Code 2003, § 31-18; Ord. No. 71(3rd series), § 1, 6-28-2010; Ord. No. 87(3rd series), § 3, 4-11-2011)

Sec. 4.12.190. Expiration of licenses.

All licenses issued pursuant to the provisions of this division expire at the end of the calendar year.
(Code 2003, § 31-19; Ord. No. 71(3rd series), § 1, 6-28-2010)

Sec. 4.12.200. Renewal of licenses.

Applications for renewal of an existing license shall be made at least 60 days prior to the date of expiration of the license and shall contain such information as is required by the city. This time requirement may be waived by the city council for good and sufficient cause.
(Code 2003, § 31-20; Ord. No. 71(3rd series), § 1, 6-28-2010)

Sec. 4.12.210. Supplemental disclosures.

The licensee has a continuing duty to supplement the list of massage therapists working as employees or independent contractors at the massage therapy center.

(1) No licensee shall permit any individual not listed on the initial license application to work as a massage therapist at the massage therapy center without first providing the city clerk with a supplemental disclosure, including the name, date of birth, and address of the individual who will perform massage on the licensed premises.

(2) No licensee shall permit any individual not listed on the initial license application to work as a massage therapist on the licensed premises until the city clerk has completed a computer criminal history inquiry and/or driver's license history inquiry.

(3) The city clerk shall, upon receipt of a supplemental disclosure, order a

computerized criminal history inquiry and/or driver's license history inquiry on all employees or independent contractors listed as massage therapists in the supplemental disclosure. The city clerk shall inform a licensee submitting a supplemental disclosure whether permitting the individual to perform massage at the massage therapy center would cause the license to be suspended or revoked.

(4) There is no fee to file a supplemental disclosure.

(Code 2003, § 31-21; Ord. No. 87(3rd series), § 4, 4-11-2011)

CHAPTER 4.16. ALCOHOLIC BEVERAGES

ARTICLE I. IN GENERAL

Sec. 4.16.010. Adoption of state law.

The provisions of Minn. Stats. ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the city council that all future amendments to Minn. Stats. ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

(Code 2003, § 34-1; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.020. Definitions.

The definitions in Minn. Stats. ch. 340A, as they may be amended from time to time, are hereby adopted by reference and are made a part of this chapter as if set out in full. In addition, the following words, terms and phrases, when used in this chapter and in section 5.36.1040, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person making an application for a license under this chapter.

Display means the keeping, storing, or permitting to be kept or stored of an alcoholic beverage which has been poured, dispensed or has had its package seal broken on, in, or at any table, booth, bar or other area of a premises accessible to the general public, except when the alcoholic beverage is stored in a normal storage area during nonsale hours.

Gathering means a group of three or more persons who have assembled or gathered together for a social occasion or other activity.

Host means to aid, conduct, sponsor, organize, supervise, control, or allow a gathering.

License means a document, issued by the city, to an applicant permitting him to carry on and transact the business stated in the license.

License fee means the money paid to the city pursuant to an application and prior to issuance of a license to transact and carry on the business stated in the license.

Licensee means an applicant who, pursuant to his approved application, holds a valid, current, unexpired license, which has neither been revoked nor suspended, from the city for carrying on the business stated in the license.

Nudity means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

Obscene performance means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual

excitement or sadomasochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

Obscenities means those slang words currently generally rejected for regular use in mixed society that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

Parent means a person having the following relationship to a juvenile:

(1) A natural parent, adoptive parent, or step-parent;

(2) A legal guardian; or

(3) A person to whom legal custody has been given by order of a court.

Person means an individual, partnership, co-partnership, corporation, or an association of one or more individuals. The term "person" does not include a city, county, or state agency.

Premises means any location, including a home, yard, farm, field, land, apartment, condominium, hotel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

Restaurant means any establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and which has seating facilities for seating not less than 30 guests at one time.

Sadomasochistic abuse means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Sale, sell and *sold* mean all barters and all manners or means of furnishing an alcoholic beverage to persons, including such furnishing in violation or evasion of law.

Sexual conduct means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

Sexual excitement means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Underage person means an individual under 21 years of age.
(Code 2003, § 34-2; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.030. One-day permits.

(a) Any nonprofit organization desiring to serve liquids for the purpose of mixing with liquor and permitting the consumption and display of liquor in conjunction with a social activity sponsored by it shall first obtain a permit from the city. It is unlawful for any such organization to fail to obtain such permit. The term of such permit shall be one day only. No more than ten permits shall be issued in any calendar year.

(b) The fee for such permit is as established by ordinance.

(c) In addition to council approval, such permit must be approved by the state commissioner of public safety.
(Code 2003, § 34-3; Ord. No. 230(3rd series), § 1, 7-22-2019)

ARTICLE II. LICENSING

Sec. 4.16.110. Required.

(a) It is unlawful for any person to sell, or keep or offer for sale, any alcoholic beverage at retail without a license from the city.

(b) The following types of licenses may be issued by the city:

(1) On-sale intoxicating liquor license to a hotel, restaurant, bowling center, club or congressionally chartered veterans organizations as allowed by law, or exclusive liquor store for the sale of alcoholic beverages for consumption only on the licensed premises.

(2) On-sale 3.2 percent malt liquor license to drugstores, restaurants, hotels, clubs, bowling centers and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks, for the sale of 3.2 percent malt liquor beverages for consumption only on the licensed premises.

(3) Off-sale intoxicating liquor license for the sale of alcoholic beverages for consumption only off the licensed premises.

(4) Off-sale 3.2 percent malt liquor license for the sale of 3.2 percent malt liquor beverages for consumption only off the licensed premises.

(5) Temporary on-sale intoxicating liquor license for the sale of alcoholic beverages for consumption at the location specified in the license.

(6) Temporary on-sale 3.2 percent malt liquor license for the sale of 3.2 percent malt liquor beverages for consumption at the location specified in the license.

(7) On-sale wine license for the sale of wine of up to 24 percent alcohol by volume for consumption only on the licensed premises.

(8) Sunday on-sale intoxicating liquor license for the sale of alcoholic beverages for consumption only on the licensed premises on Sundays.

(9) Sunday on-sale 3.2 percent malt liquor license for the sale of 3.2 percent malt liquor beverages for consumption only on the licensed premises on Sundays.

(Code 2003, § 34-10; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.120. Application.

(a) All applications for a license required by this article shall be made at the office of the city clerk upon forms prescribed by the proper department of the state, together with such additional information as the council may desire and if not so prescribed, then upon forms furnished by the city. Information required may vary with the type of business organization making application. All questions asked or information required shall be answered fully and completely by the applicant.

(b) It is unlawful to make a false statement or an omission upon any application form. Any false statement or any willful omission on such application form shall be grounds for automatic denial or revocation of license.

(Code 2003, § 34-11; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.130. Application fee.

At the time of the initial application for an on-sale intoxicating liquor license, applicants shall pay to the city the fees as provided for in the current city fee ordinance duly adopted by the council, which fee shall be considered an application fee, not refundable to the applicant. At any time an additional investigation is required because of a change in the ownership or control of a partnership or corporation or because of an enlargement, alteration or extension of premises previously licensed, the licensee shall pay an additional investigation fee.

(Code 2003, § 34-12; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.140. Investigation and issuance.

(a) *Investigation.* All applications for a license required by this article shall be referred to the chief of police and to such other city departments as the council shall deem necessary, for verification and investigation of the facts set forth in the application. The chief of police shall cause to be made such investigation of the information as shall be necessary and shall make a written recommendation and report, which shall include

a list of all violations of federal or state law or municipal ordinances by the applicant, to the council.

(b) *Hearing.* Upon receipt of the written report and recommendation by the chief of police and within 30 days thereafter, the city clerk shall publish a notice of hearing at least ten days prior to the date set for hearing. The hearing notice shall set forth the day, time and place of hearing; the name of the applicant; the place where the business is to be conducted; and such other information as the council may direct. At such hearing all persons desiring to be heard shall have such opportunity, and the council may thereafter grant or deny the license. If the license is granted, the council may withhold its issuance until the applicant has qualified in all respects for the license. If the premises to be licensed are not complete at the time that the hearing is conducted, the council may grant the license but shall withhold its issuance until the premises have been completed in accordance with the representations made by the applicant. The license fee shall be due as of the date the license is granted. If a license has been granted but its issuance has been withheld pending completion of the premises to be licensed, and if the licensee does not proceed with reasonable dispatch to ready the premises, the council may rescind the action granting the license. Such action shall not be taken, however, without giving the licensee at least ten days' notice of the time and place of a hearing on the proposed rescission.

(c) *Granting.* The council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this chapter. Prior to consideration of any application for a license, the applicant shall pay half the license fee, and the investigation fee. Upon rejection of any application for a license, or upon withdrawal of an application before approval of the issuance by the council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation. The city clerk shall, within ten days after the issuance of any license under this section, submit to the proper department of the state the full name and address of each person granted a license, the trade name, the effective license date, and the date of expiration of the license. He shall also submit to the proper department of the state any change of address, transfer, cancellation or revocation of any license by the council during the license period.

(d) *Issuing.* If an application is approved, the city clerk shall forthwith issue a license in the form prescribed by the city or the proper department of the state, as the case may be, and upon payment of the second half of the license fee. All licenses shall be on a calendar year basis unless otherwise specified in this article. For licenses issued and which are to become effective other than on the first day of the licensed year, the fee to be paid with the application shall be a pro rata share of the annual license fee. Licenses shall be valid only at one location and on the premises described in the license.
(Code 2003, § 34-13; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.150. Location restrictions for off-sale liquor licenses; maximum number of off-sale liquor licenses.

(a) No establishment for which an off-sale liquor license is issued shall be located within 500 feet of an institution of public education whose primary purpose is education of individuals in grades kindergarten through 12. No establishment for which an off-sale liquor license is issued shall be located within one-half mile of any previously existing establishment holding such a license.

(b) No more than two off-sale liquor licenses shall be in effect in the city at the same time.
(Code 2003, § 34-14; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.160. Temporary licenses.

An application for a temporary license shall state the exact dates and place of proposed temporary sale. No applicant shall qualify for a temporary license for more than a total of seven days in any calendar year. The council may, but

at no time shall it be under any obligation whatsoever to, grant a temporary 3.2 percent malt liquor license on premises owned or controlled by the city. Any such license may be conditioned, qualified or restricted as the council sees fit. If the premises to be licensed are owned or under the control of the city, the applicant shall file with the city, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of $300,000.00 for injury to any one person and $500,000.00 for injury to more than one person, naming the city as an insured during the license period.
(Code 2003, § 34-15; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.170. License limited to space specified; inspection.

Unless expressly stated therein, a license issued under the provisions of this article shall be valid only in the compact and contiguous building or structure situated on the premises described in the license, and all transactions relating to a sale under such license must take place within such building or structure. The premises shall have an exclusive entrance from or exit to the exterior of the building at which the licensed premises are located. Entrances from or exits to a public concourse or public lobby meet this requirement.
(Code 2003, § 34-16; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.180. Resident manager or agent.

Before an on-sale intoxicating liquor license is issued under this article to an individual who is a nonresident of the city, to more than one individual whether or not they are residents of the city, or to a corporation, partnership or association, the applicant shall appoint in writing a natural person who lives within 25 miles of the licensed establishment in the city as its manager or agent. Such manager or agent shall, by the terms of his written consent, take full responsibility for the conduct of the licensed premises and serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation and other attributes, could qualify individually as a licensee. If such manager or agent ceases to live within 25 miles of the city or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be subject to revocation or suspension.
(Code 2003, § 34-17; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.190. Financial responsibility of licensees; proof.

Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in Minn. Stats. § 340A.409, as it may be amended from time to time, with regard to liability under Minn. Stats. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the commissioner of public safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to Minn. Stats. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.
(Code 2003, § 34-18; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.200. Renewal.

Application for renewal of all licenses under this article shall be made at least 60 days prior to the date of expiration of the license and shall contain such information as is required by the city. This time requirement may be waived by the council for good and sufficient cause. Applications for renewal are subject to all the requirements for the original issuance of a license, except the public hearing requirement which is an optional requirement to be established at the discretion of the city council.
(Code 2003, § 34-19; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.210. Transfer.

A license shall be transferable between persons upon consent of the council and payment of the

required investigation fee. No license shall be transferable to a different location without prior consent of the council and payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this section. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this Code applying to applications for a license shall apply.
(Code 2003, § 34-20; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.220. Posting.

All licensees shall conspicuously post their licenses in their places of business.
(Code 2003, § 34-21; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.230. Duplicate licenses.

Duplicates of all original licenses issued under this article may be issued by the city clerk without action by the council upon the licensee's affidavit that the original has been lost, and upon payment of a fee in the amount established by resolution for issuance of the duplicate. All duplicate licenses shall be clearly marked "duplicate."
(Code 2003, § 34-22; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.240. Revocation or suspension of licenses.

(a) On a finding that a licensee has failed to comply with an applicable statute, rule or ordinance relating to alcoholic beverages, the city may revoke the license, suspend the license, impose a civil penalty of up to $2,000.00 for each violation, or impose any combination of these sanctions. Conviction of a violation in a court of law is not required in order for the council to impose the civil penalty. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, Minn. Stats. §§ 14.57 to 14.70, as it may be amended from time to time. The council may act as the hearing body under that act, or it may contract with the office of hearing examiners for a hearing officer. Non-payment of the penalty is grounds for suspension or revocation of the license.

(b) Multiple violations are computed by checking the time period of the three years immediately prior to the date of the most current violation.

(c) The presumed penalties for violations are as follows:

1st violation	$500.00
2nd violation	$1,000.00 and 3-day license suspension
3rd violation	$2,000.00 and 2-week suspension
4th violation	License revocation

(d) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license due to lapse of insurance may request a hearing thereon and, if a request is made in writing to the clerk, a hearing before the council shall be granted within 30 days. Any suspension under this subsection shall continue until the council determines that the financial responsibility requirements of state law and this section have again been met.

(e) Nothing in this section shall restrict or limit the authority of the council to take any other action in accordance with law.
(Code 2003, § 34-23; Ord. No. 230(3rd series), § 1, 7-22-2019)

ARTICLE III. OPERATIONAL RESTRICTIONS AND REQUIREMENTS

Sec. 4.16.310. General responsibility.

(a) Every licensee is responsible for the conduct in the licensed establishment, and any sale of alcoholic beverage by any employee authorized

to sell alcoholic beverages in the establishment is the act of the licensee for the purposes of all provisions of this chapter.

(b) Sales of any alcoholic beverage in or from any premises licensed under this chapter by any employee authorized to make such sale in or from such place is the act of the employer as well as of the person actually making the sale, and every such employer is liable for all of the penalties provided by law for such sale equally with the person actually making the sale.
(Code 2003, § 34-50; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.320. Zoning requirements.

Notwithstanding any section in this chapter to the contrary, all premises that are licensed must be located in zoning districts in which they are permitted and must be in compliance with the zoning regulations set forth in chapter 6.12.
(Code 2003, § 34-51; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.330. Hours and days of sale.

(a) *3.2 percent malt liquor.* No on-sale of 3.2 percent malt liquor may be made between 1:00 a.m. and 8:00 a.m. on Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday. Additionally, a Sunday on-sale license may be issued to holders of an on-sale 3.2 percent malt liquor license, to serve 3.2 percent malt liquor between the hours of 10:00 a.m. Sunday and 1:00 a.m. Mondays with the incidental sale of tobacco and soft drinks, provided that the licensee establishment is in conformance with the Minnesota Clean Indoor Air Act.

(b) *Intoxicating liquor; on sale.* No sale of intoxicating liquor for consumption on the licensed premises may be made:

(1) Between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;

(2) After 1:00 a.m. on Sundays, except as provided by subsection (c) of this section;

(c) *Intoxicating liquor; Sunday sales; on-sale.*

(1) A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 person and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon on Sundays and 1:00 a.m. on Mondays.

(2) Notwithstanding anything in this subsection (c) to the contrary, a Sunday on-sale license may be issued to hotels, motels and restaurants which have on-sale liquor licenses, to serve liquor between the hours of 10:00 a.m. Sunday and 1:00 a.m. Mondays in conjunction with the serving of food, provided that the licensee establishment is in conformance with the Minnesota Clean Indoor Air Act.

(d) *Alcoholic beverages; off-sale.* No off-sale of alcoholic beverages may be made:

(1) On Sundays, except between the hours of 11:00 a.m. and 6:00 p.m.;

(2) Before 8:00 a.m. on Monday through Saturday;

(3) After 8:00 p.m. on Monday through Thursday and after 10:00 p.m. on Friday and Saturday, provided that an establishment may sell intoxicating liquor until 10:00 p.m. on December 31 and July 3, and on the day preceding Thanksgiving day, unless otherwise prohibited under subsection (d)(1) of this section;

(4) On Thanksgiving Day;

(5) On Christmas Day;

(6) After 8:00 p.m. on Christmas Eve, December 24.

(e) *Delivery to off-sale licensees.* No delivery of an alcoholic beverage to an off-sale licensee may be made by a wholesaler or accepted by an off-sale licensee on Sunday. No order solicitation or merchandising may be made by a wholesaler on a Sunday.
(Code 2003, § 34-52; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.340. Restrictions on activities when sales not permitted.

(a) *Consumption.* It is unlawful for any person to consume on on-sale license premises, or any licensee to permit consumption of, any alcoholic beverage on licensed premises more than 20 minutes after the hour when a sale can legally be made.

(b) *Removal of containers.* It is unlawful for any on-sale licensee to permit any glass, bottle or other container containing any alcoholic beverage to remain upon any table, bar, stool or other place where customers are served more than 20 minutes after the hour when a sale can legally be made.

(c) *Closing.* It is unlawful for any person, other than an on-sale licensee's bona fide employee actually engaged in the performance of his duties, to be on premises licensed under this chapter more than 30 minutes after the legal time for making licensed sales; however, this subsection shall not apply to licensees, employees of licensees and patrons on licensed premises for the sole purpose of preparing, serving or consuming food or beverages other than alcoholic beverages.

(d) *Display.* No person shall display any alcoholic beverage to the public in any manner in an on- or off-sale licensed operation during the hours in which sale is not permitted.

(Code 2003, § 34-53; Ord. No. 230(3rd series), § 1, 7-22-2019; Ord. No. 291(3rd series), § 1, 2-26-2024)

Sec. 4.16.350. Sale in hotel guest rooms.

No sale of intoxicating liquor shall be made to or in guest rooms of hotels unless the rules of such hotels provide for service of food in guest rooms and unless the sale accompanies and is incidental to the regular service of meals to guests in the hotel.

(Code 2003, § 34-54; Ord. No. 230(3rd series), § 1, 7-22-2019)

Sec. 4.16.360. Nudity or obscenity prohibited.

It is unlawful for any person issued a license provided for in this article to permit upon licensed premises any nudity, obscene performance or continued use of obscenities by any agent, employee, patron or other person. An expression or performance is obscene if it appeals to the prurient interest in sex and depicts or describes in a patently offensive manner sexual conduct and which, taken as a whole, does not have serious literary, artistic, political, or scientific value.

(Code 2003, § 34-55; Ord. No. 230(3rd series), § 1, 7-22-2019; Ord. No. 291(3rd series), § 2, 2-26-2024)

CHAPTER 4.20. AMUSEMENTS AND ENTERTAINMENTS*

ARTICLE I. IN GENERAL (RESERVED)

ARTICLE II. BINGO AND OTHER LEGALIZED GAMBLING†

Sec. 4.20.110. State law adopted by reference.

The provisions of Minn. Stats. ch. 349 are adopted by reference. No person shall violate any provisions of such chapter.

(Code 1984, §§ 5.22, 5.23; Code 2003, § 38-31)

ARTICLE III. MECHANICAL AMUSEMENT DEVICES

Sec. 4.20.210. Definitions.

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

Coin amusement means any machine which, upon the insertion of a coin, token or slug, operates or may be operated and is available to

*__State law reference__—Authority relative to amusements, Minn. Stats. § 412.221, subd. 25.

†__State law references__—Legalized gambling, Minn. Stats. ch. 349; local regulation of legalized gambling, Minn. Stats. § 349.213.

the public generally for entertainment or amusement, which machine emits music, noise or displays motion pictures.

Game of skill means any device excepting pool and billiard tables, bowling alleys and shooting lanes, but including miniatures of such places, played by manipulating special equipment and propelling balls or other projectiles across a board or field into respective positions whereby a score is established, the object of which is to secure a special number or numbers or a high or low total score or any other method used to indicate a winner which is available to be played by the public generally at a price paid either directly or indirectly for such privilege, whether a prize is offered for the game or not.

Mechanical amusement device includes both games of skill and coin amusement.
(Code 1984, § 5.20(1); Code 2003, § 38-601)

Sec. 4.20.220. License required.

It is unlawful for any person to keep or maintain a mechanical amusement device for use by the public without first having obtained a license from the city. In addition, an annual license fee for each mechanical amusement device shall be required.
(Code 1984, § 5.20(2); Code 2003, § 38-602)

Sec. 4.20.230. Unlawful use and devices.

It is unlawful for any person to:

(1) Sell or maintain a machine or device which is for gambling or contains an automatic payoff device;

(2) Permit persons under the age of 18 years to play or operate any game of skill; or

(3) Permit the playing of coin amusement machines between the hours of 1:00 a.m. and 6:00 a.m. of any day.

(Code 1984, § 5.20(3); Code 2003, § 38-603)

ARTICLE IV. SHOWS AND SIMILAR PERFORMANCES

Division 1. Generally

Sec. 4.20.310. Exceptions.

The following activities and performances are exempt from compliance with this article:

(1) Performances presented in the local schools and colleges, under the sponsorship of such schools and colleges, and primarily for their students only.

(2) Performances of athletic, musical or theatrical events sponsored by local schools or colleges using student talent only.

(3) Any performance or event in, or sponsored by, bona fide local church and nonprofit organizations, provided that such organization shall be incorporated.

(4) Any activity or performance more specifically defined and licensed under another section of this chapter.

(Code 1984, § 5.25(7); Code 2003, § 38-671)

Sec. 4.20.320. Maximum size.

It is unlawful for any licensee to admit a larger number of people than the maximum fixed by the council at the time of issuance of the license.
(Code 1984, § 5.25(3); Code 2003, § 38-672)

Sec. 4.20.330. Overnight camping.

It is unlawful for any licensee to permit or for any participant, spectator or customer to camp or sleep overnight at the location of a large assembly. It is also unlawful for any licensee to permit or any participant, spectator or customer to prepare food on such premises unless such person is a concessionaire. This section does not apply to security officers performing their duties as such.
(Code 1984, § 5.25(4); Code 2003, § 38-673)

Sec. 4.20.340. Permitted area.

Large assemblies shall be permitted only after a finding by the council that the character of the proposed assembly is compatible with the character of the surrounding neighborhood, considering the problems of noise, lighting, traffic, sanitation, congestion and other factors affecting the public health, safety and welfare of the entire area, and compliance with this Code.
(Code 1984, § 5.25(6); Code 2003, § 38-674)

Sec. 4.20.350. Obscenity prohibited.

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

Nudity means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

Obscene performance means a performance which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sadomasochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

Obscenities means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

Performance means any play, motion picture film, dance or other exhibition pictured, animated or live performed before an audience.

Sadomasochistic abuse means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Sexual conduct means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

Sexual excitement means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

(b) *Prohibited conduct.* It is unlawful for any licensee, for a monetary consideration or other valuable commodity or service, to knowingly or recklessly:

(1) Exhibit an obscene performance;

(2) Directly or indirectly sell an admission ticket or other means to gain entrance to an obscene performance; or

(3) Directly or indirectly permit admission of a person to premises on which there is exhibited an obscene performance.

(c) *Prosecution.* Any prosecution under this section shall include the following elements:

(1) That the average person, applying contemporary community standards, would find the performance, taken as a whole, appeals to the prurient interest of the audience;

(2) That the performance describes or depicts, in a patently offensive way, sexual conduct included in the definition of the term "obscene performance"; and

(3) That the performance, taken as a whole, lacks serious literary, artistic, political or scientific value.

(Code 1984, § 5.25(8); Code 2003, § 38-675)

State law references—Indecent exposure, Minn. Stats. § 617.23; obscenity, Minn. Stats. § 617.24.

Division 2. License

Sec. 4.20.410. Required.

It is unlawful for any person to present any public show, movie, caravan, carnival, or theatrical or other performance or exhibition without first having obtained a license from the city. It is also unlawful for any person to promote or sponsor a large assembly for any purpose and to which the public is invited without first having obtained a license from the city. For the purpose of this division, the term "large assembly" means a gathering or projected gathering of more than 300 persons at one time and at a single location. This shall apply in addition to any ordinance requirement.
(Code 1984, § 5.25; Code 2003, § 38-801)

Sec. 4.20.420. Requirements.

Unless waived or modified by the council for good cause, all applicants for a license under this division shall demonstrate an ability to meet or provide the requirements listed in this section. Every license shall be conditioned on maintenance of the following:

(1) If fully or partially out-of-doors, a fence shall completely enclose the location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the grounds, which fence shall have a sufficient number of gates to allow safe passage to and from the gathering.

(2) Potable water, meeting all federal and state requirements for sanitary quality, sufficient to provide drinking water for the maximum number of persons to be assembled, at the rate of at least one gallon per person per day.

(3) Enclosed toilets, separate for men and women, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled in accordance with the state board of health regulations and standards, which shall be kept clean, operable, and free of refuse.

(4) A sanitary method of disposing of solid waste in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 pounds of solid waste per person per day, together with a plan for holding and collecting all such waste at least once each day of the assembly's continuance, and sufficient trash containers and personnel to perform such tasks, and a plan to return the area to its original condition.

(5) Illumination sufficient to light the entire area of the assembly if it is to continue during the hours of darkness.

(6) Security and traffic controls meeting the requirements of local authorities and the state department of public safety and regularly employed security officers, sufficient to provide adequate security for the maximum number of people to be assembled. Such officers shall be licensed by the state.

(7) An administrative control center with telephones where local authorities can contact the licensee and law enforcement personnel inside the area of the assembly.

(8) A policy or certificate of insurance on which the city, its agents and employees, are additional insureds, providing public liability insurance providing umbrella or all perils coverage in the amount of $1,000,000.00.

(9) Physicians and nurses licensed to practice in the state sufficient to provide the average medical care enjoyed by state residents for the maximum number of people to be assembled at the rate of at least one physician and nurse for every 5,000 people, together with an enclosed covered structure where treatment may be rendered, containing separately enclosed treatment rooms for each physician, and at least two emergency ambulances with attendants for each 5,000 people.

(10) A parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every four persons.

(11) Telephones connected to outside lines sufficient to provide service to the maximum number of people to be assembled at the rate of at least one separate line and receiver for each 1,000 persons.

(12) Fire protection to be provided by the sponsor, including fire alarms, extinguishing devices and fire lanes. Such fire protection shall be sufficient to meet all applicable state laws and local regulations which are in effect. Sufficient emergency personnel to efficiently operate the required equipment shall be provided by the sponsor.

(13) Copies of all proposed advertising.

(14) All reasonably necessary precautions to ensure compliance with noise restrictions as regulated in this Code.

(15) Written permission from the owner of the premises.

(Code 1984, § 5.25(2); Code 2003, § 38-802; Ord. No. 155(2nd series), § 1, 2-10-1997)

Sec. 4.20.430. Investigation fee.

In addition to the license fee the council may fix an investigation fee commensurate with the cost of investigation.

(Code 1984, § 5.25(5); Code 2003, § 38-803)

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CHAPTER 5.04. EMERGENCY SERVICES

ARTICLE I. IN GENERAL (RESERVED)

ARTICLE II. EMERGENCY MANAGEMENT

Sec. 5.04.110. Definitions.

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

Disaster means 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 major 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 means an unforeseen combination of circumstances which calls for immediate action to respond, or prevent from developing or occurring.

Emergency management means the preparation for and the carrying out of all emergency functions, 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 or other major incidents. These functions include, without limitation, firefighting 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 such functions. Emergency management includes those activities sometimes referred to as civil defense or emergency preparedness functions.

Emergency management forces means the total personnel resources engaged in city-level emergency management functions in accordance with the provisions of this article or any rule or order under this article. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

Emergency management mutual aid means any disaster or major incident which requires the dispatching of city personnel, equipment or other necessary resources within or without the city limits.

Emergency management organization means the staff element 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, major incidents, mutual aid, and other projects consistent with this article and ensures implementation of federal, state, county and other program requirements.

Lake Minnetonka Regional Emergency Management, Preparedness Planning and Review Committee means a committee made up of the Lake Minnetonka area emergency management directors which develops, renews and establishes a basic emergency plan, and identifies and coordinates training for member communities and reviews local plans, exercises, major incidents and disaster responses which are consistent with this article.

Major incident means any incident which exhausts local resources.
(Code 1984, § 9.36(2); Code 2003, § 42-31; Ord. No. 185(2nd series), § 1, 2-22-1999)

Sec. 5.04.120. 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 or other major incidents, and in order to ensure that preparations of the city will be adequate to deal with such disasters and, generally, to provide for the common defense and to protect the public peace, health and safety, and

to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

(1) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters.

(2) To provide for the exercise of necessary powers during emergencies and disasters.

(3) To provide for the rendering of mutual aid between the city and other political subdivisions with respect to the carrying out of emergency preparedness functions.

(4) To comply with the provisions of Minn. Stats. ch. 12, known as the Minnesota Emergency Management Act of 1996.

(5) To participate as a member of the Lake Minnetonka Regional Emergency Management, Preparedness Planning and Review Committee, review and accept its emergency plan as the city's basic plan for responses to emergencies, disasters, major incidents, mutual aid and other projects consistent with this article and Minn. Stats. ch. 12.

(Code 1984, § 9.36(1); Code 2003, § 42-32; Ord. No. 185(2nd series), § 1, 2-22-1999)

Sec. 5.04.130. Establishment of an emergency management organization.

There is hereby created with the city government an emergency management organization, which shall be under the supervision and control of the emergency management director, hereinafter called the "director." The director shall be appointed by the mayor. The director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization.

(Code 1984, § 9.36(3); Code 2003, § 42-33; Ord. No. 185(2nd series), § 1, 2-22-1999)

Sec. 5.04.140. Powers and duties of the director.

(a) The director may develop additional 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 such agreements to the city for its action. Such arrangements shall be consistent with the emergency plan. The director shall also be the city's representative on the Lake Minnetonka Regional Emergency Management, Preparedness Planning and Review Committee.

(b) The director shall make assessments of personnel, businesses and 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, major incident or disaster.

(c) The director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present such plan to the city for its approval. When the council has approved the plan by resolution, 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 basic emergency management activities of the city to the end that they shall be consistent and fully integrated with the basic emergency plan of the Lake Minnetonka Regional Emergency Management, Preparedness Planning and Review Committee, and federal and state governments.

(d) In accordance with the emergency plan, the director shall institute such 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 emergency plan when a disaster, major incident or mutual aid occurs.

(e) The director, during an emergency, major incident or mutual aid, shall utilize the personnel, services, equipment, supplies and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers

and personnel of all such departments and agencies shall be, to the maximum extent practicable, cooperative with and extend such services and facilities to the emergency management organization. The head of each department or agency in cooperation with the director shall be responsible for the planning and programming of such emergency activities as will involve the utilization of the facilities of the department or agency.

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

(g) The director shall carry out all orders, rules and regulations issued by the city with reference to emergency management.

(h) The director shall prepare and submit such reports on emergency preparedness activities as may be requested by the city.
(Code 1984, § 9.37; Code 2003, § 42-34; Ord. No. 185(2nd series), § 1, 2-22-1999)

Sec. 5.04.150. Local emergencies.

(a) A local emergency, including a disaster, major incident or mutual aid response, may be declared by the mayor, or his legal successors. 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 promptly by the city clerk.

(b) A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable plans, including fiscal expenditures which are consistent with this article.

(c) No other jurisdictional agency or official in the city may declare a local emergency unless expressly authorized by the agreement under which the agency functions.
(Code 2003, § 42-35; Ord. No. 185(2nd series), § 1, 2-22-1999)

Sec. 5.04.160. Emergency regulations.

(a) Whenever necessary to meet a declared emergency or to prepare for such an emergency for which adequate regulations have not been adopted by the governor or the city council, the council may by resolution promulgate regulations, consistent with the 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 regulation, 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 city administrator, which copy shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulation and its availability for inspection at the administrator's office shall be conspicuously posted at the front of the city hall or other headquarters of the city or at such other places in the affected area as the council shall designate in the resolution. By like resolution, the council may modify or rescind any such regulation.

(c) The city council may rescind any such regulation by resolution at any time. If not sooner rescinded, every such regulation shall expire at the end of 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 council shall be suspended during the period of time and to the extent such conflict exists.

(d) During a declared emergency, the director is, notwithstanding any statutory or charter provision to the contrary, empowered through the council acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of such disaster. The director may exercise such 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 call for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirements for budgets.
(Code 1984, § 9.39; Code 2003, § 42-36; Ord. No. 185(2nd series), § 1, 2-22-1999)

Sec. 5.04.170. City not liable for damage from emergency activities; rights not affected.

All functions under this article and all other activities relating to emergency management are hereby declared to be governmental functions. The city and (except for willful misconduct) its officers, agents or employees, when engaged in emergency services activities shall not be liable for damage to persons or property. 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 article or under the worker's compensation law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress.
(Code 1984, § 9.36(7); Code 2003, § 42-37; Ord. No. 185(2nd series), § 1, 2-22-1999)

Sec. 5.04.180. Participation in labor dispute 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. The director may express professional opinions on legislative or other legal regulations consistent with the areas found in Minn. Stats. ch. 12.
(Code 1984, § 9.36(8); Code 2003, § 42-38; Ord. No. 185(2nd series), § 1, 2-22-1999)

Sec. 5.04.190. Mutual aid.

(a) The city finds it desirable and necessary to authorize the director to dispatch city equipment and personnel to local communities who request aid to combat their emergency, disaster, or major incident consistent with this article and section 5.04.140(e).

(b) The director shall evaluate the internal needs of the city and dispatch appropriate available aid. The director shall immediately recall, order and terminate the use of any dispatched equipment and personnel when the need for their use no longer exists, or earlier, when it appears in the best interest of the city. Aid requested from outside the Lake Minnetonka regional area, or extended local aid within the Lake Minnetonka regional area, shall require mutual agreement between the director and the city administrator or designee.

(c) The director shall be fully authorized as an agent of the city and, at all provisions for compensation of personnel, rental of equipment, liability insurance coverage, workers' compensation insurance, and all other safeguards and matters pertaining to the city, its equipment and personnel, shall apply in each case as if specifically authorized and directed at such time, whether or not the governing body or authority of the place in which the disaster, major incident, mutual aid, or other occurrence exists, has previously requested and provided for assistance and the use of equipment and personnel under a mutual protection agreement or other type protection agreement with the city.
(Code 1984, § 9.37(2); Code 2003, § 42-39; Ord. No. 185(2nd series), § 1, 2-22-1999)

ARTICLE III. ALARM SYSTEMS

Sec. 5.04.210. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings

ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm system means any alarm installation designed to be used for the prevention or detection of burglary, robbery or fire on the premises which contain an alarm installation. Automobile alarm devices shall not be considered an alarm system under this section.

Alarm user means the person in control of any building, structure or facility wherein an alarm system is maintained.

False alarm means an alarm signal eliciting a response by public safety personnel when a situation requiring a response does not, in fact, exist, and which false alarm is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation or the inadvertence of the alarm system's owner or lessees or of his employees or agents. The term "false alarm" does not include an alarm caused by climatic conditions, such as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or owner.

Public safety personnel means city employees or employees duly authorized to maintain and enforce public safety.
(Code 1984, § 9.35(2); Code 2003, § 42-166)

Sec. 5.04.220. Purpose and scope.

(a) This article provides for regulation in the use of fire, burglary and safety alarms; establishes user fees, and establishes a system of administration.

(b) The purpose of this article is to protect the public safety services of the city from misuse of public safety alarms and to provide for the maximum possible service to public safety alarm users.
(Code 1984, § 9.35(1); Code 2003, § 42-167)

Sec. 5.04.230. User fee.

(a) Once a public safety alarm system reports more than one false alarm to the city in a single calendar year and the alarm user has received timely notice of the violation, the alarm user shall be charged a user fee as fixed and determined by resolution.

(b) Any alarm user required by the city to pay a user fee as the result of a false alarm may make a written appeal of the false alarm charge to the chief of police within ten days of notice from the city of the false alarm charge.
(Code 1984, § 9.35(3); Code 2003, § 42-168; Ord. No. 165(2nd series), 12-8-1997; Ord. No. 178(3rd series), § 3, 10-10-2016)

Sec. 5.04.240. Payment of fees.

(a) Payment of user fees must be paid to the city treasurer within 30 days from the date of notice by the city to the alarm user. Failure to pay the fee within 30 days' notice will cause the alarm user to be considered delinquent and subject to a penalty of a full ten percent of the fee.

(b) All delinquent charges for user fees shall be certified by the clerk to the county auditor, who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties served, which assessment roll shall be delivered to the council for adoption on or before the deadline established by statute.
(Code 1984, § 9.35(4); Code 2003, § 42-169; Ord. No. 165(2nd series), 12-8-1997)

Sec. 5.04.250. Alarm report.

When an alarm user has incurred five false alarms or more within one calendar year, the alarm user shall submit within ten days after being charged with the fifth false alarm written verification to the chief of police that appropriate actions are being taken to discover and eliminate the cause of the false alarms. It is unlawful for any person to fail to submit such written verification required by this section.
(Code 1984, § 9.35(5); Code 2003, § 42-170)

Sec. 5.04.260. Confidentiality.

(a) All information submitted in compliance with this article shall be held in confidence and shall be deemed a confidential record exempt from discovery to the extent permitted by law.

(b) Subject to requirements of confidentiality, the chief of police may develop and maintain statistics for the purpose of ongoing alarm systems evaluation.
(Code 1984, § 9.35(6); Code 2003, § 42-171)

CHAPTER 5.08. FIRE PREVENTION AND PROTECTION*

ARTICLE I. IN GENERAL (RESERVED)

ARTICLE II. FIRE PREVENTION AND FIRE SAFETY STANDARDS†

Division 1. Generally

Sec. 5.08.110. Definitions.

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

Building official means the person appointed by the council to administer and enforce the state building code.

Corporation counsel means the attorney for the city.

Fire chief means the chief of the city fire department or his authorized representative.

Fire marshal means the person appointed by the council to administer and enforce the state fire code and who operates under the direction of the fire chief.

Jurisdiction and *municipality* mean the city as a whole, and also that part of the city corresponding to each separate fire service district.
(Code 1984, § 9.34(3); Code 2003, § 46-31; Ord. No. 287(3rd series), § 1, 12-11-2023)

*State law reference—General authority relative to fire prevention, Minn. Stats. § 412.221, subd. 17.

†State law reference—Fire safety generally, Minn. Stats. ch. 299F.

Sec. 5.08.120. Enforcement.

Authority for enforcement of this article is granted to and may be exercised by the state fire marshal or the fire chief or the chief's representatives. The fire chief may detail such members of the fire department as may be necessary to administer and enforce the provisions of this chapter.
(Code 1984, § 9.34(4); Code 2003, § 46-32; Ord. No. 287(3rd series), § 2, 12-11-2023)

Sec. 5.08.130. Permits and fees.

(a) Wherever the fire code or this article requires a permit, applications for such permit shall be made to the building official with all information required, and payment of a permit application fee as fixed and determined by resolution. Application fees shall be nonrefundable.

(b) The building official shall refer all fire code permit applications to the fire chief, who shall perform required pre-permit inspections. The fire chief shall, upon request by the building official, supply a written report to the building official prior to permit issuance.

(c) All fire code permits shall be issued by the building official upon the advice of the fire chief and subject to such conditions of approval as may be required by the fire chief, except that fireworks permits shall be issued by the fire chief.

(d) No fire code permit shall be issued if the permit would authorize an activity or use of property or structures contrary to any provision of the fire code, the state building code or chapter 6.12.
(Code 1984, § 9.34(5); Code 2003, § 46-33; Ord. No. 287(3rd series), § 3, 12-11-2023)

Sec. 5.08.140. Required water supply; new construction.

The fire chief may order the installation or relocation of fire hydrants in areas not served by the municipal water system and, for uses other

than single-family residential, a self-contained on-site source of water as a condition of issuance of a building permit.
(Code 1984, § 9.34(12); Code 2003, § 46-34; Ord. No. 287(3rd series), § 4, 12-11-2023)

*Division 2. Uniform Fire Code**

Sec. 5.08.210. Adopted.

The Minnesota State Fire Code (MSFC) is adopted as though set forth verbatim in this section. One copy of the code shall be marked "City of Orono—Official Copy" and kept on file in the office of the city clerk and open to inspection and use by the public.
(Code 1984, § 9.34(1); Code 2003, § 46-56; Ord. No. 287(3rd series), § 5, 12-11-2023)

Sec. 5.08.220. Amendments.

As authorized by the Minnesota State Fire Code (MSFC), the following amendments to the Minnesota State Fire Code are adopted for the city:

(1) *Restrictions on flammable or combustible liquid storage.*

a. *Prohibited districts established.* The council declares all land located within the following specified zoning districts to be the districts within which the storage of flammable or combustible liquids in above-ground tanks is prohibited: R-1A, R-1B, RR-1B-1, RS, LR-1C, LR-1C-1, B-1, B-3, B-4, B-5, M-6 and PRD.

b. *Above-ground tank locations.* In those districts not included in subsection (1)a of this section, the storage of flammable or combustible liquids in above-ground tanks is permitted, provided such tanks are located in conformance with applicable MSFC requirements, and with the following:

1. No such tank shall be located in any required front yard space as defined in chapter 6.12.

2. No such tank shall be located within 50 feet of any side or rear property line unless it has a minimum one-hour fire rating. A tank with a minimum one-hour fire rating may be located within 30 feet of any side or rear property line.

3. No such tank shall be located within 75 feet of any lake, wetland, stream or drainageway.

c. *Underground tank locations.* The storage of flammable or combustible liquids in underground tanks shall be permitted in any district in accordance with applicable MSFC requirements and with the following:

1. No such tank shall be located under any required front yard space as defined in chapter 6.12.

2. No such tank shall be located within ten feet of any side or rear property line.

3. No such tank shall be located within 75 feet of any lake, wetland, stream or drainageway.

(2) *Restrictions on liquefied petroleum gas storage.* The council declares all land within the city, except for land zoned I Industrial, to be the district within which no liquefied petroleum gas storage installation shall exceed 2,000-gallon water capacity for any one property; and the council further declares that no liquefied petroleum gas storage installation over 500-gallon water capacity shall be located in any required front, side, rear or lakeshore yard as defined in chapter 6.12, but shall conform to all setback requirements for principal buildings.

(3) *Restrictions on explosive and blasting agent storage.* The council declares all

*__State law reference__—State Uniform Fire Code, Minn. Stats. § 299F.011.

land within the city to be the district in which storage of explosives and blasting agents is prohibited.

(Code 1984, § 9.34(2); Code 2003, § 46-57; Ord. No. 121(2nd series), § 3, 9-27-1993; Ord. No. 186(2nd series), § 1, 4-26-1999; Ord. No. 76(3rd series), § 1, 7-12-2010; Ord. No. 287(3rd series), § 6, 12-11-2023)

Sec. 5.08.230. New materials.

The city administrator, building official and the fire chief shall together act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits, in addition to those enumerated in the fire code. As they occur, such determinations shall be listed; and such list shall be posted in the offices of the building official and the fire chief, and distributed to all interested parties.

(Code 1984, § 9.34(6); Code 2003, § 46-58; Ord. No. 287(3rd series), § 7, 12-11-2023)

Division 3. Fire Lanes

Sec. 5.08.310. Established.

(a) The council provides for the establishment of fire lanes for purposes of ensuring immediate unobstructed access for emergency vehicles and equipment.

(b) Whether marked or unmarked, fire lanes are established at all public or private fire hydrants, which fire lanes shall extend ten feet on either side of the hydrant and 20 feet in front of the curb or pavement edge nearest the front of the hydrant.

(c) Whether marked or unmarked, fire lanes are established at all building exits required by the fire code or the state building code, which fire lanes shall extend ten feet in all direction from the exits. Where larger fire lanes are required, they shall be established and marked as provided in subsection (d) of this section.

(d) The fire chief is empowered to order the establishment, designation and maintenance of fire lanes on public or private property wherever and to whatever extent as he may determine is reasonably necessary to ensure open and unobstructed emergency access. Fire lane orders shall be in writing and shall be served in person or by registered letter upon the property owner of record or, in the case of commercial properties, may be served upon the tenant occupying the property.

(Code 1984, § 9.34(7); Code 2003, § 46-81; Ord. No. 287(3rd series), § 8, 12-11-2023)

Sec. 5.08.320. Standards.

The actual size, location and extent of required fire lanes shall be determined by the fire chief in consideration of the particular access need and configuration on individual properties. As a minimum, all marked and designated fire lanes shall be at least 20 feet in unobstructed width, shall have at least 13 feet six inches of vertical clearance, shall where necessary provide for a turning radius of at least 50 feet, and shall be constructed of all-weather surfacing capable of carrying a vehicle axle loading of five tons (10,000 pounds).

(Code 1984, § 9.34(8); Code 2003, § 46-82; Ord. No. 287(3rd series), § 9, 12-11-2023)

Sec. 5.08.330. Fire lane signs and marking.

(a) When a fire lane has been ordered to be established pursuant to this division, one or more permanent upright metal signs bearing the words "No Parking—Fire Lane" or similar words, if approved by the fire chief, shall be placed designating the restricted area. The number, size and location of required signs shall be determined by the fire chief.

(b) When the fire lane is located on public property or within a public right-of-way, the required signs shall be erected by the city or by the public agency having jurisdiction over the property.

(c) When the fire lane is located on private property, the required signs shall be erected by the property owner at his own expense within 30 days of the date of the order establishing the fire lane.

(Code 1984, § 9.34(9); Code 2003, § 46-83; Ord. No. 287(3rd series), § 10, 12-11-2023)

Sec. 5.08.340. Maintenance.

All established fire lanes shall be permanently and continuously maintained by the property owner to be free from obstructions, including motor vehicles, trailers, equipment, storage, rubbish, vegetation or accumulations of dirt or snow. All required fire lane signs shall be permanently and continuously maintained by the property owner to be securely fastened, not visually obstructed in any way, and free from paint or vandalism. Missing or vandalized signs shall be promptly replaced.
(Code 1984, § 9.34(10); Code 2003, § 46-84)

Sec. 5.08.350. Obstructing.

Whether located on public property or on private property, it is unlawful for any person to obstruct any established fire lane at any time.
(Code 1984, § 9.34(11); Code 2003, § 46-85)

CHAPTER 5.12. HEALTH AND SANITATION*

ARTICLE I. IN GENERAL (RESERVED)

ARTICLE II. TOBACCO†

Division 1. Generally

Sec. 5.12.110. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions.

Compliance checks means the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco-related devices are following and complying with the requirements of this article. Compliance checks shall involve the use of minors as authorized by this article. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco-related devices for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products and tobacco-related devices.

E-cigarette means any electronic smoking device that can be used to deliver nicotine or any other substances to the person inhaling from the device, including, but not limited to, electronic cigarettes, electronic cigars, electronic pipes or any other similar device.

Individually packaged means the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products include, but are not limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container shall not be considered individually packaged.

Loosies is the common term used to refer to a single or individually packaged cigarette.

Minor means any natural person who has not yet reached the age of 18 years.

Movable place of business means any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

Retail establishment means any place of business where tobacco, tobacco products, or tobacco-related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores and restaurants.

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

*State law references—General health powers of city, Minn. Stats. § 412.221, subd. 22; health generally, Minn. Stats. chs. 144—158.

†State law reference—Local regulation of tobacco sales, Minn. Stats. §§ 461.12, 461.19.

Self-service merchandising means open displays of tobacco, tobacco products, or tobacco-related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco-related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product or tobacco-related device between the customer and the licensee or employee. The term "self-service merchandising" does not include vending machines.

Tobacco and *tobacco products* mean any substance or item containing tobacco leaf, including, but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing or smoking.

Tobacco-related devices means any tobacco product as well as a pipe, rolling papers or other device, including an e-cigarette, intentionally designed or intended to be used in a manner which enables the chewing, sniffing, inhalation or smoking of tobacco or tobacco products.

Vending machine means any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products or tobacco-related devices upon the insertion of money, tokens or other form of payment directly into the machine by any person.

(Code 2003, § 50-31; Ord. No. 164(2nd series), § 200(11), 12-8-1997; Ord. No. 126(3rd series), § 1, 11-10-2014)

Sec. 5.12.120. Violations.

(a) *Notice.* Upon discovery of a suspected violation of this article, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his right to be heard on the accusation.

(b) *Hearings.* If a person accused of violating this article so requests within ten days of receipt of a citation, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator. Failure to file an appeal within ten days of the citation shall constitute a waiver of the person's right to a hearing.

(c) *Hearing officer.* The city council shall serve as the hearing officer.

(d) *Decision.* If the hearing officer determines that a violation of this article did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under section 5.12.130, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

(e) *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the district court for the city in which the alleged violation occurred.

(f) *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this article. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

(g) *Continued violation.* Each violation of this article, and every day in which a violation occurs or continues, shall constitute a separate offense.

(Code 2003, § 50-32; Ord. No. 164(2nd series), § 1300, 12-8-1997; Ord. No. 178(3rd series), § 4, 10-10-2016)

State law references—Administrative penalties, Minn. Stats. § 461.12, subds. 2, 3; appeals, Minn. Stats. § 461.12, subd. 7.

Sec. 5.12.130. Penalties.

(a) *Licensees.* Any licensee found to have violated this article, or whose employee shall have violated this article, shall be charged an administrative fine pursuant to a penalty schedule determined by the city and published in the fee

schedule adopted by the city council at a regularly scheduled council meeting. In addition, after the second offense, the license shall be suspended for not less than three days. After the third offense, the license shall be suspended for not less than seven days.

(b) *Other individuals.* Individuals, other than minors, found to be in violation of this article shall be charged an administrative fine pursuant to a penalty schedule determined by the city and published in the fee schedule adopted by the city council at a regularly scheduled council meeting.

(c) *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this article.
(Code 2003, § 50-33; Ord. No. 164(2nd series), § 1400, 12-8-1997)

Sec. 5.12.140. Purpose.

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco-related devices, and such sales, possession and use are violations of both state and federal laws; and because studies, which the city accepts, adopts and are on file at city hall, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government, this article shall be intended to regulate the sale, possession and use of tobacco, tobacco products and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco-related devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in Minn. Stats. § 144.391.
(Code 2003, § 50-34; Ord. No. 164(2nd series), § 100, 12-8-1997)

Sec. 5.12.150. Exceptions and defenses.

Nothing in this article shall prevent the providing of tobacco, tobacco products or tobacco-related devices to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony. It shall be an affirmative defense to the violation of this article for a person to have reasonably relied on proof of age as described by state law.
(Code 2003, § 50-35; Ord. No. 164(2nd series), § 1500, 12-8-1997)

State law reference—Proof of age as defense, Minn. Stats. §§ 340A.503, subd. 6, 461.12, subd. 6.

Sec. 5.12.160. Billboards.

Billboards advertising any tobacco, tobacco product or tobacco-related device shall be governed by chapter 6.12, article X, division 4.
(Code 2003, § 50-36; Ord. No. 164(2nd series), § 1100, 12-8-1997)

Sec. 5.12.170. Prohibited sales.

It shall be a violation of this article for any person to sell or offer to sell any tobacco, tobacco product or tobacco-related device:

(1) To any person under the age of 18 years.

(2) By means of any type of vending machine, except as may otherwise be provided in this article.

(3) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the tobacco, tobacco product or tobacco-related device and whereby there is not a physical exchange of the tobacco, tobacco product or tobacco-related device between the licensee or the licensee's employee, and the customer.

(4) By means of loosies.

(5) Containing opium, morphine, jimson weed, belladonna, strychnos, cocaine, marijuana or other deleterious, hallucinogenic, toxic or controlled substances, except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.

(6) By any other means, to any other person, or in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation.

(Code 2003, § 50-37; Ord. No. 164(2nd series), § 600, 12-8-1997)

State law reference—Sale of tobacco to children, Minn. Stats. § 609.685.

Sec. 5.12.180. Vending machines.

It shall be unlawful for any person licensed under this article to allow the sale of tobacco, tobacco products or tobacco-related devices by the means of a vending machine. Any retailer selling tobacco, tobacco products or tobacco-related devices on December 8, 1997, shall comply with this section within 45 days of such date. This section does not apply to facilities that cannot be entered at any time by persons younger than 18 years of age.

(Code 2003, § 50-38; Ord. No. 164(2nd series), § 700, 12-8-1997)

Sec. 5.12.190. Self-service sales.

It shall be unlawful for a licensee under this article to allow the sale of tobacco, tobacco products or tobacco-related devices by any means whereby the customer may have access to such items, including, but not limited to, individually packaged or multipack units of tobacco or tobacco products, without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product or the tobacco-related device between the licensee or his clerk and the customer. All tobacco, tobacco products and tobacco-related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products or tobacco-related devices on December 8, 1997, shall comply with this section within 45 days of such date. This section does not apply to retail stores which derive at least 90 percent of their revenue from tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 18 years of age.

(Code 2003, § 50-39; Ord. No. 164(2nd series), § 800, 12-8-1997)

State law reference—Self-service sales, Minn. Stats. § 461.18.

Sec. 5.12.200. Minors.

Unless otherwise provided, the following acts shall be a violation of this article:

(1) *Illegal sales.* It shall be a violation of this article for any person to sell or otherwise provide any tobacco, tobacco product or tobacco-related device to any minor.

(2) *Illegal possession.* It shall be a violation of this article for any minor to have in his possession any tobacco, tobacco product or tobacco-related device. This subsection shall not apply to minors lawfully involved in a compliance check.

(3) *Illegal use.* It shall be a violation of this article for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco product or tobacco-related device.

(4) *Illegal procurement.* It shall be a violation of this article for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco-related device; and it shall be a violation of this article for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product or tobacco-related device. This subsection shall not apply to minors lawfully involved in a compliance check.

(5) *Use of false identification.* It shall be a violation of this article for any minor to attempt to disguise his true age by the use of a false form of identification, whether the identification is that of another person or one on which the age

of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Code 2003, § 50-40; Ord. No. 164(2nd series), § 1200, 12-8-1997)

State law reference—Sale of tobacco to children, Minn. Stats. § 609.685.

Sec. 5.12.210. Smoking prohibited.

It shall be unlawful for any person to light, burn, smoke, inhale, or exhale tobacco or a tobacco product from a tobacco-related device in any location where smoking is prohibited by the Minnesota Clean Indoor Air Act, or for any person to allow the same.

(Code 2003, § 50-41; Ord. No. 126(3rd series), § 2, 11-10-2014)

Division 2. Dealer's License

Sec. 5.12.310. Required.

No person shall sell or offer to sell any tobacco, tobacco products or tobacco-related device, including e-cigarettes, without first having obtained a license to do so from the city.

(Code 2003, § 50-61; Ord. No. 164(2nd series), § 300, 12-8-1997; Ord. No. 126(3rd series), § 3, 11-10-2014)

State law reference—Authority to require license, Minn. Stats. § 461.12, subd. 1.

Sec. 5.12.320. Application.

An application for a license to sell tobacco, tobacco products or tobacco-related devices, including e-cigarettes, shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the city administrator shall forward the application to the council for action at its next regularly scheduled council meeting. If the city administrator shall determine that an application is incomplete, he shall return the application to the applicant with notice of the information necessary to make the application complete.

(Code 2003, § 50-62; Ord. No. 164(2nd series), § 300(1), 12-8-1997; Ord. No. 126(3rd series), § 3, 11-10-2014)

Sec. 5.12.330. Action.

The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the council shall approve the license, the city administrator shall issue the license to the applicant. If the council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the council's decision.

(Code 2003, § 50-63; Ord. No. 164(2nd series), § 300(2), 12-8-1997)

Sec. 5.12.340. Basis for denial of license.

The following shall be grounds for denying the issuance or renewal of a license under this division; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

(1) The applicant is under the age of 18 years.

(2) The applicant has been convicted within the past five years of any violation of a federal, state or local law, ordinance provision, or other regulation relating to tobacco, tobacco products or tobacco-related devices.

(3) The applicant has had a license to sell tobacco, tobacco products or tobacco-related devices revoked or suspended on two or more occasions within the preceding 12 months of the date of application.

(4) The applicant fails to provide any information required on the application, or provides false or misleading information.

(5) The applicant is prohibited by federal, state or other local law, ordinance, or other regulation from holding such a license.

(Code 2003, § 50-64; Ord. No. 164(2nd series), § 500, 12-8-1997)

Sec. 5.12.350. Movable place of business.

No license shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be licensed under this article.

(Code 2003, § 50-65; Ord. No. 164(2nd series), § 300(6), 12-8-1997)

Sec. 5.12.360. Fees.

No license shall be issued under this article until the appropriate license fee shall be paid in full. The fee for a license under this article shall be determined by the city and published in a fee schedule adopted by the city council at a regularly scheduled council meeting.

(Code 2003, § 50-66; Ord. No. 164(2nd series), § 400, 12-8-1997)

Sec. 5.12.370. Term.

All licenses issued under this article shall be valid for one calendar year from the date of issue.

(Code 2003, § 50-67; Ord. No. 164(2nd series), § 300(3), 12-8-1997)

Sec. 5.12.380. Renewals.

The renewal of a license issued under this division shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license. The issuance of a license issued under this division shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

(Code 2003, § 50-68; Ord. No. 164(2nd series), § 300(8), 12-8-1997)

Sec. 5.12.390. Transfers.

All licenses issued under this division shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the council.

(Code 2003, § 50-69; Ord. No. 164(2nd series), § 300(5), 12-8-1997)

Sec. 5.12.400. Responsibility.

All licensees under this article shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco-related devices on the licensed premises; and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this article, state or federal law, or other applicable law or regulation.

(Code 2003, § 50-70; Ord. No. 164(2nd series), § 900, 12-8-1997)

Sec. 5.12.410. Compliance checks and inspections.

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years, to enter licensed premises to attempt to purchase tobacco, tobacco products or tobacco-related devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products or tobacco-related devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age; and all minors lawfully engaged in a compliance check shall answer all questions about the minor's

age asked by the licensee or his employee and shall produce any identification, if any exists, for which he is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research or training purposes, or required for the enforcement of a particular state or federal law.
(Code 2003, § 50-71; Ord. No. 164(2nd series), § 1000, 12-8-1997)

State law reference—Compliance checks, Minn. Stats. § 461.12, subd. 5.

Sec. 5.12.420. Display.

All licenses issued under this division shall be posted and displayed in plain view of the general public on the licensed premises.
(Code 2003, § 50-72; Ord. No. 164(2nd series), § 300(7), 12-8-1997)

Sec. 5.12.430. Revocation or suspension.

Any license issued under this division may be revoked or suspended as provided in sections 5.12.120 and 5.12.130.
(Code 2003, § 50-73; Ord. No. 164(2nd series), § 300(4), 12-8-1997)

Sec. 5.12.440. Sampling prohibited.

(a) Pursuant to the authority granted to the city by Minn. Stats. § 144.417, the operator of any tobacco products shop licensed under this division is hereby prohibited from any of the following:

(1) Except for a bona fide sale of a smoking device, providing or otherwise making available a smoking device for use by any individual within the indoor area of a shop licensed under this division;

(2) Permitting any person to light, burn, smoke, inhale, or exhale tobacco, tobacco products, or tobacco-related devices within the indoor area of any establishment with a tobacco license under this division.

(b) Pursuant to the authority granted to the city by Minn. Stats. § 144.417, smoking for the purposes of sampling tobacco and tobacco-related devices is prohibited. It shall be unlawful for any person to light, burn, smoke, inhale, or exhale tobacco, tobacco products or tobacco-related devices within the indoor area of any establishment with a tobacco license under this division.
(Code 2003, § 50-74; Ord. No. 126(3rd series), § 4, 11-10-2014)

CHAPTER 5.16. ORONO TOBACCO-FREE PARKS AND WORKPLACES ACT

Sec. 5.16.010. Intent and findings.

It is found and determined that tobacco use is a danger to the health, safety, and general welfare of the community.

(1) Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke or environmental tobacco smoke is a cause of diseases such as lung cancer, cardiovascular disease, and respiratory disease and a cause of strokes and heart attacks.

(2) The Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen. According to the United States Surgeon General, there are more than 50 cancer-causing chemicals in secondhand smoke.

(3) Secondhand smoke is particularly hazardous to the elderly and those with cardiovascular disease and impaired respiratory function. Children exposed to secondhand smoke have an increased risk and severity of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, cancer, and premature death.

(4) The United States Surgeon General reports that there is no risk-free level of exposure to secondhand smoke and that even short exposure to secondhand smoke can damage blood vessels, decrease coronary flow velocity reserves, and reduce heart rate variability, potentially increas-

ing the risk of a heart attack. Even in healthy persons, brief exposure can lead to changes in the upper airway.

(5) Eliminating smoking indoors and in enclosed spaces fully protects nonsmokers from exposure to secondhand smoke. Simply separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke. Although air cleaners can remove large particles from smoke, smaller particles and gases found in secondhand smoke cannot be removed from the air.

(6) Scientific studies conducted by Stanford University and others found that outdoor smoke can reach the same level as indoor smoke. Persons near an outdoor smoker can breathe in wisps of smoke that can be tens or hundreds times more concentrated that normal background air pollution levels.

(7) The Americans with Disabilities Act (ADA) includes respiratory function as a disability. The ADA requires disabled persons have access to public places and workplaces.

(8) The National Institute for Occupational Safety and Health has concluded that smoke is an occupational carcinogen.

(9) Nonsmokers who are exposed to secondhand smoke at work have a 25 percent to 30 percent higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, acute respiratory disease, and measurable decrease in lung function than persons not exposed to secondhand smoke at work.

(10) Secondhand smoke exposure leads to higher worker absenteeism from respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates, and increased liability claims for diseases related to secondhand smoke exposure.

(11) Smoking is a potential cause of fires. In parks and outdoor spaces, fire can spread to nearby homes and businesses.

(12) Use of tobacco products also produces litter that detracts from the beauty of city parks and increases maintenance costs of city facilities.

(Code 2003, § 51-1; Ord. No. 78(3rd series), § 1, 8-23-2010)

Sec. 5.16.020. Definitions.

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

City facilities means any building owned or operated by the city, including owned or operated outdoor areas of the lot or parcel on which the building is situated.

Parks means any open or enclosed land and improvements or facility wherever located which is owned, leased or operated by the city and which is reserved, designated or used for a playground, picnic area, garden area, beach, bike or walking path, trail, nature preserve, green space, sports fields, or other recreational open space area.

Tobacco means any substance or item containing tobacco leaf, including, but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing or smoking.

Use means smoking, inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, or plant in any manner or in any form; chewing; sniffing; and spitting.

(Code 2003, § 51-2; Ord. No. 78(3rd series), § 1, 8-23-2010)

Sec. 5.16.030. General prohibitions.

(a) *Tobacco use prohibited in certain areas.* Tobacco use is prohibited in the following areas:

(1) Parks;

(2) City facilities;

(3) Inside motor vehicles owned or operated by the city;

(4) Inside motor vehicles at city facilities and parks.

(b) *Exceptions.* Notwithstanding any other provision to the contrary, the following areas are exempt from the provisions of this chapter:

(1) Leases of city facilities or portions thereof to non-city entities or individuals which have been entered into before the adoption of the ordinance from which this chapter is derived;

(2) Designated outdoor areas of city facilities;

(3) City streets, easements, and sidewalks unless adjacent to or within parks; and

(4) City golf courses.

(Code 2003, § 51-3; Ord. No. 78(3rd series), § 1, 8-23-2010)

Sec. 5.16.040. Posting of signs and removal of smoking paraphernalia.

(a) "Tobacco-Free Grounds" signs shall be clearly and conspicuously displayed outside every city facility and park.

(b) All ashtrays and other smoking paraphernalia shall be removed from every area where tobacco use is prohibited under this chapter.

(Code 2003, § 51-4; Ord. No. 78(3rd series), § 1, 8-23-2010)

Sec. 5.16.050. Enforcement.

(a) *Complaints.* Any citizen who desires to register a complaint under this chapter may initiate enforcement with the city administrator or his/her designee.

(b) *Violation and penalty.* It shall be a petty misdemeanor for any person to use tobacco in an area where tobacco use is prohibited by the provisions of this chapter. The fine for violation of this provision shall be $100.00 plus all surcharges mandated by law.

(c) *Other applicable laws.* This chapter shall not be interpreted or construed to permit tobacco use where it is otherwise restricted by other applicable laws.

(Code 2003, § 51-5; Ord. No. 78(3rd series), § 1, 8-23-2010)

CHAPTER 5.20. SOLID WASTE*

ARTICLE I. IN GENERAL (RESERVED)

ARTICLE II. STORAGE AND DISPOSAL

Sec. 5.20.110. Definitions.

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

Commercial establishment means any premises where a commercial or industrial enterprise of any kind is carried on, and shall include restaurants, clubs, churches, conference centers and schools where food is prepared or served.

Multiple dwelling means any building used for residential purposes consisting of more than three dwelling units with individual kitchen facilities for each.

Refuse means all organic material resulting from the manufacture, preparation or serving of food or food products, and spoiled, decayed or waste foods from any source, bottles, cans, glassware, paper or paper products, crockery, ashes, rags, and discarded clothing, tree or lawn clippings, leaves, weeds and other waste products, except human waste or waste resulting from building construction or demolition.

*__State law references__—Waste Management Act, Minn. Stats. ch. 115A; littering, Minn. Stats. §§ 169.42, 609.671, subd. 13.

Residential dwelling means any single building consisting of one through three dwelling units with individual kitchen facilities for each.
(Code 1984, § 9.01(1); Code 2003, § 54-31)

Sec. 5.20.120. Storage.

(a) It is unlawful for any person to store refuse on residential dwelling premises for more than one week. All such storage shall be in five- to 50-gallon metal or plastic containers with tightfitting covers, which shall be maintained in a clean and sanitary condition. Tree leaves, weeds and grass clippings may be stored in plastic bags and tree limbs must be stored in bundles weighing no more than 75 pounds and no longer than four feet.

(b) It is unlawful for any person to store refuse on multiple dwelling premises for more than one week. Such storage shall be in containers as for residential dwelling premises; except that containers, sometimes referred to as dumpsters, with closefitting covers may be substituted.

(c) It is unlawful for any person to store refuse on commercial establishment premises for more than 48 hours. Such storage shall be in containers as for residential dwelling premises; except that containers, sometimes referred to as dumpsters, with closefitting covers may be substituted.

(d) It is unlawful to store organic refuse unless it is drained and wrapped.

(e) All refuse and garbage deposited in containers for pickup shall not be stored in the area between the street and the front plane of the house or garage on non-collection days or shall be kept within a building. Refuse must be deposited at one place, at ground level, on each property. Refuse containers must be returned and placed to the storage location on the same day that the garbage or refuse is collected. The intent of this subsection is to allow placement at the curb only on the evening prior to and the day of collection of the garbage or refuse container.
(Code 1984, § 9.01(2); Code 2003, § 54-32; Ord. No. 302(3rd series), § 1, 4-8-2024)

Sec. 5.20.130. Deposit.

It is unlawful for any person to deposit in the city any refuse from any source, rubbish, offal or the body of a dead animal in any place other than a licensed sanitary landfill.
(Code 1984, § 9.01(3); Code 2003, § 54-33)

Sec. 5.20.140. Fire danger.

It is unlawful for any person to store, deposit or dispose of any refuse which is in flames or heated to the point where it could cause danger of fire in other refuse.
(Code 1984, § 9.01(4); Code 2003, § 54-34)

ARTICLE III. PRIVATE COLLECTORS*

Division 1. Generally

Sec. 5.20.210. Definitions.

The definitions in Minn. Stats. § 115A.93 apply to this article.
(Code 1984, § 5.35(1); Code 2003, § 54-66)

Sec. 5.20.220. Exception.

Nothing in this article shall prevent persons from hauling garbage or other refuse from their own residences or business properties, provided the following rules are observed:

(1) That all garbage is hauled in containers that are watertight on all sides and the bottom and with tightfitting covers on top;

(2) That all other refuse is hauled in vehicles with leakproof bodies and completely covered or enclosed by canvas or other means or material so as to completely eliminate the possibility of loss of cargo; and

(3) That all garbage and other refuse shall be dumped or unloaded only at the designated sanitary landfill.

(Code 1984, § 5.35(3); Code 2003, § 54-67)

*__State law reference__—Mandatory that city provide for solid waste collection, Minn. Stats. § 115A.941.

*Division 2. License**

Sec. 5.20.310. Required.

It is unlawful for any person to haul garbage or other refuse for hire without a license from the city, or to haul garbage or other refuse from his own residence or business property other than as excepted in this division.
(Code 1984, § 5.35(2); Code 2003, § 54-91)

Sec. 5.20.320. Vehicles; insurance; limitation on number; rates.

(a) Hauler licenses shall be granted only upon the condition that:

(1) The licensee has watertight, packer-type vehicles in good condition to prevent loss in transit of liquid or solid cargo;

(2) Vehicles are kept clean and as free from offensive odors as possible and not allowed to stand in any street longer than reasonably necessary to collect garbage or refuse; and

(3) Vehicles are dumped or unloaded only at the designated sanitary landfill, and strictly in accordance with regulations relating to the landfill.

(b) Before a garbage and refuse hauler's license shall be issued, the applicant shall file with the city clerk evidence that he has provided public liability insurance on all vehicles providing for umbrella or all perils coverage in the amount of $1,000,000.00.

(c) The council, in the interest of maintaining healthful and sanitary conditions in the city, reserves the right to specify and assign certain areas to all licensees, and to limit the number of licenses issued.

(d) Each applicant shall file with the city clerk, before a garbage and refuse hauler's license is issued or renewed, a schedule of proposed rates to be charged by him during the licensed period for which the application is made. The schedule of proposed rates, or a compromise schedule of rates, shall be approved by the council before granting the license. Nothing in this subsection shall prevent a licensee from petitioning the council for review of such rates during the licensed period, and the council may likewise consider such petition and make new rates effective at any time. No licensee shall charge rates in excess of the rates approved by the council.
(Code 1984, § 5.35(4); Code 2003, § 54-92)

Sec. 5.20.330. Haulers; license period.

All licenses for garbage and refuse haulers shall expire on May 31 of each year. Application for renewal of an existing garbage and refuse hauler's license shall be made to the city clerk at least 60 days prior to the expiration date.
(Code 2003, § 54-93; Ord. No. 140(2nd series), § 1(5.35(5)), 8-28-1995)

CHAPTER 5.24. ENVIRONMENT

ARTICLE I. IN GENERAL

Sec. 5.24.010. Maintenance of private property.

(a) The owner of every vacant property and the owner and occupant of every occupied property must maintain the property in a neat, clean, and presentable manner free of any junk, debris, refuse, litter, dead trees, or noxious weeds, and remove all other public health or safety hazards from the property.

(b) The owner or occupant of every lot or parcel shall regularly cut or otherwise maintain all grass and weeds on the property at a height of not more than eight inches, except this provision shall not apply to the following:

(1) Publicly owned parks, trails, or nature areas.

(2) Property actively being farmed or used for agricultural purposes in conformance with chapter 6.12.

(3) Residential properties over one-acre gross lot size when located in the RR-1A, RR-1B, LR-1A, and RS rural residential zoning districts, provided that such properties

*State law reference—Licensing of solid waste collection, Minn. Stats. § 115A.93.

or portions of properties shall be maintained in conformance with this subsection (b) upon notice from the city that lack of such maintenance has caused complaints from abutting property owners and is thereby creating a public nuisance.

(4) Wetlands vegetation as defined in chapter 6.12.

(5) Grass, weeds, or underbrush on any slope over 100 percent (45 degrees).

(c) Any violation of this section is declared to be a nuisance and a public safety and welfare hazard, and upon seven days' written notice to the owner, as shown by the records of the office of the county auditor, of private premises on which such material is found or any conditions in violation of this section exist, the city may remove such matter or correct any conditions in violation, and certify the cost of such removals or corrections as any other special assessment.
(Code 1984, § 9.55; Code 2003, § 58-1; Ord. No. 191(2nd series), § 1, 6-14-1999; Ord. No. 298(3rd series), § 1, 3-11-2024)

State law reference—Minnesota Noxious Weed Law, Minn. Stats. § 18.75 et seq.

Sec. 5.24.020. Maintenance of drainage systems; interference with drainage; permit for drainage systems.

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

Private drainage system means any storm sewer, ditch, tile line, or other facility, together with all appurtenances, constructed by a private person or existing on private property, for the purpose of collecting or conveying natural precipitation.

Public drainage system means any storm sewer, ditch, tile line, or other facility, together with all appurtenances, constructed by the city from public funds, whether or not the cost was specially assessed, or maintained by the city from public funds, for the purpose of collecting or conveying natural precipitation.

(b) *Maintenance.* It is the responsibility of the owner of any private drainage system, or the owner of the land upon which it is constructed, to maintain such system in good and workable condition and not to alter its capacity, inlet location or discharge location without a permit from the city.

(c) *Obstructions.* It is a misdemeanor for any person to obstruct or place any obstruction in or upon any public or private drainage system.

(d) *Contract required.* It is a misdemeanor for any person to construct, reconstruct, or in any way alter or extend any public or private drainage system unless such person is within the scope of a contract with the city or has a written permit from the city.

(e) *Increase of volume, velocity.* It is a misdemeanor for any person to increase the volume or velocity of surface water runoff leaving his property, or to channel any surface water runoff so that it is redirected outside of the normal, natural watercourse as such surface water is discharged from private property on to public streets, public property, or on to neighboring private property, without a permit from the city.
(Code 1984, § 9.04; Code 2003, § 58-2)

Sec. 5.24.030. Junk cars, furniture, household furnishings and appliances stored on public or private property.

It is unlawful to park or store any unlicensed, unregistered or inoperable motor vehicle lacking essential parts, household furnishings or appliances, or parts or components, on any property, public or private, unless housed within a lawfully erected building. Any violation of this section is declared to be a nuisance; and upon seven days' written notice to the owner, as shown by the records in the office of the county auditor, of private premises on which such material is found, the city may remove the vehicle and certify the cost of such removal as any other

special assessment. For the purpose of this section, the term "inoperable motor vehicle" means lacking parts essential to operation, including, but not limited to, wheels, tires, motor, drive train, battery; or having two or more flat tires; or having the interior, including the driver's position, used for storage in such a manner that no person can operate the vehicle.

(Code 1984, § 9.50; Code 2003, § 58-3)

State law reference—Abandoned motor vehicles, Minn. Stats. ch. 168B.

Sec. 5.24.040. Abandoning a motor vehicle.

It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such property. Abandoned motor vehicles shall be removed, impounded and disposed of in accordance with state law. For the purpose of this section, the term "motor vehicle" means as that term is defined in Minn. Stats. ch. 169.

(Code 1984, §§ 2.61(1), 9.51; Code 2003, § 58-4)

State law reference—Similar provisions, Minn. Stats. § 168B.03.

ARTICLE II. ON-SITE SEWAGE DISPOSAL*

Division 1. Generally

Sec. 5.24.110. Purpose.

This article is enacted to provide minimum standards for the regulation of subsurface sewage treatment systems (SSTS), including proper location, design and construction; necessary modification and reconstruction; operation, maintenance and repair for the purpose of protecting surface water and groundwater from contamination by human sewage and waterborne household and commercial wastes; protection of the public's health and safety; and elimination and prevention of the development of public nuisances, pursuant to the authority granted under Minn. Stats. chs. 115 and 145A and Minn. R. chs. 7080, 7081 and 7082, as amended from time to time, that may pertain to sewage and wastewater treatment.

(1) All sewage generated in unsewered areas of the city shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this article or by a system that has been permitted by the MPCA.

(2) Sewage discharge to ground surface or surface water. It is unlawful for any person to construct, maintain, or use any wastewater treatment system regulated under this article that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted by the MPCA under the National Pollutant Discharge Elimination System program.

(Code 2003, § 58-41; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.120. Objectives.

The principal objectives of this article are as follows:

(1) The protection of the city's lakes, rivers and streams, wetlands, and groundwater essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the city in perpetuity.

(2) The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby ensuring the non-degradation of surface water and groundwater.

(3) The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.

(4) The appropriate utilization of privy vaults and other non-water-carried SSTS.

(5) The prevention and control of waterborne disease, lake degradation, groundwater related hazards, and public nuisance conditions through technical assistance

*State law reference—Individual sewage treatment systems, Minn. Stats. § 115.55.

and education, plan reviews, inspections, ISTS surveys and complaint investigation.

(Code 2003, § 58-42; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.130. Definitions.

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

Class V injection well means a shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The U.S. Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR parts 144 and 146).

Cluster system means an SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.

Design flow means the daily volume of wastewater for which an SSTS is designed to treat and discharge.

Failure to protect groundwater means at minimum, an SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; an SSTS with less than the required vertical separation distance, described in Minn. R. 7080.1500, subp. 4(D) and (E); and a system not abandoned in accordance with Minn. R. 7080.2500. The determination of the threat to groundwater for other conditions must be made by a qualified employee or an individual licensed pursuant to section 5.24.260.

Health authority means the city and its designated agent who shall be a qualified employee or licensee.

Imminent threat to public health and safety means, at a minimum an SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a qualified employee or an SSTS inspection business licensed pursuant to section 5.24.260.

ISTS means an individual sewage treatment system as defined in Minn. R. 7080.1100, subp. 41.

Malfunction means the partial or complete loss of function of an SSTS component, which requires a corrective action to restore its intended function.

Management plan means a plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.

Minor repair means the repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications or concept of the SSTS.

MPCA means the Minnesota Pollution Control Agency.

MSTS means a midsized subsurface sewage treatment system under single ownership that receives sewage from dwellings or other establishments having a design flow of more than 5,000 gallons per day to a maximum of 10,000 gallons per day.

Notice of noncompliance means a written document issued by the city notifying a system owner that the owner's onsite/cluster treatment system has been observed to be noncompliant with the requirements of this article.

Qualified employee means an employee of the state or city, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual's employment duties and is registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.

Other establishment means any private or public structure, other than a dwelling, that generates sewage having characteristics other than residential-type waste or has an average waste flow greater than 2,000 gallons per day and discharges to an individual sewage treatment system.

Owner means the fee owner and, if applicable, the contract-for-deed purchaser. Ownership interests shall be determined by reference to the records of the county. The owner of each lot served by an ISTS is responsible for the lawful operation and maintenance of each ISTS.

Record drawings means a set of drawings which to the fullest extent possible document the final in-place location, size, and type of all SSTS components, including the results of any materials testing performed and a description of conditions during construction of the system.

Sewage means waste from toilets, bathing, laundry, or culinary activities or operations or floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.

SSTS means subsurface sewage treatment system as defined in Minn. R. 7080.1100, subp. 82.

Type I system means an ISTS designed according to Minn. R. 7080.2200 to 7080.2240, as may be amended from time to time.

Type II system means an ISTS designed according to Minn. R. 7080.2250 to 7080.2290, as may be amended from time to time.

Type III system means an ISTS designed according to Minn. R. 7080.2300, as may be amended from time to time.

Type IV system means an ISTS designed according to Minn. R. 7080.2350, as may be amended from time to time.

Type V system means an ISTS designed according to Minn. R. 7080.2400, as may be amended from time to time.
(Code 2003, § 58-43; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.140. Incorporation by reference.

This article hereby incorporates by reference Minn. R. ch. 7080 and 7081, as may be amended from time to time.
(Code 2003, § 58-44; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.150. Administration by the health authority.

The health authority shall have the following duties and responsibilities:

(1) To review all applications for SSTS.

(2) To issue all required permits.

(3) To conduct construction inspections and to perform all necessary tests to determine its conformance with this article.

(4) To investigate complaints regarding SSTS.

(5) To perform compliance inspections and to issue certificates of compliance or notices of noncompliance where appropriate.

(6) To issue stop work orders and notices of violation pursuant to this article.

(7) To take complaints to the municipal or county attorney for violations of this article.

(8) To maintain proper records for SSTS including site evaluation records, design records, including calculations and summaries for all system component sizings and as-builts, complaints on noncompliance, compliance inspections, site evaluations, applications and exhibits, variance requests, issued permits, certificates of compliance, and enforcement proceedings.

(9) To submit annual reports to the MPCA to demonstrate enforcement of this article per Minn. R. 7082.0040, subp. 5.

(Code 2003, § 58-45; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.160. No guarantee.

Neither the issuance of permits, certificates of compliance nor notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or noncompliance with the provision of these standards and regulations.

(Code 2003, § 58-46; Ord. No. 212(3rd series), § 1, 8-13-2018)

Division 2. Permitting

Sec. 5.24.210. Required permits.

(a) A permit from the health authority is required before any SSTS in the city's jurisdiction is installed, replaced, abandoned, altered, repaired, rejuvenated or extended pursuant to this article. Such permits are not transferable as to person or place. Such permits shall expire 12 months after the date of issuance. Upon request of an inspector, permits shall be provided by the permittee at the time of inspection.

(b) New residence. No building permit shall be issued for any new building that will be connected to an ISTS until a site evaluation and design is approved by the on-site systems manager. The site evaluation must include the identification of both primary and alternate drainfield sites suitable for a minimum of a five-bedroom residence. If the building will be connected to an existing system, a site evaluation and design must be approved by the city, including the existing system specifications and a future site meeting the provisions of this article.

(Code 2003, § 58-47; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.220. Permits not required.

Permits shall not be required for the following activities:

(1) Repair or replacement of pumps, floats or other electrical devices of the pump.

(2) Repair or replacement of baffles in the septic tank.

(3) Installation or repair of inspection pipes and manhole covers.

(4) Repair or replacement of the line from the building to the septic tank.

(5) Repair or replacement of the line from the septic tank or pump chamber to the distribution box or lines.

(Code 2003, § 58-48; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.230. Permit application.

All applications for an SSTS permit shall include the following information:

(1) Name and address of property owner;

(2) Property identification number;

(3) Legal description of the property;

(4) SSTS designer name, address, telephone number and state MPCA license number (or health authority qualified employee name and number);

(5) SSTS installer name, address, telephone number and MPCA license number;

(6) Site evaluation report on forms approved by the health authority and include information required by Minn. R. 7080.1710 through 7080.2400;

(7) System design with full information, including applicable construction information on forms approved by the health authority;

(8) The location of two or more designated additional soil treatment areas that can support system as described in Minn. R. 7080.2200 through 7080.2230 or site conditions described in Minn. R. 7081.0270, subps. 3 through 7, on lots created after January 23, 1996;

(9) A management plan as described in Minn. R. 7082.0600 and this article; and

(10) Any other information requested pertinent to the process.

(Code 2003, § 58-49; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.240. Operating permit.

(a) An operating permit is required for all treatment systems installed under Minn. R. 7080.2290 (holding tanks), Minn. R. 7080.2350 through 7080.22400 (Type IV and V systems), and Minn. R. ch. 7081 (MSTS). Sewage shall not be discharged to a treatment system requiring an operating permit until the health authority certifies that the treatment system was installed in substantial conformance with the approved plans, receives the final record drawings of the SSTS, and a valid operating permit is issued to the owner.

(b) The operating permit shall be valid for 12 months and renewed by the expiration date. The health authority shall review all required monitoring data submitted from the previous year and the renewal application before approving any subsequent operating permits. An operating permit shall include:

(1) A detailed description of the operation, maintenance, and monitoring, reporting and compliance limits and boundaries necessary to ensure both continued system performance as designed and protection of public health and the environment for the life of the system;

(2) A requirement that the person responsible for monitoring notify the health authority when monitoring plan requirements are not met;

(3) A disclosure of the location and condition of the additional soil treatment and dispersal system;

(4) A stipulation of acceptable and prohibited discharges; and

(5) The signatures of the system designer and owner.

(Code 2003, § 58-50; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.250. Compliance monitoring.

(a) Performance monitoring of an SSTS shall be performed by a licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.

(b) A monitoring report shall be prepared and certified by the licensed service provider. The report shall be submitted to the city on a form provided by the city on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:

(1) Owner name and address;

(2) Operating permit number;

(3) Average daily flow since last compliance monitoring report;

(4) Description of type of maintenance and date performed;

(5) Description of sample taken (if required), analytical laboratory used, and results of analyses;

(6) Problems noted with the system and actions proposed or taken to correct them; and

(7) Name, signature, license and license number of the licensed professional who performed the work.

(Code 2003, § 58-51; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.260. License requirements.

All design, installation, alteration, repair, maintenance, operation, pumping, and inspection activities for SSTS located in the city must be completed by a business licensed by the state under Minn. R. ch. 7083, an appropriately certified qualified employee, or a person exempted under Minn. R. 7083.0700, subp. 1(A), (C), (D),

(F), (G), (H) and (I). Individuals exempt from a state SSTS license under Minn. R. 7083.0700, subp. 1(A), (C), (D), (F), (G), (H) and (I) must follow all applicable local, state, and federal requirements. Property owners that employ a business to perform this work must hire a business that is licensed in accordance with Minn. R. ch. 7083.
(Code 2003, § 58-52; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.270. Application review and determination.

If, after consideration of the application for a permit, the health authority determines that the proposed work complies with provision of this article, the health authority shall issue a written permit granting preliminary approval authorizing initiation of the work as proposed. If the health authority determines that the proposed work will not comply with the provisions of this article, the health authority shall deny the permit application. The permit application may be revised or corrected and resubmitted to the health authority for reconsideration.
(Code 2003, § 58-53; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.280. Variances.

(a) Variances to wells and water supply lines require approval from the state department of health. The health authority may grant variances to the technical standards and criteria of Minn. R. ch. 7080 or this article. However, the health authority is prohibited from granting variances to:

(1) Minn. R. 7080.2150, subp. 2.

(2) Minn. R. 7081.0080, subps. 2 to 5.

(3) Flow determinations under Minn. R. 7081.0110 if the deviation reduces the average daily flow from more than 10,000 gallons to 10,000 gallons per day or less.

(b) All requests for a variance shall be requested in writing to the health authority on forms approved by the health authority.
(Code 2003, § 58-54; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.290. Periodically saturated soil disagreements.

(a) If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purposes, all disputing parties must follow the procedure outlined in this subpart.

(1) The disputing parties must meet at the disputed site in an attempt to resolve differences.

(2) If the provision does not resolve the differences, then:

a. Obtain an opinion from a state-licensed professional soil scientist who is a certified SSTS designer or inspector and who is independent of, and agreed upon by, both parties.

b. If opinions rendered do not resolve the dispute, all initial and follow-up documents and information generated must be submitted to the health authority. The health authority shall take into consideration all information and opinions rendered and make a final judgment. The health authority shall render findings of fact, conclusions of law, and findings setting forth the reasons for any final decisions it renders.

(b) If a documented discrepancy arises on the depth of the periodically saturated soil between an SSTS licensed business and the health authority for SSTS design or compliance purposes, all disputing parties shall follow the procedure outlined in this item.

(1) A representative of the health authority and the licensed business must meet at the disputed site in an attempt to resolve differences.

(2) If the provision does not resolve differences, then the SSTS licensed business may obtain an opinion from a state-licensed professional soil scientist who is a certified SSTS designer or inspector and who is independent of, and agreed upon by, both parties.

(3) If still unresolved, the health authority shall take into consideration all information and opinions rendered and make a final judgment. The health authority shall render findings of fact, conclusions of law, and findings setting forth the reasons for any final decisions they render.

(c) Upon resolution of a dispute, amendments to initial disputed documents containing the resolution shall be made and submitted to the health authority and all other parties involved.
(Code 2003, § 58-55; Ord. No. 212(3rd series), § 1, 8-13-2018)

Division 3. Construction Inspections

Sec. 5.24.310. Requirements.

Compliance inspections shall be conducted by the health authority anytime an SSTS is installed, replaced, abandoned, altered, repaired, rejuvenated, or extended. The installation and construction of the SSTS shall be in accordance with the permit requirements and application design. If any SSTS component is covered before being inspected by the health authority, it shall be uncovered if so ordered by the health authority. Proposals to alter the permitted construction shall be reviewed and the proposed change accepted by the health authority prior to construction. Inspections shall be conducted at least once during the construction that is prior to covering of the ISTS to assure that the system has been constructed per the submitted and approved design.
(Code 2003, § 58-56; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.320. Inspector.

Any time an SSTS is installed, replaced, abandoned, altered, repaired, rejuvenated, or extended, inspections shall be conducted by the health authority.
(Code 2003, § 58-57; Ord. No. 212(3rd series), § 1, 8-13-2018; Ord. No. 292(3rd series), § 1, 2-26-2024; Ord. No. 298(3rd series), § 2, 3-11-2024)

Sec. 5.24.340. Request for inspection.

It shall be the duty of the permittee to notify the health authority of the date and time the inspection is requested at least 24 hours (excluding weekend days and holidays) preceding the requested inspection time. If the permitee provides proper notice as described above and the health authority does not appear for an inspection within two hours after the time scheduled, the permitee may complete the installation and submit an as-built for the system.
(Code 2003, § 58-58; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.350. Access to premises and records.

Upon the request of the health authority, the applicant, owner, permittee or any other person shall allow access at any reasonable time to the affected premises as well as any related records, for the purposes of regulating and enforcing this article. If entry is refused, the health authority shall have recourse to the remedies provided by law to secure entry. No person shall hinder or otherwise interfere with the health authority in the performance of their duties and responsibilities pursuant to the enforcement of this article. Refusal to allow reasonable access to the health authority shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.
(Code 2003, § 58-59; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.360. Stop work orders

Whenever any SSTS work is being done contrary to the provisions of this article, the health authority may order the work stopped by verbal or written notice served upon the installer or the owner of the land. All installation and construction shall cease and desist until subsequent authorization to proceed is received from the health authority.
(Code 2003, § 58-60; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.370. As-builts.

As-builts shall be submitted to the health authority within five working days of completion

of the work on the ISTS on forms provided or approved by the health authority. The as-built shall include photographs of the system prior to covering and a certified statement that the work was installed in accordance with submitted design and permit conditions and that it was free from defects. If an as-built is not submitted, the health authority may require the uncovering of the system for inspection.
(Code 2003, § 58-61; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.380. Inspection reports.

A certificate of compliance or notice of noncompliance shall be prepared by the health authority following an inspection or review of as-builts submitted in accordance with section 5.24.370. A certificate of compliance or notice of noncompliance shall include a signed statement by the inspector identifying the type of ISTS inspected and whether the system is in compliance with Minnesota Rules. A copy of the certificate of compliance or notice of noncompliance shall be provided to the property owner within 30 days of the compliance inspection and a copy kept on file with the health authority.

(1) Certificates of compliance issued by the health authority for new construction and replacement shall be valid for five years from the date of the compliance inspection or as-built certification unless the health authority or licensed inspector identifies the system as an imminent threat to public health and safety.

(2) Notices of violation may be issued with notices of noncompliance when the health authority determines that new construction, replacement or repairs are not in compliance with this article.

(Code 2003, § 58-62; Ord. No. 212(3rd series), § 1, 8-13-2018)

Division 4. Existing Systems

Sec. 5.24.410. Requirements.

(a) The health authority shall require a compliance inspection on the MPCA compliance inspection form of an existing system whenever:

(1) In designated shoreland management or wellhead protection areas, an application for any type of building or land use permit is made.

(2) The health authority deems a compliance inspection necessary, including, but not limited to, upon receipt of information of a potential ISTS failure or imminent threat to public health and safety.

(3) An additional bedroom on the property is requested. If a request for an additional bedroom is received between November 1 and April 30, the governing municipality may issue a building permit immediately with the contingent requirement that a compliance inspection of the existing ISTS shall be completed by the following June 1 and the applicant submits a certificate of compliance by the following September 30.

(4) Any addition or remodel of a licensed food, beverage, or lodging establishment or any other establishment where the sewage treatment system's designed flow may be affected.

(b) Abandonment of existing systems. Whenever the use of an SSTS or any system component is discontinued as the result of a system repair, modification, replacement, or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose is prohibited. Abandonment shall be completed in accordance with Minn. R. 7080.2500.
(Code 2003, § 58-63; Ord. No. 212(3rd series), § 1, 8-13-2018; Ord. No. 292(3rd series), § 2, 2-26-2024; Ord. No. 298(3rd series), § 3, 3-11-2024)

Sec. 5.24.420. Inspector.

Only a certified inspector from the health authority or a licensed inspection business shall conduct an inspection when a compliance inspection is required for an existing SSTS.
(Code 2003, § 58-64; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.430. Vertical separation.

(a) SSTS built after March 31, 1996. An SSTS located in a shoreland area, wellhead protection area, or serving a food, beverage, or lodging

establishment as defined under Minn. R. 7080.1100, subp. 84 must have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Unless otherwise determined by the health authority, existing systems that have no more than a 15 percent reduction to the minimum required 36 inch separation distance are considered compliant. (i.e., a separation distance no less than 30.6 inches). This reduction is to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics. The vertical separation measurement shall be made outside the area of system influence in an area of similar soil.

(b) SSTS built after March 31, 1996 located outside shoreland, wellhead protection, or serving food, beverage, or lodging establishments as defined under Minn. R. 7080.1100, subp. 84, must have at least three feet of vertical separation.

(c) SSTS built before April 1, 1996, in areas that are not shoreland, wellhead protection, or serving food, beverage, or lodging establishments SWF areas as defined under Minn. R. 7080.1100, subp. 84, must have at least two feet of vertical separation.

(d) SSTS built before April 1, 1996, in areas that are within shoreland, wellhead protection areas, or serving food, beverage, or lodging establishments as defined under Minn. R. 7080.1100, subp. 84, must have at least three feet of vertical separation.

Table 1. Vertical Separation Summarized

	Within Shoreland, Well Protection, or Food, Beverage, or Lodging	*Outside Shoreland, Well Protection, or Not in Food, Beverage, or Lodging*
Built before April 1, 1996	3 feet separation, minimum	2 feet separation, minimum
Built after March 31, 1996	3 feet separation, minimum	3 feet separation, minimum

(Code 2003, § 58-65; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.440. Inspection reports.

A copy of the certificate of compliance or notice of noncompliance resulting from a compliance inspection shall be provided to the property owner and the health authority within 30 calendar days of inspection.

(1) Certificates of compliance issued by a licensed ISTS inspector for an existing system shall be valid for three years from the date of the compliance inspection unless the health authority or licensed inspector identifies the system as an imminent threat to public health and safety.

(2) A notice of noncompliance shall be issued in the following circumstances and the conditions noted in violation of this article shall be remedied as follows:

a. An SSTS determined to be failing to protect groundwater shall be upgraded, replaced, or repaired in accordance with Minn. R. ch. 7080 or 7081, within three years, or its use is discontinued. The health authority, at its discretion, may grant an extension of an additional two years.

b. An SSTS posing an imminent threat to public health and safety shall be upgraded, replaced or repaired within ten months. The health authority will give consideration to weather conditions in determining compliance dates. If an SSTS is determined to be a public health nuisance by the health authority, the health authority may order the owner of the SSTS to cease use immediately and not allow use of

the SSTS until it is corrected in accordance with the recommendations of the health authority.

(Code 2003, § 58-66; Ord. No. 212(3rd series), § 1, 8-13-2018)

Division 5. Violations

Sec. 5.24.510. Cause to issue a notice of violation.

Noncompliance with this article by an applicant, permittee, installer or other person, as determined by the health authority, shall constitute a violation.

(Code 2003, § 58-67; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.520. Serving a notice of violation.

The health authority shall serve, in person or by mail, a notice of violation upon any person determined to be not in compliance with this article.

(Code 2003, § 58-68; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.530. Contents of a notice of violation.

A notice of violation shall contain the following:

(1) A statement documenting the findings of fact determined through inspections, reinspection or investigation.

(2) A list of specific violation or violations of this article.

(3) The specific requirements for correction or removal of the specified violations.

(4) A mandatory time schedule for correction, removal and compliance with this article.

(Code 2003, § 58-69; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.540. Notification of MPCA.

The health authority shall in accordance with state law notify the MPCA of any inspection, installation, design, construction, alteration or repair of an ISTS by a licensed person or any pumping by a licensed pumper performed in violation of the provisions of this article.

(Code 2003, § 58-70; Ord. No. 212(3rd series), § 1, 8-13-2018)

Division 6. Additional Standards for Health and Environmental Protection

Sec. 5.24.610. Property transaction standards for individual sewage treatment systems.

No owner of a tract of land upon which a dwelling is located, or a tract of land upon which a structure which is required to have an individual sewage treatment system is located, shall sell or transfer to another party said tract of land unless the following requirements are met:

(1) The seller of any property having an individual sewage treatment system shall have a state licensed inspector complete the Minnesota Pollution Control Agency (MPCA) sewage system compliance inspection form for existing sewage systems in accordance with this article and Minn. R. ch. 7080. The exception would be a new septic system installed within the previous five years or a compliance inspection performed by a licensed inspector within the previous three years.

(2) The seller must provide a copy of the completed sewage system disclosure form and the certificate of compliance or notice of noncompliance to any person who signs a purchase agreement. The disclosure form and certificate of compliance or notice of noncompliance inspection form must be provided to the buyer prior to signing the purchase agreement.

(3) The licensed inspector must submit a copy of the certificate of compliance or notice of noncompliance to the city within 15 days of the date of inspection.

(4) If the existing system is found to be noncompliant, it must be brought into compliance prior to the transfer of the property. If the system is not brought

into compliance prior to transfer, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a complying ISTS.

(5) If the seller fails to provide a certificate of compliance, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a complying ISTS.

(6) The security shall be placed in an escrow with a licensed real estate closer, licensed attorney-at-law or a federal or state chartered financial institution. The amount escrowed shall be equal to 150 percent of a written estimate to install a complying ISTS provided by a licensed and certified installer, or the amount shall be equal to 110 percent of the written contract price for the installation of a complying ISTS provided by a licensed and certified installer. After a complying ISTS has been installed and a certificate of compliance issued, the city shall provide the escrow agent a copy of the certificate of compliance.

(Code 2003, § 58-71; Ord. No. 212(3rd series), § 1, 8-13-2018; Ord. No. 292(3rd series), § 3, 2-26-2024; Ord. No. 298(3rd series), § 4(58-71), 3-11-2024)

Sec. 5.24.620. Siting of an SSTS.

Notwithstanding any state or federal requirements, the separation distance from an SSTS to a Type 3, 4, 5 or 6 wetland shall be no less than 50 feet.

(1) *SSTS in floodplains.* No permit shall be issued for an SSTS located in a floodway and, wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate an SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements of Minn. R. 7080.2270 and all relevant local requirements are met.

(2) *Class V injection wells.* All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in 40 CFR 144, are required to submit SSTS inventory information to the United States Environmental Protection Agency and the MPCA. Owners are also required to identify all Class V injection wells in property transfer disclosures.

(3) *Holding tanks.* Holding tanks may be used for the following applications only after it can be shown conclusively by the property owner that an SSTS permitted under this article cannot be feasibly installed:

a. As a replacement for an existing failing SSTS;

b. For an SSTS that poses an imminent threat to public health and safety; or

c. For use with buildings with limited water use.

(4) *Determination of hydraulic loading rate and SSTS sizing.* Table IX from Minn. R. 7080.2150, subp. 3(E), titled "Loading Rates for Determining Bottom Absorption Area and Absorption Ratios Using Detailed Soil Descriptions" and Table IXa from Minn. R. 7080.2150, subp. 3(E), titled "Loading Rates for Determining Bottom Absorption Area Using Percolation Tests," are herein adopted by reference and shall both be used to size SSTS infiltration areas using the larger sizing factor of the two for SSTS design.

(Code 2003, § 58-72; Ord. No. 212(3rd series), § 1, 8-13-2018; Ord. No. 298(3rd series), § 4(58-72), 3-11-2024)

Sec. 5.24.630. Maintenance report.

(a) *Generally.* Licensed maintenance businesses must abide by the requirements described in Minn. R. 7083.0770, subp. 2. All written reports required by Minn. R. 7083.0770, subp. 2 must be provided to the homeowner and the health authority within 30 days after any maintenance work is performed.

(b) *Systems not operated under a management plan.* Owners of SSTS that are not operated under a management plan or operating

permit must inspect treatment tanks and remove solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minn. R. 7080.2450.
(Code 2003, § 58-73; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.640. Special provisions for Lake Minnetonka Islands.

All lots, properties, buildings and structures on Big Island, Mahpiyata Island and Deering Island, Lake Minnetonka, shall be provided with SSTSs which comply with the requirements of this article, as amended by the following special provisions and specific exceptions pertaining to island properties:

(1) *Systems not required.* Vacant property or property used solely for one-family seasonal recreational use of land without structures, or with accessory structures only, as permitted in the RS zoning district, need not be provided with an SSTS, provided that, at any time such property is actually in use by one or more persons for overnight or longer stays, an approved marine toilet or portable holding tank toilet shall be available on the property or within a watercraft docked or moored at the property.

(2) *SSTS required.* Each building or structure within the RS zoning district must be connected to an ISTS according to the provisions of this article as follows:

a. For each principal dwelling.

b. For each dwelling on a property containing two or more dwellings pursuant to a private guest cabin conditional use permit.

c. For each seasonal dwelling over 800 square feet in floor area.

d. For any dwelling or building which has water plumbed inside and has a sink, toilet, tub or other plumbing fixture.

(3) *Alternative SSTS permitted.* Outhouses, incinerating devices, composting devices or small portable holding tank toilets are permitted as follows:

a. Seasonal dwellings of less than 800 square feet in floor area.

b. Seasonal recreational use of land without structures, or with accessory structures only.

c. Any other permitted or conditional use only upon approval of a variance issued by the council.

d. Outhouses shall be constructed in accordance with Minn. R. ch. 7080, except that sealed vault type outhouses shall not be permitted.

e. Existing outhouses not conforming to any or all of the above requirements shall be abandoned, filled in and the superstructure removed within ten months of notification that a noncompliant system exists.

f. Island septic systems are exempt from the five bedroom minimum sizing standards for new construction and may be sized for actual water use.

(Code 2003, § 58-74; Ord. No. 212(3rd series), § 1, 8-13-2018)

Division 7. Enforcement

Sec. 5.24.710. Violation, false statement.

Any person, firm, corporation or other entity who violates any of the provisions of this article or who makes any false statement on a certificate of compliance, shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both, as defined by law. Each day in violation may constitute a separate violation.
(Code 2003, § 58-75; Ord. No. 212(3rd series), § 1, 8-13-2018)

Sec. 5.24.720. Other remedies.

In the event of a violation of this article, in addition to other remedies, the county or municipal

attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations.
(Code 2003, § 58-76; Ord. No. 212(3rd series), § 1, 8-13-2018)

Division 8. Fees

Sec. 5.24.810. Collection for activities undertaken by health authority.

The city council shall from time to time establish fees for activities undertaken by the health authority pursuant to this article. Fees shall be due and payable at a time and in a manner to be determined by the health authority.
(Code 2003, § 58-77; Ord. No. 212(3rd series), § 1, 8-13-2018)

Division 9. Severability

Sec. 5.24.910. Invalidity; continued enforcement.

If a provision or application of this article is held invalid, that invalidity shall not affect the validity of other provisions or applications of this article.
(Code 2003, § 58-78; Ord. No. 212(3rd series), § 1, 8-13-2018)

ARTICLE III. NOISE*

Sec. 5.24.1010. Definitions.

Words or phrases used in this article and defined in the rules of the Minnesota Pollution Control Agency Noise Pollution Control, chapter 7030, shall have the meanings given in those rules. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cutout and *bypass* mean a mechanism which varies the exhaust system gas flow so as to discharge the exhaust gas and acoustic energy to the atmosphere without passing through the entire length of the system, including all exhaust system sound attenuation components.

dB(A) means a unit of sound level expressed in decibels (dB) and A-weighted.

Excessive noise means the presence of any noise or combination of noises in such quantity, at such levels, or such nature and duration or under such conditions as could potentially be injurious to human health, safety or welfare or to animal life, or could interfere unreasonably with the enjoyment of life or property.

Exhaust system means a combination of components which provides an enclosed flow of exhaust gas from engine parts to the atmosphere.

Holiday means any day fixed by the United States or by state law for suspension of business in whole or in part.

MPCA means the Minnesota Pollution Control Agency.

Municipality means the city.

Noise means any sound not occurring in the natural environment, including, but not limited to, sounds emanating from airways, roadways, waterways and industrial, commercial and residential sources.

Noise control officer means any of the city employees authorized to issue citations as listed in section 1.08.020.

Person means any individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivision, or any body of persons whether incorporated or not. With respect to acts prohibited or required in this article, the term "person" includes employees and licensees.

Weighted and *A-weighted* mean a specific weighing of the sound pressure level for the purpose of determining the human response to sound. The specific weighing characteristics and tolerances are those given in American National Standards Institute 1.4-1983, section 5.1.
(Code 2003, § 58-116; Ord. No. 155(2nd series), § 8(9.24(1)), 2-10-1997)

*State law reference—Authority relative to noise, Minn. Stats. §§ 116.07, subd. 2, 412.221, subd. 24.

Sec. 5.24.1020. Enforcement and penalties.

(a) *Notice.*

(1) When the noise control officer, after appropriate testing has been done, determines that a noise exceeds the maximum sound level permitted under this article, or otherwise constitutes a nuisance, the noise control officer shall give written notice of the violation to the owner or occupant of the premises where the noise originates, and order such person to correct or remove each specified violation within such reasonable time as is prescribed in the notice.

(2) In all other cases, the noise control officer or the city's law enforcement officer may demand immediate termination of the excessive noise. Failure to adhere to such demand would subject the violator to appropriate criminal enforcement procedures.

(b) *Penalties.* Any person violating this article or any of its sections shall be guilty of a misdemeanor.
(Code 2003, § 58-117; Ord. No. 155(2nd series), § 8(9.24(7)), 2-10-1997)

Sec. 5.24.1030. Powers and duties of noise control officer.

(a) *Administering officer.* The noise control program established by this article shall be administered by the noise control officer.

(b) *Testing procedures.* The noise control officer shall adopt guidelines establishing the test procedures and instrumentation used in enforcing the provisions of this article. A copy of such guidelines shall be kept in the office of the city clerk and shall be available to the public for reference during business hours.

(c) *Investigation and inspection.* The noise control officer, with the assistance of other professional agencies or persons as may be necessary, shall conduct all research monitoring and other studies related to sound as are necessary in order to enforce this article and shall make all investigations and inspections in accordance with law as required in applying the provisions of this article.

(d) *Noise impact statements.* The noise control officer may require any person applying to the city for a change in zoning, permit, license for any structure, operation, process, installation, or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the officer. Each such statement shall be reviewed to ascertain whether the granting of such change in zoning, permit or license would result in the violation of any provision of this article. Reviews of noise impact statements shall be made by the noise control officer, and recommendations shall be made to the city council.

(e) *Other powers and duties.* The noise control officer shall exercise such other powers and perform such other duties as are reasonable and necessary to enforce the provisions of this article.
(Code 2003, § 58-118; Ord. No. 155(2nd series), § 8(9.24(6)), 2-10-1997)

Sec. 5.24.1040. General noise standards.

(a) *Incorporation by reference.* The MPCA Noise Rule, chapter 7030.0010 through 7030.0080, and all amendments and supplements are referred to, adopted and incorporated by reference, and made a part of this article. A current copy shall be available for public inspection through the city clerk's office.

(b) *Maximum noise levels by receiving land use districts.* No person shall operate or cause or permit to be operated any source of noise in such a manner as to create a noise level outdoors exceeding the dB limit set in Table 1 for the receiving land use district specified.

Table 1. Sound Levels by Receiving Land Use Districts

Land Use District	*Day (7:00 a.m.—10:00 p.m.)*	*Night (10:00 p.m.—7:00 a.m.)*
Residential	65 dB(A)	55 dB(A)
Commercial	70 dB(A)	70 dB(A)
Industrial	70 dB(A)	70 dB(A)

(c) *Exemptions.*

(1) The levels prescribed in subsection (b) of this section shall not apply to special events which have been granted a noise standards exemption by the city council. Application for such exemption shall be made in a timely manner prior to the event and may be approved if the city council finds that the proposed event will not adversely affect the citizens of the city, and is otherwise consistent with the public health, safety and welfare of the city.

(2) The levels do not apply to trains operating on the existing train tracks through the city so long as the use complies with all other applicable county, state and federal standards and the use is not in any way expanded in terms of scope or duration.

(Code 2003, § 58-119; Ord. No. 155(2nd series), § 8(9.24(2)), 2-10-1997)

Sec. 5.24.1050. Prohibited noises.

The city council declares that excessive noise that unreasonably disturbs the peace, quiet or repose of persons of ordinary sensibility is a misdemeanor. No person shall make or cause to be made any excessive noise nor as follows:

(1) *Horns, audible signaling devices, etc.* No person shall sound any signaling device on any vehicle except as a warning of danger.

(2) *Engine exhausts.* No person shall discharge the exhaust or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motorboat, motor vehicle, motorcycle, all-terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises and complies with all applicable state laws, regulations and this article.

(3) *Radios, phonographs, televisions, paging systems, etc.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, television, paging system, machine or other device for production or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine or other device between the hours of 10:00 p.m. and 7:00 a.m., in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this subsection.

(4) *Social gatherings.*

a. No person shall participate in any party or other gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property. When a police officer determines that a gathering is creating such noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No persons shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall cooperate with police officers and shall make every reasonable effort to see that the disturbance is abated.

b. A violation of this article shall be deemed to be the act of the owner of the residential dwelling unit wherein it occurs as well as the persons on the premises who violate the article, except that the owner of the dwelling unit occupied by others shall be liable only for those violations occurring after a written notice of the violation of this article shall have been received.

(5) *Loudspeakers, amplifiers, etc.* No person shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of attracting the attention of the public.

(6) *Schools, churches, hospitals.* No person shall create any excessive noise on a street, alley or public grounds adjacent to a school, church or hospital.

(7) *Human noise.* No person shall engage in yelling, shouting, screaming, whistling or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of any persons in any residence or dwelling in the vicinity of the source.

(8) *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading or unpacking any vehicle.

(Code 2003, § 58-120; Ord. No. 155(2nd series), § 8(9.24(3)), 2-10-1997)

State law reference—Similar provisions, Minn. Stats. § 169.68.

Sec. 5.24.1060. Hourly restriction for certain operations.

The uses described in this section shall be limited to the times noted and as summarized in Table 2:

(1) *Domestic power equipment.* No person shall operate a garden or lawn tractor, power lawn mower, power hedge clipper, chainsaw, mulcher, garden tiller, edger, power device for bug eradication, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 8:00 a.m. and 8:00 p.m. on weekends and holidays. Snow removal equipment is exempt from this provision.

(2) *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 8:00 a.m. and 8:00 p.m. on any weekend or holiday.

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

Table 2. Hourly Restrictions for Certain Operations

Activity	*Times Allowed on Weekdays*	*Times Allowed on Weekends and Holidays*
Operate domestic power equipment	7:00 a.m.—10:00 p.m.	8:00 a.m.—8:00 p.m.
Refuse hauling	7:00 a.m.—10:00 p.m.	8:00 a.m.—8:00 p.m.
Construction activities	7:00 a.m.— 8:00 p.m.	8:00 a.m. - 8:00 p.m.

(Code 2003, § 58-121; Ord. No. 155(2nd series), § 8(9.24(4)), 2-10-1997)

Sec. 5.24.1070. Exception for emergencies.

(a) *Emergency work.* Noise created exclusively in the performance of emergency work to preserve the public health, safety or welfare or in the performance of emergency work necessary to restore public service or eliminate a public hazard shall be exempt from the provisions of this article for a period not to exceed 48 hours after the work is commenced. Persons responsible for such work shall inform the noise control officer of the need to initiate such work or, if the work is

commenced during nonbusiness hours of the city, at the beginning of business hours of the first day thereafter. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise and its duration.

(b) *Emergency vehicle sirens and civil defense systems.* Sound produced by machines or devices for the production of sound on or in emergency vehicles and warning signals or systems for civil defense and public safety are exempt from this article.

(Code 2003, § 58-122; Ord. No. 155(2nd series), § 8(9.24(5)), 2-10-1997)

ARTICLE IV. OPEN BURNING*

Division 1. Generally

Sec. 5.24.1110. Definitions.

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

Fire department training fires means a fire used for the purpose of fire department training under the conditions of a permit from the state pollution control agency.

Large brush disposal fire means a fire set with approved starter fuel no more than 15 feet in diameter and six feet in height using any clean dry wood, producing minimal smoke, odor or soot beyond the property line; conducted with an adult tending the fire site at all times; extinguished completely before leaving the site; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. A minimum lot size of five acres is required for large brush disposal fires. Large brush disposal fire sites shall not be located closer than 150 feet to any structure or 75 feet from any lot line. An adequate water supply for fire suppression purposes must be provided. Only materials generated on the site may be burned. Burning of materials brought onto the property from other sites is prohibited.

Native prairie restoration fires means fires used for the purposes of native prairie maintenance conducted under the supervision of qualified individuals or firms specializing in this type of work.

Open burning means the burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney. The term "open burning" includes brush disposal fires of any size, fires for fire department training purposes, and fires for maintenance of native prairie areas.

Recreational fire means a fire set with approved starter fuel no more than three feet in height and diameter, using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation or social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. Approved mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers and propane or natural gas devices are not defined as recreational fires. Recreational fires are allowed on any size lot, provided that all other permit conditions can be met. Recreational fire sites shall not be located closer than 50 feet to any structure or 25 feet from any lot line. An adequate water supply for fire suppression purposes must be provided.

Small brush disposal fire means a fire set with approved starter fuel no more than eight feet in diameter and four feet in height using any clean dry wood, producing minimal smoke, odor or soot beyond the property line; conducted with an adult tending the fire site at all times; extinguished completely before leaving the site; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. A minimum lot size of two acres is required for

*State law reference—Open burning, Minn. Stats. § 88.171.

small brush disposal fires. Small brush disposal fire sites shall not be located closer than 75 feet to any structure or 50 feet from any lot line. An adequate water supply for fire suppression purposes must be provided. Only materials generated on the site may be burned. Burning of materials brought onto the property from other sites is prohibited.

Starter fuels means dry, untreated, unpainted kindling, branches or cardboard, or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas-burning devices causing minimal pollution should be used to start an open burn.

Wood means dry, clean fuel only as twigs, branches, limbs, presto logs, charcoal, or cordwood. The term "wood" does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives.
(Code 2003, § 58-156; Ord. No. 167(2nd series), § 2(9.30(2)), 1-12-1998; Ord. No. 184(3rd series), § 1, 1-9-2017)

Sec. 5.24.1120. Purpose.

The purpose of this article is to establish permitted categories of open burn events within the city and to provide for a permitting process for burning.
(Code 2003, § 58-157; Ord. No. 167(2nd series), § 2(9.30(1)), 1-12-1998)

Sec. 5.24.1130. Burning ban or air quality alert.

No recreational fire or open burn will be permitted when the city staff, fire chief, fire marshal, police chief or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert.
(Code 2003, § 58-158; Ord. No. 167(2nd series), § 2(9.30(13)), 1-12-1998)

Sec. 5.24.1140. Reference.

Minn. Stats. §§ 88.16 to 88.17 and 88.171 and the Minnesota Uniform Fire Code are adopted by reference and made a part of this article as if fully set forth in this section.
(Code 2003, § 58-159; Ord. No. 167(2nd series), § 2(9.30(14)), 1-12-1998)

Sec. 5.24.1150. Liability.

Any person conducting open burning within the city shall be responsible for any costs incurred by the city, the fire department, and any adjoining property owners as a result of the burn, including, but not limited to, fire suppression costs, property damage, personal injury and administrative fees.
(Code 2003, § 58-160; Ord. No. 167(2nd series), § 2(9.30(16)), 1-12-1998)

Sec. 5.24.1160. Prohibited materials.

(a) No person shall conduct, cause or permit open burning of refuse, leaves, oils, petrol fuels, rubber, plastics, chemically treated materials, or other materials which produces excessive or noxious smoke, such as tires, railroad ties, treated, painted or glued wood, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint fillers.

(b) No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, or open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of structures. No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.
(Code 2003, § 58-161; Ord. No. 167(2nd series), § 2(9.30(3)), 1-12-1998)

Sec. 5.24.1170. Hours for burning permitted.

Open burning is allowed only during the hours between 7:00 a.m. and 11:00 p.m.
(Code 2003, § 58-162; Ord. No. 167(2nd series), § 2(9.30(9)), 1-12-1998)

Division 2. Permit

Sec. 5.24.1210. Required.

No person shall start or allow any open burning on any property in the city without first having obtained an open burning permit.
(Code 2003, § 58-186; Ord. No. 167(2nd series), § 2(9.30(4)), 1-12-1998)

Sec. 5.24.1220. Application; fees.

(a) Open burning permits shall be obtained by making application on a form prescribed and adopted by the city.

(b) An open burning permit may require a nonrefundable application fee. Permit fees shall be set annually by city council resolution. However, the city council may at other times amend its resolution setting the fees as it deems necessary. The fees established by city council resolution shall continue to be the required fee until amended by a resolution. Fees collected shall be retained by the city for administrative costs of issuing permits.
(Code 2003, § 58-187; Ord. No. 167(2nd series), § 2(9.30(6)), 1-12-1998)

Sec. 5.24.1230. Permit process for open burning.

(a) Upon receipt of the completed open burning permit application and permit fee, a city staff person shall determine that the requirements for open burning under this article are satisfied. Thereafter, a permit may be issued.

(b) Open burning inspection requirements include an inspection of the initial burn site by city staff before a permit is issued. Reinspection of the site is required before conducting any additional burns within the permit time limits.

(c) Notification requirements include notifying the police department for any open burn. For small and large brush disposal fires, fire department training fires, and native prairie restoration fires, in addition to notifying the police department, the fire department having jurisdiction must also be notified.
(Code 2003, § 58-188; Ord. No. 167(2nd series), § 2(9.30(7)), 1-12-1998; Ord. No. 184(3rd series), § 2, 1-9-2017)

Sec. 5.24.1240. Denial.

(a) If established criteria for the issuance of an open burning permit are not met or, during review of the application, it is determined that a practical alternative method of disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of city staff, the city staff person may deny the open burning permit application.

(b) Applications for an open burning permit within six months of the revocation of a previous permit will be denied. This six-month moratorium will apply to both permits issued to the same applicant or for the same property.
(Code 2003, § 58-189; Ord. No. 167(2nd series), § 2(9.30(12)), 1-12-1998)

Sec. 5.24.1250. Grounds for issuance.

Open burn permits may be issued only for the following purposes:

(1) Elimination of fire or health hazard that cannot be abated by other practical means.

(2) Ground thawing for utility repair and construction.

(3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical.

(4) Disposal of diseased trees generated on the site, diseased or infected nursery stock, diseased beehives.

(5) Fires for the purpose of fire department training. Fires for training purposes require a permit from the state pollution control agency and the city.

(Code 2003, § 58-190; Ord. No. 167(2nd series), § 2(9.30(5)), 1-12-1998; Ord. No. 184(3rd series), § 3, 1-9-2017)

Sec. 5.24.1260. Time period for permits.

Open burning permits are valid for 60 days from the date of issuance.
(Code 2003, § 58-191; Ord. No. 167(2nd series), § 2(9.30(8)), 1-12-1998; Ord. No. 184(3rd series), § 4, 1-9-2017)

Sec. 5.24.1270. Permit holder responsibility.

(a) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his competent adult representative. The open burn fire shall be completely extinguished before the permit holder or his representative leaves the site. It is the responsibility of the permit holder to have a valid permit, as required by this division, available for inspection on the site by the city staff, police department, state pollution control agency, or department of natural resources.

(b) The permit holder is responsible for compliance and implementation of all general conditions, special conditions and the burn event safety plan as established in the permit issued.
(Code 2003, § 58-192; Ord. No. 167(2nd series), § 2(9.30(10)), 1-12-1998)

Sec. 5.24.1280. Revocation.

(a) The open burning permit is subject to revocation at the discretion of the state pollution control agency, department of natural resources, the fire chief, city staff or the police department. Reasons for revocation include, but are not limited to:

(1) A fire hazard existing or developing during the course of the burn;

(2) Any of the conditions of the permit being violated during the course of the burn;

(3) Pollution or nuisance conditions developing during the course of the burn;

(4) A fire smoldering with no flame present; or

(5) Burning of materials brought onto the property from another site.

(b) Revocation of an open burning permit will result in a six-month moratorium for issuance of open burning permits for the applicant or subject property.
(Code 2003, § 58-193; Ord. No. 167(2nd series), § 2(9.30(11)), 1-12-1998)

CHAPTER 5.28. ANIMALS*

ARTICLE I. IN GENERAL

Sec. 5.28.010. Definitions.

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

Animals means farm animals and all other animals, reptiles and feathered birds or fowl except dogs, domestic cats, gerbils, hamsters and caged household birds.

Dangerous animals means any wild mammal, reptile or fowl which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics, would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters. The term "dangerous animal" also means and includes any domestic mammal, reptile or fowl which, because of its size or vicious propensity or other characteristic, would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters. The term "dangerous animal" does not include a dangerous dog as defined in Minn. Stats. § 347.50.

Farm animals means cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens and honeybees.

Owner means any person who owns, harbors, feeds, boards, keeps or otherwise possesses an animal, and who is the head of the household of

*State law references—General authority relative to animals, Minn. Stats. § 412.221, subd. 21; animal health, Minn. Stats. ch. 35; dogs and cats, Minn. Stats. ch. 347; cruelty to animals, Minn. Stats. § 343.20 et seq.

the residence, or the owner or manager in charge of the establishment or premises at which an animal remains, or to which it returns.
(Code 1984, § 9.13(1); Code 2003, § 62-1)

Sec. 5.28.020. Interference with officers prohibited.

It is unlawful for the owner of any dog to interfere with any police officer or other city employee in the performance of his duty to enforce this chapter.
(Code 2003, § 62-2; Ord. No. 137(2nd series), § 9.12(11(3)), 7-24-1995)

Sec. 5.28.030. Keeping.

It is unlawful for any person to keep or harbor any animal, not in transit, except:

(1) Farm animals kept in accordance with chapter 6.12;

(2) Animals kept as part of a show licensed under this Code;

(3) Animals used in a parade for which a permit has been issued;

(4) Animals kept in a laboratory for scientific or experimental purposes; or

(5) Animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.

(Code 1984, § 9.13(2); Code 2003, § 62-3)

Sec. 5.28.040. Animals in transit.

It is unlawful for any person to transport animals unless they are:

(1) Confined within a vehicle, cage or other means of conveyance;

(2) Farm animals being transported in a portion of the city zoned for rural purposes; or

(3) Restrained by means of bridles, halters, ropes or other means of individual restraint.

(Code 1984, § 9.13(3); Code 2003, § 62-4)

Sec. 5.28.050. Animal housing; rodent and pest infestation.

It is unlawful for any person to keep any animal in any structure infested by rodents, vermin, flies or insects.
(Code 1984, § 9.13(5); Code 2003, § 62-5)

Sec. 5.28.060. Trespasses.

It is unlawful for any person to herd, drive or ride any animal over and upon any grass, turf, boulevard, city park, cemetery, garden or lot without specific permission from the owner.
(Code 1984, § 9.13(6); Code 2003, § 62-6)

Sec. 5.28.070. Regulation of horses.

(a) The term "horse" as used in this section means any breed of horse, pony, mule or ass.

(b) It is unlawful for any person to ride or to drive a horse after the hour of sunset and before the hour of sunrise along or crossing any public way without appropriate lighting or reflectorized clothing.

(c) It is unlawful for any person to ride or drive a horse in any public park, beach, golf course or other public property, except within the right-of-way of public streets and highways, and in areas duly designated as trailways or hitching areas.

(d) The city administrator shall designate and signpost those areas in public lands, parks and beaches where horses may be ridden and driven.

(e) Every person riding a horse or driving a horse-drawn vehicle upon a public street shall be subject to those provisions of this Code applicable to the driver of a motor vehicle, except those provisions which by their nature can have no application.

(f) It is unlawful for any person to interfere with any horse being ridden, driven or kept in a lawful manner.
(Code 1984, § 9.13(13); Code 2003, § 62-7)

Sec. 5.28.080. Feeding of waterfowl.

(a) *Statement of purpose.* It has been determined that the presence of large numbers of wild waterfowl on and around ponds and lakes in the city causes a public health nuisance in and around such ponds and lakes, including the surrounding beaches and properties, which is inimical to the health and general welfare of the public. The purpose of this section is to prevent such conduct that may attract such wild waterfowl to properties in the city.

(b) *Feeding of wild waterfowl prohibited.* No person shall feed, cause to be fed, or provide food for wild waterfowl in the city on lands either publicly or privately owned.

(c) *Exceptions.* This section does not prohibit the temporary care or feeding of a wounded bird on one's own premises.
(Code 1984, § 9.13(14); Code 2003, § 62-8)

Sec. 5.28.090. Animal limits.

No person shall own, harbor, keep or have custody of more than two dogs or more than four cats, over the age of six months, on his property without having first secured a residential kennel license as required in article III, division 3, subdivision II of this chapter, except individuals involved in any animal-related business. Individuals involved in the business of selling, boarding, breeding, treating or grooming animals must receive a commercial kennel license. Animals which have been specially trained and certified to perform certain tasks, such as for the handicapped, police K-9s, search and rescue, and other designated working animals, are not counted in this requirement, nor are animals that are part of any registered foster parent program.
(Code 2003, § 62-9; Ord. No. 208(2nd series), § 8, 10-22-2001)

Sec. 5.28.100. Noise.

(a) *Disturbing peace and quiet.* No person owning, operating, having charge of or occupying any building or premises shall keep or allow to be kept any animal which shall, by any noise, unreasonably disturb the peace and quiet of any person in the vicinity. The term "unreasonably disturb the peace and quiet" shall include, but is not limited to, the creation of any noise by any animal which can be heard by any person, including the animal control officer or a law enforcement officer, from a location outside of the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a five-minute period of time with one minute or less lapse or time between each animal noise during the five-minute period.

(b) *Complaint.* Any person may call or deliver a complaint to the animal control officer, stating facts and circumstances of an alleged violation of this section. The animal control officer shall investigate such complaint. If a violation occurs in the presence of the animal control officer, a summons may be issued. If probable cause of a violation exists, which violation did not occur in the presence of the animal control officer, all reports, witness statements and evidence may be submitted to the city prosecuting attorney for a formal complaint.
(Code 2003, § 62-10; Ord. No. 137(2nd series), § 9.12(14), 7-24-1995; Ord. No. 208(2nd series), § 8, 10-22-2001)

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Division 1. Generally

Sec. 5.28.210. Immobilization of animals.

For the purpose of enforcement of this chapter, any animal control officer or law enforcement officer may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching an animal.
(Code 2003, § 62-41; Ord. No. 137(2nd series), § 9.12(12), 7-24-1995; Ord. No. 208(2nd series), § 7, 10-22-2001)

Division 2. Impoundment

Sec. 5.28.310. Animal pound.

(a) Any dog found in the city without a tag, or any animal running at large, shall be placed in the animal pound; and an accurate record of the

time and such placement shall be kept on each animal. Every animal so placed in the animal pound shall be held for redemption by the owner for a period of not less than ten regular business days unless a veterinarian authorizes its immediate destruction. A regular business day is one during which the pound is open for business to the public for at least four hours between 8:00 a.m. and 7:00 p.m. Impoundment records shall be preserved for a minimum of three years and shall show the:

(1) Description of the animal by species, breed, sex, approximate age and other distinguishing traits;

(2) Location at which the animal was seized;

(3) Date of seizure;

(4) Name and address of the person from whom any animal three months of age or over was received; and

(5) Name and address of the person to whom any animal three months of age or over was transferred.

(b) If unclaimed, such animal shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of Minn. Stats. § 35.71. However, if a tag affixed to the animal, or a statement by the animal's owner after seizure specifies that the animal should not be used for research, such animal shall not be made available to any such institution but may be destroyed after the expiration of the ten-day period. Animals raised for food or fiber products shall not be seized or disposed of without prior examination by a licensed veterinarian pursuant to a warrant issued by a judge.
(Code 2003, § 62-66; Ord. No. 137(2nd series), § 9.13(8), 7-24-1995)

Sec. 5.28.320. Biting animals.

Any dog having bitten a person or other animal shall be forthwith impounded for the period of rabies incubation.
(Code 2003, § 62-67; Ord. No. 137(2nd series), § 9.12(2), 7-24-1995)

Sec. 5.28.330. Notice of impounding.

Upon the impounding of any dog, the owner shall be notified, or, if the owner is unknown, written notice shall be posted for five days at the city hall describing the dog and the place and time of taking.
(Code 2003, § 62-68; Ord. No. 137(2nd series), § 9.12(8), 7-24-1995)

Sec. 5.28.340. Release from animal pound.

Dogs shall be released to their owners, as follows:

(1) If such dog is owned by a resident of the city, after purchase of a license and payment of the impounding fees.

(2) If such dog is owned by a person not a resident of the city, after immunization of any such dog for rabies and payment of the impounding fee for the period for which the dog was impounded.

(Code 2003, § 62-69; Ord. No. 137(2nd series), § 9.12(9), 7-24-1995)

ARTICLE III. DOGS AND CATS*

Division 1. Generally

Sec. 5.28.410. Definitions.

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

Owner means a person who owns, harbors, feeds, boards or keeps a dog or cat.
(Code 2003, § 62-101; Ord. No. 137(2nd series), § 9.12(1), 7-24-1995; Ord. No. 208(2nd series), § 6, 10-22-2001)

Sec. 5.28.420. Owning dangerous dogs.

It is unlawful for the owner of any dog to own or keep a dog which is dangerous, i.e., any such dog which has caused injury to persons or property.
(Code 2003, § 62-102; Ord. No. 137(2nd series), § 9.12(11(2)), 7-24-1995)

*State law reference—Dogs and cats, Minn. Stats. ch. 347.

Sec. 5.28.430. Warning of vicious dogs.

The owner of any dog known to be of vicious habits shall place in plain view of the entrance of the premises a sign no smaller than 12 inches by 14 inches which shall read "Beware of Vicious Dog" in letters at least two inches in height.
(Code 2003, § 62-103; Ord. No. 137(2nd series), § 9.12(13), 7-24-1995)

Sec. 5.28.440. Running at large prohibited.

It is unlawful for the owner of any dog to permit such animal to run at large. Any dog shall be deemed to be running at large with the permission of the owner unless:

(1) It is on a durable leash secured to an object which it cannot move and is on the premises of the owner.

(2) On a leash and under the control or within ten feet and under the effective command of the accompanying person of suitable age and discretion.

(3) In the owners' fenced yard or other suitable enclosure where the dog cannot leave without human assistance.

(4) In the owner's yard and under effective command of an accompanying person of suitable age and discretion present outside in the yard.

(5) In a vehicle from which the dog cannot leave without human assistance, provided it is not left unattended in violation of law.

(6) In an area designated as an off leash area, provided that the person having custody of the animal is present with the animal, has in his/her possession the required off leash permit, and is acting in compliance with the rules and regulations of the off leash areas.

(Code 2003, § 62-104; Ord. No. 137(2nd series), § 9.12(2), 7-24-1995; Ord. No. 176(3rd series), § 3, 8-22-2016)

Sec. 5.28.450. Defecating on property of another prohibited.

It is unlawful for the owner of any dog to fail to prevent such dog from defecating in or upon public property or the premises of another, or to permit solid waste of a dog to accumulate on its owner's premises for more than 24 hours.
(Code 2003, § 62-105; Ord. No. 137(2nd series), § 9.12(11(4)), (11(5)), 7-24-1995)

*Division 2. Kennels**

Subdivision I. In General

Sec. 5.28.610. Definitions.

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

Commercial kennel means any place or premises where three or more dogs over six months of age are kept or housed at any one time for commercial purposes, including sale, boarding, breeding, grooming, training or medical care.

Kennel structure means a dog house or enclosure of any kind, including a fenced pen or dog run, constructed, maintained or used for purposes of keeping, housing or restraining one or more dogs in a limited area. A fenced-in yard area amounting to 600 square feet or more per dog shall not be defined as a kennel structure.

Residential kennel means an accessory residential use or place where three or more dogs or five or more cats over six months of age are kept or housed for the sole noncommercial use, benefit or enjoyment of the property owner or occupant.
(Code 1984, § 5.36(1); Code 2003, § 62-161; Ord. No. 208(2nd series), § 1, 10-22-2001)

Subdivision II. License

Sec. 5.28.710. Required.

(a) It is unlawful for any person to own, operate, use, maintain or allow to exist any kennel on any property without a license from the city in accordance with this subdivision.

***State law reference**—Kennel licenses, Minn. Stats. § 347.31 et seq.

(b) It is unlawful for any person to own, harbor, keep or house three or more dogs, or five or more cats, over six months of age on any one lot or property without a valid residential or commercial kennel license.

(c) It is unlawful for any person to operate any kennel for business or commercial purposes, including sale, boarding, breeding, grooming, training or medical care, without a valid commercial kennel license.

(d) It is unlawful for any person to construct, keep, maintain or use a kennel structure for one or more dogs without a valid residential or commercial kennel license; except that kennel structures used for not more than two dogs over six months of age need not be licensed if the kennel structure is located in a side or rear yard and is not less than 30 feet away from any property line.
(Code 1984, § 5.36(2); Code 2003, § 62-181; Ord. No. 208(2nd series), § 2, 10-22-2001)

Sec. 5.28.720. Standards.

All kennel licenses are permissive only, granting limited authority to the licensee according to the provisions of each license. Kennel licenses may be issued by the city clerk only after review and approval by the council. The council shall review each kennel license application for pertinent facts and circumstances, including, but not limited to, location in the city, zoning, lot size, number of animals, existing or proposed kennel facilities, including location on the lot, kennel maintenance, sanitation, keeping too many animals, nuisance complaints, excessive noise, running at large, odors perceptible beyond the property line, commercial activities occurring at a residential kennel or any previous animal or kennel license violations by the applicant.
(Code 1984, § 5.36(4); Code 2003, § 62-182; Ord. No. 208(2nd series), § 3, 10-22-2001)

Sec. 5.28.730. Residential kennel license standards and requirements.

Residential kennel licenses are intended as a special privilege to be granted upon a showing that the keeping of more than the allowed amount of animals and/or a kennel structure location will not be a public nuisance or otherwise adversely affect neighboring persons or property. The council shall have the authority to limit the maximum number of animals kept at any residential kennel based upon the kennel standards listed in section 5.28.720. No residential kennel license shall be granted unless the property contains a proper kennel structure or is otherwise fenced to prevent the dogs from running at large. Nothing in this chapter shall preclude the breeding of licensed dogs kept at a residential kennel, the sale of offspring, the occasional sale of licensed dogs, or the private grooming, training or medical care of such dogs on the premises.
(Code 1984, § 5.36(5); Code 2003, § 62-183; Ord. No. 208(2nd series), § 4, 10-22-2001)

Sec. 5.28.740. Commercial kennel license standards and requirements.

New commercial kennel licenses shall be issued only for property that is properly zoned for business purposes or for rural residential property of sufficient acreage to comply with chapter 6.12. No commercial kennel license shall be granted unless the property contains a kennel structure and other enclosed buildings sufficient to operate the business without nuisance or other adverse effects on neighboring properties.
(Code 1984, § 5.36(6); Code 2003, § 62-184)

Sec. 5.28.750. License period.

All kennel licenses shall expire on December 31 of each year. Application for renewal of an existing kennel license shall be made to the city clerk at least 30 days prior to the expiration date.
(Code 1984, § 5.36(3); Code 2003, § 62-185)

ARTICLE IV. DANGEROUS ANIMALS*

Division 1. Generally (Reserved)

Division 2. Permit

Sec. 5.28.810. Required.

It is unlawful for any person to keep or maintain any dangerous animal without a special permit from the city. No such permit shall be issued for a period exceeding one year, and such permit shall specify the conditions under which such animal shall be kept.
(Code 1984, § 9.13(9); Code 2003, § 62-241)

Sec. 5.28.820. Exception.

The provisions of this division shall not apply to the keeping of dangerous animals in the following cases:

(1) The keeping of such animal for exhibition to the public by a traveling circus, carnival or other exhibit or show holding a permit issued by the commissioner of natural resources pursuant to Minn. Stats. § 97A.041.

(2) The keeping of such animals in a licensed veterinary hospital for treatment.

(3) Dangerous or poisonous reptiles maintained by a bona fide educational or medical institution for the purpose of instruction or study, provided such reptiles are securely confined and are properly cared for in a manner satisfactory to the chief of police.

(Code 1984, § 9.13(12); Code 2003, § 62-242)

Sec. 5.28.830. Grounds for granting of permit.

The chief of police shall issue a special permit for the purpose of keeping or maintaining a dangerous animal if it is found that:

(1) The animal is at all times kept or maintained in a safe manner and confined securely so that the keeping of such animal will not constitute the danger to human life or property of others.

(2) Adequate safeguards are made to prevent unauthorized access to such animals by members of the public.

(3) The health or well-being of the animal is not in any way endangered by the manner of keeping or confinement.

(4) The keeping of such animal does not constitute a nuisance and will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.

(5) The keeping of such animal will not create or cause offensive odors or constitute a danger to public health.

(6) The quarters in which such animal is kept or confined are adequately lighted, ventilated and are so constructed that they may be kept in a clean and sanitary condition.

(7) The applicant for such special permit proves his ability to respond in damages to and including the amount of $100,000.00 for bodily injury to or death of any person or persons or for the damage to property owned by any other persons which may result in the ownership, keeping or maintenance of such animal. Proof of liability to respond in damages may be given by filing with the chief of police a certificate of insurance stating that the applicant is, at the time of his application, and will be, during the period of such special permit, insured against liability to respond in such damages, or by posting with the city a surety bond, approved by the city attorney, in the amount of $1,000,000.00 conditioned upon the payment of such damages during the period of such special permit. Such certificate of insurance or bond shall provide that no cancellation of the insur-

*__State law reference__—Dangerous dogs, Minn. Stats. § 347.50 et seq.

ance or bond will be made unless ten days' written notice is first given to the city.

(Code 1984, § 9.13(9); Code 2003, § 62-243)

Sec. 5.28.840. Investigation required.

The chief of police, in investigating any applicant for a special permit under this division or any enforcement of this division, is authorized to consult with and seek the advice of the Society for the Prevention of Cruelty to Animals; the Humane Society; any representative of the animal control center of the county, if there is one; or any other individual, agency, organization or society which may be able to provide information and advice concerning the keeping of dangerous animals.

(Code 1984, § 9.13(10); Code 2003, § 62-244)

Sec. 5.28.850. Permit fee.

Upon compliance with all provisions of this division, a special permit shall be issued for an annual fee adopted by ordinance, provided that such permit shall not be issued for the keeping of more than two dangerous animals at any single location.

(Code 1984, § 9.13(11); Code 2003, § 62-245)

CHAPTER 5.32. TRAFFIC AND VEHICLES*

ARTICLE I. IN GENERAL

Sec. 5.32.010. Scope.

The provisions of this chapter relate exclusively to the streets, alleys and private roads in the city; and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon such streets, alleys and private roads.

(Code 1984, § 6.03(1); Code 2003, § 66-1)

State law reference—Similar provisions, Minn. Stats. § 169.02, subd. 1.

*__State law references__—Traffic regulations, Minn. Stats. ch. 169; powers of local authorities, Minn. Stats. § 169.04.

Sec. 5.32.020. Application.

The provisions of this chapter are applicable to the drivers of all vehicles and animals upon streets and private roads, including, but not limited to, those owned or operated by the United States, the state, or any county, town, city, district or other political subdivision.

(Code 1984, § 6.02; Code 2003, § 66-2)

State law reference—Similar provisions, Minn. Stats. § 169.03, subd. 1.

Sec. 5.32.030. Certain statutes adopted by reference.

Except as otherwise provided in this chapter, Minn. Stats. chs. 169 and 171 are incorporated in this chapter and adopted by reference, including the penalty provisions of such chapters.

(Code 1984, § 7.01; Code 2003, § 66-3)

Sec. 5.32.040. Motorized vehicles prohibited on sidewalks and trails.

It is unlawful for any person to drive or operate a motorized vehicle on any public sidewalk or public property designated for use as a pedestrian walkway or bicycle trail, except when crossing for ingress and egress to private property lying on the other side and for the purpose of snow removal.

(Code 1984, § 6.14; Code 2003, § 66-4)

Sec. 5.32.050. Driving through private property to avoid traffic signal.

It is unlawful for any person to avoid obedience to any traffic control device by driving upon or through private property.

(Code 1984, § 7.13; Code 2003, § 66-5)

Sec. 5.32.060. Truck routes.

(a) *Generally.* It is unlawful for any person to drive a tractor, agricultural implement, truck over 9,000 pounds gross vehicle weight, truck-trailer, tractor-trailer or truck-tractor in through traffic upon any street except those which have been designated and signposted as truck routes or are state, county or improved municipal state aid streets. For the purpose of this chapter, the

term "through traffic" means originating without the city and with a destination without the city, as distinguished from the term "local traffic" which means traffic either originating or having a destination within the city.

(b) *Posted no trucks.* It is unlawful for any person to drive a tractor, agricultural implement, truck, truck-trailer, or tractor-trailer over 9,000 pounds gross vehicle weight on any city-owned-and-maintained street that is posted "No Trucks" when such designation is approved by the council.

(c) *Exemptions.* The following motor vehicles are exempted from the provisions of this section:

(1) School buses.

(2) Emergency vehicles.

(3) Trucks serving residential properties on that street.

(4) City maintenance vehicles.

(Code 1984, § 7.10; Code 2003, § 66-6)

State law reference—Authority to designate truck routes, Minn. Stats. § 169.87, subd. 1.

Sec. 5.32.070. Exhibition driving.

(a) *Prima facie evidence.* It is prima facie evidence of exhibition driving when a motor vehicle stops, starts, accelerates, decelerates or turns at an unnecessary rate of speed so as to cause tires to squeal, gears to grind, soil to be thrown, the engine to backfire, fishtailing or skidding, or, as to two-wheeled or three-wheeled motor vehicles, the front wheel to lose contact with the ground or roadway surface.

(b) *Unlawful act.* It is a misdemeanor for any person to do any exhibition driving on any street, parking lot, or other public or private property, except when an emergency creates the necessity for such operation to prevent injury to persons or damage to property. This section shall not apply to driving on a racetrack.

(Code 1984, § 7.12; Code 2003, § 66-7)

State law reference—Careless or reckless driving, Minn. Stats. § 169.13.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 5.32.110. Traffic and parking signs and signals.

The public services department and the chief of police are authorized to erect such traffic or parking control devices as may be necessary or desirable to preserve public safety and the orderly movement of traffic; and when traffic and parking control is marked or signposted, such marking or signposting shall attest to authorization. The city may require the erection or removal of signs on private roads at the expense of the private road owner. Except as otherwise required by the city, private road owners may erect, regulate and privately enforce other traffic and parking restrictions within the private road right-of-way.

(Code 1984, § 6.04(1); Code 2003, § 66-41)

State law references—Authority to regulate traffic by means of traffic control signals, Minn. Stats. § 169.04(2); obedience to traffic control devices, Minn. Stats. § 169.06(4).

Sec. 5.32.120. Left turns prohibited.

The chief of police may, in his discretion, and with the consent of the council, prohibit left turns entirely, or during specified hours, at certain intersections.

(Code 1984, § 7.11; Code 2003, § 66-42)

Sec. 5.32.130. Loading zones.

The council may, by resolution, establish loading zones to be used for the specific purpose of loading or unloading merchandise from a commercial vehicle or vehicle temporarily being utilized in the transport of merchandise. Such loading zones shall be installed by order of the city where in the judgment of the council a commercial loading zone is justified, and duly signposted.

(Code 1984, § 8.43; Code 2003, § 66-43)

Sec. 5.32.140. Impounding and removing vehicles.

When any police officer finds a vehicle standing upon a street or city-owned parking lot in violation of any parking regulation, such officer

is hereby authorized to require the driver or other person in charge of such vehicle to remove the vehicle to a position in compliance with this chapter. When any police officer finds a vehicle unattended upon any street or city-owned parking lot in violation of any parking regulation, such officer is hereby authorized to impound such unlawfully parked vehicle and to provide for its removal and to remove the vehicle to a convenient garage or other facility or place of safety; and if any charge shall be placed against such vehicle for cost of removal or storage, or both, by anyone called upon to assist with the removal, it shall be paid prior to removal from such place of storage or safekeeping.
(Code 1984, § 8.41; Code 2003, § 66-44)

State law references—Vehicle towing authorized, Minn. Stats. § 169.041; moving parked vehicles, Minn. Stats. § 169.33.

ARTICLE III. STOPPING, STANDING AND PARKING*

Sec. 5.32.210. Presumption.

As to any vehicle parking in violation of this chapter, when the driver is not present, it shall be presumed that the owner parked the vehicle or that the driver was acting as the agent of the owner.
(Code 1984, § 8.01; Code 2003, § 66-76)

Sec. 5.32.220. Private use of public streets and parking lots.

(a) It is a misdemeanor for any person other than the city to in any way attempt to regulate public parking on public streets.

(b) Upon an application duly made to the city, the council may, in its discretion, grant special permission whereby on-street parking or the use of city-owned parking lots or ramps or public sidewalks may be temporarily or permanently prohibited or restricted for private reasons and purposes (including, but not limited to, establishment of private or leased parking, loading zones, or benches) at such places, on such terms and for such consideration as the council may deem just and equitable. In establishing the amount of such consideration to be paid to the city, the council shall consider the amount of space, location, if any, public inconvenience, and hazards to persons or property. Upon complaint of any aggrieved person at any time and by reason of any specific special permission so granted, the council shall at its next regular meeting after receipt of such complaint, call a hearing to be held after ten days' notice in writing to applicant and complainant and published notice at least ten days prior to such hearing. After such hearing, the council shall by resolution decide whether to terminate, continue or redefine the terms of such permission; and such decision shall be final and binding on all persons directly or indirectly interested in the decision, except that the council may, on its own motion, reconsider the decision.

(c) It is unlawful for any person to park or otherwise infringe upon a grant of right under this section when clearly and distinctly marked or signposted. It is unlawful for any person not granted such right to assert the right, or for any grantee of such right to exceed the right under claim to the right.

(d) Before granting any permit under any of the provisions of this section, the council may impose such insurance or bonding conditions as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the city from any suit, action or cause of action arising by reason of such action.
(Code 1984, § 6.13; Code 2003, § 66-77)

Sec. 5.32.230. General parking prohibitions.

It is unlawful for any person to stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the specific directions of a police officer or traffic control device in any of the following places:

(1) On a sidewalk or trail;

(2) In front of a public or private driveway;

(3) Within an intersection;

*State law references—Stopping, standing and parking, Minn. Stats. § 169.32 et seq.; authority to regulate standing or parking of vehicles, Minn. Stats. § 169.04(1).

(4) Within ten feet either side or 20 feet in front of a fire hydrant;

(5) On a crosswalk;

(6) Within 20 feet of a crosswalk at any intersection;

(7) In a signposted fire lane;

(8) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(9) Within 50 feet of the nearest rail of a railroad crossing;

(10) 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 properly signposted;

(11) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic;

(12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(13) Upon any bridge or other elevated structure upon a street;

(14) At any place where official signs prohibit or restrict stopping, parking or both;

(15) In any alley, except for loading or unloading, and then only so long as reasonably necessary for such loading and unloading to or from adjacent premises;

(16) On any boulevard which has been curbed;

(17) In any manner or any location so that the traveled public street or private road is reduced to less than ten feet of clear, unobstructed width at any point;

(18) Within 12 feet of either side of a U.S. mail receptacle; or

(19) Along any street in a manner that is not parallel to the curb or edge of the street.

(Code 1984, § 8.02; Code 2003, § 66-78)

State law reference—Similar provisions, Minn. Stats. § 169.32.

Sec. 5.32.240. Manner of parking on one-way roadway.

Upon a one-way roadway, all vehicles may be so parked so that the left-hand wheels of the vehicle are parallel with and within 12 inches from the left-hand curb; but the front of the vehicle in any event, and with respect to the remainder of the vehicle, shall be in the direction of the flow of traffic upon such one-way street; and it is unlawful to park in violation of this section.

(Code 1984, § 8.05; Code 2003, § 66-79)

State law reference—Manner of parking, Minn. Stats. § 169.35.

Sec. 5.32.250. Parking hours.

Parking on public streets shall be limited as follows:

(1) It is unlawful for any person to stop, park or leave standing any vehicle upon any public street between the hours of 2:00 a.m. and 6:00 a.m.

(2) The chief of police may, when authorized by resolution of the council, designate certain streets, blocks or portions of streets or blocks as prohibited parking zones or five-minute, ten-minute, 15-minute, 30-minute, one-hour, two-hour, four-hour, six-hour, eight-hour, morning or afternoon rush hour limited parking zones and shall mark by appropriate signs any zones so established. Such zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve a free flow of traffic. It is unlawful for any person to stop, park or leave standing any vehicle in a prohibited parking zone, for a period of time in excess of the signposted limitation, or during signposted hours of prohibited parking.

(3) It is unlawful for any person to remove, erase or otherwise obliterate any mark or sign placed upon a tire or other part of a vehicle by a police officer for the purpose of measuring the length of time such vehicle has been parked.

(4) For the purpose of enforcement of this section, any vehicle moved less than one block in a limited-time parking zone shall be deemed to have remained stationary.

(Code 1984, § 8.20; Code 2003, § 66-80)

Sec. 5.32.260. Parking after snowfall prohibited.

It is unlawful for any person, except an operator of an emergency motor vehicle on an emergency call, to park or leave standing any vehicle on any street or municipal parking lot when there is more than two inches of snow on the street or municipal parking lot and snow is falling or has fallen within the previous 48 hours, or snow is blowing or has been blowing within the previous 48 hours.

(Code 1984, § 8.21; Code 2003, § 66-81)

Sec. 5.32.270. Emergency parking.

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

Emergency means a condition created on city streets because of the presence of snow, freezing rain, sleet or ice on the streets, or other natural phenomena which create or are likely to create hazardous road conditions or impede or are likely to impede the free movement of fire, health, police, emergency or other vehicular traffic, when an emergency has been duly declared.

(b) *Declaration of emergency.* Whenever in the opinion of the city administrator, or in his absence the chief of police, an emergency exists, he may declare an emergency and cause an announcement to be made to local news media.

(c) *Unlawful act.* During an emergency, it is unlawful to park or leave standing any vehicle upon a street on which parking has been restricted by the declaration of an emergency.

(d) *Exceptions.* This section shall not apply to persons in charge of wreckers or authorized emergency vehicles while actually servicing mechanical, fire, police or medical emergencies.

(Code 1984, § 8.22; Code 2003, § 66-82)

Sec. 5.32.280. Truck parking.

(a) It is unlawful to park a detached semitrailer upon any street, city-owned parking lot, or other public property except streets as specifically designated by the council by resolution and signposted.

(b) It is unlawful to park a truck (other than a truck of 9,000 pounds gross vehicle weight or less), truck-trailer, tractor-trailer or truck-tractor within an area zoned as a residential district except for the purpose of loading or unloading the vehicle.

(c) It is unlawful to park a commercial vehicle of more than 9,000 pounds gross vehicle weight upon any street in the business district except streets as specifically designated by the council by resolution and signposted, but parking of such vehicle for a period of not more than 20 minutes shall be permitted in such space for the purpose of necessary access to abutting property while actively loading or unloading when such access cannot reasonably be secured from an alley or from an adjacent street where truck parking is not so restricted.

(d) It is unlawful to park a truck or other vehicle using or equipped with a trailer, or extended body or other extension or projection beyond the original length of such vehicle, or any passenger bus, diagonally along any street except for a time sufficient to load or unload, and, in such case, only parallel parking shall be permitted. However, a truck may stand backed up to the curb if the weight or bulk of the load makes parallel parking impracticable, but then only for a period of time sufficient to load or unload.

(e) Parking of commercial vehicles is permitted in duly designated and signposted loading zones, and in alleys, for a period of up to 20 minutes, provided that such alley parking does not prevent the flow of traffic in the alley, all of which shall be for the purpose of access to abutting or adjacent property while actively loading or unloading.

(Code 1984, § 8.23; Code 2003, § 66-83)

Sec. 5.32.290. Parking rules in city parking lots and ramps.

In city-owned parking lots and ramps, the council may limit the sizes and types of motor

vehicles to be parked on such lots and ramps, hours of parking, and prescribed method of parking, provided that such limitations and restrictions are marked or signposted on such lots and ramps. It is unlawful to drive in a direction opposite the flow of traffic marked by one-way signs or arrows, or to park or leave standing, any vehicle in any city-owned parking lot or ramp contrary to the restrictions or limitations marked or signposted in such lots and ramps.
(Code 1984, § 8.24; Code 2003, § 66-84)

Sec. 5.32.300. Physically handicapped parking.

(a) Statutory parking privileges for the physically handicapped shall be strictly observed and enforced. Police officers are authorized to tag vehicles on either private or public property in violation of such statutory privileges.

(b) It is unlawful for any person, whether or not physically handicapped, to stop, park or leave standing a motor vehicle in a signposted fire lane at any time, or in lanes where, and during such hours as, parking is prohibited to accommodate heavy traffic during morning and afternoon rush hours.
(Code 1984, § 8.25; Code 2003, § 66-85)

State law reference—Parking for physically handicapped persons, Minn. Stats. § 169.346.

Sec. 5.32.310. Vehicle repair on street.

It is unlawful for any person to service, repair, assemble or dismantle any vehicle parked upon a street, or attempt to do so, except to service such vehicle with gasoline or oil or to provide emergency repairs on the vehicle, but in no event for more than eight hours.
(Code 1984, § 8.26; Code 2003, § 66-86)

Sec. 5.32.320. Parking for the purpose of advertising or selling merchandise.

It is unlawful for any person to park a vehicle on any street or public parking lot for the purpose of advertising such vehicle for sale, for the purpose of advertising for sale or selling merchandise, or advertising any merchandise for sale or a forthcoming event.
(Code 1984, § 8.27; Code 2003, § 66-87)

Sec. 5.32.330. Unattended vehicle.

(a) It is unlawful for any person to leave a motor vehicle unattended while the engine is running.

(b) It is unlawful for any person to leave a motor vehicle unattended with the key in the ignition.
(Code 1984, § 8.40; Code 2003, § 66-88)

State law reference—Brakes to be set on parked vehicles, Minn. Stats. § 169.36.

Sec. 5.32.340. Parking on private property without consent.

It is a misdemeanor to park or abandon a motor vehicle on the property of another, or upon an area developed as an off-street parking facility, without the consent of the owner, lessee or person in charge of any such property or facility.
(Code 1984, § 8.42; Code 2003, § 66-89)

ARTICLE IV. BICYCLES*

Sec. 5.32.410. Traffic laws apply.

Every person riding a bicycle upon a roadway or upon any path set aside for the exclusive use of bicycles shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this chapter and except as to those provisions of this chapter which by their nature can have no application.
(Code 1984, § 7.20(1); Code 2003, § 66-121)

State law reference—Similar provisions, Minn. Stats. § 169.222, subd. 1.

Sec. 5.32.420. Manner of riding.

It is unlawful for any person propelling a bicycle to ride other than upon or astride a permanent and regular seat attached to the bicycle.
(Code 1984, § 7.20(2)(A); Code 2003, § 66-122)

*__State law references__—Bicycle licenses, Minn. Stats. ch. 168C; bicycle regulations, Minn. Stats. § 169.222 et seq.

Sec. 5.32.430. Where to ride.

Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such paths and shall not use the roadway.
(Code 1984, § 7.20(4)(C); Code 2003, § 66-123)

Sec. 5.32.440. Riding in business districts.

The riding of bicycles in business districts is permitted.
(Code 2003, § 66-124)

State law reference—Authority to so provide, Minn. Stats. § 169.222, subd. 4(d).

ARTICLE V. RECREATIONAL MOTOR VEHICLES*

Sec. 5.32.510. Definitions.

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

All-terrain vehicle and *ATV* mean trail bikes, amphibious vehicles and similar devices, other than snowmobiles, used at least partially for travel on natural terrain, but not special mobile equipment as defined in Minn. Stats. § 168.011, subd. 22, which is hereby incorporated in this article by reference.

Motorcycle means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, whether or not designed for use on streets and highways, including motor scooters; bicycles with motor attached, other than motorized bicycles; and minibikes.

Motorized bicycle means a bicycle with fully operable pedals which may be propelled by human power or a motor, or by both, with a motor of a capacity of less than 50 cubic centimeters piston displacement, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged.

Operate means to ride in or on and have control of a recreational motor vehicle.

Operator means the person who operates or is in actual physical control of a recreational motor vehicle.

Owner means a person, other than a lienholder, having a property interest in or title to a recreational motor vehicle, who is entitled to its use or possession.

Recreational motor vehicle means any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including, but not limited to, a motorcycle, golf cart, go-cart, motorized bicycle, all-terrain vehicle, snowmobile, hovercraft, or motor vehicle licensed for highway operation which is being used for off-road recreational purposes.

Snowmobile means a self-propelled vehicle designed for travel on snow or ice or natural terrain steered by wheels, skis or runners.
(Code 1984, § 7.30(1); Code 2003, § 66-156)

Sec. 5.32.520. Owner responsibility.

(a) It is unlawful for the owner of any recreational motor vehicle to permit its operation on private property without written permission of the owner or occupant, on city property without the permission of the council, or on other public property without permission of the body in charge of the property. For purposes of this section, the owner shall be conclusively presumed to have given such permission unless the recreational motor vehicle so operated shall have been reported stolen to a law enforcement agency prior to the occurrence.

(b) Every person leaving a recreational motor vehicle in a public place shall lock the ignition, remove the key and take the key with him.
(Code 1984, § 7.30(3); Code 2003, § 66-157)

*State law references—Off-highway motorcycles, Minn. Stats. § 84.787 et seq.; off-road vehicles, Minn. Stats. § 84.797 et seq.; snowmobiles, Minn. Stats. § 84.81 et seq.; local regulation of off-highway motorcycles, Minn. Stats. § 84.795, subd. 8; local regulation of off-road vehicles, Minn. Stats. § 84.804, subd. 6; local regulation of snowmobiles, Minn. Stats. § 84.87, subd. 3.

Sec. 5.32.530. Recreational motor vehicle operating restrictions.

Except as otherwise specifically permitted and authorized by the council, it is unlawful for any person to operate a recreational motor vehicle as follows:

(1) On a public sidewalk or walkway provided or used for pedestrian travel.

(2) On private property of another without written authority or permission of the owner or occupant.

(3) On any lands owned or occupied by a public body, including, but not limited to, Luce Line Trail east of Stubbs Bay Road, private roads not owned by the operator, school grounds, park property, playgrounds, recreational areas, private roads, platted but unimproved public streets, utility easements, public trails (except Luce Line Trail west of Stubbs Bay Road) and golf courses.

(4) While the operator is under the influence of liquor or narcotics, or drugs which cause physical or mental impairment.

(5) At a rate of speed greater than reasonable or proper under all of the surrounding circumstances.

(6) In a careless, reckless or negligent manner so as to endanger the persons or property of another or cause injury or damage to person or property.

(7) Towing any person or thing on a public street or highway except through the use of a rigid tow bar attached to the rear of a recreational vehicle.

(8) At a speed greater than ten miles per hour when within 100 feet of any lakeshore, except in channels, or of a fisherman, icehouse, skating rink, or sliding area, nor where the operation would conflict with the lawful use of property or would endanger other persons or property.

(9) In a manner so as to be not in compliance with chapter 5.24, article III.

(10) Chasing, running over or killing any animal, wild or domestic.

(11) During the hours between 11:00 p.m. of one day and 7:00 a.m. of the day next following; except that during such hours a motorcycle or motorized bicycle, if otherwise lawfully operated, may be operated on a public street or private road.

(Code 1984, § 7.30(2); Code 2003, § 66-158; Ord. No. 155(2nd series), § 3, 2-10-1997)

Sec. 5.32.540. Additional snowmobile operating regulations.

(a) It is unlawful for any person to operate a snowmobile upon the roadway, shoulder or inside bank or slope of any street or highway. Operation in the ditch or on the outside bank within the right-of-way of any street or highway except interstate highways or freeways is permitted in conformance with state law and this Code unless the roadway directly abuts a public sidewalk or walkway or property used for private purposes. Between the hours of one-half hour after sunset to one-half hour before sunrise, any operation may only be on the right-hand side of such street or highway and in the same direction as the highway traffic on the nearest lane of the adjacent roadway.

(b) A snowmobile may make a direct crossing of a street or highway except an interstate highway or freeway, provided:

(1) The crossing is made at an angle of approximately 90 degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing.

(2) The snowmobile is brought to a complete stop before crossing the shoulder or main-traveled way of the highway.

(3) The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

(4) In crossing a divided street or highway, the crossing is made only at an intersection of such street or highway with another public street or highway or at a designated crossing.

(5) If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

(c) No snowmobile shall enter any uncontrolled intersection without making a complete stop. The operator shall then yield the right-of-way to any vehicles or pedestrians which constitute an immediate hazard.

(d) Notwithstanding any prohibition in this section, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time when, and at locations where, snow upon the roadway renders travel by automobile impractical.

(e) No person under 14 years of age shall operate on streets or highways or make a direct crossing of a street or highway as the operator of a snowmobile. A person 14 years of age or older, but less than 18 years of age, may operate a snowmobile on streets or highways as permitted under this section and make a direct crossing only if he has in his immediate possession a valid snowmobile safety certificate issued by the state. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this subsection.
(Code 1984, § 7.30(4); Code 2003, § 66-159)

Sec. 5.32.550. Snowmobile equipment.

It is unlawful for any person to operate a snowmobile unless it is equipped with the following:

(1) Mufflers which reduce the noise of operation of the motor so as to be in compliance with chapter 5.24, article III.

(2) Brakes adequate to control the movement of and to stop and hold the snowmobile under any conditions of the operation.

(3) A safety or so-called deadman throttle in operating condition, so that when pressure is removed from the accelerator or throttle, the motor is disengaged from the driving track.

(4) At least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. Such headlamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming vehicle operator. It shall also be equipped with at least one red taillamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during the hours of darkness under normal atmospheric conditions. The equipment shall be in operating condition when the vehicle is operated between the hours of one-half hour after sunset to one-half hour before sunrise or at times of reduced visibility.

(5) Reflective material at least 16 inches on each side, forward of the handlebars, so as to reflect or beam light at a 90-degree angle.

(Code 1984, § 7.30(5); Code 2003, § 66-160; Ord. No. 155(2nd series), § 5, 2-10-1997)

State law reference—Snowmobile operation, Minn. Stats. § 84.87.

ARTICLE VI. SPECIAL EVENTS

Sec. 5.32.610. Definitions.

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

Fireworks means the display of any composition or device that meets the definition of fireworks as set forth in the Minn. Stats. § 624.20.

Open house home tour means an event hosted over multiple days or weekends for the purpose of promoting homes for sale and or craftsmanship, provided that the event is likely to generate parking needs for more than 20 vehicles on city streets at any one time. This may include remodeling home tours, builders home tours, artesian tours and similar but does not include brokerage open houses.

Parade means any movement of vehicles, persons or animals, in any combination, which either moves together or as a body so as to impede or affect the free and unobstructed flow of vehicular or pedestrian traffic, or which moves so that some part is in violation of one or more traffic laws or regulations.

Private event means any private function that requires special service from city departments and/or mutual-aid agreements or requires 20 or more on street parking spaces at the same time.

Road race or *tour* means any organized event that requests alterations to the traffic control features of public roads, including, but not limited to, alteration of stop, yield, or merge signs, or requests of dedicated use of traffic lanes.

Special event means any road race or tour, fireworks, private event, parade, any non-city event using city property, provided that the event is likely to generate parking needs for more than 20 vehicles on residential streets at any one time or is otherwise likely to impede or affect the free and unobstructed flow of vehicular or pedestrian traffic, open house home tour, or estate sale.

Special service means traffic control, crowd control, or the display of the equipment of the city or Long Lake, including police, fire, or public works resources, vehicles or equipment.
(Code 2003, § 66-191; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.620. Impeding prohibited.

It is unlawful for any person to hamper, obstruct, or impede, or interfere with any special event or any person, animal or vehicle participating in a special event.
(Code 2003, § 66-192; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.630. Driving vehicles between parade units.

It is unlawful for any person to drive a vehicle between the vehicles or persons comprising a parade or special event when such parade or special event is in motion, except by direction of police officers directing traffic.
(Code 2003, § 66-193; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.640. Unauthorized entering.

It is unlawful for any person to enter into a parade or special event without prior authorization from the person in charge of the event.
(Code 2003, § 66-194; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.650. Removal of obstructions of traffic.

In any case where vehicles or parking by an activity obstructs traffic, regardless of whether or not the activity required a permit, the city may ticket that person and all the cars that constitute the traffic hazard. Vehicles that constitute a hazard may be towed at the owner's expense if so ordered by the police officer.
(Code 2003, § 66-195; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.660. Required.

A permit shall be obtained from the city by any person who will be holding or sponsoring a special event on city property, or the owner or their agent for any special event on private property. The permit requirements set forth in chapter 4.20, article V, apply in addition to all licensing requirements.
(Code 2003, § 66-221; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.670. Exceptions.

The following are not required to apply for permits under this article:

(1) Funeral processions;

(2) A governmental agency acting within the scope of its functions.

(Code 2003, § 66-222; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.680. Application.

(a) Application for special event permit shall be made to the city at least 21 days in advance of the date on which the special event is to occur unless waived by the city administrator or designee if, after due consideration of the date, time, place, and nature of the special event, and the city services required in connection with the event, the city administrator or designee determines that the waiver will not present a hazard to public safety.

(b) The applicant shall complete an application as offered by the city administrator or designee, and may include the following:

(1) Applicant's name, address, and telephone number (including the telephone number at which the applicant can be reached on the day of the parade or special event);

(2) Proposed route or location of special event;

(3) Time of commencement and termination and date when the special event is to occur;

(4) Anticipated number of participants;

(5) Shuttle bus plan for participants and location of off-site parking;

(6) Site plan locating buildings, driveways, local streets, parking location, temporary structures (tents) (including size), temporary restrooms, stage and location of speakers, or any cordoned off areas for special events;

(7) Signature of the owner of the property on which the special event is to be held;

(8) Proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the special event, or which, under any such law or regulation, would exempt the applicant from the licensing requirements of this article.

(c) The application shall be executed by the individual applying for the permit or the duly authorized agent or representative of the sponsoring organization. The permit requirements set forth in this section apply in addition to all requirements in section 4.20.420.
(Code 2003, § 66-223; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.690. Application review and issuance.

(a) The city administrator or designee shall forthwith refer all applications for parades and special events to the police chief or designee and to other city departments as deemed necessary.

(b) The police chief or designee shall review each application to determine whether and to what extent additional police protection is reasonably necessary and to what extent the parade or special event will interfere with the safe and orderly movement of vehicular and pedestrian movement on public streets.

(c) The police chief or designee shall issue the permit as provided for herein, unless grounds exist for denying the permit under section 5.32.700.

(d) The city council shall review all special events requesting the use of city land. The city administrator or their designee may refer any special event permit to the city council for their review.

(e) The applicant shall provide notice of the date and time and contact information for the special event to all property owners within 500 feet of the property hosting a special event. The city administrator may accept alternative methods of notification where appropriate given the scope of the event.

(f) Additional regulations for those special events that employ fireworks.

(1) The fire chief shall review all applications involving fireworks for compliance with applicable state codes, and forward a recommendation to the city council.

(2) The city council shall review all applications involving fireworks.

(3) Notice of the date, time, and contact information shall be provided to all property owners within 1,000 feet of the launch site of the fireworks.

(4) A policy or certificate of insurance on which the city, its agents and employees, are additional insureds, providing public liability insurance providing umbrella or all perils coverage in the amount of $1,500,000.00.

(Code 2003, § 66-224; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.700. Denial of permit.

(a) The city administrator or designee may refuse to issue a special event permit to the applicant for any of the following reasons:

(1) The conduct of the special event will substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location.

(2) The conduct of the special event will require the diversion of an amount of city resources necessary to maintain adequate city function, in the sole discretion of the city administrator or their designee.

(3) The parade or road race or tour is not scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays in-route.

(4) Adequate sanitation and other required health facilities are or will not be available.

(5) Sufficient parking near the site of the parade or special event has not been provided to accommodate the number of vehicles reasonably expected, or the applicant has not provided a plan that is sufficient to shuttle visitors to and from a special event.

(6) The application fails to comply with relevant provisions of section 4.20.420.

(7) The applicant falsified information on the application.

(8) Failure of the applicant to pay the required fee.

(9) Failure of the applicant or the owner of the property on which the special event is to be held to sign the application.

(10) The special event has failed to obtain state or county required permits, including, but not limited to, fire, health, or liquor permits.

(11) The completed application was not received 21 or more days before the event.

(b) The city administrator or designee shall act promptly upon a timely filed application for a parade or special event permit, but in no event shall grant or deny a permit less than 48 hours prior to the parade or special event and shall include reasons for denial.

(Code 2003, § 66-225; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.710. Payment of expenses.

The applicant for a special event shall pay an application fee as determined from time to time by the city council; and the city may, as a condition of approval of the permit, require that the applicant deposit money with the city in a sum equal to the estimated service charge to be incurred by the city. Service charges include all city staff and resource time or city consultant time necessary. The city may certify to the county auditor any unpaid service charges which shall be collected together with property taxes levied against the property.

(Code 2003, § 66-226; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.720. Fees.

All permits provided for in this division shall be issued only upon payment in full of permit fees and other costs fixed and determined by resolution.

(Code 2003, § 66-227; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.730. Prohibitions.

The following prohibitions shall apply to all special events:

(1) It shall be unlawful for any person to stage, present, or conduct any special event without first having obtained a permit as herein provided.

(2) It shall be unlawful for any person in charge of, or responsible for the conduct of, a duly licensed parade or special event to fail to comply with any condition of the permit.

(3) It shall be unlawful for any person to engage in any parade or special event that would constitute a substantial hazard to the public safety or that would materially interfere with or endanger the public peace or rights of residents to the quiet and peaceful enjoyment of their property.

(4) The following special event types and locations shall be prohibited:

a. Closed road races.

b. Events using trunk highways.

c. Events on Big Island.

(Code 2003, § 66-228; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.740. Revocation of permit.

The city administrator or designee shall have the authority to revoke a parade or special event permit instantly upon violation of the conditions or standards for issuance as set forth in this article or when a public emergency arises where the police resources required for that emergency are so great that deployment of services for the parade or special event would have an immediate and adverse effect upon the welfare and safety of persons or property.
(Code 2003, § 66-229; Ord. No. 244(3rd series), § 1, 4-13-2020)

Sec. 5.32.750. Penalties.

(a) If an applicant, permit holder, or any person fails to comply with any provision of this article, the city may impose an administrative penalty as set forth in the chart in subsection (c) of this section. Conviction of a violation in a court of law is not required in order for imposition of an administrative penalty. Appeals of an administrative penalty issued pursuant to this section shall be heard in accordance with the procedure set forth in article VII of this chapter.

(b) Multiple violations are computed by checking the time period of the three years immediately prior to the date of the most current violation.

(c) The presumptive penalties for violations are as follows:

1st violation	$250.00
2nd violation	$500.00
3rd violation	$1,000.00

(Code 2003, § 66-230; Ord. No. 244(3rd series), § 1, 4-13-2020)

ARTICLE VII. ADMINISTRATIVE OFFENSES AND PENALTIES

Division 1. Generally

Sec. 5.32.810. Administrative offenses.

The city council has determined to enforce certain offenses within the city as administrative offenses. Those offenses to be enforced as administrative offenses shall be determined by resolution of the city council as recommended by the chief of police. These administrative penalty procedures in this section are intended to provide the public and the city with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain provisions of this Code. The procedures are intended to be voluntary on the part of those who have been charged with those offenses.
(Code 2003, § 66-250; Ord. No. 121(3rd series), § 1, 12-9-2013; Ord. No. 244(3rd series), § 2, 4-13-2020)

Sec. 5.32.820. Violation/penalty.

Any person violating one of the administrative offenses within the city shall be subject to the scheduled administrative penalty. The city council shall determine the administrative penalties

and both the administrative offenses and the penalty amount may be amended, from time to time, by resolution of the city council.
(Code 2003, § 66-251; Ord. No. 121(3rd series), § 1, 12-9-2013; Ord. No. 244(3rd series), § 2, 4-13-2020)

Sec. 5.32.830. Enforcement.

(a) Any member of the police department or any other person employed by the city with authority to enforce this Code may issue administrative violations under this article.

(b) Notice shall be given to the violator setting forth the nature of the offenses, the date, time of the violation, the name of the official issuing the citation and the amount of the scheduled penalty.
(Code 2003, § 66-252; Ord. No. 121(3rd series), § 1, 12-9-2013; Ord. No. 244(3rd series), § 2, 4-13-2020)

Sec. 5.32.840. Payment.

Once notice of an administrative violation is given, the person responsible for the violation shall, within 14 calendar days of issuance of the notice, pay the stated violation penalty to the city. At any time before the payment of the administrative penalty is due, the person who has been given notice of an alleged violation may request to appear before the city council to contest the request for payment of the penalty. After a hearing before the council, the council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the council. A notice of an administrative violation does not include code enforcement letters that warn an individual of possible criminal, civil, or administrative penalties. Further, any criminal matter must be adjudicated through the court system, and may not be appealed to the city council, pursuant to Minn. Stats. § 412.861, subd. 1.
(Code 2003, § 66-253; Ord. No. 121(3rd series), § 1, 12-9-2013; Ord. No. 244(3rd series), § 2, 4-13-2020; Ord. No. 253(3rd series), § 2, 2-8-2021)

Sec. 5.32.850. Failure to pay.

If a violator fails to pay the penalty imposed by this administrative citation, or the situation that created the violation remains uncorrected, the city may issue a petty misdemeanor or misdemeanor citation for the violation of this Code. A person convicted of a violation of this article shall be guilty of a misdemeanor and punished by a fine of not more than $1,000.00, imprisonment for a term not exceeding 90 days, or any combination thereof; provided, however, that if the violation is declared to be a petty misdemeanor, the penalty shall be a fine not to exceed $300.00. Additionally, a person convicted of a violation of this article shall pay the costs of prosecution. The city, in its discretion, may bring criminal charges in the first instance, rather than requesting the payment of an administrative penalty, even if a penalty for the particular violation has been established by council resolution. If the administrative penalty is paid, or if any requested correction of the situation resulting in the violation is completed, no criminal charges shall be initiated by the city for the alleged violation.
(Code 2003, § 66-254; Ord. No. 121(3rd series), § 1, 12-9-2013; Ord. No. 244(3rd series), § 2, 4-13-2020)

Sec. 5.32.860. Disposition of penalties.

All penalties collected shall be paid over to the finance director and deposited in the general fund.
(Code 2003, § 66-255; Ord. No. 121(3rd series), § 1, 12-9-2013)

Sec. 5.32.870. Effective date.

This article shall be effective as of January 1, 2014.
(Code 2003, § 66-256; Ord. No. 121(3rd series), § 1, 12-9-2013)

Division 2. Specific Offenses

Sec. 5.32.910. State provisions adopted.

(a) The regulatory provisions of Minn. Stats. chs. 169 and 171, together with all amendments thereto, are hereby adopted as a traffic code

regulating use of highways, streets and alleys within the city and are hereby incorporated and made a part of this section as completely as if set out here in full.

(b) The penalty for violations of the provisions of state statutes adopted by reference in this section shall be identical with the penalties provided for in the statutes for the same offense.
(Code 2003, § 66-257; Ord. No. 121(3rd series), § 2, 12-9-2013)

Sec. 5.32.920. Unreasonable acceleration.

No person shall unreasonably and/or unnecessarily accelerate a motor vehicle so rapidly and abruptly that a tire or tires break traction with the street surface, causing a squealing sound or dislodging sand, gravel or other objects by the tires. The unreasonable or unnecessary acceleration is prohibited on any public street or highway or any private property within the city.
(Code 2003, § 66-258; Ord. No. 121(3rd series), § 2, 12-9-2013)

Sec. 5.32.930. Unsafe operation.

No person shall drive or operate a motor vehicle, motorized bicycle or motorized foot scooter on any street, highway, road, roadway or private property in a manner which is unsafe. The term "unsafe" means, but is not limited to, distracted driving, speeds and/or maneuvers which are not reasonable or prudent or safe given the weather, road conditions, vehicle conditions, the proximity of persons and other vehicles and includes such driving or operation which is unsafe for the driver or operator.
(Code 2003, § 66-259; Ord. No. 121(3rd series), § 2, 12-9-2013)

CHAPTER 5.36. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. IN GENERAL

Sec. 5.36.010. Violation of state statutes prohibited.

It is unlawful to violate any state statute.
(Code 2003, § 70-1)

Sec. 5.36.020. Swimming restricted.

No person shall voluntarily enter the waters of any river or public swimming pool at any time when such waters are not properly supervised by trained lifesaving personnel in attendance for that purpose, or enter such waters without being garbed in a bathing suit sufficient to cover his person and equal to the standards generally adopted and accepted by the public.
(Code 1984, § 9.20(5); Code 2003, § 70-2)

State law references—Indecent exposure, Minn. Stats. § 617.23; authority to prohibit lewd conduct, Minn. Stats. § 412.221, subd. 26.

Sec. 5.36.030. Depositing refuse restricted.

No person shall strew, scatter, litter, throw, dispose of or deposit any refuse, garbage or rubbish unto any premises except into receptacles provided for such purpose.
(Code 1984, § 9.20(11); Code 2003, § 70-3)

State law reference—Littering, Minn. Stats. §§ 169.42, 609.671, subd. 13.

Sec. 5.36.040. Public nuisance.

(a) It is unlawful for any person to maintain a public nuisance by his act or failure to perform a legal duty. For purposes of this section, a public nuisance shall be defined as any of the following:

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

(2) Interfering with, obstructing or rendering dangerous for passage any street, public right-of-way or waters used by the public; or

(3) Any other act or omission declared by law to be a public nuisance.

(b) It is unlawful for any person to permit real property under his control to be used to maintain a public nuisance, or let the property to another knowing it is to be so used.
(Code 1984, §§ 9.21, 9.22; Code 2003, § 70-4; Ord. No. 108(2nd series), § 1, 8-24-1992)

State law references—Public nuisance prohibited, Minn. Stats. § 609.74; authority to prohibit nuisances, Minn. Stats. § 412.221, subd. 23.

Sec. 5.36.050. Abatement procedure.

(a) *Abatement.* Except for the abatement of public nuisance vehicles governed by section 5.24.030, the following abatement procedure applies to all public nuisances. Whenever the city administrator or designee determines that a public nuisance is being maintained or exists on property, the city administrator or designee must give written notification to the property owner and occupant or other responsible party of that fact and order that the nuisance be terminated and abated. Notice must be served in person or by mail. Notice to the owner will be satisfied by notice to the person listed as the taxpayer on the county's tax records. If the property is not occupied, the owner is unknown, or no other responsible party can be reasonably identified, notice may be served by posting it on the property. The notice must specify the steps to be taken to abate the nuisance and the time, not exceeding ten days, within which the nuisance is to be abated. The notice must also provide that if the owner, occupant, or other responsible party does not comply with the notice within the time specified, the city council may provide for abating the nuisance by the city. The notice must state the date, time, and location of the city council consideration and give the person the right to be heard. The notice of the council hearing must be given at least ten days before the council will consider the matter. If notice is given by posting, at least 30 days must elapse between the day of posting and the hearing.

(b) *Summary abatement.* The city administrator or designee may provide for abating a public nuisance without following the procedure required in subsection (a) of this section when:

(1) There is an immediate threat to the public health or safety;

(2) There is an immediate threat of serious property damage; or

(3) A public nuisance has been caused by private parties on public property.

If the city administrator or designee abates the nuisance under this section, he must reasonably attempt to notify the owner, occupant, or other responsible party of the intended action and the right to appeal the abatement and any cost recovery.

(c) *Cost recovery.* The owner of property on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, is personally liable to the city for the cost of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, an appropriate official will prepare a bill for the cost and mail it to the owner or other responsible party. The amount is immediately due and payable to the city treasurer.

(d) *Assessment.* If the cost, or any portion of it, has not been paid under subsection (c) of this section within 30 days after the date of the bill, the council may certify the unpaid cost against the property to which the cost is attributable. Before certification against the property, reasonable notice of the impending certification and an opportunity to be heard by the council must be given to the taxpayer of record. Failure of the taxpayer to receive the notice will not invalidate the certification. The council may certify unpaid cost to the county auditor for collection along with current taxes in the following year or in annual installments, not exceeding ten, as the council may determine in each case.
(Code 2003, § 70-5; Ord. No. 2(3rd series), § 1, 11-10-2003; Ord. No. 178(3rd series), § 6, 10-10-2016)

ARTICLE II. OFFENSES INVOLVING PROPERTY RIGHTS*

Sec. 5.36.110. Vacating premises.

No person shall fail or refuse to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so by the owner or person in charge of the premises, or by any law enforcement agent or official; however, this provision shall not apply to any person who is owner or tenant of the premises involved nor to any law enforcement or other government

*__State law reference__—Offenses involving property rights, Minn. Stats. § 609.556 et seq.

official who may be present on the premises at that time as part of his official duty, nor shall it include the wife, children, employee or tenant of such owner or occupier.
(Code 1984, § 9.20(13); Code 2003, § 70-36)

State law reference—Trespass, Minn. Stats. § 609.605.

Sec. 5.36.120. Entering motor vehicles.

No person shall enter any motor vehicle of another without the consent of the owner or operator.
(Code 1984, § 9.20(12); Code 2003, § 70-37)

Sec. 5.36.130. Defacement of property.

No person shall cause defacement, destruction or other damage to any premises or any property located on the premises.
(Code 1984, § 9.20(10); Code 2003, § 70-38)

State law reference—Malicious mischief, Minn. Stats. § 609.556 et seq.

ARTICLE III. OFFENSES INVOLVING PUBLIC SAFETY*

Division 1. Generally

Sec. 5.36.210. Animal trapping.

(a) *Purpose.* It is the purpose of this section to preclude the potential harm that may be inflicted upon people, particularly children, and to prevent the crippling, unselective catching, and destruction of wildlife and domestic animals that may come into contact with traps.

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

Leghold trap means any device consisting of two metal jaws which lie horizontally to form a circle, square or similar shape when the trap is set, or a trap which is similar in design and which is intended to catch and secure an animal by the leg, toes or paw. Such a device may be known as a steel, jaw(ed) leg, long-spring, coil-spring, flat-under spring, foot, front-hold, game or similarly named trap.

Trapping means the setting or laying, or other use of a trap with the intent of capturing or killing an animal.

(c) *Leghold traps prohibited.* It is unlawful for any person to set, place or use any leghold animal trap.

(d) *Limited permits.* In extraordinary cases, the council may grant a limited permit for the abatement of a specific animal nuisance, but only when the proposed use is determined to be in the public interest and will not cause any hazard to children, other wildlife or domestic animals. Permits shall specify time limits for trapping, location, number of traps and approved maintenance procedures of trap lines. Applications for limited permits shall be made to the chief of police and shall be accompanied by a written statement of proof of hardship and a certified property owners' list of property owners within 500 feet of the trapping area. Property owners shall be notified that such application is being considered by the city. The permit fee shall be as set by resolution of the council.
(Code 1984, § 9.11; Code 2003, § 70-71)

Sec. 5.36.220. Exposure of dangerous container.

It is unlawful for any person being the owner or in possession or control, to permit an unlocked refrigerator, icebox or other container sufficiently large to retain any child and with doors which fasten automatically when closed, to expose the container out-of-doors, or in an unlocked accessory building, accessible to children, without locking the doors or removing the lids, hinges or latches.
(Code 1984, § 9.10(11); Code 2003, § 70-72)

State law reference—Similar provisions, Minn. Stats. § 609.675.

*__State law reference__—Offenses involving public safety, Minn. Stats. § 609.66 et seq.

*Division 2. Weapons and Explosives**

Subdivision I. In General

Sec. 5.36.310. Exceptions.

Nothing in this division shall apply to:

(1) Persons who obtain the appropriate permit as set forth in this division;

(2) A peace officer in the discharge of his duty;

(3) A person in the lawful defense of his person or family;

(4) A display of fireworks by an organization or group of organizations authorized in writing by the chief of police, application for permit being made at least 15 days prior to the event; or

(5) Shooting a bow and arrow in the physical education program in a school supervised by a member of its faculty, as community-wide supervised class or event specifically authorized by the chief of police, or a bow and arrow range authorized by the council.

(Code 1984, § 9.10(3); Code 2003, § 70-96)

Sec. 5.36.320. Discharge of firearms and explosives.

It is unlawful for any person to fire or discharge any form or type of explosive or explosive device; any cannon, gun, pistol or other firearm; firecracker, sky rocket or other fireworks; bow and arrow; or air gun, air rifle, or other similar device commonly referred to as a BB gun.
(Code 1984, § 9.10(2); Code 2003, § 70-97)

Sec. 5.36.330. Confiscation.

The firearms, bow and arrow, explosives or other dangerous weapons of the alleged violator of this division may be confiscated at the time of arrest and returned only if the violator is adjudged not guilty of the offense charged and no liability of damages shall result. Confiscated firearms may be disposed of as provided by law.
(Code 1984, § 9.10(9); Code 2003, § 70-8)

Sec. 5.36.340. Possession and sale of fireworks.

It is unlawful for any person to sell, possess or have in possession for the purpose of sale, distribution, use or explosion, except as allowed in this division, any firecrackers, sky rockets or other fireworks.
(Code 1984, § 9.10(10); Code 2003, § 70-99)

State law reference—Fireworks, Minn. Stats. § 624.20 et seq.

Sec. 5.36.350. Reckless use.

It is unlawful for any person to recklessly handle, throw or use a firearm, bow and arrow, or other dangerous weapon or explosive so as to endanger the safety of another.
(Code 1984, § 9.10(1)(A); Code 2003, § 70-100)

State law reference—Similar provisions, Minn. Stats. § 609.66, subd. 1(a)(1).

Sec. 5.36.360. Pointing firearms.

It is unlawful for any person to intentionally point a firearm of any kind or dangerous weapon capable of injuring or killing a human being at or toward another.
(Code 1984, § 9.10(1)(B); Code 2003, § 70-101)

State law reference—Similar provisions, Minn. Stats. § 609.66, subd. 1(a)(2).

Sec. 5.36.370. Metal knuckles, switchblade knife.

No person shall manufacture, transfer or possess metal knuckles or a switchblade knife opening automatically.
(Code 1984, § 9.10(1)(D); Code 2003, § 70-102)

State law reference—Similar provisions, Minn. Stats. § 609.66, subd. 1(a)(4).

Sec. 5.36.380. Unlawfully using article as weapon.

No person shall possess any dangerous article or substance for the purpose of being used unlawfully as a weapon against another.
(Code 1984, § 9.10(1)(E); Code 2003, § 70-103)

State law reference—Similar provisions, Minn. Stats. § 609.66, subd. 1(a)(5).

*__State law reference__—Local regulation of firearms, Minn. Stats. § 471.633.

Sec. 5.36.390. Handling, use of weapons by children.

No person shall permit, as a parent or guardian, any child under 14 years of age to handle or use, outside of the parent's or guardian's presence, a firearm or air gun of any kind, or any ammunition or explosive.

(Code 1984, § 9.10(1)(G); Code 2003, § 70-104)

State law reference—Similar provisions, Minn. Stats. § 609.66, subd. 1(a)(6).

Sec. 5.36.400. BB gun.

The use of a BB gun or air rifle is subject to the following circumstances:

(1) There is a demonstrated nuisance of an animal to the property owner.

(2) The permittee has the property owner's permission.

(3) There are no other appropriate means available.

(4) Seasonal restrictions of game animals apply.

(5) The gun may only be discharged in a manner that does not direct it towards other buildings or persons.

(6) The permittee must notify all abutting owners.

(Code 1984, § 9.10(5); Code 2003, § 70-105)

Subdivision II. Permits

Sec. 5.36.510. Occasional up to 15 days.

Occasional permits valid for a period of 15 days or less may be granted to clubs or persons as follows:

(1) Occasional target shooting or trap and skeet shooting.

(2) Field trials, commercial or professional exhibitions or displays, or other similar lawful purpose as determined by the police.

(3) For training of dogs for clubs or individuals, which permit is valid only on land described in the permit by persons with the consent of the owner or lessee of the land.

(Code 1984, § 9.10(4)(A); Code 2003, § 70-121)

Sec. 5.36.520. Occasional up to 120 days.

(a) For control of pests in commercial or agricultural situations, permits may be granted up to a maximum of 120 days as established by the city administrator to persons or clubs meeting all the following criteria:

(1) For control of pests, vermin, rodents or other animal nuisances, such as deer hunting by bow and arrow during appropriate season, or other animals that are a demonstrated nuisance.

(2) Where there are no other appropriate methods available.

(3) Demonstrated need for a longer duration of time, such as length of game season or protection of crops during the growing season.

(b) The use of bow and arrow under this section will be allowed on an occasional basis to remove problematic animals, including game animals, subject to the following circumstances:

(1) There is a demonstrated nuisance of that animal to the property owner.

(2) The property owner has specifically given written permission to a hunter, and that hunter has the appropriate state hunting permit.

(3) That no discharging is to be done within 100 feet of any property line, within 100 feet of any buildings and within 200 feet of any livestock.

(4) Discharge for purposes of this section shall only be done from an elevated stand that is a minimum of four feet off the ground.

(5) Can only be done during the appropriate season.

(6) The hunter receives no compensation for the removal service apart from the retention of animals killed.

(Code 1984, § 9.10(4)(B); Code 2003, § 70-122)

Sec. 5.36.530. Baker Park.

An occasional permit valid for a period not to exceed a total of three days in any one year shall be issued to Hennepin Parks for the discharge of shotguns in hunting of game animals in Baker Park. In addition to other applicable conditions, the park district must notify all abutting property owners by letter ten days in advance of the proposed hunt; and appropriate signage shall be posted around the park reserve district boundaries to limit unauthorized access during the hunt.
(Code 1984, § 9.10(4)(C); Code 2003, § 70-123)

Sec. 5.36.540. Occasional.

Occasional permits valid for a period under section 5.36.510 or 5.36.520 as deemed appropriate by the city may be granted to clubs or persons.
(Code 1984, § 9.10(4)(D); Code 2003, § 70-124)

Sec. 5.36.550. Starting guns.

Permits may be granted for use of devices such as starting guns when no projectiles are used but only blank ammunition.
(Code 1984, § 9.10(6); Code 2003, § 70-125)

Sec. 5.36.560. Annual permits.

(a) Annual permits may be granted for:

(1) Trap and skeet shooting for clubs.

(2) Training of dogs for clubs or individuals, which permit is valid only on land described in the permit by persons with the consent of the owner or lessee of the land.

(3) Clubs and individuals operating a game and fur farm pursuant to law.

(4) Occasional target shooting.

(5) Field trials, commercial or professional exhibitions or displays, or any similar or lawful purpose as determined by the police chief.

(b) Any person, group or organization that wishes to use an established range or trap, skeet facility for any field trial, commercial or professional exhibition or display, or any similar or lawful purpose shall apply for their own use permit. The existing permit for gun club shall not cover the special event. This would not preclude that the gun club cannot have its own special events, such as annual shoots, turkey shoot, etc., as long as it is the gun club that is responsible permit holder.
(Code 1984, § 9.10(6)(A); Code 2003, § 70-126)

Sec. 5.36.570. Permit procedure.

When a person or club applies for a permit, the city administrator may require certain information to be on the application and permit form:

(1) Location of event.

(2) Site visit to be required.

(3) Intended use of permit.

(4) Certificate of insurance.

(5) Hours of shooting.

(6) Number of participants.

(Code 1984, § 9.10(8); Code 2003, § 70-127)

Sec. 5.36.580. Fees, revocation.

The fee for annual permit (club only) or occasional permit shall be charged according to the city fee schedule. A violation of any of the conditions of a permit shall result in revocation of the permit, and no permit shall be issued to any club or person for one year after the date of such revocation. Permits are issued to the person to be actually using the firearms or weapon.
(Code 1984, § 9.10(7); Code 2003, § 70-128)

Sec. 5.36.590. Approval.

All permits are subject to the approval of the city administrator upon recommendation of the chief of police.
(Code 1984, § 9.10(8)(J); Code 2003, § 70-129; Ord. No. 178(3rd series), § 7, 10-10-2016)

Sec. 5.36.600. Notice to police prior to shooting.

A notice must be given within one hour of the commencement of the event.
(Code 1984, § 9.10(8)(G); Code 2003, § 70-130)

Sec. 5.36.610. Notice to owners of surrounding property.

An annual permit shall require notice to be given to surrounding property owners and an opportunity for them to object prior to issuance of a permit under this subdivision, but such objections shall not require the permit to be withheld.
(Code 1984, § 9.10(8)(H); Code 2003, § 70-131; Ord. No. 178(3rd series), § 8, 10-10-2016)

Sec. 5.36.620. Information to owners of abutting property prior to initial use.

All permit holders under this subdivision must inform all abutting property owners prior to initial use of the permit.
(Code 1984, § 9.10(8)(I); Code 2003, § 70-132)

ARTICLE IV. OFFENSES INVOLVING PUBLIC PEACE AND ORDER

Sec. 5.36.710. Disturbing lawful assembly, meeting prohibited.

No person shall disturb an assembly or meeting, not unlawful in its character.
(Code 1984, § 9.20(2); Code 2003, § 70-166)
State law reference—Similar provisions, Minn. Stats. § 609.72, subd. 1(2).

Sec. 5.36.720. Brawling, fighting prohibited.

It is unlawful for any person to engage in brawling or fighting.
(Code 1984, § 9.20(1); Code 2003, § 70-167)
State law reference—Similar provisions, Minn. Stats. § 609.72, subd. 1(1).

Sec. 5.36.730. Offensive language, conduct.

No person shall engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others.
(Code 1984, § 9.20(3); Code 2003, § 70-168)
State law reference—Similar provisions, Minn. Stats. § 609.72, subd. 1(3).

Sec. 5.36.740. Use of lights.

No person shall use a flash or spotlight in a manner so as to annoy or endanger others.
(Code 1984, § 9.20(9); Code 2003, § 70-169)

ARTICLE V. OFFENSES INVOLVING PUBLIC MORALS

Division 1. Generally

Sec. 5.36.810. Indecent exposure.

No person shall willfully and lewdly expose his person or his private parts, or procure another to so expose himself; and any open or gross lewdness or lascivious behavior, or any act of public indecency is prohibited.
(Code 1984, § 9.20(4); Code 2003, § 70-201)
State law references—Indecent exposure, Minn. Stats. § 617.23; obscenity, Minn. Stats. § 617.24.

Sec. 5.36.820. Urinating, defecating.

No person shall urinate or defecate in a place other than:

(1) If on public property, in a plumbing fixture provided for that purpose;

(2) If on the private property of another, in a plumbing fixture provided for that purpose; or

(3) If on private property not owned or controlled by another, within a building.

(Code 1984, § 9.20(6); Code 2003, § 70-202)

Division 2. Controlled Substances

Sec. 5.36.910. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings

ascribed to them in this section, except where the context clearly indicates a different meaning:

Possession means having a controlled substance in one's actual or constructive possession, including, but not limited to, having the controlled substance in any motor vehicle which is owned or operated by the person charged with possession.

(Code 1984, § 9.57(3); Code 2003, § 70-226)

Sec. 5.36.920. Schedules adopted by reference.

The five schedules of controlled substances listed in Minn. Stats. § 152.02 are incorporated in and made a part of this division as if set out in this section in full. For the purpose of this division, a controlled substance is any substance listed in the schedules of controlled substances in Minn. Stats. § 152.02.

(Code 1984, § 9.57(1); Code 2003, § 70-227)

State law reference—Controlled substances, Minn. Stats. ch. 152.

Sec. 5.36.930. Confiscation and disposition.

Any controlled substance found in the possession of any person convicted of a violation of this division shall be confiscated and shall be forfeited to the chief of police, who shall make proper and timely disposition of the substance by destroying it.

(Code 1984, § 9.57(6); Code 2003, § 70-228)

Sec. 5.36.940. Excepted lawful businesses and professions.

This division shall not apply to the following in the ordinary course of their trade, their business, or their profession; however, this exception shall not be a defense to the doing of the acts prohibited in this division:

(1) Practitioners, persons licensed by law to prescribe and administer controlled substances.

(2) Pharmacists duly registered and licensed with the state board of pharmacy.

(3) Manufacturers.

(4) Pharmacists and manufacturers.

(5) Wholesalers.

(6) Warehousepersons.

(7) Persons engaged in transporting such controlled substances as agent or employee of a practitioner, pharmacist, manufacturer, warehouseperson, wholesaler or common carrier.

(8) Public officials or public employees in the performance of official duties requiring possession or control of such controlled substances, or persons aiding such officers or employees in the performance of such duties.

(9) Any patient, with respect to procuring, possession and use of a controlled substance in accordance with the terms of a prescription and prescribed treatment.

(10) Persons who procure, possess or use such controlled substance for the purpose of lawful research, teaching or testing, and not for sale.

(11) Lawfully licensed and registered hospitals or bona fide institutions wherein sick or injured persons are cared for and treated, or by bona fide hospitals for the treatment of animals.

(Code 1984, § 9.57(4); Code 2003, § 70-229)

Sec. 5.36.950. Manufacture, use limited.

It shall be unlawful for any person to manufacture, possess, sell, give away, barter, exchange, distribute or otherwise transfer any controlled substance, except on a lawful prescription by a person licensed by law to prescribe and administer controlled substances.

(Code 1984, § 9.57(2); Code 2003, § 70-230)

Sec. 5.36.960. Unlawful procuring, purchase, delivery or possession.

No person shall procure, purchase, deliver or possess, or attempt to procure, purchase, deliver or possess a controlled substance in any of the following manners:

(1) By fraud, deceit, misrepresentation or subterfuge;

(2) By the forgery or alteration of a prescription;

(3) By the concealment of a material fact;

(4) By the use of a false name or the giving of a false address;

(5) By making a false statement in any prescription, order, report or record relative to a controlled substance;

(6) By falsely assuming the title of or falsely representing any person to be a manufacturer, wholesaler, warehouseperson, pharmacist, practitioner or other person described in section 5.36.940; or

(7) By making, issuing or uttering any false or forged prescription.

(Code 1984, § 9.57(5); Code 2003, § 70-231)

Sec. 5.36.970. Use of original containers and labels required.

All patients having possession of any controlled substance, by lawful prescription of a practitioner while such controlled substance is lawfully in such person's possession, shall keep such controlled substance in the original container in which it was delivered until used in accordance with such prescription, and shall not remove the pharmacist's original label identifying the prescription from such original container.

(Code 1984, § 9.57(7); Code 2003, § 70-232)

Sec. 5.36.980. Possession of injection implement.

No person, except dealers in surgical instruments, apothecaries, physicians, dentists, veterinarians, nurses, attendants and interns of hospitals, sanitariums or any other institution in which persons are treated for disability of disease, shall at any time have or possess any hypodermic syringe or needle or any instrument adapted for the use of cocaine or narcotic drugs or any controlled substance defined in Minn. Stats. § 152.02, or as defined in 21 USC 812 by subcutaneous injections and which is possessed for that purpose, unless such possession is authorized by the certificate of a physician issued within a period of one year prior to any time of such possession.

(Code 1984, § 9.57(8); Code 2003, § 70-233)

Division 3. Alcohol

Sec. 5.36.1010. Consumption and possession of beer, wine or liquor on streets and public property.

(a) It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any street or other public property except city parks and other public property when and where permission has been specifically granted or licensed by the council. This section shall not apply to the possession of an unsealed container in a motor vehicle on streets or public property when the container is kept in the trunk of such vehicle, if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

(b) No license or permit shall be granted under this section unless and until the permittee or licensee, as the case may be, has filed with the city a certificate of public liability insurance on which the city or other owner of the property is a named insured providing umbrella or all perils coverage in the amount of $1,000,000.00. Nor shall such license or permit be granted until the permittee or licensee, as the case may be, agrees in writing to pay for all expenses incident to cleaning up all resulting refuse and debris.

(Code 2003, § 70-250; Ord. No. 230(3rd series), § 2, 7-22-2019)

Sec. 5.36.1020. Consumption and possession of beer, wine or liquor on private parking lots.

It is unlawful for any person to consume or possess in an unsealed container any alcoholic beverage on any privately owned parking lot which is clearly signposted prohibiting such

possession and consumption. This section shall not apply to the possession of an unsealed container in a motor vehicle on privately owned parking lots when the container is kept in the trunk of such vehicle, if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.
(Code 2003, § 70-251; Ord. No. 230(3rd series), § 2, 7-22-2019)

Sec. 5.36.1030. Inducing another to make illegal purchase or sale.

No person shall knowingly induce another to make an illegal sale or purchase of intoxicating liquor or 3.2 percent malt liquor.
(Code 2003, § 70-252; Ord. No. 230(3rd series), § 2, 7-22-2019)

Sec. 5.36.1040. Social host.

(a) *Generally.*

(1) It is unlawful for any person under the age of 21 years to consume or possess an alcoholic beverage.

a. Consumption of alcohol by persons under the age of 21 years is harmful to those persons and constitutes a potential threat to public health from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

b. Alcohol is also an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

c. As a result, gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 years should be prevented as much as possible.

d. Gatherings involving underage possession and consumption often occur outside the presence of parents or other responsible adults. However, there are times when a parent or other adult is present and condones the activity, and in some circumstances provides the alcohol.

e. Although furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.

f. A deterrent effect will be created by holding a person criminally responsible for hosting a gathering where underage possession or consumption occurs.

(2) The purpose of this section is to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and to hold persons criminally responsible who host gatherings where persons under 21 years of age possess or consume alcohol, regardless of whether the person hosting the gathering supplied the alcohol or was present.

(3) The city council intends that this section should not target parents who may have alcoholic beverages on their premises but who have issued a standing order that alcohol is not to be consumed by underage persons on those premises.

(4) The definitions in section 4.16.020 shall apply to this section.

(b) *Prohibited acts.*

(1) It is unlawful for a person to host or allow a gathering on any premises if:

a. The person knows that alcohol or alcoholic beverages will be present;

b. The person knows that an underage person will attend, or is likely to attend;

c. The person fails to take reasonable steps to prevent the possession or consumption of alcoholic beverages by an underage person; and

d. An underage person consumes an alcoholic beverage, or possesses an alcoholic beverage with the intent to consume it, at the gathering.

(2) Examples of reasonable steps include:

a. Directing, on a one-time basis or as a standing order, that no consumption of alcohol and alcoholic beverages is allowed;

b. Controlling access to alcohol and alcoholic beverages;

c. Checking identification of attendees to determine age; or

d. Supervising the activities of underage persons at the gathering either in person or through a responsible adult.

(3) A person is not criminally responsible under this section if the person does not know that a gathering will occur, or does not know that alcoholic beverages will be present, or does not know that an underage person will be or is likely to be present. However, if a person has the knowledge specified in subsection (b)(1) of this section, a person who hosts a gathering does not have to be present at the gathering to be criminally responsible.

(4) A person is criminally responsible for violating subsection (b)(1) of this section if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

(c) *Exceptions.*

(1) This section does not apply to conduct of an underage person that is permitted by his or her parent and occurs in the parent's household.

(2) This section does not apply to a legally protected religious observance.

(3) This section does not apply when an underage person is lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(4) This section does not apply to the holder of a liquor license issued under title IV, but it does apply to a person who hosts a gathering at such a liquor establishment.

(Code 2003, § 70-253; Ord. No. 230(3rd series), § 2, 7-22-2019)

ARTICLE VI. JUVENILE CURFEW*

Sec. 5.36.1110. Definitions.

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

Emergency means a circumstance or combination of circumstances requiring immediate action to prevent property damage, serious bodily injury or loss of life.

Establishment means any privately-owned place of business to which the public is invited, including, but not limited to, any place of amusement, entertainment, or refreshment.

Guardian means an adult appointed pursuant to Minn. Stats. § 525.6155 or 525.6165 who has the powers and responsibilities of a parent as defined by Minn. Stats. § 525.619.

Juvenile means a person under the age of 18 years. The term "juvenile" does not include persons under the age of 18 years who are married or have been legally emancipated.

Parent means birth parents, adoptive parents, and stepparents.

Proprietor means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term "proprietor" includes the members or partners of an association or partnership and the officers of a corporation.

*__State law reference__—Authority of city to set curfew, Minn. Stats. § 145A.05, subd. 9.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Responsible adult means a person 18 years or older specifically authorized by law or by a parent or guardian to have custody and control of a juvenile.

Serious bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any body part or organ.
(Code 2003, § 70-271)

Sec. 5.36.1120. Findings and purpose.

(a) In recent years, there has been a significant increase in juvenile victimization and crime. At the same time, the crimes committed by and against juveniles have become more violent. A significant percentage of juvenile crime occurs during curfew hours.

(b) Because of their lack of maturity and experience, juveniles are particularly susceptible to becoming victims of older perpetrators. The younger a person is, the more likely he is to be a victim of crime.

(c) While parents have the primary responsibility to provide for the safety and welfare of juveniles, the city also has a substantial interest in the safety and welfare of juveniles. Moreover, the city has an interest in preventing juvenile crime, promoting parental supervision, and providing for the well-being of the general public.

(d) A city-wide curfew will reduce juvenile victimization and crime and will advance public safety, health, and general welfare.
(Code 1984, § 9.14; Code 2003, § 70-272)

Sec. 5.36.1130. Penalty.

(a) Violation of section 5.36.1140(a), (b) or (c) will be prosecuted pursuant to Minn. Stats. § 260B.235 and will be subject to the penalties therein.

(b) Violation of section 5.36.1140(d) or (e) is a misdemeanor and will be subject to the penalty set forth in Minn. Stats. § 609.03.
(Code 1984, § 9.14(6); Code 2003, § 70-273; Ord. No. 293(3rd series), § 1, 2-26-2024)

Sec. 5.36.1140. Prohibited acts.

(a) It is unlawful for a juvenile under the age of 12 years to be present in any public place or establishment within the city:

(1) Any time between 9:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.

(2) Any time between 10:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

(b) It is unlawful for a juvenile age 12 to 14 years to be present in any public place or establishment within the city:

(1) Any time between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.

(2) Any time between 11:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

(c) It is unlawful for a juvenile age 15 to 17 years to be present in any public place or establishment within the city:

(1) Any time between 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.

(2) Any time between 12:01 a.m. and 5:00 a.m. on any Saturday or Sunday.

(d) It is unlawful for a parent or guardian of a juvenile knowingly, or through negligent supervision, to permit the juvenile to be in any public place or establishment within the city during the hours prohibited in subsections (a), (b) and (c) of this section.

(e) It is unlawful for a proprietor of an establishment within the city to knowingly permit a juvenile to remain in the establishment or on

the establishment's property during the hours prohibited in subsections (a), (b) and (c) of this section. If the proprietor is not present at the time of the curfew violation, the responding officer shall leave written notice of the violation with an employee of the establishment. A copy of the written notice shall be served upon the establishment's proprietor personally or by certified mail.
(Code 1984, § 9.14(1)—(4); Code 2003, § 70-274)

Sec. 5.36.1150. Defenses.

(a) It is an affirmative defense for a juvenile to prove that the juvenile was:

(1) Accompanied by his parent, guardian, or other responsible adult.

(2) Engaged in a lawful employment activity or was going to or returning home from his place of employment.

(3) Involved in an emergency situation.

(4) Going to, attending, or returning home from an official school, religious, or other recreational activity sponsored and/or supervised by a public entity or a civic organization.

(5) On an errand at the direction of a parent or guardian.

(6) Exercising First Amendment rights protected by the United States Constitution or Minn. Const. art. I.

(7) Engaged in interstate travel.

(8) On the public right-of-way boulevard or sidewalk abutting the property containing the juvenile's residence or abutting the neighboring property, structure, or residence.

(b) It is an affirmative defense for a proprietor of an establishment to prove that the proprietor or employee:

(1) Reasonably and in good faith relied upon a juvenile's representations of proof of age. Proof of age may be established pursuant to Minn. Stats. § 340A.503, subd. 6, or other verifiable means, including, but not limited to, school identification cards and birth certificates.

(2) Promptly notified the responsible police agency that a juvenile was present on the premises of the establishment during curfew hours.
(Code 1984, § 9.14(5); Code 2003, § 70-275)

Sec. 5.36.1160. Review.

The council shall conduct yearly reviews of this article to assess the effectiveness of and continuing need for a juvenile curfew. Prior to the annual review, the city attorney shall prepare and submit a report to the council evaluating violations of this article and juvenile crime and victimization during the preceding year.
(Code 2003, § 70-276)

ARTICLE VII. SEXUAL PREDATOR RESIDENCY RESTRICTIONS

Sec. 5.36.1210. Findings and intent.

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses. Most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) It is the intent of this article to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of its citizens by establishing areas around locations where children regularly congregate in concentrated numbers, wherein certain sexual predators are prohibited from establishing temporary or permanent residence.
(Code 2003, § 70-277; Ord. No. 182(3rd series), § 1, 1-9-2017)

Sec. 5.36.1220. Definitions.

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

Day care center means a facility licensed by the state in which care, supervision and training for individuals under the age of 18 is provided for part of a 24-hour period.

Designated offender means any person who has been categorized as a Level III predatory offender under Minn. Stats. § 244.052, a successor statute, or a similar statute from another state.

Park or *playground* means any land, including improvements, but excluding trails and sidewalks, operated by the city, county, or the Three Rivers Park District for the use by the general public as a recreational area.

Permanent residence means a place where a person abides, lodges or resides for 14 or more consecutive days.

School means any public or non-public educational institution that offers educational instruction to individuals under the age of 18 years.

Temporary residence means a place, other than a person's permanent residence, where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year or four or more consecutive or non-consecutive days during any month.
(Code 2003, § 70-278; Ord. No. 182(3rd series), § 1, 1-9-2017)

Sec. 5.36.1230. Residency prohibition; penalties; exception.

(a) *Residency prohibition.*

(1) It is unlawful for any designated offender to establish a permanent residence or temporary residence within 2,000 feet of any school, day care center, park or playground.

(2) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence of the designated offender to the nearest outer property line of a school, day care center, park or playground.

(b) *Penalties.* A person who violates this section shall be punished by a fine not exceeding $1,000.00, or by confinement for a term not exceeding 90 days, or by both such fine and confinement. Each day a person maintains a residence in violation of this article constitutes a separate violation.

(c) *Exceptions.* A designated offender residing within a prohibited area as described in subsection (a) of this section does not commit a violation of this section if any of the following apply:

(1) The designated offender established the permanent residence or temporary residence and reported and registered the residence pursuant to Minn. Stats. § 243.166, 243.167, or successor statute, prior to the effective date of the ordinance from which this section is derived.

(2) The designated offender was a minor when he or she committed the offense and was not convicted as an adult.

(3) The designated offender is a minor.

(4) The school, day care center, park or playground within 2,000 feet of the designated offender's permanent residence or temporary residence was designated or opened after the designated offender established the permanent residence or temporary residence and reported and registered the residence pursuant to Minn. Stats. § 243.166 or 243.167 or successor statute.

(5) The residence is also the primary residence of the designated offender's parents, grandparents, siblings, spouse or adult children.

(6) The residence is a property owned by the state department of corrections.

(Code 2003, § 70-279; Ord. No. 182(3rd series), § 1, 1-9-2017)

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CHAPTER 6.04. PLANNING COMMISSION*

Sec. 6.04.010. Established.

A planning commission is established.
(Code 1984, § 2.51(1); Code 2003, § 74-1; Ord. No. 115(2nd series), 5-24-1993)

State law reference—Planning commission authorized, Minn. Stats. § 462.354, subd. 1.

Sec. 6.04.020. Membership.

(a) The planning commission is composed of seven members, who serve staggered three-year terms. The period of these terms is from April 1 to March 31, and the members shall be appointed by the second business meeting in March.

(b) It is the policy of the council to appoint persons to the planning commission as follows:

(1) Two of the members shall reside in and be appointed to represent the rural service area of the city as defined in the comprehensive management plan; two members residing in and appointed to represent the urban service area, one appointed that resides on Lake Minnetonka lakeshore property; and two shall be appointed to represent the city at large.

(2) The council by majority vote may deviate from this policy to appoint persons without specific designation.

(3) The zoning administrator and one councilmember shall be members of the commission ex officio and without vote.

(4) The council may by majority vote appoint one or more alternate planning commission members to serve when regular members are absent. Alternate members shall be chosen at large.

(Code 1984, § 2.51(1); Code 2003, § 74-2; Ord. No. 115(2nd series), 5-24-1993)

*State law reference—Planning, Minn. Stats. § 462.351 et seq.

Sec. 6.04.030. Powers and duties.

The planning commission shall be the planning agency of the city and be an advisory body to the council. The commission shall have the power, under the direction of the council, to carry on the duties set forth in state law and those duties provided by this Code and such other duties as prescribed by the council. The commission shall hold a regular meeting once each month and keep records of its proceedings.
(Code 1984, § 2.51(2); Code 2003, § 74-3; Ord. No. 115(2nd series), 5-24-1993)

State law reference—Planning commission functions, Minn. Stats. § 462.351 et seq.

CHAPTER 6.08. REIMBURSEMENT OF DEVELOPMENT COSTS, ESCROWS

Sec. 6.08.010. Definitions.

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

Costs means any time or expense incurred by the city for governmental services performed by the city planning director, city engineer and city attorney or any other regular staff or consultants.

Development means any subdivision, planned unit development, rezoning, conditional use permit, variance, vacation, building permit, or site plan; or proposed subdivision, planned unit development, rezoning, conditional use permit, variance, vacation, building permit, or change in site plan; or any amendment to a previously approved subdivision, planned unit development, rezoning, conditional use permit, variance, vacation, building permit or site plan.

Owner means any property owner, applicant, or duly authorized representative of a development.

Improvements means all those public and private facilities to be constructed by the owner in support of the approved development, as established in the development agreement between the city and the owner, including, but not limited to, streets and roads, parking lots,

sidewalks, trails, sewer and water facilities, storm water management facilities, site grading and restoration, erosion control, landscaping, etc.
(Code 2003, § 75-1; Ord. No. 42(3rd series), § 1, 2-11-2008; Ord. No. 65(3rd series), § 1, 11-23-2009)

Sec. 6.08.020. Reimbursement required.

Any owner that causes the city to incur costs on behalf of, or on account of, that owner, associated with a proposed development, shall reimburse the city for the actual costs expended by the city on behalf of, or on account of, said owner. An owner shall be responsible for reimbursing the city for all actual costs, whether the proposed development is approved, denied, tabled or withdrawn by the owner.
(Code 2003, § 75-2; Ord. No. 42(3rd series), § 1, 2-11-2008; Ord. No. 190(3rd series), § 3, 4-10-2017)

Sec. 6.08.030. Application deposit required.

At the time of application, the owner shall deposit with the city in escrow an amount, as determined by the city administrator (or as directed in the city fee schedule), necessary to secure coverage of the total costs associated with review and approval of the proposed development. The owner will then be expected to maintain the escrow fund at a balance equal to the original amount deposited. Any escrow shall be held in a special escrow account and shall be credited to the said owner. Expenditures to be secured by the aforesaid escrow account shall include, but not be limited to, staff time in excess of that covered by the standard application fees; engineering consultant and legal consultant expenses incurred by the city in development application review and approval; and all other city staff administrative and consultant services performed in the processing of said review and approval.
(Code 2003, § 75-3; Ord. No. 42(3rd series), § 1, 2-11-2008)

Sec. 6.08.040. Construction deposit required.

Prior to issuance of permits and prior to commencement of any site work, the owner shall deposit with the city in escrow an amount, as determined by the city administrator (or as directed in the city fee schedule), necessary to secure coverage of the total costs associated with review and inspection of the construction of improvements associated with the approved development. The owner will then be expected to maintain the escrow fund at a balance equal to the original amount deposited. Any escrow shall be held in a special escrow account and shall be credited to the said owner. Expenditures to be secured by the aforesaid escrow account shall include, but not be limited to, staff time in excess of that covered by the standard application fees; engineering consultant and legal consultant expenses incurred by the city in review and inspection of the improvements; any office and field checking; when necessary, setting grade and drainage requirements; general supervision; staking; testing; installation; cost of traffic control and street signs; drafting as-built drawings; and all other city staff administrative and consultant services performed in relation to construction of the improvements.
(Code 2003, § 75-4; Ord. No. 42(3rd series), § 1, 2-11-2008)

Sec. 6.08.050. Regular billing statements of expenditures required.

The city will on a regular basis forward to the owner a statement and bill for the expenditures incurred by the city for staff and consultant services. Such statements shall be due and payable within 15 days of receipt by the owner. No statement will be sent if there are no expenses incurred in the period since the most recent statement. The city shall itemize all time, services, and materials billed to any owner and said time, services, and materials shall be in accordance with the rules, regulations, and fees as promulgated and adopted by the council.
(Code 2003, § 75-5; Ord. No. 42(3rd series), § 1, 2-11-2008)

Sec. 6.08.060. Reimbursement of escrow fund.

The owner shall reimburse the escrow fund for any deficits caused if the amount actually expended by, or billed to, the city exceeds the escrow fund balance.
(Code 2003, § 75-6; Ord. No. 42(3rd series), § 1, 2-11-2008)

Sec. 6.08.070. Refund of unexpended balance.

Any balance remaining in the account upon completion of the development shall be returned to the depositor by the finance department after all claims and charges thereto have been paid.
(Code 2003, § 75-7; Ord. No. 42(3rd series), § 1, 2-11-2008)

Sec. 6.08.080. Escrow fund not to draw interest.

The city shall not pay interest on the monies deposited in the escrow fund.
(Code 2003, § 75-8; Ord. No. 42(3rd series), § 1, 2-11-2008)

Sec. 6.08.090. Rates established.

The city administrator shall establish the rates charged for the services performed by city staff or consultants.
(Code 2003, § 75-9; Ord. No. 42(3rd series), § 1, 2-11-2008)

Sec. 6.08.100. Collection of unpaid service charges/costs.

The council shall certify all unpaid costs to the county auditor, who shall enter them upon the tax records which shall then be collected together with the property taxes levied against the property.
(Code 2003, § 75-10; Ord. No. 65(3rd series), § 2, 11-23-2009; Ord. No. 190(3rd series), § 4, 4-10-2017)

CHAPTER 6.12. ZONING REGULATIONS*

ARTICLE I. IN GENERAL

Sec. 6.12.010. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined in this section, the words and phrases used in this chapter shall have the meanings given to them in chapter 6.20.

Accessory dwelling unit (ADU) means a subordinate habitable dwelling unit, which has its own basic requirements of shelter, heating, cooking and sanitation, which is attached or detached from a single-family dwelling.

Accessory use, building, or structure means a use, building, or structure subordinate to and serving the principal use or building on the same lot and customarily incidental to the principal use or building.

Agriculture means the utilization of land by raising plants, trees or shrubs or the raising of domestic animals or fowl, or both, for the purpose of selling to secure a profit.

Airport and *heliport* mean any land, water or structure which is used or intended for use for the landing or takeoff of aircraft, and any appurtenant land structure used or intended for use for port buildings or other port structures or right-of-way.

Alley means a public right-of-way which affords a secondary means of access to abutting property.

Amusement center means a business at one location devoted primarily to the operation of amusement machines as described below and open for public use and participation; or locations with four or more amusements machines and open for public use and participation.

*State law reference—Zoning, Minn. Stats. § 462.357.

Amusement machine means a mechanical amusement device of any of the following types:

(1) A machine or electronic contrivance, including "pinball" machines, mechanical miniature pool tables, bowling machines, shuffle boards, electric rifle or gun ranges, miniature mechanical and electronic devices and games or amusements patterned after baseball, basketball, hockey or similar games and like devices, machines or games which may be played solely for amusement and not as a gambling device and which devices or games are played by the insertion of a coin or coins or at a fee fixed and charged by the establishment in which such devices or machines are located, and which contain no automatic payoff devices for the return of money, coins, merchandise, checks, tokens or any other thing or item of value; provided, however, that such machine may be equipped to dispense nominal prizes, such as candy or toys, or coupons or tokens redeemable for such prizes. The term "amusement machine" does not include coin-operated music machines.

(2) Amusement devices designed for and used exclusively as rides by children, such as, but not limited to, kiddie cars, miniature airplane rides, mechanical horses and other miniature mechanical devices, not operated as a part of or in connection with any carnival, circus, show, or other entertainment or exhibition.

Animal unit means, for one animal unit equivalency, one cow or steer; one horse, donkey, alpaca, or llama; two pigs, three sheep or goats; or 25 fowl.

Antenna means any of the following uses, which require an antenna and are subject to the regulations of this chapter:

Antenna, personal wireless service, means a device consisting of a metal, carbon fiber, or other electromagnetically conductive rods or elements, usually arranged in a circular array on a single supporting pole or other structure, and used for the transmission and reception of wireless communication radio waves, including cellular, personal communication service (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services, including the support structure.

Antenna, radio and television receiving, means a wire, set of wires, metal or carbon fiber elements, other than satellite dish antennas, used to receive radio, television or electromagnetic waves, including the supporting structure.

Antenna, satellite dish, means a device incorporating a reflective surface that is solid, open mesh or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device is used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. The term "satellite dish antenna" includes, but is not limited to, what are commonly referred to as satellite earth stations, TVROs (television, receive only) and satellite microwave antennas and their support structures.

Antenna, shortwave radio transmitting and receiving, means a wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for shortwave radio communications, including the supporting structure.

Antenna support structure means any building or other structure other than a tower which can be used for location of antennas.

Antenna tower means a self-supporting lattice, guyed or monopole structure constructed from grade which supports personal wireless service antennas.

Apiary means a collection of hives or colonies of honeybees kept for their honey.

Auto reduction yard means a lot or yard where two or more licensed motor vehicles or their remains are kept for the purpose of dismantling, sale of parts, sale as scrap, storage, or abandonment.

Automobile repair, major, means general repair, rebuilding of trailers, including body work, framework and major painting service.

Automobile repair, minor, means the replacement of any part or repair of any part which does not require the removal of the engine head or pin, engine, transmission or differential; incidental body and fender work; and minor painting and upholstering service when such service is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross rating.

Barber shops and beauty shops means a commercial establishment offering cosmetology services which may include hair cutting, coloring, or styling, make-up application or consultation, manicures, and pedicures, and/or which may offer therapeutic massage and body and/or facial treatments such as body packs or wraps, exfoliation, cellulite or heat treatments, body toning, waxing, tanning, aromatherapy, cleansing or medical facials, non-surgical face lifts and other non-surgical cosmetic procedures, electrical toning and electrolysis. Hydrotherapy and steam or sauna facilities, nutrition and weight management, and exercise instruction may be provided in conjunction with such therapeutic massage and body and/or facial treatments.

Boardinghouse means a building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three or more persons, but not to exceed eight persons.

Building means any structure having a roof which may provide shelter or enclosure of persons, animals or chattel; and when the structure is divided by party walls without opening, each portion of such building so separated shall be deemed a separate building.

Building footprint means the outline of the total area covered by a building's perimeter at the ground level (to the block/foundation).

(1) Carports, covered porches and other similar building features which have no exterior walls shall be included as part of a building footprint by drawing a straight line between the outer edges of all support structures (and the main building if applicable).

(2) The outer edge of building protrusions, bay windows or other similar features that extend outward from a building and are less than four feet from the ground shall be considered as part of the building footprint.

Building height means the vertical distance between the highest existing ground level or ten feet above the lowest ground level, whichever is lower, and the top of the cornice of a flat roof, or the deck line of a mansard roof, or the uppermost point on a round or other arch-type roof, or the median height of the highest gable of a pitched or hipped roof. Topographic changes which elevate the adjoining ground level above the existing terrain shall not be considered in determining building height.

Bulk station means distributors' warehouses for materials which are stored in tanks above ground in aggregate capacity on the site of 6,000 gallons or more.

Camp means a parcel of land with permanent buildings, tents or other structures together with appurtenances thereon, established or maintained as living quarters where both food and lodging or facilities therefore are provided for ten or more people, operated continuously for a period of five days or more each year for educational, recreational, or vacation purposes, and the use of the camp or participation in its programs are provided to adults and/or children free of charge or for payment of a fee. The term "camp" does not include cabin and trailers camps, fishing and hunting camps, resorts, penal and correctional camps, industrial and construction camps, nor does it include homes operated for care or treatment of children and for the operation of which a license is required by state law or structures used as a dwelling.

Cannabis producer means a cannabis business licensed or endorsed under Minn. Stats. ch. 342 to cultivate cannabis plants or flowers; manufacture, process, or extract cannabis and cannabis parts; sell cannabis or cannabis products to other cannabis businesses; or transport or deliver cannabis and cannabis products from one cannabis business to another or to consumers.

Cannabis retail business means a cannabis business licensed or endorsed under Minn. Stats.

ch. 342 to sell cannabis products to consumers, including for on-site consumption, and not for the purpose of resale. The term "cannabis retail business" includes businesses licensed as cannabis retailers, cannabis microbusinesses with a retail endorsement, and cannabis mezzobusinesses with a retail endorsement.

Carport means an automobile shelter having one or more sides open.

Cellar means that portion of the building having more than half of the floor-to-ceiling height below the average grade of the adjoining ground.

Clean fill means all native soils as described in the Unified Soils Classification System. Organic, manmade and reprocessed materials, topsoil and rocks larger than 0.25 cubic yard (2.9 feet diameter) shall not be considered clean fill.

Clinic for human care on an outpatient basis only means a place where a group of licensed medical practitioners provide medical treatment or advice on an outpatient only basis.

Columbarium means a repository for the interment of cremated human remains within cinerary urns, including the burial of cremated human remains within cinerary urns or inurnment gardens for the burial or scattering of cremated human remains. Columbaria are accessory to places of worship, cemeteries or mausoleums.

Commercial kennel means any premises where three or more domestic animals over six months of age are owned, boarded, bred or offered for sale.

Commercial operations means operations where business is conducted by the sale or exchange of goods and/or services on the site for money or other valuable consideration.

Commercial recreation means indoor amusement centers, bowling alleys, billiard halls, miniature golf, roller and ice skating rinks, driving ranges, movie theaters, gyms, swimming pools, and sports and health facilities. No commercial recreation use shall take place outside of an enclosed building. An air-supported structure shall not be considered a building for purposes of this definition. The term "commercial recreation" does not include an adult use defined in section 6.12.6820(b), any use involving the discharge of a firearm, a Class II restaurant that provides live entertainment, or any permitted or conditional use in the B-2 district.

Cornice means any horizontal decorative molding that crowns a building or wall.

County dock means a dock owned and operated by the county for the sole purpose of facilitating lake to ground transportation of patrons in emergency or law enforcement situations.

Curb cut means the opening along a street curb line or pavement edge for the purpose of motor vehicle ingress and egress from a roadway. Curb cut width shall include the width of the driveway approach and of the curb returns, if any.

Day care means a location licensed by the state department of human services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Dog boarding means indoor overnight boarding services for more than three dogs aged greater than six months.

Dog day care means indoor day care services for more than three dogs aged greater than six months.

Dog grooming means a premises where pet grooming services such as bathing, teeth cleaning, haircuts, and nail polishing and trimming are provided.

Driveway means a paved or otherwise delineated area on private property for the operation of automobiles and other vehicles.

Dry buildable means that portion of the lot not encumbered by the waters of a duly recorded lake or river, wetlands, bluffs, or slopes steeper than 30 percent.

Dwelling means a building or part of a building containing independent living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one family, intended to be occupied exclusively for residence purposes, but

not including rooms in motels, hotels, nursing homes, boardinghouses, nor trailers, tents, cabins or trailer coaches. A dwelling shall not be interpreted to include lodging rooms.

Dwelling, attached, means a dwelling which is joined to another dwelling at one or more sides by a party or fire wall or walls.

Dwelling, detached, means a dwelling which is entirely surrounded by open space on the same lot.

Engineered grade means the elevation of the ground, or any paving or sidewalk built upon it, which has been established on the basis of an engineered grading and drainage plan for the property that has been reviewed and approved by the city for the property.

Essential services means the erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems by public utilities, municipal or other governmental agencies, but not including buildings.

Existing ground level means the elevation of the grade at the base of an existing structure, measured at points abutting the foundation wall, or the natural grade of a vacant lot or the engineered grade established by an approved grading plan at the time of final platting or interim use permit.

Family means any number of individuals generally, but not necessarily, related by blood or marriage, living together at one location maintaining a common household as a single, nonprofit housekeeping unit, as distinguished from a group occupying a boardinghouse or rooming house, hotel or motel.

Family dwelling, multiple, means any structure made up of two or more attached dwellings.

Farm animals means cattle, horses, mules, sheep, goats, llamas, alpacas, swine, ponies, ducks, geese, turkeys, chickens or guinea hens.

Garage condo means a building or part of a building consisting of individual units for indoor storage of motor vehicles, boats, trailers, or recreational vehicles and such items as are customarily used for the care or upkeep of such motor vehicles, boats, trailers, or recreational vehicles. Individual units are owned or leased and may be capable of customization, alteration, or expansion by the owners or tenants of the units. The term "garage condo" may include common spaces or office areas.

Garage, private, means a detached accessory building or portion of the principal building, including a carport, which is used for storing passenger vehicles, and trailers.

Hardcover means a hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. The term "hardcover" includes, but is not limited to, the following: all building footprints, driveways, sidewalks, stepping stones, retaining walls, patios, courts (sport, tennis, etc.), decks, pools, areas used for the extended outdoor storage of vehicles or equipment, and all other similar features or surfaces as determined by the city engineer or city planner.

Home occupation means any gainful occupation carried out by the occupant of a residential dwelling unit that occurs within the principal or accessory building on the property and does not change the primary residential use of the property. Level 1 and level 2 home occupations shall be as defined in section 6.12.6810.

Hotel means a building containing eight or more guest rooms in which lodging is provided with or without meals for compensation and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

In-kind, when used in the context of replacement of a nonconforming building or structure, means the replacement of a building or structure completely within the limits (location, height, width, and depth) of the previous building or structure.

Junkyard means an area where used, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber products, bottles and lumber. Storage of such material in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.

Library, public, means a library operated by the county; or a nonprofit library intended for use by the general public.

Local street means a residential street maintained by the city and which is not defined as a state highway, county highway, collector, arterial, or a municipal state aid street.

Lot area means the area of a lot in a horizontal plane bounded by the lot lines, but not including any area occupied by the waters of a duly recorded lake or river or wetland or area which has been dedicated as public right-of-way.

Lot, back, means a lot typically separated from a public or private road by another lot and which gains access to the public or private road via a narrow corridor. Such a separated lot is considered to be a back lot when the corridor is platted as an outlot. A separated lot is considered to be a flag lot when the corridor is platted as part of the lot. When the corridor is merely an easement over another lot, the separated lot is considered to be an easement back lot.

Lot, corner, means a lot situated at the junction of, and abutting on, two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

Lot coverage means the total square footage of all building footprints and structures on a parcel.

Lot depth means the mean horizontal distance between the front lot line and the rear lot line of a lot.

Lot, front, means a lot abutting a public or private road, across which an outlot has been platted for access to a back lot.

Lot, interior, means a lot other than a corner lot.

Lot line means the property line bounding a lot; except that where any portion of a lot extends into the public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line.

Lot line, front, means that boundary of a lot which abuts an existing or dedicated public or private street, and in the case of a corner lot it shall be the shortest dimension on a public or private street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner and filed in the office of the building inspector.

Lot line, rear, means that boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line. On a lakeshore lot, the rear lot line is the lot line that is opposite the natural ordinary high-water mark at the lakeshore.

Lot line, side, means any boundary of a lot which is not a front lot line or a rear lot line.

Lot of record means any lot for which a deed or registered land survey has been recorded in the office of the register of deeds or the registrar of titles for the county prior to January 1, 1975, and after approval by the council if required.

Lot, through, means a lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lot lines for applying this chapter.

Lot width means the horizontal distance between side lot lines measured at the following locations:

(1) For lots which do not abut a lake or tributary, at the rear of the required front yard, measured parallel to the front lot line.

(2) For lots which abut a lake or tributary, at the shoreline measured in a straight line between the points at which the side lot

lines intersect the OHWL, and at the required structure setback from the OHWL, measured in a straight line between the points of intersection of the side lot lines with the structure setback line.

Manufactured home or *mobile home* means any type of structure or vehicle which can be readily adapted to or does provide facilities for a person to eat or sleep which is mounted on wheels, has provisions for wheels, or may be loaded on an ordinary flatbed truck, such as a house trailer, converted bus or truck, tent or small building.

Motor court, motor hotel, and *motel* mean a building or group of buildings other than a hotel used primarily as a temporary residence.

Motor freight terminal means a building or area in which freight brought by motor truck or railroad is transferred and/or stored for movement in intrastate shipment by motor truck.

Municipal buildings or facilities means only those structures owned and operated by the city.

Natural grade means the elevation of the ground surface in its natural state, prior to excavation or filling.

Nonconforming structure means any structure legally existing upon January 1, 1975, which would not conform to the applicable regulations if the structure were to be erected under the provisions of this chapter.

Nonconforming use means use of land, buildings or structures legally existing on January 1, 1975, which does not comply with all the regulations of this chapter or any amendments to it governing the zoning district in which such use is located.

Noxious matter or materials means material capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physical or economic well-being of individuals.

Nursery, day, means a use where care is provided for pay for three or more children under kindergarten age for periods of four hours or more per day.

Office means a commercial land use involving predominantly administrative, clerical, or professional operations. Commercial offices may include professional administrative training, but shall not include direct retail commercial transaction activities.

Office—Showroom means a commercial land use that is comprised of offices and other indoor floor area in which large or bulk goods are both on display and being warehoused in the same space. Examples of such uses commonly include furniture, building materials, or other similar uses. Characteristics of such uses include a lack of other on-site warehousing. Office—Showroom shall not include direct, on-site retail transactions to the end consumer.

Office—Warehouse means a commercial land use that is comprised of offices and other indoor space in which materials and equipment are being stored for shipping to other locations for eventual resale or use. Office—Warehouse does not include on-site retail transactions or display.

OHWL means ordinary high-water level.

Outdoor storage means the keeping of materials or equipment on a parcel of land for the purpose of transporting, using or employing such materials or equipment at a future date at another location, either on- or off-site. The keeping of motorized vehicles for more than 24 hours, or other equipment that is not capable of self-powered movement (such as trailers), shall be included in the term "outdoor storage."

Parking means the keeping of passenger automobiles and light trucks for a temporary period (usually less than 24 hours) in a space designated and improved for such use according to the requirements of the zoning ordinance. Parking does not include storage.

Pasture means open, non-treed land containing vegetation which can support grazing by horses, cattle or other domestic animals. Calculations of minimum pasture acreage for the keep-

ing of farm animals shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

Performance standards means criteria established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated by or inherent in uses of land or buildings.

Permeable lining (landscaping fabric) means a porous material used for weed prevention that allows storm water to permeate into the ground.

Pervious paver means concrete, asphalt or similar blocks with holes of some kind that allow water to go through the surface into a specialized aggregate base, consistent of an open-graded aggregate, and into the soils below.

Pervious surface means naturally occurring ground cover or a variety of types of pavement, pavers and other devices that provide stormwater infiltration while serving as a structural surface.

Place of worship means a building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship. The term "place of worship" does not include community education or art centers, schools, instructional centers, day care facilities, family day shelters, conservatories, convention centers, libraries, museums, residential dwellings, recreational and entertainment facilities, theaters or social service distribution facilities.

Planning commission means the city planning commission.

Public service structures means underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants or other similar equipment and accessories, but not including buildings or major structures located above ground level. Personal wireless services and commercial broadcasting antennas and towers shall not be considered public service structures.

Residential treatment facility means a location licensed for residential treatment as defined in Minn. Stats. § 245.462, subd. 23, or a facility licensed to provide residential substance use disorder treatment under Minn. Stats. ch. 245G.

Restaurants (Class I) means a restaurant in which food is served to the customer and consumed by him while seated at a counter or table, and the restaurant does not serve intoxicating liquor or provide live entertainment. Food is selected by a customer while going through a serving line and taken to a table for consumption.

Restaurants (Class II) means fast food convenience, drive-in and liquor service restaurants; a restaurant where a majority of customers order and are served their food at a counter in packages prepared to leave the premises, or to be taken to a table, counter, automobile or off the premises to be consumed; or a drive-in where most customers consume their food in an automobile regardless of how it is served; or restaurants which serve intoxicating liquor or have live entertainment.

Retaining wall means a structure designed to hold back and prevent lateral movement of earth. Two or more abutting boulders, 24 inches in diameter or greater, placed to hold back the earth are considered to be a retaining wall. Landscape edging, less than six inches tall, is not considered a retaining wall.

Riding academy means a building, structure or other facility which is used for the instruction and training in the care and handling of horses, mules, donkeys or ponies for a fee or other valuable consideration.

Shelter, fallout or blast, means a structure or portion of a structure intended to provide protection to human life during periods of danger to human life from nuclear fallout, blasts, air raids, storms or other emergencies.

Sign means any written announcement, declaration, demonstration, display, illustration, insignia or illumination used to advertise or promote the interest of any person when displayed or placed outside in view of the general public, and shall include every detached sign.

Sign, advertising (billboard), means a sign which directs attention to a business, community service or entertainment not exclusively related to the premises where such sign is located or to which it is affixed.

Sign, business, means a sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered on the premises on which such sign is located or to which it is affixed.

Sign, business, temporary, means a sign permitted for a limited period of time used to advertise or promote the interests of a single- or multi-use commercial or industrial use. A temporary sign may be attached to a principal structure or detached. Such signage shall include mobile/message board signs, banners and balloons that meet all applicable federal and state standards.

Sign, flashing, means an illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times in which such sign is in use.

Sign, gross area of, means the area within the frame, which shall be used to calculate the square feet; except that the width of the frame exceeding 12 inches shall constitute advertising space; or should such letters or graphics be mounted directly on a wall or fascia or in any such way as to be without a frame, the dimensions for calculating the square footage shall be the area extended six inches beyond the periphery formed around such letters or graphics bounded by straight lines connecting the outermost points; and each surface utilized to display a message or to attract attention shall be measured as a separate sign.

Sign, illuminated, means any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

Sign, nameplate, means any sign which states the name or address or both of the business or occupant of the lot where the sign is placed or may be a directory listing the names, addresses and business of occupants.

Sports and health facility means a facility where members or nonmembers pay a fee to use equipment or space for the purpose of physical exercise or training. A sports and health facility may include aerobics, weight training, muscular exercise programs, yoga, Pilates, court games, jogging, or other similar activities. It may provide as an accessory use personal services to patrons, including, but not limited to, therapeutic massage, tanning, saunas, and whirlpools.

Stable or barn, private, means a building or structure used or intended to be used for the keeping of hoofed animals belonging to the occupant of the property, and kept for noncommercial purposes.

Stable or barn, public, means a building or structure used or intended to be used for housing of horses, mules, donkeys or ponies which are owned by those other than the occupant of the property, where animals may be rented for a fee for riding purposes or where riding lessons may be provided.

Stock farm means a parcel of land comprising an area of ten acres or more that is used to house and feed any number of farm animals when such farm animals are kept for profit.

Stockpiling means on-site storage of ten cubic yards or more of soil and/or aggregate in a concentrated state where the material is intended to be distributed throughout the site or exported from the site.

Street means a dedicated public right-of-way not less than 50 feet in width which affords a primary means of access to abutting property.

Street or road, private, means any private way set aside as a permanent right-of-way for vehicular access 50 feet or more in width.

Structure means anything which is built, constructed or erected, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires a location on, below or above the ground, land or water, or attached to something having a location on the ground, land or water.

Study and research center means one or more structures, together with the land used in connection therewith, whether contiguous or standing separately, including any building used as a temporary or permanent residence, or a park, nature or playground area, owned or operated by one or more nonprofit charitable, scientific or educational organizations, and used primarily as a center for study, learning, research or educational oriented conferences.

Use means the purpose or activity for which the land or building is designated, arranged or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this chapter.

Use, conditional, means those occupations, vocations, skills, arts, businesses, professions or uses specifically designated in each zoning use district which, for their respective conduct, exercise or performance in such designated use districts, may require reasonable but special, peculiar, unusual or extraordinary limitations, facilities, or regulations in such use district for the promotion or preservation of the general public welfare, health, convenience or safety in such use and in the city and, therefore, may be permitted in such use district only by a conditional use permit, which is designed to meet the problem that arises where certain uses, although generally compatible with the basic use classification of a particular zone, should not be permitted to be located as a matter of right in every area included within the zone because of hazards inherent in the use itself or special problems which its proposed location may represent.

Use, permitted, means a use which may be lawfully established in a particular district, provided it conforms with all requirements, regulations and performance standards (if any) of such districts.

Use, principal, means the main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or conditional.

Use, secondary, means a use of land or of a building or a portion which is subordinate to and does not constitute the primary use of the land or building.

Wholesale greenhouse means an area, building or structure used for the storage, cultivation or transplantation of live trees, shrubs or plants that are not offered for retail sales on the premises.

Yard means a required open space on a lot, which is unoccupied and unobstructed by a structure from its lowest ground level to the sky except as expressly permitted in this chapter. A yard shall extend along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for the district in which such lot is located.

Yard, front, means a yard extending across the front of a lot between the side yard lines and lying between the front street line of the lot and the required front yard setback line, which front yard shall be provided on both street frontages of corner lots and double-frontage lots. A lakeshore lot shall not be considered as having a front yard, but rather shall be considered as having a lakeshore yard on one side of the building and a rear yard on the other side of the building.

Yard, lakeshore, means a yard lying between the natural ordinary high-water mark of a public water and a line parallel to it at the shore setback.

Yard, rear, means a yard lying between the required rear yard setback line and rear line of the lot, for the full width of the lot. On a lakeshore lot, the rear yard shall be the yard which fronts on the street lying between the street line of the lot and the required rear yard setback line.

Yard requirements means those requirements which relate exclusively to the size of yard areas when such are required within specific zoning districts.

Yard, side, means a yard extending along the side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.

Yard, side street, means a side yard abutting a side street.
(Code 1984, § 10.02; Code 2003, § 78-1; Ord. No. 94(2nd series), § 1, 5-13-1991; Ord. No. 97(2nd series), § 1, 8-26-1991; Ord. No. 101(2nd series), § 2, 2-24-1992; Ord. No. 122(2nd series), § 1, 12-13-1993; Ord. No. 161(2nd series), § 1, 6-7-1997; Ord. No. 221(2nd series), § 2, 9-23-2002; Ord. No. 18(3rd series), §§ 1, 2, 9-27-2004; Ord. No. 28(3rd series), § 2, 8-22-2005; Ord. No. 32(3rd series), § 1, 3-27-2006; Ord. No. 37(3rd series), §§ 1, 2, 2-12-2007; Ord. No. 47(3rd series), § 1, 7-28-2008; Ord. No. 52(3rd series), § 1, 11-24-2008; Ord. No. 68(3rd series), § 3, 2-8-2010; Ord. No. 75(3rd series), § 2, 7-12-2010; Ord. No. 79(3rd series), § 1, 11-8-2010; Ord. No. 82(3rd series), § 1, 12-13-2010; Ord. No. 90(3rd series), § 1, 12-12-2011; Ord. No. 94(3rd series), § 1, 9-24-2012; Ord. No. 100(3rd series), § 9, 2-25-2013; Ord. No. 106(3rd series), § 26, 6-10-2013; Ord. No. 139(3rd series), § 2, 2-23-2015; Ord. No. 150(3rd series), § 1, 6-8-2015; Ord. No. 156(3rd series), § 1, 8-10-2015; Ord. No. 160(3rd series), § 1, 11-9-2015; Ord. No. 167(3rd series), § 1, 4-11-2016; Ord. No. 170(3rd series), § 1, 6-13-2016; Ord. No. 173(3rd series), § 1, 6-27-2016; Ord. No. 206(3rd series), § 1, 5-14-2018; Ord. No. 222(3rd series), § 1, 12-10-2018; Ord. No. 243(3rd series), § 1, 4-13-2020; Ord. No. 254(3rd series), § 1, 2-8-2021; Ord. No. 257(3rd series), § 1, 5-10-2021; Ord. No. 264(3rd series), § 1, 11-22-2021; Ord. No. 279(3rd series), § 1, 11-14-2022; Ord. No. 284(3rd series), § 1, 11-13-2023; Ord. No. 303(3rd series), § 1, 4-8-2024; Ord. No. 306(3rd series), § 1, 11-12-2024; Ord. No. 310(3rd series), § 1, 12-9-2024)

Sec. 6.12.020. Measurement of distances.

All measured distances expressed in feet in this chapter shall be to the nearest tenth of a foot.
(Code 1984, § 10.01(3)(B); Code 2003, § 78-2)

Sec. 6.12.030. Violations.

A person violates this chapter or requirement or condition of a variance or conditional use permit when he performs an act prohibited or declared unlawful, or fails to act when such failure is prohibited or declared unlawful, and upon conviction shall be punished as for a misdemeanor.
(Code 1984, § 10.99; Code 2003, § 78-3)

Sec. 6.12.040. Enforcement.

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used, in violation of this chapter, the zoning administrator, in addition to other remedies, may institute any proper action or proceedings in the name of the city to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violations and to prevent any illegal act, conduct, business or use in or about the premises.
(Code 1984, § 10.13; Code 2003, § 78-4)

Sec. 6.12.050. Purpose.

(a) *Guiding principles.*

(1) The city is growing in population from a rural agricultural community to a rural residential community. Use of land for residential purposes is considered primary with other uses viewed as supporting this use. While present commercial or industrial activity, where consistent with residential use and other guiding principles, will be protected by ordinance or conditional use permit, it is not the intention to expand or allow all such commercial or industrial activity to a degree where it conflicts with the primary residential use and the other guiding principles. The continued use of land for farming and similar purposes will be protected by ordinance or conditional use permit where sufficient acreage allows such use to continue without conflict with expanding residential use.

(2) The maintenance of open space and the avoidance of overcrowding of land is a basic guiding principle in this plan. In addition to avoiding the ill effects of excessive, intensive land development, it is the policy to also avoid the threat to

public health which occurs with excessive crowding of private sewage disposal systems on substandard building sites.

(3) The city has recognized that many of the open space policies which have previously provided the basic direction of the land use policies have proven to be inadequate. It is now clear that on-site disposal systems must not be allowed on any site of less than two acres. It is now clear that the physical characteristics of the city make the extension of public services such as sewer extremely expensive and almost impossible in some areas. The city and other governmental agencies have learned that the premature development of open areas can be costly and disastrous to the environment.

(4) Of paramount importance to the citizens of the city and to the citizens of the metropolitan area is the preservation of Lake Minnetonka and the wetlands that provide the only practical system of filtration and purification of the stormwater so vital to the preservation of Lake Minnetonka and the groundwater supplies in the area. The disastrous effects of intense residential and commercial development within the city, and especially in those areas adjacent to Lake Minnetonka and the wetlands, are painfully evident. The adoption of additional regulations, rezoning of certain areas and the creation of larger lot sizes in unsewered areas is mandatory in order to protect the safety, health and welfare of the citizens of the city.

(5) The guiding principles of maintaining open spaces, avoiding the ill effects of overcrowding, avoiding premature development, avoiding the future pollution problems which are inherent in any plan to intensely develop land adjacent to wetlands and Lake Minnetonka, and the need to change some allowed uses in order to preserve the quality of the groundwater supplies in the area were recognized in the comprehensive municipal plan.

(b) *Intent and purpose.* This chapter is adopted for the purposes of:

(1) Protecting the public health, safety, morals, comfort, convenience and general welfare;

(2) Dividing the city into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of structures and land;

(3) Promoting orderly development of the residential, business, industrial, recreation and public areas;

(4) Providing adequate light, air and convenience of access to property;

(5) Limiting congestion in the public right-of-way;

(6) Preventing overcrowding of land and undue concentration of structures by regulating the use of the land and buildings and the bulk of buildings in relation to the land and buildings surrounding them;

(7) Providing for the compatibility of different land uses and the most appropriate use of land throughout the city, preventing the destruction of the natural environmental assets located within the city, protecting the quality of stormwater runoff, Lake Minnetonka, Long Lake, the wetlands and marshes within the city;

(8) Providing for a more orderly transition from a rural agricultural to rural residential environment;

(9) Providing for the administration of this chapter;

(10) Defining the powers and duties of the administrative, officers and bodies; and

(11) Prescribing penalties for the violation of the provisions of this chapter.

(Code 1984, § 10.01(1), (2); Code 2003, § 78-5; Ord. No. 299(3rd series), § 1, 3-11-2024)

Sec. 6.12.060. Minimum requirements.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.
(Code 1984, § 10.03(1); Code 2003, § 78-6)

Sec. 6.12.070. More restrictive provisions to apply.

Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, Code provision, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
(Code 1984, § 10.03(2); Code 2003, § 78-7)

Sec. 6.12.080. Prohibitions.

It is unlawful to convert, enlarge, reconstruct or alter any structure or use any structure or land for any purpose nor in any manner which is not in conformity with this chapter.
(Code 1984, § 10.03(4); Code 2003, § 78-8)

Sec. 6.12.090. Vacation of streets, alleys and public grounds.

Vacation of streets, alleys and public grounds shall follow the procedures set forth in this chapter; except that such vacation shall require a petition by a majority of the landowners abutting the property to be vacated, and a hearing preceded by two weeks' published and posted notice, all as required by Minn. Stats. § 412.851. The council may vacate any publicly owned utility easement or boulevard reserve which is not being used for sewer, drainage, electric, telegraph, telephone, gas and steam purposes or for boulevard reserve purposes, in the same manner as vacation proceedings are conducted for streets, alleys and other public ways. A boulevard reserve means an easement established adjacent to a dedicated street for the purpose of establishing open space adjacent to the street and which area is designated on the recorded plat as boulevard reserve.
(Code 1984, § 10.12; Code 2003, § 78-9)

State law reference—Vacating utility easements or boulevard reserves, Minn. Stats. § 462.358, subd. 7.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Division 1. Generally

Sec. 6.12.210. Zoning administrator.

(a) This chapter shall be administered and enforced by the zoning administrator, who shall be appointed by the council.

(b) The zoning administrator also shall:

(1) Determine that all building permits comply with this chapter;

(2) Issue all zoning occupancy certificates and make and maintain records;

(3) Conduct inspections of buildings and use of land to determine compliance with the terms of this chapter;

(4) Maintain permanent and current records of this chapter, including, but not limited to, all maps, amendments and special uses, variances, appeals and applications;

(5) Receive, file and forward all applications for appeals, amendments, variances, special uses or other matters to the designated official bodies;

(6) Institute in the name of the city any appropriate actions or proceedings against a violator as provided by law; and

(7) Serve as an ex officio nonvoting member of the planning commission.

(Code 1984, § 10.06(1), (2); Code 2003, § 78-41)

Sec. 6.12.220. Fees for zoning applications.

(a) The fees to be paid for each application for rezoning, simple subdivision or variance, new, special or conditional use, accessory and principal uses, site plan review, or other approvals required in this Code shall be in the amount prescribed by the current city fee schedule provisions. Fees shall be payable at the time applications are filed with the zoning administrator. There shall be no fee in the case of applications filed in the public interest by the council or by the planning commission.

(b) No person shall be issued a permit pursuant to this chapter and chapter 6.20 by the city until each applicant shall have paid to the city clerk the fixed and additional costs incurred by the city in reviewing the application as provided in this chapter.

(c) Each applicant shall be charged the fixed fee specifically provided in this chapter or other provisions of this Code including the current fee schedule adopted by the city council as required to cover the costs incurred by the city in administratively processing, reviewing and issuing, if granted, each permit.

(d) At the time of making application for each permit, each applicant shall pay the fixed fee as described in subsection (c) of this section.

(e) Application fees are not refundable unless the application is withdrawn prior to referral to the planning commission. In the case of such timely withdrawal, the amount of refund shall be reduced by the costs incurred by the city prior to withdrawal, including, but not limited to, staff time, notification publication expenses, and consultant costs.

(f) Each applicant shall comply with the provisions of chapter 6.08.
(Code 1984, § 10.11; Code 2003, § 78-42; Ord. No. 42(3rd series), § 2, 2-11-2008; Ord. No. 68(3rd series), § 1, 2-8-2010)

Sec. 6.12.230. Adoption and amendment procedure.

(a) At any time after the adoption of a land use plan for the city, the planning commission, for the purpose of carrying out the policies and goals of the land use plan, may prepare a proposed zoning ordinance and submit it to the council with its recommendations for adoption. Subject to the requirements of this chapter, the council may adopt and amend a zoning ordinance with the favorable vote of a majority of the entire city council. Amendments which change all or part of the existing classification of a zoning district from residential to either commercial or industrial require approval by a two-thirds vote of the entire city council.

(b) No zoning ordinance or amendment shall be adopted until a public hearing has been held by the planning commission or by the council. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the city not less than ten days prior to the day of the hearing. When an amendment includes changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days prior to the day of the hearing to each owner of affected property and property situated wholly or partly within 500 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 subsection has been made.

(c) An amendment to this chapter may be initiated by:

(1) Action of the council;

(2) A recommendation of the planning commission; or

(3) Petition of the owners of their or adjoining property, the zoning of which is proposed to be changed.

An amendment not initiated by the planning commission shall be referred to the planning commission for study and report and may not be acted upon by the council until it has received the recommendation of the planning commission on the proposed amendment or until 60 days have elapsed from the date of reference of the amendment without a report by the planning commission.

(d) Rezoning applications may be denied by motion of the council, and such motion shall constitute a finding and determination that the proposed rezoning is not in the best interest for the physical development of the city. No applica-

tion which has been denied wholly or in part shall be resubmitted for a period of six months from the date of the order of denial, except on grounds of new evidence or proof of change of conditions found to be valid by the planning commission.
(Code 1984, § 10.10; Code 2003, § 78-43; Ord. No. 84(3rd series), § 1, 1-24-2011; Ord. No. 210(3rd series), § 1, 6-25-2018)

State law references—Amendments generally, Minn. Stats. § 462.357, subd. 4; similar provisions, Minn. Stats. § 462.357, subd. 3.

Sec. 6.12.240. All permits compatible with agency requirements.

A building permit, conditional or special use permit, or other permit or necessary permission of the council, wherever or whenever required by this Code, may be denied if the proposed action or permit is not compatible with the intent and provisions of the surface water management plan, the stormwater runoff and shoreland guidelines policy statement promulgated by the Lake Minnetonka Conservation District, and any other valid governmental regulations, plans and policies adopted by the city. Three copies of the policy statement and other applicable governmental regulations, plans and policies adopted by the city shall be marked as official copies and filed for use and examination by the public at city hall.
(Code 1984, § 10.03(3); Code 2003, § 78-44)

Sec. 6.12.250. Building compliance.

No building, structure or premises shall hereafter be used or occupied and no building permit shall be granted and no site plan review shall be approved that does not conform to the requirements of this chapter.
(Code 1984, § 10.07(6); Code 2003, § 78-45; Ord. No. 68(3rd series), § 2, 2-8-2010)

Sec. 6.12.260. Occupancy certificates.

(a) *When required.* A zoning occupancy certificate shall be required for occupancy and use of any buildings erected or structurally altered; for new occupancy and use of an existing building when the new use is of a different zoning classification; for occupancy and use of vacant land and, new use of vacant land when the new use is of a different zoning classification; and for any change in the use of a nonconforming use. Where appropriate, the zoning occupancy certificate may be issued as part of building permit.

(b) *Prohibition.* It is unlawful for any person to do any of the things mentioned in subsection (a) of this section as requiring an occupancy certificate without having one in force. Any certificate issued upon a false statement of any fact which is material to the issuance shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the zoning administrator, he shall forthwith revoke the occupancy certificate, by notice to the holder. It is unlawful for any person to proceed thereafter with such work or use without having obtained a new certificate.

(c) *Application for occupancy certificate.* Every application for a building permit to erect a new building or to make a major alteration shall be deemed to be an application for an occupancy certificate. Every application for an occupancy certificate for a use of land where no building permit is required shall be made directly to the zoning administrator.

(d) *Issuance of occupancy certificate.* An occupancy certificate shall be approved within ten days after construction has been completed, the premises inspected and certified to be in conformance with the provisions of this chapter. Where vacant land or change in the use of occupancy of an existing building, or for change in a nonconforming use is involved, the certificate of occupancy shall be approved as soon as the zoning administrator has examined the premises and determined that the requirements of this chapter will be met.

(e) *Occupancy certificate required for nonconforming use.* Application for such occupancy certificate for all lawful nonconforming uses or buildings created by the adoption of this chapter shall be filed with the zoning administrator by the owner or lessee by January 1, 1976. The zoning administrator shall approve a certificate of occupancy for a nonconforming use. Failure to apply for such occupancy certificate will be prima

facie evidence that such nonconforming use was either illegal or did not lawfully exist on January 1, 1975.
(Code 1984, § 10.07(1)—(5); Code 2003, § 78-46)

Sec. 6.12.270. Concept plan.

(a) *Purpose.* The concept plan serves as the basis for conceptual discussion between the city and the applicant. There are two general types of concept review: Policy and land use. Policy concept review allows the council to provide informal comments related to land use policy (i.e., would the council be willing to consider a rezoning or land use amendment). A land use concept review process provides the applicant with an opportunity to submit a plan showing the basic intent and the general nature of the entire development. Neither the city council nor the planning commission will take any formal action to approve or deny the application. Comments, remarks, or observations made by the city council, planning commission, or city staff on the concept plan are not binding on the city for subsequent stages.

(b) *Requirements.*

(1) A concept plan review may be completed for projects requiring one or more of the following applications:

a. Land use amendment (comprehensive plan amendment).

b. Zone change.

c. Zoning or subdivision ordinance text amendment.

(2) A sketch plan may be prepared for certain subdivisions as outlined in section 6.20.350.

(c) *Concept plan application.* The planning commission shall review all concept plans based upon the applicant's application. Complete applications shall include the following:

(1) Completion of all items on the concept plan application form;

(2) Information on the proposal to sufficiently communicate the request;

(3) Any additional information requested by the zoning administrator; and

(4) Payment of the concept plan review fee.

(d) *Concept plan review and recommendations.*

(1) *Concept plan review standards.* City staff, the planning commission and city council shall study the concept plan, taking into consideration the requirements of generally accepted planning practice, applicable ordinances, and the comprehensive plan.

(2) *Recommendations to the applicant.* After reviewing and discussing the concept plan, the planning commission and/or zoning administrator may advise in a general manner the applicant of the changes or additions, if any, which are recommended.

(3) *Council review.* Following planning commission review, the council may review a concept plan as was originally applied or in modified form. The council may provide comment on the proposal.
(Code 2003, § 78-47; Ord. No. 168(3rd series), § 1, 5-9-2016)

Sec. 6.12.280. Public hearing.

When required by this chapter, a public hearing shall be held.

(1) A notice of the time, place and purpose of the hearing 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 500 feet of the property. 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 published or mailed notice to individual property owners or defects in the notice shall not

invalidate the proceedings. This subsection shall not apply to amendments pursuant to section 6.12.230.

(2) In addition, a notice shall be published in the official newspaper once at least ten days before the day of the hearing.

(Code 2003, § 78-48; Ord. No. 210(3rd series), § 2, 6-25-2018)

Division 2. Nonconforming Uses and Related Matters

Sec. 6.12.310. Nonconforming structures and uses.

(a) *General provisions.*

(1) *Purpose.* It is the purpose of this section to regulate nonconforming structures and uses, and to specify those requirements, circumstances and conditions under which nonconforming structures and uses will be operated and maintained. The zoning code establishes zoning districts and specific uses which are permitted within each district. It is necessary and consistent with the establishment of these districts that nonconforming structures and uses not be permitted to continue without restriction.

(2) *Effective date.* Any structure or use lawfully existing upon the effective date of the ordinance from which this section is derived shall not be, enlarged, expanded, extended, or altered in any manner which increases its nonconformity, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or, subsequently amended. Any land or buildings which were actually and legally devoted to a nonconforming use on January 1, 1975, and which were thereafter specifically allowed to continue said nonconforming use under the terms of a conditional use permit issued by the city council, shall be allowed to continue under the terms of said conditional use permit.

(3) *Safety repairs.* Nothing in the zoning code shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the building official.

(b) *Nonconforming uses.*

(1) *Change to conforming use.* When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

(2) *Change to new nonconforming use.* An existing nonconforming use may not be changed to another nonconforming use.

(3) *Relocation of nonconforming use.*

a. No nonconforming use shall be moved to another lot or to any other part of the parcel of land upon which the same was conducted at the time of this section's adoption unless such movement shall bring the nonconformance into compliance with the requirements of this section.

b. Nonconforming non-structural hardcover may be relocated, including full replacement, to any other part of the parcel of land upon which the same was conducted at the time of this section's adoption, provided that:

1. The hardcover is nonconforming only by reason of the percentage of land devoted to the use or the square footage of the use.

2. The relocation does not physically enlarge the size of the nonconforming use.

3. The relocation does not substantially change the character of the nonconforming use.

4. The relocation does not create a new nonconformity with respect to size or placement by relocating to a different hardcover zone pursuant to section 6.12.6330.

5. The relocation complies with all applicable setback requirements for the district in which it is located.
6. No relocation, in whole or part, is made within 75 feet of the ordinary high-water level of any lake or tributary.

(4) *Decrease in nonconforming use.* A lawful nonconforming use of a structure or parcel of land may be changed to decrease the nonconformity of use. Once the nonconforming use of such structure or parcel of land has been so changed, said use shall not thereafter be altered to so as to increase the nonconformity from its decreased state.

(5) *Discontinuation of nonconforming use.* Whenever a lawful nonconforming use of a structure or land is discontinued and remains discontinued for a period of 12 months, any future use of said structure or land shall be in conformity with the provisions of the zoning code.

(6) *Normal maintenance.* Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including incidental alterations which do not physically extend or intensify the nonconforming use.

(7) *Alterations to lawful nonconforming units.* Alterations may be made to a conforming building containing lawful nonconforming units, provided they will not increase the number of units or the nonconformity.

(8) *Expansion of nonconforming uses.* Nonconforming uses may not be expanded or enlarged. However, a lawful nonconforming gun club may apply to the city council to modify its hours of operation or to expand its operations within the existing defined parameters of the property.

(c) *Nonconforming structures.*

(1) *Involuntary damage or destruction.* Whenever a lawful nonconforming structure shall have been damaged by fire, flood, explosion, earthquake, war, riot, or act of God, it may be reconstructed and used as before if within 12 months after such calamity the property owner applies for a building permit to replace the structure. If no permit is applied for within the time period then the whole structure shall be demolished, and any construction thereafter shall be in full compliance and accordance with the provisions of the zoning code.

(2) *Remodeling and reconstruction.* This subsection is intended to apply to the voluntary and intentional removal of all or portions of a lawful nonconforming structure. Whenever a lawful nonconforming structure shall be destroyed by means other than fire, flood, explosion, earthquake, war, riot, or act of God, to any extent then such structure may be restored only if a building permit is applied for within 180 days of the commencement of the destruction. If no permit is applied for in the 180 days then the structure shall be built in full compliance and accordance with the provisions of this chapter.

(3) *Expansion of nonconforming structures.* The term "expansion of nonconforming structures" includes any increase in a dimension, size, area, volume, or height; any placement of a structure or part thereof where none existed before; any addition of a site feature such as, but not limited to, a deck, patio, fence, driveway, parking area, or swimming pool; any improvement that would allow the land to be more intensely developed; and any exterior storage, signs, or lighting. No expansion of nonconforming structures shall be permitted except as specifically listed and allowed herein:

a. *Expansion of nonconforming single-family residence structures.* Lawful, nonconforming single-family residential structures may be expanded, provided:
   1. That the expansion does not occupy any space within a

nonconforming area that was previously not occupied either vertically or horizontally, and complies with all height, setback, hardcover and lot coverage requirements of the district in which it is located.

2. That if the structure is nonconforming only with respect to substandard lot area or width for the district in which it is located, the expansion shall meet all height, setback, hardcover and lot coverage requirements of the district in which it is located.

3. That in cases where the lot line setback of a structure is less than 50 percent of the required setback for that zoning district, the city will require at a minimum that applicant shall make up the discrepancy by enlarging the opposite required yard depth to result in an aggregate yard depth equivalent to the combined required yard.

b. *Expansion of residential accessory structures.* Lawful, nonconforming residential accessory buildings may be expanded provided:

1. That the expansion does not occupy any space within a nonconforming area that was previously not occupied either vertically or horizontally, and complies with all height, setback, and hardcover and lot coverage requirements of the district in which it is located.

2. That if the accessory structure is nonconforming only with respect to substandard lot area or width for the district in which it is located, the expansion shall meet all height, setback, hardcover and lot coverage requirements of the district in which it is located.

3. That in cases where an accessory structure encroaches upon the lot line setback, the city will require at a minimum that the existing accessory structure shall be modified so that it becomes completely conforming with respect to setbacks.

(4) *Relocation.* No nonconforming structure shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed at the time of this section's adoption unless such movement shall bring the nonconformance into compliance with the requirements of the zoning code.

(5) *Prior permit.* Any proposed structure which will, under this section, become nonconforming but for which a building permit has been lawfully granted not more than six months prior to the effective date of the ordinance from which this section is derived, may be completed in accordance with the approved plans; provided construction is started within six months of the effective date of the ordinance from which this section is derived, and continues to completion within two years. Such structure shall thereafter be a legally existing nonconforming structure.

(Code 2003, § 78-71; Ord. No. 33(3rd series), § 1, 2-27-2006; Ord. No. 85(3rd series), § 1, 2-14-2011; Ord. No. 154(3rd series), § 1, 8-10-2015)

Sec. 6.12.320. Lots of record.

(a) A lot of record is any lot for which a deed or registered land survey has been recorded in the office of the register of deeds or the registrar of titles for the county prior to January 1, 1975, and after approval by the council if required.

(b) A lot of record located within an R (Residential) or RR (Rural Residential) district but not within the SD Shoreland Overlay District, RS Seasonal Recreational District, or any of the

LR-Lakeshore Residential districts, which does not meet the requirements of this chapter as to area or width may be utilized for a single-family detached dwelling purpose, provided that in the judgment of the council or administrative approval by the planning director, such use does not adversely affect public health or safety and the following requirements are met:

(1) *In R districts of one acre or less and served by public sanitary sewer.* A lot of record existing upon January 1, 1975, in any R district of the city of up to and including one acre, which lot is serviced by public sanitary sewer and which does not meet the requirements of this chapter as to area or width only, may be utilized for single-family detached dwelling purposes without council approval if all other requirements of the underlying zoning district are met, including, but not limited to, required yards, setbacks, lot coverage by structures, hardcover, etc. However, the lot of record shall not be more intensely developed unless combined with one or more abutting lots or portions so as to create a lot meeting the requirements of this chapter.

(2) *In R or RR districts of greater than one acre and served by public sanitary sewer.* A lot of record in any R or RR district in the city in excess of one acre which does not meet the requirements of this chapter as to area or width only may be utilized for single-family detached dwelling purposes by administrative approval if the planning director finds that the following conditions are met:

a. It is at least one acre in size, and the average width of the lot is at least 100 feet;

b. It is served by public sanitary sewer; and

c. It otherwise meets the requirements of this chapter or other applicable Code provisions.

(3) *In R or RR districts not served by public sanitary sewer.* A lot of record in any R or RR district in the city not served by public sanitary sewer must meet the area and width requirements of this chapter and shall not be utilized for single-family detached dwelling purposes without council approval. Administrative approval may be granted for a lot of record not meeting the lot area and width requirements if the planning director finds that the following conditions are met:

a. The lot area and lot width each meet at least 50 percent of the district standard.

b. Suitable primary and alternate septic sites are identified on the property and are protected from future development by execution of a covenant.

c. All other zoning ordinance requirements must be met, including, but not limited to, the following:

1. Setbacks.

2. Hardcover.

3. Lot coverage by structures.

4. Accessory structure requirements.

(c) A lot of record located in any shoreland district, including the SD Shoreland Overlay District, RS Seasonal Recreational District, and any of the LR-Lakeshore Residential districts, that does not meet the requirements of this chapter for lot size or lot width shall be subject to the following regulations:

(1) A nonconforming undeveloped single lot of record may be allowed as a building site without variances from lot size and width requirements, provided that:

a. All setback requirements can be met;

b. A Type 1 sewage treatment system consistent with Minn. R. ch. 7080, can be installed or the lot is connected to a public sewer;

c. The impervious surface coverage meets all hardcover location and square footage restrictions of this

chapter and the total square footage of hardcover does not exceed 25 percent of the entire lot area; and

d. All other zoning district standards can be met.

(2) A nonconforming developed single lot of record may be allowed as a building site without variances from lot size and width requirements, provided that:

a. All setback requirements can be met;

b. A Type 1 sewage treatment system consistent with Minn. R. ch. 7080, can be installed or the lot is connected to a public sewer;

c. The impervious surface coverage meets all hardcover location and square footage restrictions of this chapter and the total square footage of hardcover does not exceed the percentage permitted in the appropriate stormwater quality overlay district tier; and

d. All other zoning district standards can be met.

(3) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

a. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minn. R. ch. 6120;

b. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minn. R. ch. 7080, and local government controls;

c. Impervious surface coverage must meet all hardcover location and square footage restrictions of this chapter and the total square footage of hardcover must not exceed 25 percent of the entire lot area; and

d. Development of the lot must be consistent with the comprehensive plan.

(4) A lot subject to subsection (c)(2) of this section not meeting the requirements of subsection (c)(2) of this section must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(5) Notwithstanding subsection (c)(2) of this section, contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of Minn. Stats. § 115.55 and Minn. R. ch. 7080, or connected to a public sewer.

(6) In all variance requests, zoning and building permit applications or conditional use requests, the property owner shall address, when determined as appropriate by the city engineer or city staff, stormwater runoff management, reduction of impervious surfaces, setback increases, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(7) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

(Code 1984, § 10.03(6)(A); Code 2003, § 78-72; Ord. No. 9(3rd series), § 1, 5-24-2004; Ord. No. 92(3rd series), § 1, 3-26-2012; Ord. No. 95(3rd series), § 1, 10-8-2012; Ord. No. 108(3rd series), § 1, 7-8-2013; Ord. No. 265(3rd series), § 1, 12-6-2021)

Sec. 6.12.330. Separation limited.

The separation by the transfer or sale of nonconforming, undeveloped lots not served by public sanitary sewer, aligned in a contiguous arrangement, undivided by a public or private road or road easement and under same or common ownership is not permitted without council approval. Council approval is not required if the separation of such lots results in individual building sites that satisfy the area and width requirements of this chapter.
(Code 1984, § 10.03(6)(C); Code 2003, § 78-73)

Sec. 6.12.340. Farming.

All farms in existence on January 1, 1975, shall be permitted to continue operation subject to the following conditions:

(1) No new stock farms shall be created or existing stock farms enlarged more than 25 percent over the total number of animals that existed on the farm as of January 1, 1975, with animals over one year old except under the provisions of a conditional use permit. In considering any such permit, the maximum number and type of animals to be kept shall be determined by the council. The site design and method of operation shall be reviewed, and the council shall find that the proposed or existing stock farm will not, in its opinion, be detrimental to the public safety and the general welfare.

(2) The establishment of any new building for the housing of animals or fowl shall be located 150 feet from the nearest lot line.

(3) Products produced on the farm may be sold at retail. One temporary roadside stand may be established for conducting such business. One temporary business sign not over eight square feet in area may be located in the front yard during the period when products are for sale. Off-street parking must be provided for.

(Code 1984, § 10.03(18); Code 2003, § 78-74)

Division 3. Appeals and Variances

Subdivision I. In General

Sec. 6.12.410. Board established.

(a) A zoning board of appeals and adjustments is established. The planning commission is constituted as the board of appeals and adjustments. The board shall have the following powers:

(1) To hear and decide appeals from any affected person where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this chapter.

(2) To hear requests for variances in accordance with this chapter.

(3) To exercise other functions as provided in this chapter.

(b) Subject to such limitations as may be imposed by the council, the board may adopt rules for the conduct of proceedings before it. Such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The board shall provide for a record of its proceedings, which shall include the minutes of its meetings, its findings and the action taken on each matter heard by it, including the final order.

(c) An order, requirement, decision, or determination does not include code enforcement letters that warn an individual of possible criminal, civil, or administrative penalties. Further, any criminal matter must be adjudicated through the court system, and may not be appealed to the city council, pursuant to Minn. Stats. § 412.861 subd. 1.
(Code 1984, §§ 2.54(1), (2), 10.06(3), 10.08(2)(C); Code 2003, § 78-96; Ord. No. 178(3rd series), § 9, 10-10-2016; Ord. No. 253(3rd series), § 3, 2-8-2021)

Sec. 6.12.420. Hearings.

Hearings by the board of appeals and adjustments shall be held within such time and upon such notice to interested parties, as follows:

(1) The board shall within a reasonable time make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail.

(2) Any party may appear at the hearing in person or by agent or attorney.

(3) Subject to such limitation as may be imposed by the council, the board may adopt rules for the conduct of proceedings before it; and such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties.

(4) The board shall provide for a record of its proceedings, which shall include the minutes of its meetings, its findings and the action taken on each matter heard by it, including the final order.

(Code 1984, § 10.06(3)(F); Code 2003, § 78-97)

Sec. 6.12.430. Notice of hearing.

A public hearing following requirement of section 6.12.280 shall be required for an appeal or variance.

(Code 1984, §§ 2.54(3), 10.06(3)(C), 10.08(2)(B); Code 2003, § 78-98; Ord. No. 166(3rd series), § 1, 3-14-2016; Ord. No. 210(3rd series), § 3, 6-25-2018)

State law reference—Notice of hearings to be as provided by ordinance, Minn. Stats. § 462.354, subd. 2.

Sec. 6.12.440. Appeals procedures.

(a) The decisions of the board on requests for variances are advisory and will automatically proceed to the council for review. The decisions of the board on appeals are binding. The applicant or other person or officers of the city affected may appeal a binding decision of the board to the council by filing a written notice stating the action appealed from and stating the specific grounds upon which the appeal is made. The notice shall be accompanied by a fee in the amount prescribed by the current city fee schedule payable to the city, which fee shall not be refundable. An appeal under this section shall be filed no later than ten days following the decision of the board. Failure to file an appeal within ten days of the decision shall constitute a waiver of the person's right to a hearing.

(b) All decisions made by the city regarding zoning shall be final, except that any aggrieved person shall have the right to appeal within 30 days after delivery of the decision to the appellant, to the district court of the county. Any person seeking judicial review under this chapter must serve the city and all necessary parties, including any landowners, within the 30-day period.

(Code 1984, § 10.06(3)(D); Code 2003, § 78-99; Ord. No. 178(3rd series), § 10, 10-10-2016; Ord. No. 242(3rd series), § 1, 4-13-2020)

Sec. 6.12.450. Official map.

After an official map is adopted, designating locations for future land that is needed for future street purposes and as sites for other necessary public uses, if a permit for a building in such location is denied, the board of appeals and adjustments shall have the power, upon appeal filed with it by the owner of the land, to grant a permit for building in such location in any case in which the board finds, upon the evidence and the arguments presented to it, that:

(1) The entire property of the appellant of which such area identified for public purposes forms a part cannot yield a reasonable return to the owner unless such a permit is granted; and

(2) Balancing the interest of the city in preserving the integrity of the official map and of the comprehensive municipal plan and the interest of the owner of the property in the use of his property and in the benefits of ownership, the grant of such permit is required by considerations of justice and equity.

(Code 1984, § 10.06(3)(B)(3); Code 2003, § 78-101)

State law reference—Effect of official map, Minn. Stats. § 462.359, subd. 3.

Subdivision II. Variances*

Sec. 6.12.510. When granted.

The council upon application may grant variances from the strict application of the provisions of this chapter and impose conditions and safeguards in the variances so granted, in cases

*State law reference—Variances, Minn. Stats. § 462.357, subd. 6(2).

where there are practical difficulties in the way of carrying out the strict letter of the regulations of this chapter and where the variance does not adversely affect the purpose and intent of this chapter nor the health or welfare of the public.
(Code 1984, § 10.08(1); Code 2003, § 78-121; Ord. No. 88(3rd series), § 1, 6-27-2011)

Sec. 6.12.520. References to board.

Before authorization of any variances by the council, the request shall be referred to the board of appeals and adjustments for study concerning the effect of the proposed variance upon the comprehensive municipal plan and on the character and development of the neighborhood; and for its recommendation to the council for the granting of such variance so as to relieve such practical difficulties to the degree considered reasonable without impairing the intent and purpose of this chapter. The board of appeals and adjustments shall recommend such conditions related to the variance regarding the location, character and other features of the proposed building, structure or use as it may deem advisable. The council by unanimous action may waive reference to the board.
(Code 1984, § 10.08(2)(A); Code 2003, § 78-122; Ord. No. 88(3rd series), § 2, 6-27-2011)

Sec. 6.12.530. Issuances.

(a) In considering applications for variance, the council shall consider the advice and recommendation of the board of appeals and adjustments and the effect of the proposed variance upon the health, safety and welfare of the community, existing and anticipated traffic conditions, light and air, danger of fire, risk to the public safety, and the effect on values of property in the surrounding area. Before granting a variance, the council shall hear requests for variances from the literal provisions of this chapter in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. The parameters within which a variance may be granted are as follows:

(1) The property owner in question proposes to use the property in a reasonable manner; however, the proposed use is not permitted by the official controls.

(2) The plight of the landowner is due to circumstances unique to his property not created by the landowner.

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

(4) Economic considerations alone do not constitute practical difficulties.

(5) Practical difficulties also include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth-sheltered construction as defined in Minn. Stats. § 216C.06, subd. 2, when in harmony with this chapter.

(6) The board or the council may not permit as a variance any use that is not permitted under this chapter for property in the zone where the affected person's land is located.

(7) The board or council may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling.

(8) The special conditions applying to the structure or land in question are peculiar to such property or immediately adjoining property.

(9) The conditions do not apply generally to other land or structures in the district in which the land is located.

(10) The granting of the application is necessary for the preservation and enjoyment of a substantial property right of the applicant.

(11) The granting of the proposed variance will not in any way impair health, safety, comfort or morals, or in any other respect be contrary to the intent of this chapter.

(12) The granting of such variance will not merely serve as a convenience to the applicant, but is necessary to alleviate demonstrable difficulty.

(b) The board or council may impose conditions in granting of variances. Any conditions imposed must be directly related to and must bear a rough proportionality to the impact created by the variance. No variance shall be granted or changed beyond the use permitted in this chapter in the district where such land is located.
(Code 1984, §§ 2.56(2)(B), 10.06(1)(B)(1)(b), (1)(B)(1)(c), 10.08(3); Code 2003, § 78-123; Ord. No. 88(3rd series), § 3, 6-27-2011)

Sec. 6.12.540. Variances in border areas.

This chapter seeks to regulate land use throughout the city so that the location of the various zones will be compatible with each other and to existing uses and regulations. Where property in the city adjoins property in another municipality which is subject to regulations substantially different from those applying to the city property, so as to make strict enforcement of all the city regulations as to such property unreasonable, the council may take into account the location of the property and the regulations of the adjoining municipality in considering application for variances under this article.
(Code 1984, § 10.08(4); Code 2003, § 78-124)

Sec. 6.12.550. Denial.

Variances may be denied by motion of the council, and such motion shall constitute a finding and determination that the conditions required for approval do not exist. No application for a variance which has been denied wholly or in part shall be resubmitted for a period of six months from the date of the order of denial, except on grounds of new evidence or proof of change of conditions found to be valid by the planning commission.
(Code 1984, § 10.08(5); Code 2003, § 78-125)

Sec. 6.12.560. Failure of the board to act.

If no recommendation is transmitted by the board of appeals and adjustments within 60 days after referral of the application for variance to the board, the council may take action without further awaiting such recommendation.
(Code 1984, § 10.08(6); Code 2003, § 78-126)

Sec. 6.12.570. Violation of conditions.

A violation of any condition set forth in granting a variance shall be a violation of this chapter and automatically terminates the variance.
(Code 1984, § 10.08(7); Code 2003, § 78-127)

Sec. 6.12.580. Expiration.

Variances shall expire one year after the date of council approval if not used and an extension has not been granted. Any change in use of the property shall require a new variance. In no case shall more than three one-year extensions be granted.
(Code 1984, § 10.08(8); Code 2003, § 78-128; Ord. No. 80(3rd series), § 1, 11-22-2010; Ord. No. 153(3rd series), § 2, 8-10-2015)

Sec. 6.12.590. Extension.

Extensions may be granted by either city staff or the city council pursuant to the following:

(1) An extension of up to one year may be granted by city staff upon the applicant's request, provided that the request is made at least 60 calendar days before the expiration of the variance. If an extension is granted, the variance shall expire at the end of the extension period unless the applicant applies to the city council for an additional one-year extension.

(2) If city staff denies an applicant's request for an extension, the applicant may request an extension from the city council. The city council may grant an extension of up to one year. If an extension is granted, the variance shall expire at the end of the extension period unless the applicant applies to the city council for an additional one-year extension.

(3) The city council may grant an additional extension at the expiration of an extension granted by either city staff or the city council upon the applicant's request, provided that the request is made at least 60 calendar days before the expiration of the variance extension.

(4) The terms and conditions applicable to a variance at the time of its original approval continue to apply when an extension is granted by either city staff or the city council. Upon receiving a request for an extension, neither city staff nor the city council may alter or amend any of the terms and conditions applicable to the variance or condition the granting of an extension on alteration or amendment of any of the terms or conditions applicable to the variance.

(Code 1984, § 10.08(9); Code 2003, § 78-129; Ord. No. 80(3rd series), § 2, 11-22-2010)

Sec. 6.12.600. Filing with county recorder.

A certified copy of every variance granted shall be filed with the county recorder. Failure to file a variance shall not affected its validity or enforceability.

(Code 2003, § 78-130; Ord. No. 80(3rd series), § 3, 11-22-2010)

Sec. 6.12.610. Variance amendments.

A proposed change to an existing variance shall be processed as either a minor amendment or major amendment as defined in this section as determined by the zoning administrator.

(1) All documents affected by the approved amendment shall be amended and replaced in their entirety. However, an approved minor amendment will not modify the original issuance date of the existing variance for all purposes, including extensions under section 6.12.590 and expiration under section 6.12.580.

(2) Minor amendments.

a. Proposed amendments to variances involving 20 percent or less of the total existing variance or the proposed amendment is reasonably believed by the zoning administrator to not be materially different than the underlying variance are minor amendments. Minor amendments may be heard by the city council without a public hearing and without planning commission consideration.

b. The zoning administrator may determine that a proposed amendment is a major amendment, even if it meets the criteria of a minor amendment, and shall follow the procedure for major amendments.

(3) Major amendments. A major amendment to the variance shall be processed and approved in the same manner as if it were a new variance request except that submission requirements shall be modified as appropriate by city staff to reflect the nature of the proposed amendment.

(4) Major amendments shall include:

a. Any amendment that is not a minor amendment.

b. Any amendment determined to be a major amendment by the zoning administrator.

(Code 2003, § 78-131; Ord. No. 250(3rd series), § 1, 10-12-2020)

Division 4. Site Plan Review

Sec. 6.12.710. Purpose.

The purpose of this division is to establish a formal site plan review procedure for commercial and industrial uses and provide regulations pertaining to the enforcement of site design consistent with the requirements of this division in advance of building permit issuance.

(Code 2003, § 78-141; Ord. No. 68(3rd series), § 11, 2-8-2010)

Sec. 6.12.720. Approval required.

It shall be unlawful to construct a building, enlarge the footprint of a building, or change or intensify the use of an existing building or site in

any business or industrial district without approval of a site plan in accordance with this division.
(Code 2003, § 78-142; Ord. No. 68(3rd series), § 11, 2-8-2010)

Sec. 6.12.730. Review process.

Site plan reviews for permitted or accessory structures shall be reviewed in accordance with the following:

(1) The city administrator or designee shall make a decision on site plan reviews to construct a building or enlarge the footprint of a building, change the use of a building or parcel of land; to modify the interior or exterior of a building or site or land feature in any manner that results in a different site design or intensity of use, including the requirement for additional parking.

(2) The city administrator or designee shall have the authority to refer a site plan review to the city council for decision.

(Code 2003, § 78-143; Ord. No. 68(3rd series), § 11, 2-8-2010; Ord. No. 178(3rd series), § 12, 10-10-2016; Ord. No. 189(3rd series), § 3, 4-10-2017)

Sec. 6.12.740. Application for site plan review.

An application for a site plan review shall be made to the city on a form provided by the city. The application shall also be accompanied by the following information, unless waived by the city administrator: a detailed site plan depicting information as required on forms provided by the city.
(Code 2003, § 78-144; Ord. No. 68(3rd series), § 11, 2-8-2010; Ord. No. 189(3rd series), § 4, 4-10-2017)

Sec. 6.12.750. Evaluation criteria.

Before granting approval of the site plan review, the city council or the planning and zoning coordinator shall determine that the proposal:

(1) Is compatible with surrounding land uses;

(2) Preserves existing unique and natural features of the site and minimizes impacts to wetlands, floodplains, and shoreland areas;

(3) Creates harmonious relationship of buildings and open space with natural site features and with existing and future buildings having a visual relationship of the development;

(4) Achieves a safe and efficient vehicular and pedestrian circulation system;

(5) Places no excessive demands on services and infrastructure, including local streets;

(6) Conforms to the city's plans for parks, streets, and walkways;

(7) Conforms to the city's community management plan;

(8) Achieves a maximum of safety and convenience of vehicular and pedestrian movement;

(9) Incorporates sufficient landscaping to reasonably screen undesirable features and to enhance the image of the development;

(10) Protects abutting properties and does not create detrimental disturbances to surrounding properties;

(11) Conforms to all requirements of this chapter unless a variance has been granted;

(12) Incorporates efforts to conserve energy whenever practical.

(Code 2003, § 78-145; Ord. No. 68(3rd series), § 11, 2-8-2010)

Sec. 6.12.760. Conditions.

The city council or the planning and zoning coordinator may impose conditions in granting approval of a site plan review to promote the intent of this division and to protect adjacent properties.
(Code 2003, § 78-146; Ord. No. 68(3rd series), § 11, 2-8-2010)

Sec. 6.12.770. Specific project.

A site plan review approval shall be valid only for the project for which approval is granted. Construction of all site elements shall be in compliance with the plans and specifications approved by the city council or the planning and zoning coordinator.
(Code 2003, § 78-148; Ord. No. 68(3rd series), § 11, 2-8-2010)

Sec. 6.12.780. Lapse of approval.

Unless otherwise specified by the city council or the planning and zoning coordinator, a site plan review approval shall become null and void one year after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the approved plan. In no case shall more than three one-year extensions be granted.
(Code 2003, § 78-149; Ord. No. 68(3rd series), § 11, 2-8-2010; Ord. No. 153(3rd series), § 3, 8-10-2015)

Sec. 6.12.790. Building code supplemental to review process.

The review and approval of site improvements pursuant to the requirements of the city adopted building and fire codes shall be in addition to the site plan review process established under this division. Site plan review approval does not imply compliance with the requirements of the building and fire codes.
(Code 2003, § 78-150; Ord. No. 68(3rd series), § 11, 2-8-2010)

ARTICLE III. ZONING DISTRICTS ESTABLISHED; ZONING MAP

Sec. 6.12.810. Districts.

(a) The city is divided into the following districts and groups of use districts:

R Residence Districts

R-1A	One-Family Residential District
R-1B	One-Family Residential District
LR-1A	One-Family Lakeshore Residential District
LR-1B	One-Family Lakeshore Residential District
LR-1C	One-Family Lakeshore Residential District
LR-1C-1	One-Family Lakeshore Residential District
RR-1A	One-Family Rural Residential District
RR-1B	One-Family Rural Residential District
RR-1B-1	One-Family Rural Residential District
M-6	Multiple-Family Planned Residential District
RS	Seasonal Recreational District
PRD	Planned Residential District
RPUD	Residential Planned Unit Development District

B Business Districts

B-1	Retail Sales Business District
B-2	Lakeshore Business District
B-3	Shopping Center Business District
B-4	Office and Professional Business District
B-5	Limited Neighborhood Business District
B-6	Highway Commercial District

I Industrial Districts

I	Industrial District
PID	Planned Industrial District

Overlay Districts

FW	Floodway District
FFD	Flood Fringe District
GFP	General Floodplain District
SD	Shoreland Overlay District

(b) All references in this chapter to R, B and I districts shall refer to the use district groups as set forth in subsection (a) of this section, and references to specific use districts shall be by reference to the individual districts so listed, such as R-1A, R-1B and so forth.
(Code 1984, § 10.16(1); Code 2003, § 78-161)

State law reference—Districts authorized, Minn. Stats. § 462.357, subd. 1.

Sec. 6.12.820. Map and legal descriptions.

The boundaries of the districts are established as shown by legal descriptions and map entitled "Official Zoning Map, Orono, Minnesota." These legal descriptions and map, collectively referred to as the zoning map, together with all notations, references and other information shown on the map, shall have the same force and effect as if fully set out in the map and are made a part of this chapter. These legal descriptions and the map shall be kept on file as a public record at city hall, and shall be modified to reflect any changes duly made by amendments.
(Code 1984, § 10.16(2); Code 2003, § 78-162)

Sec. 6.12.830. Boundaries.

District boundary lines as indicated on the zoning map follow lot lines, the centerlines of streets or alleys, the centerlines of streets or alleys projected, or the corporate limit lines, all as they existed on January 1, 1975. If district boundary lines do not follow any of these lines, the district boundary lines are established as drawn on the zoning map or, in the case of zoning map amendments subsequent to January 1, 1975, as legally described in such amendment ordinances. Where a district boundary line divides a lot of record which was in single ownership on January 1, 1975, and places portions of such lot of record in two or more use districts, any portion of such lot within 50 feet on either side of such a dividing district boundary line may be used for any use of either use district; however, if any portion of such lot shall extend beyond the 50-foot limitation, the district line as shown shall prevail.
(Code 1984, § 10.16(3); Code 2003, § 78-163)

Sec. 6.12.840. Proceedings in boundary disputes.

Appeals from the zoning administrator's determinations and questions or doubt concerning the exact location of district boundary lines shall be heard by the board of zoning appeals and adjustments and a recommendation made to the council.
(Code 1984, § 10.16(4); Code 2003, § 78-164)

Sec. 6.12.850. Vacations do not affect boundary lines.

Whenever any street, alley or other public way is vacated by official action of the city, the zoning district abutting the centerline of the alley or public way shall not be affected by such proceeding.
(Code 1984, § 10.16(5); Code 2003, § 78-165)

Sec. 6.12.860. Annexations.

Any property duly annexed to the city shall become a part of the RR-1A district unless it was otherwise zoned in the adjoining municipality before annexation, in which case it will fall in the zone most closely approximating the zone in the municipality from which it was annexed.
(Code 1984, § 10.16(6); Code 2003, § 78-166)

ARTICLE IV. DISTRICT REGULATIONS

Division 1. Generally

Sec. 6.12.910. Interpretation and application of zoning district uses.

This article sets forth the permitted, conditional and accessory uses that are allowed in zoning districts. Uses listed as permitted uses constitute allowable principal uses of a property. Uses listed as conditional uses require a conditional use permit. Listed accessory uses are subordinate to and considered as customarily incidental to the principal permitted or conditional use on the property.
(Code 2003, § 78-201; Ord. No. 106(3rd series), § 2, 6-10-2013)

Division 2. R-1A One-Family Residential District

Sec. 6.12.1010. Purpose.

The R-1A One-Family Residential District is intended to provide a district which will allow a combination of low-density residential development and limited agricultural activity. Planned residential developments may be allowed by

conditional use permit. The district shall have immediate access to highways and public sanitary sewer.
(Code 1984, § 10.20(1); Code 2003, § 78-226)

Sec. 6.12.1020. Permitted uses.

Within any R-1A One-Family Residential District, no structure or land shall be used except for one or more of the following uses:

(1) City-owned public service structures that have been approved by the city council after the required public hearings for public improvement projects, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use.

b. The architectural design of the structure is found to be compatible with the surrounding area.

(2) Municipal buildings.

(3) One-family detached dwellings.

(4) Publicly owned parks and playgrounds.
(Code 1984, § 10.20(2); Code 2003, § 78-227; Ord. No. 44(3rd series), § 1, 2-25-2008; Ord. No. 82(3rd series), § 2, 12-13-2010; Ord. No. 90(3rd series), § 2, 12-12-2011; Ord. No. 210(3rd series), § 4, 6-25-2018; Ord. No. 233(3rd series), § 1, 10-14-2019; Ord. No. 279(3rd series), § 2, 11-14-2022)

State law reference—State mandated permitted uses, Minn. Stats. § 462.357, subd. 7.

Sec. 6.12.1030. Conditional uses.

Within any R-1A One-Family Residential District, no structure or land shall be used for the following uses except by conditional use permit:

(1) Golf courses, country clubs, tennis clubs, non-profit camps, and religious camps, provided that:

a. All principal buildings are located at least 100 feet from any adjacent property zoned for residential use; and

b. All accessory buildings and structures more than six feet in height are located at least 50 feet from any adjacent property zoned for residential use.

(2) Places of worship, provided that all buildings and structures, except columbaria, are located at least 50 feet from any adjacent property zoned for residential use.

(3) Planned residential development, limited to detached single-family dwellings only and subject to the limitations of division 10 of this article.

(4) Public service structures, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use; and

b. The architectural design of the structure is compatible with the architectural design of the surrounding area.

(5) Schools, day care centers, and uses accessory to a high school.

a. Pre-kindergarten, primary and secondary public schools and private schools with a curriculum similar to a pre-kindergarten, primary or secondary school. Schools may include before and after school care for students.

b. Day care centers, nursery schools and similar programs that are not associated with a public or private school and serve pre-kindergarten children.

c. Indoor ice arenas accessory to a high school provided the arena, including accessory uses, is:

1. Located on the same tax parcel as the high school to which it is accessory and is owned by the local school district;

2. Not separated from the high school building by a public road;

3. Operated by the school district or by a nonprofit organization; and
4. All structures are located at least 50 feet from any adjacent property zoned for residential use.

(6) Two-family dwellings, provided that:

a. Public sanity sewer service is available;

b. The lot is adjacent to a commercial or industrial parcel;

c. The dwelling is within 200 feet of the commercial or industrial parcel; and

d. the design of the dwelling is compatible with the surrounding residences.

(7) Columbaria, provided that all portions of columbaria located at or below ground shall be located at least five feet from any adjacent lot line and at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use. All portions of columbaria located above ground shall meet the following standards:

a. Located at least ten feet from property boundaries.

b. Located at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use.

c. Located at least ten feet from the edge of the paved, traveled roadway.

d. Shall not exceed eight feet in height including any appurtenances.

e. Direct views from all adjoining residential parcels shall be buffered by appropriate means.

(Code 1984, § 10.20(3); Code 2003, § 78-228; Ord. No. 145(2nd series), § 1, 3-11-1996; Ord. No. 161(2nd series), §§ 3, 4, 6-7-1997; Ord. No. 178(2nd series), § 1, 12-8-1997; Ord. No. 179(2nd series), § 2, 10-12-1998; Ord. No. 28(3rd series), § 3, 8-22-2005; Ord. No. 44(3rd series), § 1, 2-25-2008; Ord. No. 45(3rd series), § 1, 2-25-2008; Ord. No. 79(3rd series), § 2, 11-8-2010; Ord. No. 82(3rd series), § 3, 12-13-2010; Ord. No. 224(3rd series), § 1, 6-10-2019; Ord. No. 257(3rd series), § 3, 5-10-2021; Ord. No. 279(3rd series), § 3, 11-14-2022)

Sec. 6.12.1040. Accessory uses.

Within any R-1A One-Family Residential District, the only permitted accessory uses and structures are the following:

(1) Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary for such constructing.

(2) Driveways, sidewalks and parking spaces.

(3) Detached private garages and buildings subject to the performance standards of this chapter.

(4) Kennel structures and dog runs, subject to the provisions of chapter 5.28, article III.

(5) Fencing, subject to the provisions of section 6.12.6940(a)(9).

(6) Signs, as regulated in this chapter.

(7) Flagpoles, subject to accessory structure location and height requirements of this chapter.

(8) Gardening and other horticultural uses, including arbors, trellises, aviaries and decorative landscape features, and lawn sprinkler systems.

(9) Compost structures and firewood piles, subject to the accessory structure location requirements of this chapter.

(10) Home occupations, as defined in this chapter. All home occupations shall comply with the provisions of section 6.12.6810 and the licensing provisions of section 4.04.310, when applicable.

(11) One temporary roadside stand offering for sale only farm products produced on the premises, provided such stand does

not exceed 200 square feet in area and is located at least 30 feet back from the public right-of-way.

(12) Storage of recreational vehicles and equipment such as RVs, boats, snowmobiles, etc., subject to the provisions of sections 6.12.7510 through 6.12.7550 and 6.12.7820. Ice fishing houses and similar structures equipped with wheels or mounted on a trailer shall be regulated as recreational vehicles. Ice fishing houses and similar structures not equipped with wheels or mounted on a trailer shall be regulated as accessory buildings and subject to accessory building regulations.

(13) Garage sales, yard sales, estate sales or rummage sales, limited to a maximum of four consecutive days and occurring no more than two times within one calendar year per property; and sales of personal or recreational vehicles and equipment, limited to no more than two items per calendar year, and such items for sale shall not be parked in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.

(14) Laundry drying equipment.

(15) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(16) Accessory dwelling units.

(Code 1984, § 10.20(4); Code 2003, § 78-229; Ord. No. 161(2nd series), § 6, 6-7-1997; Ord. No. 221(2nd series), § 3, 9-23-2002; Ord. No. 82(3rd series), § 4, 12-13-2010; Ord. No. 96(3rd series), § 3(3.01, 3.02), 11-13-2012; Ord. No. 106(3rd series), § 3, 6-10-2013; Ord. No. 222(3rd series), § 2, 12-10-2018; Ord. No. 279(3rd series), § 4, 11-14-2022)

Sec. 6.12.1050. Area, height, lot width, setback, and yard requirements.

(a) The following minimum requirements shall be observed:

(1) Dimensional requirements:

a. Lot area (minimum): 1.0 acre.

b. Lot width (minimum): 140 feet.

(2) Height: maximum 30 feet defined height; accessory buildings may not exceed the height of the principal building.

Setbacks	*Street / Front (feet)*	*Interior Side (feet)*	*Side Street (feet)*	*Rear (feet)*	*OHWL (feet)*	*Wetland (feet)*
Principal building	35	10	35	30	na	25 or MCWD buffer
Accessory building (AB) <1,000 sf	35	10	35	10	na	25 or MCWD buffer
Oversize accessory building (OAB) >1,000 sf	35	10	35	30	na	25 or MCWD buffer
Accessory structures (AS)	17.5	10	17.5	10	na	25 or MCWD buffer

(b) Exceptions.

(1) *Side yard setback.* For lots that are nonconforming as to their width, the interior side yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be the lesser of ten feet or equal to ten percent of the lot width as defined; however, in no case shall the side yard setback be less than 7.5 feet.

(2) *Side yards adjacent to unimproved rights-of-way.* In any residential district, the setback for side yards adjacent to unimproved rights-of-way shall be the same as the applicable interior side yard setback. Unimproved in this section shall be interpreted to mean not improved or maintained by the city or county for vehicular travel.

(3) *Front yard setback.* For lots that are nonconforming with respect to area the minimum front yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be equal to the average depth of the existing front yards on the adjacent lots on each side of the nonconforming lot fronting on the same street. However, the depth of such front yard shall not be less than ten feet.

(Code 1984, § 10.20(5); Code 2003, § 78-230; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 2, 6-27-2016; Ord. No. 222(3rd series), § 3, 12-10-2018; Ord. No. 299(3rd series), § 2, 3-11-2024)

Division 3. R-1B One-Family Residential District

Sec. 6.12.1110. Purpose.

The R-1B One-Family Residential District is intended to provide a district which will allow denser residential development. Planned residential developments may be allowed by conditional use permits. The district shall have immediate access to highways and public sanitary sewer.

(Code 1984, § 10.21(1); Code 2003, § 78-251)

Sec. 6.12.1120. Permitted uses.

Within any R-1B One-Family Residential District, no land or structures shall be used except for one or more of the following uses:

(1) City-owned public service structures that have been approved by the city council after the required public hearings for public improvement projects, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use.

b. The architectural design of the structure is found to be compatible with the surrounding area.

(2) Municipal buildings.

(3) One-family detached dwellings.

(4) Publicly owned parks and playgrounds.

(Code 1984, §§ 10.20(2), 10.21(2); Code 2003, § 78-252; Ord. No. 44(3rd series), § 2, 2-25-2008; Ord. No. 82(3rd series), § 5, 12-13-2010; Ord. No. 90(3rd series), § 3, 12-12-2011; Ord. No. 210(3rd series), § 5, 6-25-2018; Ord. No. 233(3rd series), § 2, 10-14-2019; Ord. No. 279(3rd series), § 5, 11-14-2022)

State law reference—State mandated permitted uses, Minn. Stats. § 462.357, subd. 7.

Sec. 6.12.1130. Conditional uses.

Within any R-1B One-Family Residential District, no structure or land shall be used for the following uses except by conditional use permit:

(1) Golf courses, country clubs, tennis clubs, non-profit camps, and religious camps, provided that:

a. All principal buildings are located at least 100 feet from any adjacent property zoned for residential use; and

b. All accessory buildings and structures more than six feet in height are located at least 50 feet from any adjacent property zoned for residential use.

(2) Places of worship, provided that all buildings and structures, except columbaria, are located at least 50 feet from any adjacent property zoned for residential use.

(3) Planned residential developments, limited to detached single-family dwellings only and subject to the limitations of division 10 of this article.

(4) Public service structures, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use; and

b. The architectural design of the structure is compatible with the architectural design of the surrounding area.

(5) Schools, day care centers, and uses accessory to a high school.

a. Pre-kindergarten, primary and secondary public schools and private schools with a curriculum similar to a pre-kindergarten, primary or secondary school. Schools may include before and after school care for students.

b. Day care centers, nursery schools and similar programs that are not associated with a public or private school and serve pre-kindergarten children.

c. Indoor ice arenas accessory to a high school provided the arena, including accessory uses, is:

1. Located on the same tax parcel as the high school to which it is accessory and is owned by the local school district;

2. Not separated from the high school building by a public road;

3. Operated by the school district or by a nonprofit organization; and

4. All structures are located at least 50 feet from any adjacent property zoned for residential use.

(6) Two-family dwellings, provided that:

a. Public sanity sewer service is available;

b. The lot is adjacent to a commercial or industrial parcel;

c. The dwelling is within 200 feet of the commercial or industrial parcel; and

d. The design of the dwelling is compatible with the surrounding residences.

(7) Columbaria, provided that all portions of columbaria located at or below ground shall be located at least five feet from any adjacent lot line and at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use. All portions of columbaria located above ground shall meet the following standards:

a. Located at least ten feet from property boundaries.

b. Located at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use.

c. Located at least ten feet from the edge of the paved, traveled roadway.

d. Shall not exceed eight feet in height, including any appurtenances.

e. Direct views from all adjoining residential parcels shall be buffered by appropriate means.

(Code 1984, §§ 10.20(3), 10.21(3); Code 2003, § 78-253; Ord. No. 145(2nd series), § 1, 3-11-1996; Ord. No. 161(2nd series), §§ 3, 4, 6-7-1997; Ord. No. 178(2nd series), § 1, 12-8-1997; Ord. No. 179(2nd series), § 2, 10-12-1998; Ord. No. 28(3rd series), § 4, 8-22-2005; Ord. No. 44(3rd series), § 2, 2-25-2008; Ord. No. 45(3rd series), § 2, 2-25-2008; Ord. No. 79(3rd series), § 3, 11-8-2010; Ord. No. 82(3rd series), § 6, 12-13-2010; Ord. No. 224(3rd series), § 2, 6-10-2019; Ord. No. 257(3rd series), § 4, 5-10-2021; Ord. No. 279(3rd series), § 6, 11-14-2022)

Sec. 6.12.1140. Accessory uses.

Within any R-1B One-Family Residential District, the only permitted accessory uses and structures are the following:

(1) Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary for such constructing.

(2) Driveways, sidewalks and parking spaces.

(3) Detached private garages and buildings subject to the performance standards of this chapter.

(4) Kennel structures and dog runs, subject to the provisions of chapter 5.28, article III.

(5) Fencing, subject to the provisions of section 6.12.6940(a)(9).

(6) Signs, as regulated in this chapter.

(7) Flagpoles, subject to accessory structure location and height requirements of this chapter.

(8) Gardening and other horticultural uses, including arbors, trellises, aviaries and decorative landscape features, and lawn sprinkler systems.

(9) Compost structures and firewood piles, subject to the accessory structure location requirements of this chapter.

(10) Home occupations, as defined in this chapter. All home occupations shall comply with the provisions of section 6.12.6810, and the licensing provisions of section 4.04.310, when applicable.

(11) One temporary roadside stand offering for sale only farm products produced on the premises, provided such stand does not exceed 200 square feet in area and is located at least 30 feet back from the public right-of-way.

(12) Storage of recreational vehicles and equipment such as RVs, boats, snowmobiles, etc., subject to the provisions of sections 6.12.7510 through 6.12.7550 and 6.12.7820. Ice fishing houses and similar structures equipped with wheels or mounted on a trailer shall be regulated as recreational vehicles. Ice fishing houses and similar structures not equipped with wheels or mounted on a trailer shall be regulated as accessory buildings and subject to accessory building regulations.

(13) Garage sales, yard sales, estate sales or rummage sales, limited to a maximum of four consecutive days and occurring no more than two times within one calendar year per property; and sales of personal or recreational vehicles and equipment, limited to no more than two items per calendar year, and such items for sale shall not be parked in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.

(14) Laundry drying equipment.

(15) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(16) Accessory dwelling units.

(Code 1984, §§ 10.20(4), 10.21(4); Code 2003, § 78-254; Ord. No. 161(2nd series), § 6, 6-7-1997; Ord. No. 221(2nd series), § 3, 9-23-2002; Ord. No. 82(3rd series), § 7, 12-13-2010; Ord. No. 96(3rd series), § 3(3.01, 3.02), 11-13-2012; Ord. No. 106(3rd series), § 4, 6-10-2013; Ord. No. 222(3rd series), § 4, 12-10-2018; Ord. No. 279(3rd series), § 7, 11-14-2022)

Sec. 6.12.1150. Area, height, lot width, setback, and yard requirements.

(a) The following minimum requirements shall be observed:

(1) Dimensional requirements:

a. Lot area (minimum): 0.5 acre.

b. Lot width (minimum): 100 feet.

(2) Height: maximum 30 feet defined height; accessory buildings may not exceed the height of the principal building.

Setbacks	*Street / Front (feet)*	*Interior Side (feet)*	*Side Street (feet)*	*Rear (feet)*	*OHWL (feet)*	*Wetland (feet)*
Principal building	30	10	15	30	N/A	25 or MCWD buffer
Accessory building (AB) <1,000 sf	30	10	15	10	N/A	25 or MCWD buffer
Oversize accessory building (OAB) >1,000 sf	30	10	15	30	N/A	25 or MCWD buffer
Accessory structures (AS)	15	10	7.5	10	N/A	25 or MCWD buffer

(b) Exceptions.

(1) *Side yard setback.* For lots that are nonconforming as to their width, the interior side yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be the lesser of ten feet or equal to ten percent of the lot width as defined. However, in no case shall the side yard setback be less than 7.5 feet.

(2) *Side yards adjacent to unimproved rights-of-way.* In any residential district, the setback for side yards adjacent to unimproved rights-of-way shall be the same as the applicable interior side yard setback. Unimproved in this section shall be interpreted to mean not improved or maintained by the city or county for vehicular travel.

(3) *Front yard setback.* For lots that are nonconforming with respect to area the minimum front yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be equal to the average depth of the existing front yards on the adjacent lots on each side of the nonconforming lot fronting on the same street. However, the depth of such front yard shall not be less than ten feet.

(Code 1984, § 10.21(5); Code 2003, § 78-225; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 3, 6-27-2016; Ord. No. 222(3rd series), § 5, 12-10-2018; Ord. No. 299(3rd series), § 3, 3-11-2024)

Division 4. Lakeshore Residential Districts

Subdivision I. In General (Reserved)

Subdivision II. LR-1A One-Family Lakeshore Residential District

Sec. 6.12.1310. Purpose.

The LR-1A One-Family Lakeshore Residential District is intended to provide a district which will allow a combination of low-density residential development and limited agricultural activity. Planned residential developments may be allowed by conditional use permits. The proposed land use may not endanger the quality of stormwater runoff into Lake Minnetonka or Long Lake. Because of the location of the district near Lake Minnetonka or Long Lake, special regulations are necessary to protect those natural resources from the effects of dense development.

(Code 1984, § 10.23(1); Code 2003, § 78-301)

Sec. 6.12.1320. Permitted uses.

Within the LR-1A One-Family Lakeshore Residential District, no land or structures shall be used except for one or more of the following uses:

(1) City-owned public service structures that have been approved by the city council after the required public hearings for public improvement projects, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use.

b. The architectural design of the structure is found to be compatible with the surrounding area.

(2) Municipal buildings.

(3) One-family detached dwellings.

(4) Publicly owned parks and playgrounds.

(5) County dock, when:

a. Directly connected to the county right-of-way.

b. No overnight boat storage is permitted.

c. No canopy is installed.

d. Approved by Lake Minnetonka Conservation District.

e. Secured with a fence and gate.

(Code 1984, §§ 10.20(2), 10.23(3); Code 2003, § 78-302; Ord. No. 44(3rd series), § 3, 2-25-2008; Ord. No. 82(3rd series), § 8, 12-13-2010; Ord. No. 90(3rd series), § 4, 12-12-2011; Ord. No. 167(3rd series), § 2, 4-11-2016; Ord. No. 210(3rd series), § 6, 6-25-2018; Ord. No. 233(3rd series), § 3, 10-14-2019; Ord. No. 279(3rd series), § 8, 11-14-2022)

State law reference—State mandated permitted uses, Minn. Stats. § 462.357, subd. 7.

Sec. 6.12.1330. Conditional uses.

Within any LR-1A One-Family Lakeshore Residential District, no structure or land shall be used for the following uses except by conditional use permit:

(1) Golf courses, country clubs, tennis clubs, non-profit camps, and religious camps, provided that:

a. All principal buildings are located at least 100 feet from any adjacent property zoned for residential use; and

b. All accessory buildings and structures more than six feet in height are located at least 50 feet from any adjacent property zoned for residential use.

(2) Keeping of farm animals for noncommercial purposes and for the use of the occupants of premises, provided that:

a. Where the applicant requests a conditional use permit to keep horses, there must be at least one acre for the dwelling and two acres of open pasture for the first horse. If the applicant requests a conditional use permit to keep more than one horse, the property must have one additional acre of open pasture for each additional horse. Calculations of minimum pasture acreage shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

b. Where the applicant requests a conditional use permit to keep farm animals other than horses, there must be at least one acre for the dwelling and one acre for each animal unit. Calculations of minimum acreage required shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

c. Any building or structure associated with the animals is located

more than 150 feet from the nearest adjacent residence and at least 75 feet from the nearest lot line.

d. The use is operated in compliance with chapter 5.28.

(3) Places of worship, provided that all buildings and structures, except columbaria, are located at least 50 feet from any adjacent property zoned for residential use.

(4) Planned residential development, limited to detached single-family dwellings only and subject to the limitations of division 10 of this article.

(5) Public service structures, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use; and

b. The architectural design of the structure is compatible with the architectural design of the surrounding area.

(6) Schools, day care centers, and uses accessory to a high school.

a. Pre-kindergarten, primary and secondary public schools and private schools with a curriculum similar to a pre-kindergarten, primary or secondary school. Schools may include before and after school care for students.

b. Day care centers, nursery schools and similar programs that are not associated with a public or private school and serve pre-kindergarten children.

c. Indoor ice arenas accessory to a high school, provided the arena, including accessory uses, is:

1. Located on the same tax parcel as the high school to which it is accessory and is owned by the local school district;

2. Not separated from the high school building by a public road;

3. Operated by the school district or by a nonprofit organization; and

4. All structures are located at least 50 feet from any adjacent property zoned for residential use.

(7) Two-family dwellings, provided that:

a. Public sanity sewer service is available;

b. The lot is adjacent to a commercial or industrial parcel;

c. The dwelling is within 200 feet of the commercial or industrial parcel; and

d. The design of the dwelling is compatible with the surrounding residences.

(8) Columbaria, provided that all portions of columbaria located at or below ground shall be located at least five feet from any adjacent lot line and at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use. All portions of columbaria located above ground shall meet the following standards:

a. Located at least ten feet from property boundaries.

b. Located at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use.

c. Located at least ten feet from the edge of the paved, traveled roadway.

d. Shall not exceed eight feet in height including any appurtenances.

e. Direct views from all adjoining residential parcels shall be buffered by appropriate means.

(9) County dock, when:

a. Directly connected to the county right-of-way.

b. No canopy may be installed.

c. Approved by Lake Minnetonka Conservation District.

d. Overnight boat dockage for up to two emergency response boats.

e. Secured with a fence and a gate.

(Code 1984, §§ 10.20(3), 10.23(4); Code 2003, § 78-303; Ord. No. 145(2nd series), § 1, 3-11-1996; Ord. No. 161(2nd series), §§ 3, 4, 6-7-1997; Ord. No. 178(2nd series), § 1, 12-8-1997; Ord. No. 179(2nd series), § 2, 10-12-1998; Ord. No. 28(3rd series), § 5, 8-22-2005; Ord. No. 44(3rd series), § 3, 2-25-2008; Ord. No. 45(3rd series), § 3, 2-25-2008; Ord. No. 79(3rd series), § 4, 11-8-2010; Ord. No. 82(3rd series), § 9, 12-13-2010; Ord. No. 90(3rd series), § 4, 12-12-2011; Ord. No. 100(3rd series), § 1, 2-25-2013; Ord. No. 181(3rd series), § 1, 1-9-2017; Ord. No. 224(3rd series), § 3, 6-10-2019; Ord. No. 257(3rd series), § 5, 5-10-2021; Ord. No. 279(3rd series), § 9, 11-14-2022)

Sec. 6.12.1340. Accessory uses.

Within any LR-1A One-Family Lakeshore Residential District, the only permitted accessory uses and structures are the following:

(1) Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary for such constructing.

(2) Driveways, sidewalks and parking spaces.

(3) Detached private garages and buildings subject to the performance standards of this chapter.

(4) Private docks, subject to this code and other applicable regulations, including boat storage density requirements. The accessory use of a private dock shall not include renting space.

(5) Kennel structures and dog runs, subject to the provisions of chapter 5.28.

(6) Fencing, subject to the provisions of section 6.12.6940(a)(9).

(7) Signs, as regulated in this chapter.

(8) Flagpoles, subject to accessory structure location and height requirements of this chapter.

(9) Gardening and other horticultural uses, including arbors, trellises, aviaries and decorative landscape features, and lawn sprinkler systems.

(10) Compost structures and firewood piles, subject to the accessory structure location requirements of this chapter.

(11) Home occupations, as defined in this chapter. All home occupations shall comply with the provisions of section 6.12.6810, and the licensing provisions of section 4.04.310, when applicable.

(12) One temporary roadside stand offering for sale only farm products produced on the premises, provided such stand does not exceed 200 square feet in area and is located at least 30 feet back from the public right-of-way.

(13) Storage of recreational vehicles and equipment such as RVs, boats, snowmobiles, etc., subject to the provisions of sections 6.12.7510 through 6.12.7550 and 6.12.7820. Ice fishing houses and similar structures equipped with wheels or mounted on a trailer shall be regulated as recreational vehicles. Ice fishing houses and similar structures not equipped with wheels or mounted on a trailer shall be regulated as accessory buildings and subject to accessory building regulations.

(14) Garage sales, yard sales, estate sales or rummage sales, limited to a maximum of four consecutive days and occurring no more than two times within one calendar year per property; and sales of personal or recreational vehicles and equipment, limited to no more than two items per calendar year, and such items for sale shall not be parked in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.

(15) Laundry drying equipment.

(16) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(17) Apiaries when:

a. The property consists of a minimum of two acres in land area.

b. Maximum of six hives are permitted per acre of land.

c. All structures associated with honeybees must follow the accessory structure setbacks.

(18) Accessory dwelling units.

(Code 1984, §§ 10.20(4), 10.23(5); Code 2003, § 78-304; Ord. No. 161(2nd series), § 6, 6-7-1997; Ord. No. 221(2nd series), § 3, 9-23-2002; Ord. No. 82(3rd series), § 10, 12-13-2010; Ord. No. 93(3rd series), § 1, 6-25-2012; Ord. No. 96(3rd series), § 3(3.01, 3.02), 11-13-2012; Ord. No. 106(3rd series), § 5, 6-10-2013; Ord. No. 222(3rd series), § 6, 12-10-2018; Ord. No. 264(3rd series), § 2, 11-22-2021; Ord. No. 279(3rd series), § 10, 11-14-2022)

Sec. 6.12.1350. Area, height, lot width, setbacks, and yard requirements.

(a) The following minimum requirements shall be observed:

(1) Dimensional requirements:

a. Lot area (minimum): 2.0 acres.

b. Lot width (minimum): 200 feet.

(2) Height: maximum 30 feet defined height; accessory buildings may not exceed the height of the principal building.

Setbacks	*Street / Front (feet)*	*Interior Side (feet)*	*Side Street (feet)*	*Rear / Street (feet)*	*OHWL[1] (feet)*	*Wetland (feet)*
Principal building	50	30	30	50	75/100/150 + ALS	25 or MCWD buffer
Accessory building (AB) <1,000 sf	50	15	30	15	75/100/150 + ALS	25 or MCWD buffer
Oversize accessory building (OAB) >1,000 sf	50	30	30	50	75/100/150 + ALS	25 or MCWD buffer
Accessory structures (AS)	25	15	15	15	75/100/150 + ALS	25 or MCWD buffer

[1] OHWL setback is determined by the classification of the lake as defined in section 6.12.5970 and the applied minimum setback from the OHWL as outlined in section 6.12.6240.

(b) Exceptions.

(1) *Side yard setback.* For lots that are nonconforming as to their width, the interior side yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be the lesser of 30 feet or equal to ten percent of the lot width as defined. However, in no case shall the side yard setback be less than ten feet.

(2) *Side yards adjacent to unimproved rights-of-way.* In any residential district, the setback for side yards adjacent to unimproved rights-of-way shall be the same as the applicable interior side yard setback. Unimproved in this section shall be interpreted to mean not improved or maintained by the city or county for vehicular travel.

(3) *Front yard setback.* For lots that are nonconforming with respect to area the minimum front yard setback for the principal building, and accessory buildings less than 1,000 square feet,

shall be equal to the average depth of the existing front yards on the adjacent lots on each side of the nonconforming lot fronting on the same street. However, the depth of such front yard shall not be less than ten feet.

(Code 1984, § 10.23(6); Code 2003, § 78-305; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 4, 6-27-2016; Ord. No. 199(3rd series), § 2, 6-12-2017; Ord. No. 222(3rd series), § 7, 12-10-2018; Ord. No. 299(3rd series), § 4, 3-11-2024)

Subdivision III. LR-1B One-Family Lakeshore Residential District

Sec. 6.12.1410. Purpose.

The LR-1B One-Family Lakeshore Residential District is intended to provide a district which will allow a combination of medium-density residential developments and limited agricultural activity. Planned residential developments may be allowed by conditional use permits. The proposed land use may not endanger the quality of stormwater runoff into Lake Minnetonka or Long Lake. Because of the location of the district near Lake Minnetonka or Long Lake, special regulations are necessary to protect these natural resources from the effects of dense development. This district shall have immediate access to highways and public sanitary sewer.

(Code 1984, § 10.24(1); Code 2003, § 78-326)

Sec. 6.12.1420. Permitted uses.

Within the LR-1B One-Family Lakeshore Residential District, no land or structure shall be used except for one or more of the following uses:

(1) City-owned public service structures that have been approved by the city council after the required public hearings for public improvement projects, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use.

b. The architectural design of the structure is found to be compatible with the surrounding area.

(2) Municipal buildings.

(3) One-family detached dwellings.

(4) Publicly owned parks and playgrounds.

(Code 1984, §§ 10.20(2), 10.24(2); Code 2003, § 78-327; Ord. No. 44(3rd series), § 4, 2-25-2008; Ord. No. 82(3rd series), § 11, 12-13-2010; Ord. No. 90(3rd series), § 5, 12-12-2011; Ord. No. 210(3rd series), § 7, 6-25-2018; Ord. No. 233(3rd series), § 4, 10-14-2019; Ord. No. 279(3rd series), § 11, 11-14-2022)

State law reference—State mandated permitted uses, Minn. Stats. § 462.357, subd. 7.

Sec. 6.12.1430. Conditional uses.

Within any LR-1B One-Family Lakeshore Residential District, no structure or land shall be used for the following uses except by conditional use permit:

(1) Golf courses, country clubs, tennis clubs, non-profit camps, and religious camps, provided that:

a. All principal buildings are located at least 100 feet from any adjacent property zoned for residential use; and

b. All accessory buildings and structures more than six feet in height are located at least 50 feet from any adjacent property zoned for residential use.

(2) Keeping of farm animals for noncommercial purposes and for the use of the occupants of premises, provided that:

a. Where the applicant requests a conditional use permit to keep horses, there must be at least one acre for the dwelling and two acres of open pasture for the first horse. If the applicant requests a conditional use permit to keep more than one horse, the property must have one additional acre of open

pasture for each additional horse. Calculations of minimum pasture acreage shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

b. Where the applicant requests a conditional use permit to keep farm animals other than horses, there must be at least one acre for the dwelling and one acre for each animal unit. Calculations of minimum acreage required shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

c. Any building or structure associated with the animals is located more than 150 feet from the nearest adjacent residence and at least 75 feet from the nearest lot line.

d. The use is operated in compliance with chapter 5.28.

(3) Places of worship, provided that all buildings and structures, except columbaria, are located at least 50 feet from any adjacent property zoned for residential use.

(4) Planned residential development, limited to detached single-family dwellings only and subject to the limitations of division 10 of this article.

(5) Public service structures, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use; and

b. The architectural design of the structure is compatible with the architectural design of the surrounding area.

(6) Schools, day care centers, and uses accessory to a high school.

a. Pre-kindergarten, primary and secondary public schools and private schools with a curriculum similar to a pre-kindergarten, primary or secondary school. Schools may include before and after school care for students.

b. Day care centers, nursery schools and similar programs that are not associated with a public or private school and serve pre-kindergarten children.

c. Indoor ice arenas accessory to a high school, provided the arena, including accessory uses, is:

1. Located on the same tax parcel as the high school to which it is accessory and is owned by the local school district;

2. Not separated from the high school building by a public road;

3. Operated by the school district or by a nonprofit organization; and

4. All structures are located at least 50 feet from any adjacent property zoned for residential use.

(7) Two-family dwellings, provided that:

a. Public sanity sewer service is available;

b. The lot is adjacent to a commercial or industrial parcel;

c. The dwelling is within 200 feet of the commercial or industrial parcel; and

d. The design of the dwelling is compatible with the surrounding residences.

(8) Columbaria, provided that all portions of columbaria located at or below ground shall be located at least five feet from any adjacent lot line and at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use. All portions of columbaria located above ground shall meet the following standards:

a. Located at least ten feet from property boundaries.

b. Located at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use.

c. Located at least ten feet from the edge of the paved, traveled roadway.

d. Shall not exceed eight feet in height including any appurtenances.

e. Direct views from all adjoining residential parcels shall be buffered by appropriate means.

(Code 1984, §§ 10.20(3), 10.24(3); Code 2003, § 78-328; Ord. No. 145(2nd series), § 1, 3-11-1996; Ord. No. 161(2nd series), §§ 3, 4, 6-7-1997; Ord. No. 178(2nd series), § 1, 12-8-1997; Ord. No. 179(2nd series), § 2, 10-12-1998; Ord. No. 28(3rd series), § 6, 8-22-2005; Ord. No. 44(3rd series), § 4, 2-25-2008; Ord. No. 45(3rd series), § 4, 2-25-2008; Ord. No. 79(3rd series), § 5, 11-8-2010; Ord. No. 82(3rd series), § 12, 12-13-2010; Ord. No. 90(3rd series), § 5, 12-12-2011; Ord. No. 100(3rd series), § 2, 2-25-2013; Ord. No. 224(3rd series), § 4, 6-10-2019; Ord. No. 257(3rd series), § 6, 5-10-2021; Ord. No. 279(3rd series), § 12, 11-14-2022)

State law reference—State mandated permitted uses, Minn. Stats. § 462.357, subd. 7.

Sec. 6.12.1440. Accessory uses.

Within any LR-1B One-Family Lakeshore Residential District, the only permitted accessory uses and structures are the following:

(1) Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary for such constructing.

(2) Driveways, sidewalks and parking spaces.

(3) Detached private garages and buildings subject to the performance standards of this chapter.

(4) Private docks, subject to this code and other applicable regulations, including boat storage density requirements. The accessory use of a private dock shall not include renting space.

(5) Kennel structures and dog runs, subject to the provisions of chapter 5.28, article III.

(6) Fencing, subject to the provisions of section 6.12.6940(a)(9).

(7) Signs, as regulated in this chapter.

(8) Flagpoles, subject to accessory structure location and height requirements of this chapter.

(9) Gardening and other horticultural uses, including arbors, trellises, aviaries and decorative landscape features, and lawn sprinkler systems.

(10) Compost structures and firewood piles, subject to the accessory structure location requirements of this chapter.

(11) Home occupations, as defined in this chapter. All home occupations shall comply with the provisions of section 6.12.6810, and the licensing provisions of section 4.04.310, when applicable.

(12) One temporary roadside stand offering for sale only farm products produced on the premises, provided such stand does not exceed 200 square feet in area and is located at least 30 feet back from the public right-of-way.

(13) Storage of recreational vehicles and equipment such as RVs, boats, snowmobiles, etc., subject to the provisions of sections 6.12.7510 through 6.12.7550 and 6.12.7820. Ice fishing houses and similar structures equipped with wheels or mounted on a trailer shall be regulated as recreational vehicles. Ice fishing houses and similar structures not equipped with wheels or mounted on a trailer shall be regulated as accessory buildings and subject to accessory building regulations.

(14) Garage sales, yard sales, estate sales or rummage sales, limited to a maximum of four consecutive days and occurring no more than two times within one calendar year per property; and sales of personal or recreational vehicles and equipment, limited to no more than two items per

calendar year, and such items for sale shall not be parked in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.

(15) Laundry drying equipment.

(16) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(17) Apiaries when:

a. The property consists of a minimum of two acres in land area.

b. Maximum of six hives are permitted per acre of land.

c. All structures associated with honeybees must follow the accessory structure setbacks.

(18) Accessory dwelling units.

(Code 1984, §§ 10.20(4), 10.24(4); Code 2003, § 78-329; Ord. No. 161(2nd series), § 6, 6-7-1997; Ord. No. 221(2nd series), § 3, 9-23-2002; Ord. No. 82(3rd series), § 13, 12-13-2010; Ord. No. 93(3rd series), § 2, 6-25-2012; Ord. No. 96(3rd series), § 3(3.01, 3.02), 11-13-2012; Ord. No. 106(3rd series), § 6, 6-10-2013; Ord. No. 222(3rd series), § 8, 12-10-2018; Ord. No. 264(3rd series), § 3, 11-22-2021; Ord. No. 279(3rd series), § 13, 11-14-2022)

Sec. 6.12.1450. Area, height, lot width, setback, and yard requirements.

(a) The following minimum requirements shall be observed:

(1) Dimensional requirements:

a. Lot area (minimum): 1.0 acre.

b. Lot width (minimum): 140 feet.

(2) Height: maximum 30 feet defined height; accessory buildings may not exceed the height of the principal building.

Setbacks	*Street / Front (feet)*	*Interior Side (feet)*	*Side Street (feet)*	*Rear / Street (feet)*	*OHWL[1] (feet)*	*Wetland (feet)*
Principal building	35	10	20	30	75/100/150 + ALS	25 or MCWD buffer
Accessory building (AB) <1,000 sf	35	10	20	10	75/100/150 + ALS	25 or MCWD buffer
Oversize accessory building (OAB) >1,000 sf	35	10	20	30	75/100/150 + ALS	25 or MCWD buffer
Accessory structures (AS)	17.5	10	10	10	75/100/150 + ALS	25 or MCWD buffer

[1] OHWL setback is determined by the classification of the lake as defined in section 6.12.5970 and the applied minimum setback from the OHWL as outlined in section 6.12.6240.

(b) Exceptions:

(1) *Side yard setback.* For lots that are nonconforming as to their width, the interior side yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be the lesser of ten feet or equal to ten percent of the lot width as defined. However, in no case shall the side yard setback be less than 7.5 feet.

(2) *Side yards adjacent to unimproved rights-of-way.* In any residential district, the setback for side yards adjacent to unimproved rights-of-way shall be the same as the applicable interior side yard setback. Unimproved in this section shall be interpreted to mean not improved or maintained by the city or county for vehicular travel.

(3) *Front yard setback.* For lots that are nonconforming with respect to area the minimum front yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be equal to the average depth of the existing front yards on the adjacent lots on each side of the nonconforming lot fronting on the same street. However, the depth of such front yard shall not be less than ten feet.

(Code 1984, § 10.24(5); Code 2003, § 78-330; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 5, 6-27-2016; Ord. No. 199(3rd series), § 3, 6-12-2017; Ord. No. 222(3rd series), § 9, 12-10-2018; Ord. No. 299(3rd series), § 5, 3-11-2024)

Subdivision IV. LR-1C One-Family Lakeshore Residential District

Sec. 6.12.1510. Purpose.

The LR-1C One-Family Lakeshore Residential District is intended to provide a district which will allow a combination of medium-density residential development and limited agricultural activity. Planned residential developments may be allowed by conditional use permits. The proposed land use may not endanger the quality of stormwater runoff into Lake Minnetonka. Because of the location of the district near Lake Minnetonka, special regulations are necessary to protect that natural resource from the effects of intense development. The district shall have immediate access to highways and public sanitary sewer.

(Code 1984, § 10.25(1); Code 2003, § 78-346)

Sec. 6.12.1520. Permitted uses.

Within the LR-1C One-Family Lakeshore Residential District, no land or structure shall be used except for one or more of the following uses:

(1) City-owned public service structures that have been approved by the city council after the required public hearings for public improvement projects, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use.

b. The architectural design of the structure is found to be compatible with the surrounding area.

(2) Municipal buildings.

(3) One-family detached dwellings.

(4) Personal wireless service antennas and towers.

a. *Purpose and intent.* The purpose of this subsection is to establish predictable, balanced regulations for the siting and screening of wireless communications equipment in order to accommodate the growth of wireless communication systems within the city while protecting the public against any adverse impacts on the city's aesthetic resources and the public welfare.

b. *Personal wireless service antennas.* Personal wireless service antennas erected on a municipal water tower may be allowed as a secondary use by administrative permit, provided they comply with the city policy regarding the use of city-owned property for wireless telecommunication antennas and provided they meet the following conditions:

1. The antenna shall be in compliance with the state building code and all other applicable federal and state regulations and permits.

2. Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications and shall be verified and approved by a registered professional engineer.
3. No advertising message shall be affixed to the antenna.
4. Antennas shall not be artificially illuminated unless required by law or by the Federal Aviation Administration (FAA) to protect the public's health and safety.
5. When applicable, proposals to erect new antennas shall be accompanied by any required federal, state, or local agency licenses.
6. Transmitting, receiving, and switching equipment shall be housed within the existing structure. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping.
7. All obsolete and unused antennas shall be removed within 12 months of cessation of operation at the site, unless an exemption is granted by the city administrator or designee. The removal shall be the responsibility of the communication provider.
8. Antennas shall utilize camouflaging techniques or shall be side-mounted to an antenna support structure in order that such facilities are compatible with the character and environment of the area in which they are located.
9. The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis prepared by a registered professional engineer that the location of the antenna as proposed is necessary to meet the frequency spacing needs of the personal wireless service system and to provide adequate portable personal wireless service coverage and capacity to the area.

(5) Publicly owned parks and playgrounds.

(Code 1984, §§ 10.20(2), 10.25(3); Code 2003, § 78-347; Ord. No. 183(2nd series), § 4, 2-22-1999; Ord. No. 226(2nd series), § 1, 5-27-2003; Ord. No. 44(3rd series), § 5, 2-25-2008; Ord. No. 82(3rd series), § 14, 12-13-2010; Ord. No. 90(3rd series), § 6, 12-12-2011; Ord. No. 210(3rd series), § 8, 6-25-2018; Ord. No. 233(3rd series), § 5, 10-14-2019; Ord. No. 279(3rd series), § 14, 11-14-2022)

State law reference—State mandated permitted uses, Minn. Stats. § 462.357, subd. 7.

Sec. 6.12.1530. Conditional uses.

Within any LR-1C One-Family Lakeshore Residential District, no structure or land shall be used for the following uses without a conditional use permit:

(1) Golf courses, country clubs, tennis clubs, non-profit camps, and religious camps, provided that:
   a. All principal buildings are located at least 100 feet from any adjacent property zoned for residential use; and
   b. All accessory buildings and structures more than six feet in height are located at least 50 feet from any adjacent property zoned for residential use.

(2) Keeping of farm animals for noncommercial purposes and for the use of the occupants of premises, provided that:
   a. Where the applicant requests a conditional use permit to keep

horses, there must be at least one acre for the dwelling and two acres of open pasture for the first horse. If the applicant requests a conditional use permit to keep more than one horse, the property must have one additional acre of open pasture for each additional horse. Calculations of minimum pasture acreage shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

b. Where the applicant requests a conditional use permit to keep farm animals other than horses, there must be at least one acre for the dwelling and one acre for each animal unit. Calculations of minimum acreage required shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

c. Any building or structure associated with the animals is located more than 150 feet from the nearest adjacent residence and at least 75 feet from the nearest lot line.

d. The use is operated in compliance with chapter 5.28.

(3) Personal wireless service antennas. Personal wireless service antennas erected on a municipal structure other than a water tower may be allowed as a conditional use if they meet the following criteria:

a. Such antennas must be in compliance with the city policy regarding the use of city-owned property for wireless telecommunication antennas;

b. Such antennas must meet the conditions listed for personal wireless service antennas as a permitted use in the LR-1C zoning district.

c. Such antennas may be located in the following locations:

1. Co-located on an existing city emergency warning siren tower.

2. Co-located on a replacement city emergency warning siren tower, with a height not to exceed 75 feet.

3. Co-located on a new city emergency warning siren tower, at a location that meets the city's emergency warning needs, with a height not to exceed 75 feet.

d. Such antennas shall meet the following performance standards:

1. The antennas must be located on the existing emergency warning sirens poles, unless the height of the existing pole, or the capacity of the existing pole to support both the siren and the antenna is inadequate to minimally meet the needs of the carrier. In this case, the carrier may be allowed to install a replacement tower that will accommodate both the emergency warning siren and the telecommunications antenna. The existing emergency siren towers can be replaced with towers with a maximum height of 75 feet, with the condition that the tower accommodates both the emergency warning siren and the telecommunications antenna. The city may also require the tower to have the capability of accommodating one additional carrier's antenna.

2. A new emergency warning siren tower location, selected by the city to meet its emergency warning needs, could also be used as a telecommunications antenna site through co-location of the warning siren and antenna. The standards set out in subsection (3)d.1 of this section also apply to a siren tower in a new location.

3. The height of a tower can be no higher than the minimum height required to address a gap in coverage.
4. The setback of a tower from a property line must, at minimum, be equal to the height of the tower, except where an existing emergency warning siren is located on a site that does not enable this setback to be provided.
5. A carrier must demonstrate through an engineering analysis that there is a gap in coverage.
6. At the city's discretion, a tower must be designed to structurally enable co-location by another carrier, and the carrier must agree to allow co-location.
7. The carrier must provide computer-generated photos showing the views (as selected by the city) with and without the tower.
8. All consultant analysis and legal analysis related to the towers and the lease of the towers shall be paid by the carrier.
9. The carrier is required to provide coverage maps to demonstrate the specific gap in coverage and need for an additional tower and antenna, and to demonstrate there are no existing tower options within a radius of two miles that could accommodate the carrier's antenna needs.
10. The size of the cabinets on the ground needed to house the support equipment for the antennas is limited to the minimum necessary size, as determined by the city council. Appropriate vegetative screening of ground cabinets shall be provided by the carrier, subject to approval by the city council. The council at its discretion may allow the use of non-vegetative screening methods such as berming, fencing, etc.
11. Stealth-type antennas (cylindrical) vs. an array of panels, is required if the technology is available.
12. Only monopole towers are allowed.

(4) Places of worship, provided that all buildings and structures, except columbaria, are located at least 50 feet from any adjacent property zoned for residential use.

(5) Planned residential development, limited to detached single-family dwellings only and subject to the limitations of division 10 of this article.

(6) Public service structures, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use; and

b. The architectural design of the structure is compatible with the architectural design of the surrounding area.

(7) Schools, day care centers, and uses accessory to a high school.

a. Pre-kindergarten, primary and secondary public schools and private schools with a curriculum similar to a pre-kindergarten, primary or secondary school. Schools may include before and after school care for students.

b. Day care centers, nursery schools and similar programs that are not associated with a public or private school and serve pre-kindergarten children.

c. Indoor ice arenas accessory to a high school provided the arena, including accessory uses, is:

1. Located on the same tax parcel as the high school to which it is accessory and is owned by the local school district;
2. Not separated from the high school building by a public road;
3. Operated by the school district or by a nonprofit organization; and
4. All structures are located at least 50 feet from any adjacent property zoned for residential use.

(8) Two-family dwellings, provided that:

a. Public sanity sewer service is available;

b. The lot is adjacent to a commercial or industrial parcel;

c. The dwelling is within 200 feet of the commercial or industrial parcel; and

d. The design of the dwelling is compatible with the surrounding residences.

(9) Columbaria, provided that all portions of columbaria located at or below ground shall be located at least five feet from any adjacent lot line and at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use. All portions of columbaria located above ground shall meet the following standards:

a. Located at least ten feet from property boundaries.

b. Located at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use.

c. Located at least ten feet from the edge of the paved, traveled roadway.

d. Shall not exceed eight feet in height including any appurtenances.

e. Direct views from all adjoining residential parcels shall be buffered by appropriate means.

(Code 1984, §§ 10.20(3), 10.25(4); Code 2003, § 78-348; Ord. No. 145(2nd series), § 1, 3-11-1996; Ord. No. 161(2nd series), §§ 3, 4, 6-7-1997; Ord. No. 178(2nd series), § 1, 12-8-1997; Ord. No. 179(2nd series), § 2, 10-12-1998; Ord. No. 226(2nd series), § 2, 5-27-2003; Ord. No. 28(3rd series), § 7, 8-22-2005; Ord. No. 44(3rd series), § 5, 2-25-2008; Ord. No. 45(3rd series), § 5, 2-25-2008; Ord. No. 79(3rd series), § 6, 11-8-2010; Ord. No. 82(3rd series), § 15, 12-13-2010; Ord. No. 90(3rd series), § 6, 12-12-2011; Ord. No. 100(3rd series), § 3, 2-25-2013; Ord. No. 224(3rd series), § 5, 6-10-2019; Ord. No. 257(3rd series), § 7, 5-10-2021; Ord. No. 279(3rd series), § 15, 11-14-2022)

Sec. 6.12.1540. Accessory uses.

Within any LR-1C One-Family Lakeshore Residential District, the only permitted accessory uses and structures are the following:

(1) Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary for such constructing.

(2) Driveways, sidewalks and parking spaces.

(3) Detached private garages and buildings subject to the performance standards of this chapter.

(4) Private docks, subject to this code and other applicable regulations, including boat storage density requirements. The accessory use of a private dock shall not include renting space.

(5) Kennel structures and dog runs, subject to the provisions of chapter 5.28, article III.

(6) Fencing, subject to the provisions of section 6.12.6940(a)(9).

(7) Signs, as regulated in this chapter.

(8) Flagpoles, subject to accessory structure location and height requirements of this chapter.

(9) Gardening and other horticultural uses, including arbors, trellises, aviaries and decorative landscape features, and lawn sprinkler systems.

(10) Compost structures and firewood piles, subject to the accessory structure location requirements of this chapter.

(11) Home occupations, as defined in this chapter. All home occupations shall comply with the provisions of section 6.12.6810, and the licensing provisions of section 4.04.310, when applicable.

(12) One temporary roadside stand offering for sale only farm products produced on the premises, provided such stand does not exceed 200 square feet in area and is located at least 30 feet back from the public right-of-way.

(13) Storage of recreational vehicles and equipment such as RVs, boats, snowmobiles, etc., subject to the provisions of sections 6.12.7510 through 6.12.7550 and 6.12.7820. Ice fishing houses and similar structures equipped with wheels or mounted on a trailer shall be regulated as recreational vehicles. Ice fishing houses and similar structures not equipped with wheels or mounted on a trailer shall be regulated as accessory buildings and subject to accessory building regulations.

(14) Garage sales, yard sales, estate sales or rummage sales, limited to a maximum of four consecutive days and occurring no more than two times within one calendar year per property; and sales of personal or recreational vehicles and equipment, limited to no more than two items per calendar year, and such items for sale shall not be parked in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.

(15) Laundry drying equipment.

(16) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(17) Apiaries when:

a. The property consists of a minimum of two acres in land area.

b. Maximum of six hives are permitted per acre of land.

c. All structures associated with honeybees must follow the accessory structure setbacks.

(18) Accessory dwelling units.

(Code 1984, §§ 10.20(4), 10.25(5); Code 2003, § 78-349; Ord. No. 161(2nd series), § 6, 6-7-1997; Ord. No. 221(2nd series), § 3, 9-23-2002; Ord. No. 82(3rd series), § 16, 12-13-2010; Ord. No. 93(3rd series), § 3, 6-25-2012; Ord. No. 96(3rd series), § 3(3.01, 3.02), 11-13-2012; Ord. No. 106(3rd series), § 7, 6-10-2013; Ord. No. 222(3rd series), § 10, 12-10-2018; Ord. No. 264(3rd series), § 4, 11-22-2021; Ord. No. 279(3rd series), § 16, 11-14-2022)

Sec. 6.12.1550. Area, height, lot width, setback, and yard requirements.

(a) The following minimum requirements shall be observed:

(1) Dimensional requirements:

a. Lot area (minimum): 0.5 acre.

b. Lot width (minimum): 100 feet.

(2) Height: maximum 30 feet defined height; accessory buildings may not exceed the height of the principal building.

Setbacks	*Street / Front (feet)*	*Interior Side (feet)*	*Side Street (feet)*	*Rear / Street (feet)*	*OHWL[1] (feet)*	*Wetland (feet)*
Principal building	30	10	15	30	75/100/150 + ALS	25 or MCWD buffer
Accessory building (AB) <1,000 sf	30	10	15	10	75/100/150 + ALS	25 or MCWD buffer
Oversize accessory building (OAB) >1,000 sf	30	10	15	30	75/100/150 + ALS	25 or MCWD buffer
Accessory structures (AS)	15	10	15	10	75/100/150 + ALS	25 or MCWD buffer

[1] OHWL setback is determined by the classification of the lake as defined in section 6.12.5970 and the applied minimum setback from the OHWL as outlined in section 6.12.6240.

(b) Exceptions.

(1) *Side yard setback.* For lots that are nonconforming as to their width, the interior side yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be the lesser of ten feet or equal to ten percent of the lot width as defined. However, in no case shall the side yard setback be less than 7.5 feet.

(2) *Side yards adjacent to unimproved rights-of-way.* In any residential district, the setback for side yards adjacent to unimproved rights-of-way shall be the same as the applicable interior side yard setback. Unimproved in this section shall be interpreted to mean not improved or maintained by the city or county for vehicular travel.

(3) *Front yard setback.* For lots that are nonconforming with respect to area the minimum front yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be equal to the average depth of the existing front yards on the adjacent lots on each side of the nonconforming lot fronting on the same street. However, the depth of such front yard shall not be less than ten feet.

(Code 1984, § 10.25(6); Code 2003, § 78-350; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 6, 6-27-2016; Ord. No. 199(3rd series), § 4, 6-12-2017; Ord. No. 222(3rd series), § 11, 12-10-2018; Ord. No. 299(3rd series), § 6, 3-11-2024)

Subdivision V. LR-1C-1 One-Family Lakeshore Residential District

Sec. 6.12.1610. Permitted uses.

Within the LR-1C-1 One-Family Lakeshore Residential District, no land or structure shall be used except for one or more of the following uses:

(1) City-owned public service structures that have been approved by the city council after the required public hearings for public improvement projects, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use.

b. The architectural design of the structure is found to be compatible with the surrounding area.

(2) Municipal buildings.

(3) One-family detached dwellings.

(4) Personal wireless service antennas and towers.

a. *Purpose and intent.* The purpose of this subsection is to establish predictable, balanced regulations for the siting and screening of wireless communications equipment in order to accommodate the growth of wireless communication systems within

the city while protecting the public against any adverse impacts on the city's aesthetic resources and the public welfare.

b. *Personal wireless service antennas.* Personal wireless service antennas erected on a municipal water tower may be allowed as a secondary use by administrative permit, provided they comply with the city policy regarding the use of city-owned property for wireless telecommunication antennas and provided they meet the following conditions:

1. The antenna shall be in compliance with the state building code and all other applicable federal and state regulations and permits.

2. Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications and shall be verified and approved by a registered professional engineer.

3. No advertising message shall be affixed to the antenna.

4. Antennas shall not be artificially illuminated unless required by law or by the Federal Aviation Administration (FAA) to protect the public's health and safety.

5. When applicable, proposals to erect new antennas shall be accompanied by any required federal, state, or local agency licenses.

6. Transmitting, receiving, and switching equipment shall be housed within the existing structure. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping.

7. All obsolete and unused antennas shall be removed within 12 months of cessation of operation at the site, unless an exemption is granted by the city administrator or designee. The removal shall be the responsibility of the communication provider.

8. Antennas shall utilize camouflaging techniques or shall be side-mounted to an antenna support structure in order that such facilities are compatible with the character and environment of the area in which they are located.

9. The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis prepared by a registered professional engineer that the location of the antenna as proposed is necessary to meet the frequency spacing needs of the personal wireless service system and to provide adequate portable personal wireless service coverage and capacity to the area.

(5) Publicly owned parks and playgrounds.

(Code 1984, §§ 10.20(2), 10.25(3), 10.26(2); Code 2003, § 78-366; Ord. No. 183(2nd series), § 4, 2-22-1999; Ord. No. 226(2nd series), § 1, 5-27-2003; Ord. No. 44(3rd series), § 6, 2-25-2008; Ord. No. 82(3rd series), § 17, 12-13-2010; Ord. No. 90(3rd series), § 7, 12-12-2011; Ord. No. 210(3rd series), § 9, 6-25-2018; Ord. No. 233(3rd series), § 6, 10-14-2019; Ord. No. 279(3rd series), § 17, 11-14-2022)

State law reference—State mandated permitted uses, Minn. Stats. § 462.357, subd. 7.

Sec. 6.12.1620. Conditional uses.

Within the LR-1C-1 One-Family Lakeshore Residential District, no structure or land shall be used for the following uses without a conditional use permit:

(1) Golf courses, country clubs, tennis clubs, non-profit camps, and religious camps, provided that:

a. All principal buildings are located at least 100 feet from any adjacent property zoned for residential use; and

b. All accessory buildings and structures more than six feet in height are located at least 50 feet from any adjacent property zoned for residential use.

(2) Keeping of farm animals for noncommercial purposes and for the use of the occupants of premises, provided that:

a. Where the applicant requests a conditional use permit to keep horses, there must be at least one acre for the dwelling and two acres of open pasture for the first horse. If the applicant requests a conditional use permit to keep more than one horse, the property must have one additional acre of open pasture for each additional horse. Calculations of minimum pasture acreage shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

b. Where the applicant requests a conditional use permit to keep farm animals other than horses, there must be at least one acre for the dwelling and one acre for each animal unit. Calculations of minimum acreage required shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

c. Any building or structure associated with the animals is located more than 150 feet from the nearest adjacent residence and at least 75 feet from the nearest lot line.

d. The use is operated in compliance with chapter 5.28.

(3) Personal wireless service antennas. Personal wireless service antennas erected on a municipal structure other than a water tower may be allowed as a conditional use if they meet the following criteria:

a. Such antennas must be in compliance with the city policy regarding the use of city-owned property for wireless telecommunication antennas;

b. Such antennas must meet the conditions listed for personal wireless service antennas as a permitted use in the LR-1C zoning district.

c. Such antennas may be located in the following locations:

1. Co-located on an existing city emergency warning siren tower.

2. Co-located on a replacement city emergency warning siren tower, with a height not to exceed 75 feet.

3. Co-located on a new city emergency warning siren tower, at a location that meets the city's emergency warning needs, with a height not to exceed 75 feet.

d. Such antennas shall meet the following performance standards:

1. The antennas must be located on the existing emergency warning sirens poles, unless the height of the existing pole, or the capacity of the existing pole to support both the siren and the antenna is inadequate to minimally meet the needs of the carrier. In this case, the carrier may be allowed to install a replacement tower that will

accommodate both the emergency warning siren and the telecommunications antenna. The existing emergency siren towers can be replaced with towers with a maximum height of 75 feet, with the condition that the tower accommodates both the emergency warning siren and the telecommunications antenna. The city may also require the tower to have the capability of accommodating one additional carrier's antenna.

2. A new emergency warning siren tower location, selected by the city to meet its emergency warning needs, could also be used as a telecommunications antenna site through co-location of the warning siren and antenna. The standards set out in subsection (3)d.1 of this section also apply to a siren tower in a new location.
3. The height of a tower can be no higher than the minimum height required to address a gap in coverage.
4. The setback of a tower from a property line must, at minimum, be equal to the height of the tower, except where an existing emergency warning siren is located on a site that does not enable this setback to be provided.
5. A carrier must demonstrate through an engineering analysis that there is a gap in coverage.
6. At the city's discretion, a tower must be designed to structurally enable co-location by another carrier, and the carrier must agree to allow co-location.
7. The carrier must provide computer-generated photos showing the views (as selected by the city) with and without the tower.
8. All consultant analysis and legal analysis related to the towers and the lease of the towers shall be paid by the carrier.
9. The carrier is required to provide coverage maps to demonstrate the specific gap in coverage and need for an additional tower and antenna, and to demonstrate there are no existing tower options within a radius of two miles that could accommodate the carrier's antenna needs.
10. The size of the cabinets on the ground needed to house the support equipment for the antennas is limited to the minimum necessary size, as determined by the city council. Appropriate vegetative screening of ground cabinets shall be provided by the carrier, subject to approval by the city council. The council at its discretion may allow the use of non-vegetative screening methods such as berming, fencing, etc.
11. Stealth-type antennas (cylindrical), versus an array of panels, are required if the technology is available.
12. Only monopole towers are allowed.

(4) Places of worship, provided that all buildings and structures, except columbaria, are located at least 50 feet from any adjacent property zoned for residential use.

(5) Planned residential development, limited to detached single-family dwellings only and subject to the limitations of division 10 of this article.

(6) Public service structures, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use; and

b. The architectural design of the structure is compatible with the architectural design of the surrounding area.

(7) Schools, day care centers, and uses accessory to a high school.

a. Pre-kindergarten, primary and secondary public schools and private schools with a curriculum similar to a pre-kindergarten, primary or secondary school. Schools may include before and after school care for students.

b. Day care centers, nursery schools and similar programs that are not associated with a public or private school and serve pre-kindergarten children.

c. Indoor ice arenas accessory to a high school, provided the arena, including accessory uses, is:

1. Located on the same tax parcel as the high school to which it is accessory and is owned by the local school district;

2. Not separated from the high school building by a public road;

3. Operated by the school district or by a nonprofit organization; and

4. All structures are located at least 50 feet from any adjacent property zoned for residential use.

(8) Two-family dwellings, provided that:

a. Public sanity sewer service is available;

b. The lot is adjacent to a commercial or industrial parcel;

c. The dwelling is within 200 feet of the commercial or industrial parcel; and

d. The design of the dwelling is compatible with the surrounding residences.

(9) Columbaria, provided that all portions of columbaria located at or below ground shall be located at least five feet from any adjacent lot line and at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use. All portions of columbaria located above ground shall meet the following standards:

a. Located at least ten feet from property boundaries.

b. Located at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use.

c. Located at least ten feet from the edge of the paved, traveled roadway.

d. Shall not exceed eight feet in height including any appurtenances.

e. Direct views from all adjoining residential parcels shall be buffered by appropriate means.

(Code 1984, §§ 10.20(3), 10.25(4), 10.26(2); Code 2003, § 78-367; Ord. No. 145(2nd series), § 1, 3-11-1996; Ord. No. 161(2nd series), §§ 3, 4, 6-7-1997; Ord. No. 178(2nd series), § 1, 12-8-1997; Ord. No. 179(2nd series), § 2, 10-12-1998; Ord. No. 226(2nd series), § 2, 5-27-2003; Ord. No. 28(3rd series), § 8, 8-22-2005; Ord. No. 44(3rd series), § 6, 2-25-2008; Ord. No. 45(3rd series), § 6, 2-25-2008; Ord. No. 79(3rd series), § 7, 11-8-2010; Ord. No. 82(3rd series), § 18, 12-13-2010; Ord. No. 90(3rd series), § 7, 12-12-2011; Ord. No. 100(3rd series), § 4, 2-25-2013; Ord. No. 224(3rd series), § 6, 6-10-2019; Ord. No. 257(3rd series), § 8, 5-10-2021; Ord. No. 279(3rd series), § 18, 11-14-2022)

Sec. 6.12.1630. Accessory uses.

Within any LR-1C-1 One-Family Lakeshore Residential District, the only permitted accessory uses and structures are the following:

(1) Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary for such constructing.

(2) Driveways, sidewalks and parking spaces.

(3) Detached private garages and buildings subject to the performance standards of this chapter.

(4) Private docks, subject to this code and other applicable regulations, including boat storage density requirements. The accessory use of a private dock shall not include renting space.

(5) Kennel structures and dog runs, subject to the provisions of chapter 5.28, article III.

(6) Fencing, subject to the provisions of section 6.12.6940(a)(9).

(7) Signs, as regulated in this chapter.

(8) Flagpoles, subject to accessory structure location and height requirements of this chapter.

(9) Gardening and other horticultural uses, including arbors, trellises, aviaries and decorative landscape features, and lawn sprinkler systems.

(10) Compost structures and firewood piles, subject to the accessory structure location requirements of this chapter.

(11) Home occupations, as defined in this chapter. All home occupations shall comply with the provisions of section 6.12.6810, and the licensing provisions of section 4.04.310, when applicable.

(12) One temporary roadside stand offering for sale only farm products produced on the premises, provided such stand does not exceed 200 square feet in area and is located at least 30 feet back from the public right-of-way.

(13) Storage of recreational vehicles and equipment such as RVs, boats, snowmobiles, etc., subject to the provisions of sections 6.12.7510 through 6.12.7550 and 6.12.7820. Ice fishing houses and similar structures equipped with wheels or mounted on a trailer shall be regulated as recreational vehicles. Ice fishing houses and similar structures not equipped with wheels or mounted on a trailer shall be regulated as accessory buildings and subject to accessory building regulations.

(14) Garage sales, yard sales, estate sales or rummage sales, limited to a maximum of four consecutive days and occurring no more than two times within one calendar year per property; and sales of personal or recreational vehicles and equipment, limited to no more than two items per calendar year, and such items for sale shall not be parked in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.

(15) Laundry drying equipment.

(16) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(17) Apiaries when:

a. The property consists of a minimum of two acres in land area.

b. Maximum of six hives are permitted per acre of land.

c. All structures associated with honeybees must follow the accessory structure setbacks.

(18) Accessory dwelling units.

(Code 1984, §§ 10.20(4), 10.25(5), 10.26(2); Code 2003, § 78-368; Ord. No. 161(2nd series), § 6, 6-7-1997; Ord. No. 221(2nd series), § 3, 9-23-2002; Ord. No. 82(3rd series), § 19, 12-13-2010; Ord. No. 93(3rd series), § 4, 6-25-2012; Ord. No. 96(3rd series), § 3(3.01, 3.02), 11-13-2012; Ord. No. 106(3rd series), § 8, 6-10-2013; Ord. No. 222(3rd series), § 12, 12-10-2018; Ord. No. 264(3rd series), § 5, 11-22-2021; Ord. No. 279(3rd series), § 19, 11-14-2022)

Sec. 6.12.1640. Increased density requirements.

Within any LR-1C-1 One-Family Lakeshore Residential District, a credit allowing a 50 percent increase in dwelling unit density over the LR-1C district may be obtained providing all the following conditions are complied with:

(1) All provisions of division 10 of this article are complied with.

(2) Public sanitary sewer is available.

(3) All dwelling units must be attached, but no more than four dwelling units to any one structure with a maximum height of 30 feet.

(4) Parcels of land lying beyond 100 feet from any shoreline shall not have more than 35 percent of the land area to be developed made impervious by buildings, blacktop, or other forms of hard cover.

(5) Building size and location meet council approval.

(6) Vehicle ingress and egress meet council approval.

(7) A minimum of two parking spaces are provided for each dwelling unit; one of the parking spaces shall be enclosed and attached to the principal structure it serves.

(8) Density provisions under article X, division 6 of this chapter are not exceeded.

(Code 1984, § 10.26(3); Code 2003, § 78-369)

Sec. 6.12.1650. Area, height, lot width, setback, and yard requirements.

(a) The following minimum requirements shall be observed:

(1) Dimensional requirements:

a. Lot area (minimum): 0.5 acre.

b. Lot width (minimum): 100 feet.

(2) Height: maximum 30 feet defined height; accessory buildings may not exceed the height of the principal building.

Setbacks	*Street/Front (feet)*	*Interior Side (feet)*	*Side Street (feet)*	*Rear/Street (feet)*	*OHWL[1] (feet)*	*Wetland (feet)*
Principal building	30	10	15	30	75/100/150 + ALS	25 or MCWD buffer
Accessory building (AB) <1,000 sf	30	10	15	10	75/100/150 + ALS	25 or MCWD buffer
Oversize accessory building (OAB) >1,000 sf	30	10	15	30	75/100/150 + ALS	25 or MCWD buffer
Accessory structures (AS)	15	10	15	10	75/100/150 + ALS	25 or MCWD buffer

[1] OHWL setback is determined by the classification of the lake as defined in section 6.12.5970 and the applied minimum setback from the OHWL as outlined in section 6.12.6240.

(b) Exceptions.

(1) *Side yard setback.* For lots that are nonconforming as to their width, the interior side yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be the lesser of ten feet or equal to ten percent of the lot width as defined. However, in no case shall the side yard setback be less than 7.5 feet.

(2) *Side yards adjacent to unimproved rights-of-way.* In any residential district, the setback for side yards adjacent to unimproved rights-of-way shall be the same as the applicable interior side yard setback. Unimproved in this section shall be interpreted to mean not improved or maintained by the city or county for vehicular travel.

(3) *Front yard setback.* For lots that are nonconforming with respect to area the minimum front yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be equal to the average depth of the existing front yards on the adjacent lots on each side of the nonconforming lot fronting on the same street. However, the depth of such front yard shall not be less than ten feet.

(Code 1984, §§ 10.25(6), 10.26(4); Code 2003, § 78-370; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 7, 6-27-2016; Ord. No. 222(3rd series), § 13, 12-10-2018; Ord. No. 299(3rd series), § 7, 3-11-2024)

Division 5. RR-1A One-Family Rural Residential District

Sec. 6.12.1710. Purpose.

The RR-1A One-Family Rural Residential District is intended to provide a district which will allow a combination of low-density residential development and limited agricultural activity. (Code 1984, § 10.27(1); Code 2003, § 78-391)

Sec. 6.12.1720. Permitted uses.

Within any RR-1A One-Family Rural Residential District, no land or structures shall be used except for one or more of the following uses:

(1) City-owned public service structures that have been approved by the city council after the required public hearings for public improvement projects, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use.

b. The architectural design of the structure is found to be compatible with the surrounding area.

(2) Municipal buildings.

(3) One-family detached dwellings.

(4) Publicly owned parks and playgrounds.

(Code 1984, §§ 10.20(2), 10.27(2); Code 2003, § 78-392; Ord. No. 44(3rd series), § 7, 2-25-2008; Ord. No. 82(3rd series), § 20, 12-13-2010; Ord. No. 90(3rd series), § 8, 12-12-2011; Ord. No. 210(3rd series), § 10, 6-25-2018; Ord. No. 233(3rd series), § 7, 10-14-2019; Ord. No. 279(3rd series), § 20, 11-14-2022)

State law reference—State mandated permitted uses, Minn. Stats. § 462.357, subd. 7.

Sec. 6.12.1730. Conditional uses.

Within any RR-1A One-Family Rural Residential District, no structure or land shall be used for the following uses without a conditional use permit.

(1) Golf courses, country clubs, tennis clubs, non-profit camps, and religious camps, provided that:

a. All principal buildings are located at least 100 feet from any adjacent property zoned for residential use.

b. All accessory buildings and structures more than six feet in height are located at least 50 feet from any adjacent property zoned for residential use.

(2) Personal wireless service antennas. Personal wireless service antennas erected on a municipal structure other than a water tower may be allowed as a conditional use if they meet the following criteria:

a. Such antennas must be in compliance with the city policy regarding

the use of city-owned property for wireless telecommunication antennas;

b. Such antennas must meet the conditions listed for personal wireless service antennas as a permitted use in the LR-1C zoning district.

c. Such antennas may be located in the following locations:

1. Co-located on an existing city emergency warning siren tower.

2. Co-located on a replacement city emergency warning siren tower, with a height not to exceed 75 feet.

3. Co-located on a new city emergency warning siren tower, at a location that meets the city's emergency warning needs, with a height not to exceed 75 feet.

d. Such antennas shall meet the following performance standards:

1. The antennas must be located on the existing emergency warning sirens poles, unless the height of the existing pole, or the capacity of the existing pole to support both the siren and the antenna is inadequate to minimally meet the needs of the carrier. In this case, the carrier may be allowed to install a replacement tower that will accommodate both the emergency warning siren and the telecommunications antenna. The existing emergency siren towers can be replaced with towers with a maximum height of 75 feet, with the condition that the tower accommodates both the emergency warning siren and the telecommunications antenna. The city may also require the tower to have the capability of accommodating one additional carrier's antenna.

2. A new emergency warning siren tower location, selected by the city to meet its emergency warning needs, could also be used as a telecommunications antenna site through co-location of the warning siren and antenna. The standards set out in subsection (2)d.1 of this section also apply to a siren tower in a new location.

3. The height of a tower can be no higher than the minimum height required to address a gap in coverage.

4. The setback of a tower from a property line must, at minimum, be equal to the height of the tower, except where an existing emergency warning siren is located on a site that does not enable this setback to be provided.

5. A carrier must demonstrate through an engineering analysis that there is a gap in coverage.

6. At the city's discretion, a tower must be designed to structurally enable co-location by another carrier, and the carrier must agree to allow co-location.

7. The carrier must provide computer-generated photos showing the views (as selected by the city) with and without the tower.

8. All consultant analysis and legal analysis related to the towers and the lease of the towers shall be paid by the carrier.

9. The carrier is required to provide coverage maps to

demonstrate the specific gap in coverage and need for an additional tower and antenna, and to demonstrate there are no existing tower options within a radius of two miles that could accommodate the carrier's antenna needs.

10. The size of the cabinets on the ground needed to house the support equipment for the antennas is limited to the minimum necessary size, as determined by the city council. Appropriate vegetative screening of ground cabinets shall be provided by the carrier, subject to approval by the city council. The council at its discretion may allow the use of non-vegetative screening methods such as berming, fencing, etc.

11. Stealth-type antennas (cylindrical), versus an array of panels, are required if the technology is available.

12. Only monopole towers are allowed.

(3) Places of worship, provided that all buildings and structures, except columbaria, are located at least 50 feet from any adjacent property zoned for residential use.

(4) Planned residential development, limited to detached single-family dwellings only and subject to the limitations of division 10 of this article.

(5) Public service structures, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use; and

b. The architectural design of the structure is compatible with the architectural design of the surrounding area.

(6) Public stables and barns, provided that:

a. The public stable or barn is accessory to a residential use.

b. Such structures are located at least 150 feet from the nearest lot line.

(7) Riding academy, provided that:

a. It is accessory to a residential use.

b. It is operated by an owner or resident of the property.

c. The number of horses and farm animals may not exceed the limitations of section 6.12.1840(6).

d. No instruction occurs less than 100 feet from a residence on an adjacent property or less than 75 feet from the lot line.

(8) Schools, day care centers, and uses accessory to a high school.

a. Pre-kindergarten, primary and secondary public schools and private schools with a curriculum similar to a pre-kindergarten, primary or secondary school. Schools may include before and after school care for students.

b. Day care centers, nursery schools and similar programs that are not associated with a public or private school and serve pre-kindergarten children.

c. Indoor ice arenas accessory to a high school provided the arena, including accessory uses, is:

1. Located on the same tax parcel as the high school to which it is accessory and is owned by the local school district;

2. Not separated from the high school building by a public road;

3. Operated by the school district or by a nonprofit organization; and

4. All structures are located at least 50 feet from any adjacent property zoned for residential use.

(9) Stock farms, provided that:

a. Excluding wetlands and wetland buffers as defined in sections 6.12.8110 and 6.12.8210, there are a minimum of ten acres of land devoted to the keeping of animals and the animal density is no more than two animal units an acre on the land devoted to keeping the animals.

b. No dwellings are permitted except one for the property owner or the operator of the farm.

c. No accessory buildings or structures are permitted other than those allowed for a residential use.

(10) Wholesale green houses, provided that:

a. All outside storage is fenced so as to screen the stored material from view when observed from all public streets or adjoining lots.

b. Greenhouse structures are not located in a required yard area.

c. There are no dwellings on the property, except one for the owner or operator of the wholesale greenhouse.

d. There are no accessory buildings or structures other than those allowed for a residential use.

(11) Columbaria, provided that all portions of columbaria located at or below ground shall be located at least five feet from any adjacent lot line and at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use. All portions of columbaria located above ground shall meet the following standards:

a. Located at least ten feet from property boundaries.

b. Located at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use.

c. Located at least ten feet from the edge of the paved, traveled roadway.

d. Shall not exceed eight feet in height including any appurtenances.

e. Direct views from all adjoining residential parcels shall be buffered by appropriate means.

(Code 1984, §§ 10.20(3), 10.27; Code 2003, § 78-393; Ord. No. 145(2nd series), § 1, 3-11-1996; Ord. No. 161(2nd series), §§ 3, 4, 6-7-1997; Ord. No. 179(2nd series), § 2, 10-12-1998; Ord. No. 226(2nd series), § 2, 5-27-2003; Ord. No. 44(3rd series), § 7, 2-25-2008; Ord. No. 45(3rd series), § 7, 2-25-2008; Ord. No. 79(3rd series), § 8, 11-8-2010; Ord. No. 82(3rd series), § 21, 12-13-2010; Ord. No. 89(3rd series), § 1, 11-28-2011; Ord. No. 224(3rd series), § 7, 6-10-2019; Ord. No. 257(3rd series), § 9, 5-10-2021; Ord. No. 279(3rd series), § 21, 11-14-2022)

Sec. 6.12.1740. Accessory uses.

Within any RR-1A One-Family Rural Residential District, the only permitted accessory uses and structures are the following:

(1) Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary for such constructing.

(2) Driveways, sidewalks and parking spaces.

(3) Detached private garages and buildings subject to the performance standards of this chapter.

(4) Farm animal structures and enclosures such as barns, chicken coops, paddocks and arenas, horse loafing sheds, etc.

(5) Keeping of farm animals for noncommercial purposes and for the use of the occupants of premises, provided that:

a. For the keeping of horses, there must be at least one acre for the dwelling and two acres of open

pasture for the first horse. For the keeping of more than one horse, the property must have one additional acre of open pasture for each additional horse. Calculations of minimum pasture acreage shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

b. For the keeping of farm animals other than horses, there must be at least one acre for the dwelling and one acre for each animal unit. Calculations of minimum acreage required shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

c. Any building or structure associated with the animals is located more than 150 feet from the nearest adjacent residence and at least 75 feet from the nearest lot line.

d. The use is operated in compliance with chapter 5.28.

(6) Kennel structures and dog runs, subject to the provisions of chapter 5.28, article III.

(7) Fencing, subject to the provisions of section 6.12.6940(a)(9).

(8) Signs, as regulated in this chapter.

(9) Flagpoles, subject to accessory structure location and height requirements of this chapter.

(10) Gardening and other horticultural uses, including arbors, trellises, aviaries and decorative landscape features, and lawn sprinkler systems.

(11) Compost structures and firewood piles, subject to the accessory structure location requirements of this chapter.

(12) Home occupations, as defined in this chapter. All home occupations shall comply with the provisions of section 6.12.6810, and the licensing provisions of section 4.04.310, when applicable.

(13) One temporary roadside stand offering for sale only farm products produced on the premises, provided such stand does not exceed 200 square feet in area and is located at least 30 feet back from the public right-of-way.

(14) Storage of recreational vehicles and equipment such as RVs, boats, snowmobiles, etc., subject to the provisions of sections 6.12.7510 through 6.12.7550 and 6.12.7820. Ice fishing houses and similar structures equipped with wheels or mounted on a trailer shall be regulated as recreational vehicles. Ice fishing houses and similar structures not equipped with wheels or mounted on a trailer shall be regulated as accessory buildings and subject to accessory building regulations.

(15) Garage sales, yard sales, estate sales or rummage sales, limited to a maximum of four consecutive days and occurring no more than two times within one calendar year per property; and sales of personal or recreational vehicles and equipment, limited to no more than two items per calendar year, and such items for sale shall not be parked in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.

(16) Laundry drying equipment.

(17) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(18) Apiaries when:

a. The property consists of a minimum of two acres in land area.

b. Maximum of six hives are permitted per acre of land.

c. All structures associated with honeybees must follow the accessory structure setbacks.

(19) Accessory dwelling units.

(Code 1984, §§ 10.20(3)(M), (3)(N), (4), 10.27(4); Code 2003, § 78-3394; Ord. No. 161(2nd series), § 6, 6-7-1997; Ord. No. 221(2nd series), § 3,

9-23-2002; Ord. No. 28(3rd series), § 9, 8-22-2005; Ord. No. 82(3rd series), § 22, 12-13-2010; Ord. No. 96(3rd series), § 3(3.01, 3.02), 11-13-2012; Ord. No. 100(3rd series), § 5, 2-25-2013; Ord. No. 106(3rd series), § 9, 6-10-2013; Ord. No. 222(3rd series), § 14, 12-10-2018; Ord. No. 264(3rd series), § 6, 11-22-2021; Ord. No. 279(3rd series), § 22, 11-14-2022)

Sec. 6.12.1750. Area, height, lot width, setback, and yard requirements.

(a) The following minimum requirements shall be observed:

(1) Dimensional requirements:

a. Lot area (minimum): 5.0 acres.

b. Lot width (minimum): 300 feet.

(2) Height: maximum 30 feet defined height.

Setbacks	*Street / Front (feet)*	*Interior Side (feet)*	*Side Street (feet)*	*Rear / Street (feet)*	*OHWL [1] (feet)*	*Wetland (feet)*
Principal building	100	50	100	100	75/100/150 + ALS	25 or MCWD buffer
Accessory building (AB) <1,000 sf	100	20	100	20	75/100/150 + ALS	25 or MCWD buffer
Oversize accessory building (OAB) >1,000 sf	100	50	100	100	75/100/150 + ALS	25 or MCWD buffer
Accessory structures (AS)	50	20	50	20	75/100/150 + ALS	25 or MCWD buffer

[1] OHWL setback is determined by the classification of the lake as defined in section 6.12.5970 and the applied minimum setback from the OHWL as outlined in section 6.12.6240.

(b) Exceptions:

(1) *Side yards adjacent to unimproved rights-of-way.* In any residential district, the setback for side yards adjacent to unimproved rights-of-way shall be the same as the applicable interior side yard setback. Unimproved in this section shall be interpreted to mean not improved or maintained by the city or county for vehicular travel.

(2) *Front yard setback.* For lots that are nonconforming with respect to area the minimum front yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be equal to the average depth of the existing front yards on the adjacent lots on each side of the nonconforming lot fronting on the same street. However, the depth of such front yard shall not be less than ten feet.

(Code 1984, § 10.27(5); Code 2003, § 78-395; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 8, 6-27-2016; Ord. No. 222(3rd series), § 15, 12-10-2018; Ord. No. 278(3rd series), § 1, 10-10-2022; Ord. No. 299(3rd series), § 8, 3-11-2024)

Division 6. RR-1B One-Family Rural Residential District

Sec. 6.12.1810. Purpose.

The RR-1B One-Family Rural Residential District is intended to provide a district which will allow a combination of low-density residential development and limited agricultural activity. (Code 1984, § 10.28(1); Code 2003, § 78-416)

Sec. 6.12.1820. Permitted uses.

Within any RR-1B One-Family Rural Residential District, no land or structures shall be used except for one or more of the following uses:

(1) City-owned public service structures that have been approved by the city council after the required public hearings for public improvement projects, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use.

b. The architectural design of the structure is found to be compatible with the surrounding area.

(2) Community gardens located on city property. For the purposes of this chapter, community gardens shall mean vegetable or flower gardens operating on city property by the city or with an approved license agreement authorized by the city council.

(3) Municipal buildings.

(4) One-family detached dwellings.

(5) Personal wireless service antennas and towers.

a. *Purpose and intent.* The purpose of this subsection is to establish predictable, balanced regulations for the siting and screening of wireless communications equipment in order to accommodate the growth of wireless communication systems within the city while protecting the public against any adverse impacts on the city's aesthetic resources and the public welfare.

b. *Personal wireless service antennas.* Personal wireless service antennas erected on a municipal water tower may be allowed as a secondary use by administrative permit, provided they comply with the city policy regarding the use of city-owned property for wireless telecommunication antennas and provided they meet the following conditions:

1. The antenna shall be in compliance with the state building code and all other applicable federal and state regulations and permits.

2. Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications and shall be verified and approved by a registered professional engineer.

3. No advertising message shall be affixed to the antenna.

4. Antennas shall not be artificially illuminated unless required by law or by the Federal Aviation Administration (FAA) to protect the public's health and safety.

5. When applicable, proposals to erect new antennas shall be accompanied by any required federal, state, or local agency licenses.

6. Transmitting, receiving, and switching equipment shall be housed within the existing structure. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of

the principal use and shall be screened from view by landscaping.

7. All obsolete and unused antennas shall be removed within 12 months of cessation of operation at the site, unless an exemption is granted by the city administrator or designee. The removal shall be the responsibility of the communication provider.

8. Antennas shall utilize camouflaging techniques or shall be side-mounted to an antenna support structure in order that such facilities are compatible with the character and environment of the area in which they are located.

9. The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis prepared by a registered professional engineer that the location of the antenna as proposed is necessary to meet the frequency spacing needs of the personal wireless service system and to provide adequate portable personal wireless service coverage and capacity to the area.

(6) Publicly owned parks and playgrounds.

(7) Schools on lots 15 acres in size or greater.

a. Schools may include pre-kindergarten, primary and secondary public schools and private schools with a curriculum similar to a pre-kindergarten, primary or secondary school. Schools may include before and after school care for students. Schools are activity centers in the community requiring flexible application of ordinances including special events, uses, number and size of structures. In all cases, schools shall be developed and utilized consistent with the intent of the community management plan, wetland, shoreland, and floodplain regulations, and not adversely affect adjacent property.

b. Uses and structures accessory to a school may include garages, shelters, dugouts, press boxes, storage sheds, parking, sport courts and fields, bleachers, scoreboards and lighting less than 30 feet from grade and any other items customary and incidental to a school.

c. Indoor ice arenas accessory to a high school provided the arena, including accessory uses, is:

1. Located on the same tax parcel as the high school to which it is accessory and is owned by the local school district;

2. Not separated from the high school building by a public road;

3. Operated by the school district or by a nonprofit organization; and

4. All structures are located at least 50 feet from any adjacent property zoned for residential use.

(Code 1984, §§ 10.20(2), 10.28(2); Code 2003, § 78-417; Ord. No. 161(2nd series), § 7, 6-7-1997; Ord. No. 226(2nd series), § 1, 5-27-2003; Ord. No. 44(3rd series), § 8, 2-25-2008; Ord. No. 82(3rd series), § 23, 12-13-2010; Ord. No. 90(3rd series), § 9, 12-12-2011; Ord. No. 198(3rd series), § 1, 6-12-2017; Ord. No. 210(3rd series), § 11, 6-25-2018; Ord. No. 233(3rd series), § 8, 10-14-2019; Ord. No. 279(3rd series), § 23, 11-14-2022)

State law reference—State mandated permitted uses, Minn. Stats. § 462.357, subd. 7.

Sec. 6.12.1830. Conditional uses.

Within any RR-1B One-Family Rural Residential District, no structure or land shall be used for the following uses without a conditional use permit:

(1) Golf courses, country clubs, tennis clubs, non-profit camps, and religious camps, provided that:

a. All principal buildings are located at least 100 feet from any adjacent property zoned for residential use.

b. All accessory buildings and structures more than six feet in height are located at least 50 feet from any adjacent property zoned for residential use.

(2) Personal wireless service antennas. Personal wireless service antennas erected on a municipal structure other than a water tower may be allowed as a conditional use if they meet the following criteria:

a. Such antennas must be in compliance with the city policy regarding the use of city-owned property for wireless telecommunication antennas;

b. Such antennas must meet the conditions listed for personal wireless service antennas as a permitted use in the LR-1C zoning district.

c. Such antennas may be located in the following locations:

1. Co-located on an existing city emergency warning siren tower.

2. Co-located on a replacement city emergency warning siren tower, with a height not to exceed 75 feet.

3. Co-located on a new city emergency warning siren tower, at a location that meets the city's emergency warning needs, with a height not to exceed 75 feet.

d. Such antennas shall meet the following performance standards:

1. The antennas must be located on the existing emergency warning sirens poles, unless the height of the existing pole, or the capacity of the existing pole to support both the siren and the antenna is inadequate to minimally meet the needs of the carrier. In this case, the carrier may be allowed to install a replacement tower that will accommodate both the emergency warning siren and the telecommunications antenna. The existing emergency siren towers can be replaced with towers with a maximum height of 75 feet, with the condition that the tower accommodates both the emergency warning siren and the telecommunications antenna. The city may also require the tower to have the capability of accommodating one additional carrier's antenna.

2. A new emergency warning siren tower location, selected by the city to meet its emergency warning needs, could also be used as a telecommunications antenna site through co-location of the warning siren and antenna. The standards set out in subsection (2)d.1 of this section also apply to a siren tower in a new location.

3. The height of a tower can be no higher than the minimum height required to address a gap in coverage.

4. The setback of a tower from a property line must, at minimum, be equal to the height of the tower, except where an existing emergency

warning siren is located on a site that does not enable this setback to be provided.

5. A carrier must demonstrate through an engineering analysis that there is a gap in coverage.

6. At the city's discretion, a tower must be designed to structurally enable co-location by another carrier, and the carrier must agree to allow co-location.

7. The carrier must provide computer-generated photos showing the views (as selected by the city) with and without the tower.

8. All consultant analysis and legal analysis related to the towers and the lease of the towers shall be paid by the carrier.

9. The carrier is required to provide coverage maps to demonstrate the specific gap in coverage and need for an additional tower and antenna, and to demonstrate there are no existing tower options within a radius of two miles that could accommodate the carrier's antenna needs.

10. The size of the cabinets on the ground needed to house the support equipment for the antennas is limited to the minimum necessary size, as determined by the city council. Appropriate vegetative screening of ground cabinets shall be provided by the carrier, subject to approval by the city council. The council at its discretion may allow the use of non-vegetative screening methods such as berming, fencing, etc.

11. Stealth-type antennas (cylindrical), versus an array of panels, are required if the technology is available.

12. Only monopole towers are allowed.

(3) Places of worship, provided that all buildings and structures, except columbaria, are located at least 50 feet from any adjacent property zoned for residential use.

(4) Planned residential development, limited to detached single-family dwellings only and subject to the limitations of division 10 of this article.

(5) Public libraries, provided that all buildings are located at least 50 feet from any adjacent property zoned for residential use.

(6) Public service structures, provided that:

a. All buildings are located at least 50 feet from any adjacent property zoned for residential use; and

b. The architectural design of the structure is compatible with the architectural design of the surrounding area.

(7) Public stables and barns, provided that:

a. The public stable or barn is accessory to a residential use.

b. Such structures are located at least 150 feet from the nearest lot line.

(8) Riding academy, provided that:

a. It is accessory to a residential use.

b. It is operated by an owner or resident of the property.

c. The number of horses and farm animals may not exceed the limitations of section 6.12.1840(5).

d. No instruction occurs less than 100 feet from a residence on an adjacent property or less than 75 feet from the lot line.

(9) Schools, day care centers, and uses accessory to a high school on lots less than 15 acres.

a. Pre-kindergarten, primary and secondary public schools and private schools with a curriculum similar to a pre-kindergarten, primary or secondary school. Schools may include before and after school care for students.

b. Day care centers, nursery schools and similar programs that are not associated with a public or private school and serve pre-kindergarten children.

c. Indoor ice arenas accessory to a high school provided the arena, including accessory uses, is:

1. Located on the same tax parcel as the high school to which it is accessory and is owned by the local school district;

2. Not separated from the high school building by a public road;

3. Operated by the school district or by a nonprofit organization; and

4. All structures are located at least 50 feet from any adjacent property zoned for residential use.

(10) Stock farms, provided that:

a. Excluding wetlands and wetland buffers as defined in sections 6.12.8110 and 6.12.8210, there are a minimum often ten acres of land devoted to the keeping of animals and the animal density is no more than two animal units an acre on the land devoted to keeping the animals.

b. No dwellings are permitted except one for the property owner or the operator of the farm.

c. No accessory buildings or structures are permitted other than those allowed for a residential use.

(11) Wholesale green houses, provided that:

a. All outside storage is fenced so as to screen the stored material from view when observed from all public streets or adjoining lots.

b. Greenhouse structures are not located in a required yard area.

c. There are no dwellings on the property, except one for the owner or operator of the wholesale greenhouse.

d. There are no accessory buildings or structures other than those allowed for a residential use.

(12) Columbaria, provided that all portions of columbaria located at or below ground shall be located at least five feet from any adjacent lot line and at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use. All portions of columbaria located above ground shall meet the following standards:

a. Located at least ten feet from property boundaries.

b. Located at least 50 feet from principal structures located on any adjacent property, whether such property is zoned for residential or nonresidential use.

c. Located at least ten feet from the edge of the paved, traveled roadway.

d. Shall not exceed eight feet in height including any appurtenances.

e. Direct views from all adjoining residential parcels shall be buffered by appropriate means.

(13) Lighting where the light source is greater than 30 feet from grade.

(Code 1984, §§ 10.20(3), 10.28(3); Code 2003, § 78-418; Ord. No. 145(2nd series), § 1, 3-11-1996; Ord. No. 161(2nd series), §§ 3, 4, 6-7-1997; Ord. No. 179(2nd series), § 2, 10-12-1998; Ord. No. 226(2nd series), § 2, 5-27-2003; Ord. No. 44(3rd series), § 8, 2-25-2008; Ord. No. 45(3rd

series), § 8, 2-25-2008; Ord. No. 79(3rd series), § 9, 11-8-2010; Ord. No. 82(3rd series), § 24, 12-13-2010; Ord. No. 89(3rd series), § 2, 11-28-2011; Ord. No. 198(3rd series), § 1, 6-12-2017; Ord. No. 224(3rd series), § 8, 6-10-2019; Ord. No. 257(3rd series), § 10, 5-10-2021; Ord. No. 279(3rd series), § 24, 11-14-2022)

Sec. 6.12.1840. Accessory uses.

Within any RR-1B One-Family Rural Residential District, the only permitted accessory uses and structures are the following:

(1) Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary for such constructing.

(2) Driveways, sidewalks and parking spaces.

(3) Detached private garages and buildings subject to the performance standards of this chapter.

(4) Farm animal structures and enclosures such as barns, chicken coops, paddocks and arenas, horse loafing sheds, etc.

(5) Keeping of farm animals for noncommercial purposes and for the use of the occupants of premises, provided that:

a. For the keeping of horses, there must be at least one acre for the dwelling and two acres of open pasture for the first horse. For the keeping of more than one horse, the property must have one additional acre of open pasture for each additional horse. Calculations of minimum pasture acreage shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

b. For the keeping of farm animals other than horses, there must be at least one acre for the dwelling and one acre for each animal unit. Calculations of minimum acreage required shall not include any land defined as a wetland or wetland buffer under section 6.12.8110.

c. Any building or structure associated with the animals is located more than 150 feet from the nearest adjacent residence and at least 75 feet from the nearest lot line.

d. The use is operated in compliance with chapter 5.28.

(6) Kennel structures and dog runs, subject to the provisions of chapter 5.28, article III.

(7) Fencing, subject to the provisions of section 6.12.6940(a)(9).

(8) Signs, as regulated in this chapter.

(9) Flagpoles, subject to accessory structure location and height requirements of this chapter.

(10) Gardening and other horticultural uses, including arbors, trellises, aviaries and decorative landscape features, and lawn sprinkler systems.

(11) Compost structures and firewood piles, subject to the accessory structure location requirements of this chapter.

(12) Home occupations, as defined in this chapter. All home occupations shall comply with the provisions of section 6.12.6810, and the licensing provisions of section 4.04.310, when applicable.

(13) One temporary roadside stand offering for sale only farm products produced on the premises, provided such stand does not exceed 200 square feet in area and is located at least 30 feet back from the public right-of-way.

(14) Storage of recreational vehicles and equipment such as RVs, boats, snowmobiles, etc., subject to the provisions of sections 6.12.7510 through 6.12.7550 and 6.12.7820. Ice fishing houses and similar structures equipped with wheels or mounted on a trailer shall be regulated as recreational vehicles. Ice fishing houses and similar structures not equipped with wheels or mounted on a trailer shall be regulated as accessory buildings and subject to accessory building regulations.

(15) Garage sales, yard sales, estate sales or rummage sales, limited to a maximum of four consecutive days and occurring no more than two times within one calendar year per property; and sales of personal or recreational vehicles and equipment, limited to no more than two items per calendar year, and such items for sale shall not be parked in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.

(16) Laundry drying equipment.

(17) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(18) Apiaries when:

a. The property consists of a minimum of two acres in land area.

b. Maximum of six hives are permitted per acre of land.

c. All structures associated with honeybees must follow the accessory structure setbacks.

(19) Accessory dwelling units.

(Code 1984, §§ 10.20(3)(M), (3)(N), (4), 10.28(4); Code 2003, § 78-419; Ord. No. 161(2nd series), § 6, 6-7-1997; Ord. No. 221(2nd series), § 3, 9-23-2002; Ord. No. 28(3rd series), § 10, 8-22-2005; Ord. No. 82(3rd series), § 25, 12-13-2010; Ord. No. 96(3rd series), § 3(3.01, 3.02), 11-13-2012; Ord. No. 100(3rd series), § 6, 2-25-2013; Ord. No. 106(3rd series), § 10, 6-10-2013; Ord. No. 222(3rd series), § 16, 12-10-2018; Ord. No. 264(3rd series), § 7, 11-22-2021; Ord. No. 279(3rd series), § 25, 11-14-2022)

Sec. 6.12.1850. Area, height, lot width, setback, and yard requirements.

(a) The following minimum requirements shall be observed:

(1) Dimensional requirements:

a. Lot area (minimum): 2.0 acres.

b. Lot width (minimum): 200 feet.

(2) Height: maximum 30 feet defined height.

Setbacks	*Street / Front (feet)*	*Interior Side (feet)*	*Side Street (feet)*	*Rear / Street (feet)*	*OHWL[1] (feet)*	*Wetland (feet)*
Principal building	50	30	30	50	75/100/150 + ALS	25 or MCWD buffer
Accessory building (AB) <1,000 sf	50	15	30	15	75/100/150 + ALS	25 or MCWD buffer
Oversize accessory building (OAB) >1,000 sf	50	30	30	50	75/100/150 + ALS	25 or MCWD buffer
Accessory structures (AS)	25	15	15	15	75/100/150 + ALS	25 or MCWD buffer

[1] OHWL setback is determined by the classification of the lake as defined in section 6.12.5970 and the applied minimum setback from the OHWL as outlined in section 6.12.6240.

(b) Exceptions.

(1) *Side yard setback.* For lots that are nonconforming as to their width, the interior side yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be the lesser of 30 feet or equal to ten percent of the lot width as defined. However, in no case shall the side yard setback be less than ten feet.

(2) *Side yards adjacent to unimproved rights-of-way.* In any residential district, the setback for side yards adjacent to unimproved rights-of-way shall be the same as the applicable interior side yard setback. Unimproved in this section shall be interpreted to mean not improved or maintained by the city or county for vehicular travel.

(3) *Front yard setback.* For lots that are nonconforming with respect to area the minimum front yard setback for the principal building, and accessory buildings less than 1,000 square feet, shall be equal to the average depth of the existing front yards on the adjacent lots on each side of the nonconforming lot fronting on the same street. However, the depth of such front yard shall not be less than ten feet.

(Code 1984, § 10.28(5); Code 2003, § 78-420; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 9, 6-27-2016; Ord. No. 199(3rd series), § 5, 6-12-2017; Ord. No. 222(3rd series), § 17, 12-10-2018; Ord. No. 278(3rd series), § 2, 10-10-2022; Ord. No. 299(3rd series), § 9, 3-11-2024)

Sec. 6.12.1860. Interim uses.

Within any RR-1B One-Family Rural Residential District, no structure or land shall be used for the following uses unless an interim use permit has been issued in accordance with the provisions of article XIV of this chapter:

(1) Temporary facilities for construction staging, materials and equipment storage, and materials recycling, when such facilities are associated with adjacent public road construction or reconstruction projects in the city.

a. Time limit. The facility must be completely removed and the site returned to its original state or better within six months of project completion.

b. The applicant shall submit plans indicating the site layout, scheduling and timing of the use, and the routes for trucks hauling materials to and from the site.

c. The applicant shall adhere to all city and other agency requirements for site and adjacent road maintenance, and traffic control measures.

(Code 2003, § 78-421; Ord. No. 195(3rd series), § 1, 5-8-2017)

Division 7. RS Seasonal Recreational District

Sec. 6.12.1910. Purpose.

The RS Seasonal Recreational District is intended to provide a district which will allow a low-density seasonal form of residential development or recreational activity on the three Lake Minnetonka islands within the city. Big Island, Mahpiyata Island and Deering Island are totally surrounded by water. Special problems exist because of their isolated location and because there is no direct access by land or bridge. Transportation is difficult, dangerous and slow, especially in fall or spring when the ice is forming or melting. Engineering, financial, administrative and practical difficulties prevent servicing the islands with sewer or water utilities, garbage collection, or complete police, fire, medical emergency or other municipal services. The islands have historically been used for summer cabins, camping spots, temporary boat landings and a disabled veterans' summer camp. As long as this usage remains minimal, public health and safety is reasonably maintained. But development forecasts indicate increasing pressures for more intensive usage that could easily exceed the city's public service capabilities. For these reasons, the city's comprehensive plans have long-established policies encouraging eventual public ownership of the islands as recreational resources for general lake users. In addition, limited private seasonal recreational use would be allowed to continue indefinitely, subject to strict conformance with special health and safety standards. The RS district is established to implement these special planning policies.

(Code 1984, § 10.31(1); Code 2003, § 78-561)

Sec. 6.12.1920. Future amendments.

The RS district regulations represent an innovative attempt to solve the unique problems relat-

ing to historic use and previously platted substandard lots on the islands while at the same time assuring the property owners of continued reasonable use of their property. It may be found by subsequent city councils that this division was not restrictive enough to protect the health, safety and welfare of the citizens and that new development potential granted to property owners by this division may have to be modified. Therefore, no new development rights granted by this division shall be deemed to be vested property rights but shall remain subject to future modification by the city.
(Code 1984, § 10.31(19); Code 2003, § 78-562)

Sec. 6.12.1930. Nonconformities.

(a) *Nonconforming uses.*

(1) No new use of land or structures shall be permitted in the RS district except in compliance with this division. All existing uses of land or structures which may be made nonconforming by adoption of the ordinance from which this division is derived shall be discontinued and/or made to be in full compliance with all use and performance standard requirements of this division within a period of seven years from the date of adoption, not to extend later than January 1, 1990.

(2) Upon notice of record lot classification pursuant to section 6.12.1980(1) and within six months of January 13, 1983, any record lot owner may apply to the council with no application fee required for a variance to this section to allow a continued nonconforming use, subject to reasonable standards and timetables, established by the council for compliance with on-site sewage treatment, private security, private fire protection and other performance standard requirements established by this division. The applicant shall demonstrate and the council shall find that the use is and was legally existing as of November 9, 1981, the effective date of the moratorium established by Ordinance No. 238. Failure to apply for such a variance within the time allowed shall be prima facie evidence that such a nonconforming use was either illegal or did not lawfully exist on that date.

(b) *Nonconforming substandard properties.* Restrictions applying to nonconforming uses shall not apply to record lots which are substandard in lot area or lot width but which are being used in conformance with this division:

(1) Record lots which are less than 2.0 acres in dry-buildable lot area and/or less than 200 feet in lot width became substandard lots on January 1, 1975, the effective date of Ordinance No. 172.

(2) Record lots, which are greater than 2.0 acres in dry-buildable lot area, but are less than 5.0 acres in dry-buildable lot area, became substandard lots on January 13, 1983.

(3) Substandard record lots may be used or developed pursuant to section 6.12.320(c).

(c) *Nonconforming substandard buildings or structures.* Restrictions applying to nonconforming uses shall not apply to existing buildings or structures which do not conform to location, height or hardcover limitations, but which are being used in conformance with this division. Existing buildings not conforming to the required minimum setbacks may continue to be used, repaired or maintained within the existing building envelope. These buildings may be enlarged vertically or horizontally within the required yard area without requiring a council-approved setback variance, provided:

(1) The addition conforms to all required setbacks, even if parts of the existing building do not.

(2) The addition extends an existing building line by not more than 20 feet and does not further encroach or reduce any required setback dimension less than already exists.

(3) The addition within the required setback area contains not more than 200 square feet, or 50 percent of the total existing building area, whichever is less.

(4) There shall be no setback exceptions permitted for addition to or enlargement of any accessory building or structure.

(5) There shall be no setback exceptions permitted that reduce any required setback to less than ten feet.

(6) There shall be no setback exceptions permitted for any horizontal building addition or hard cover increase of any kind within 75 feet of the shoreline or within a required wetland buffer or buffer setback.

(7) There shall be no setback exceptions permitted without a council-approved variance in cases where any existing building is being replaced by a new building, or where the proposed addition, remodeling and/or renovation work constitutes 50 percent or more of the assessor's fair market value for the existing building. In these situations, the new work shall conform to all required setbacks.

(8) The exceptions authorized by this section apply only to setback requirements and do not authorize variance of any lot area, hard cover, building height, building area or any other zoning or building code performance standard.

(Code 1984, § 10.31(16)—(18); Code 2003, § 78-563; Ord. No. 28(3rd series), § 12, 8-22-2005; Ord. No. 92(3rd series), § 2, 3-26-2012)

Sec. 6.12.1940. Permitted uses.

Within any RS Seasonal Recreational District, no land or structures shall be used except for any one of the following uses:

(1) One-family detached dwellings used for seasonal recreational use not to exceed 180 days in any one year, and not to be the owner's principal residence for homestead tax credit purposes.

(2) One-family seasonal recreational use of land without structures, or with accessory structures only, such as tent camping or day use only. Accessory structures permitted on land without a principal structure shall be limited to one or more of the following:

a. Docks conforming to city and LMCD code requirements.

b. Not more than one storage building not to exceed 120 square feet in area.

c. Fire rings or barbeque pits.

d. Open deck or screen house not to exceed 300 square feet in area.

e. Not more than one toilet building or outhouse, which must conform in location and design to the requirements of section 6.12.2040.

f. Tents or similar temporary structures to be in place not to exceed 180 days in any one year.

(3) Publicly owned and operated parks, nature areas or wildlife preserves, for day use only, when operated by the city, the Hennepin Park Reserve District or by the state department of natural resources. All dockage or structures shall remain subject to council review and approval.

(Code 1984, § 10.31(2); Code 2003, § 78-564; Ord. No. 90(3rd series), § 11, 12-12-2011; Ord. No. 233(3rd series), § 9, 10-14-2019)

Sec. 6.12.1950. Conditional uses.

Within any RS Seasonal Recreational District, no land or structures shall be used for the following uses except by conditional use permit:

(1) Principal dwellings. One-family detached dwellings used or occupied for 181 days or more in any one year, or any dwelling regardless of the duration of use for which the owner wishes to claim a principal residence homestead tax credit. A conditional use permit may be issued for such nonseasonal dwelling use, provided the applicant demonstrates and the council finds that the property is large enough to be permanently self-supporting in terms of water supply and sewage treatment, and that extra private

precautions are taken for fire protection and security of persons and property, as follows:

a. The minimum dry buildable record lot area required for approval of a principal dwelling conditional use permit without a variance shall be 5.0 acres. Approval of a principal dwelling conditional use permit on an existing record lot of less than 5.0 acres shall be subject to strict showing of compliance with health and sanitation performance standards.

b. An on-site sewage treatment system shall be provided in conformance with the requirements of section 6.12.2040.

c. A domestic water well shall be provided which conforms to current state health department regulations for depth, for setback from lake, wetland and sewage treatment system components, and which is capable of supplying domestic fire protection.

d. The dwelling shall be built or rebuilt to conform to current state building code requirements, including provision for a permanent foundation, a heating system and insulation conforming to energy code standards.

e. The dwelling shall be equipped with approved smoke detection devices, and with some form of manual or automatic fire extinguishing equipment.

f. The dwelling shall be provided with telephone service.

g. The lot or parcel shall be located directly on the shoreline or other access shall be available via a privately improved and maintained access to the shoreline.

h. All property in common ownership shall be combined into one tax parcel if contiguous; or if separated by public rights-of-way, a special lot combination form shall be executed and filed in the chain of title of each separate parcel.

(2) Guest cabins. Accessory separate dwellings or sleeping quarters containing indoor toilet and/or kitchen facilities located on the same lot, parcel or property as a permitted seasonal dwelling or as a conditionally permitted principal dwelling. A conditional use permit may be issued for one or more private guest cabins, provided the applicant demonstrates and the council finds that the additional living or sleeping facilities will not contribute to overcrowding or overuse of a small property or will not adversely affect neighboring properties, and that extra private precautions are taken for fire protection and security of persons and property, as follows:

a. Private guest cabins shall be used solely by the occupants of the seasonal or principal dwelling, including their domestic employees, caretakers or nonpaying guests. Private guest cabins shall not be rented or leased for compensation.

b. The minimum dry buildable record lot area required for approval of a private guest cabin conditional use permit without a variance shall be 5.0 acres. Approval of a private guest cabin conditional use permit on an existing record lot of less than 5.0 acres shall be subject to strict showing of compliance with health and sanitation performance standards.

c. The guest cabins and the seasonal or principal dwelling shall all be connected to on-site sewage treatment systems in conformance with the requirements of section 6.12.2040.

d. The guest cabins and the seasonal or principal dwelling shall all be equipped with approved smoke detec-

tion devices and with some form of manual or automatic fire extinguishing equipment.

e. All property in common ownership shall be combined into one tax parcel, if contiguous; or, if separated by public rights-of-way, a special lot combination form shall be executed and filed in the chain of title of each separate parcel.

f. Not more than one private guest cabin constructed without indoor plumbing, toilets or kitchen facilities, and used only for additional sleeping quarters, shall be permitted on any property as an accessory use without requiring a conditional use permit, provided the accessory cabin does not exceed 600 square feet in floor area and provided all accessory building performance standards are met. Use of more than one accessory building for additional sleeping quarters, or use of an accessory building in excess of 600 square feet in floor area, shall require issuance of a conditional use permit and compliance with the provisions of this subsection (2).

(3) Day-use recreation areas. Land or structures owned or used by any private club, association or group of unrelated individuals as a regular meeting place for group activities, including, without limitation, boating activities, swimming, fishing, picnicking, athletic fields, nature trails and other day use. Overnight camping shall be permitted only on an occasional and incidental basis. This category includes day use scout, church, YMCA or YWCA camps, private nonprofit parks and boating groups, clubs or associations. This category does not include public day-use parks. A conditional use permit may be issued for a day-use recreation area, provided the applicant demonstrates and the council finds that the property is large enough to support the proposed use without adverse effect upon the lake, upon the land or wetlands, upon neighboring or nearby properties, and that extra private precautions are taken for fire protection and for security of persons and property commensurate with the number of users expected on the property, as follows:

a. The minimum dry-buildable record lot area required for approval of a day-use recreation area conditional use permit without a variance shall be 5.0 acres. If the number of expected users at any one time exceeds 100, the minimum lot area required shall be increased to maintain a ratio of at least 1.0 acre per 20 users.

b. The minimum lot width at the shoreline shall be 200 feet.

c. The club, association or group shall each year obtain a joint-use dock license from the city and from the Lake Minnetonka Conservation District, and shall at all times abide by all its terms. The number of licensed boat slips shall not exceed one slip per 50 feet of shoreline.

d. Any swimming area shall be suitably marked off and separated from boat traffic areas, and safety equipment or supervisors shall be provided as may be required by the council.

e. On-site sewage treatment shall be provided in conformance with the requirements of section 6.12.2040.

f. All new buildings or structures on the property, except accessory structures 120 square feet in floor area or smaller, shall be approved by the council as to size, location and proposed use prior to issuance of any building permits.

g. The property shall be provided with telephone service for emergency use.

h. The lot or parcel shall be located directly on the shoreline, or other

access shall be available via a privately improved and maintained access to the shoreline.

i. All property in common ownership shall be combined into one tax parcel, if contiguous; or, if separated by public rights-of-way, a special lot combination form shall be executed and filed in the chain of title of each separate parcel.

(4) Overnight camps. Land or structures owned or used by any public agency, unit of government or any private club, association or group for overnight or extended camping by families or individuals, including related activities, such as boating, swimming, fishing, picnicking, athletic fields or nature trails. This category includes overnight scout, church, YMCA or YWCA, Park Reserve and Veterans' Association camps. A conditional use permit may be issued for an overnight camp, provided the applicant demonstrates and the council finds that the property is large enough to support the proposed use without adverse effect upon the lake, upon the land or upon neighboring properties, and that extra private precautions are taken for fire protection and for security of persons and property commensurate with the number of users expected on the property, as follows:

a. The minimum dry-buildable record lot area required for approval of an overnight camp conditional use permit shall be 5.0 acres. If the number of dwelling units exceeds five, the minimum lot area required shall be increased to maintain a ratio of at least 1.0 acre per dwelling unit. For purposes of this section, one dwelling unit shall mean up to two developed camping spots for tent camping or each separate cabin or structure used for sleeping purposes, whether or not such cabin or structure includes separate toilet or kitchen facilities.

b. The minimum lot width at the shoreline shall be 200 feet.

c. Any common kitchen, dining room or eating facility shall conform to the requirements of county environmental sanitation food protection ordinances, including all applicable licenses and inspections.

d. The camp operator shall each year obtain a joint-use dock license from the city and from the Lake Minnetonka Conservation District, and shall at all times abide by all of its terms. The number of licensed boat slips shall not exceed one slip per 50 feet of shoreline.

e. Any swimming areas shall be suitably marked off and separated from boat traffic areas, and safety equipment or supervision shall be provided as may be required by the council.

f. Toilet and sanitation facilities, including on-site sewage treatment systems, shall be provided in conformance with state health department regulations and the requirements of section 6.12.2040.

g. All new buildings or structures on the property, except accessory structures 120 square feet in floor area or smaller, shall be approved by the council as to size, location and proposed use prior to issuance of any building permits.

h. The property shall be provided with telephone service for emergency use.

i. All cabins or other structures used for sleeping purposes shall be equipped with approved smoke detection devices and with some form of manual or automatic fire extinguishing equipment.

j. All assembly buildings having an occupancy load of 50 persons or more shall be equipped with fire extinguishing equipment consisting of hand-held fire extinguishers and

either an automatic fire sprinkler system or other means of fire suppression equipment as may be approved by the council.

k. An emergency preparedness plan shall be required to address fire protection, medical emergency and police public safety services for all times the camp is occupied.

l. All property in common ownership shall be combined into one tax parcel, if contiguous; or, if separated by public rights-of-way, a special lot combination form shall be executed and filed in the chain of title of each separate parcel.

(5) PRD subdivisions. Planned residential development subdivisions limited to detached one-family seasonal dwellings only, subject to the minimum 5.0 dry-buildable acres per dwelling unit net density otherwise required in the RS district, and subject to the limitations of division 8 of this article. The minimum total land area for a PRD subdivision shall be 20.0 acres.

(6) The keeping of domestic animals for noncommercial purposes, including horses for the use of the occupants of the premises. A minimum of one acre in aggregate, exclusive of one acre for the principal building, must be available for each animal unit, except as set forth in this subsection. A minimum of two acres of open pasture must be available for a single horse, and one additional acre must be available for each additional horse. When the horses are kept stabled and do not require pasture for feed purposes, the minimum pasture requirement may be adjusted at the discretion of the council. Such minimum pasture acreage shall not include wetlands as defined in section 6.12.8110. Any person keeping such animals must comply with the provisions of this Code.

(Code 1984, §§ 10.20(3), 10.31(3); Code 2003, § 78-565; Ord. No. 28(3rd series), § 13, 8-22-2005)

Sec. 6.12.1960. Accessory uses.

Within any RS Seasonal Recreational District, no accessory structure or use of land shall be permitted unless a permitted or conditional use is first established on such land, except as allowed in section 6.12.1940(2). Once a permitted or conditional use exists on any lot or parcel, no accessory structure or use of land shall be permitted except for one or more of the following uses:

(1) Docks conforming to city and Lake Minnetonka Conservation District regulations, not to exceed one slip per 50 feet of shoreline width, or a maximum of four slips per property, whichever is less. An annual joint-use dock license shall be required for any nonresidential dock and/or for any property having more than four slips. The accessory use of a residential or nonresidential private dock shall not include renting space, except to an inland Big Island lot owner.

(2) Not more than two accessory buildings used for storage, service or other nonhabitable purpose. No such individual building shall exceed 1,000 square feet in floor area, and the sum of any two buildings on any record lot shall not exceed 1,500 square feet in floor area without a conditional use permit. Accessory buildings used as barns or stables shall be subject to this area restriction and to a conditional use permit, including a 150-foot setback from all property lines.

(3) Not more than one accessory private guest cabin not to exceed 600 square feet in floor area pursuant to section 6.12.1950(2)f.

(4) Open decks, patios, screenhouses or private greenhouses.

(5) Private swimming pools, tennis courts, paddocks or athletic fields or equipment.

(6) Not more than two toilet buildings or outhouses, which shall conform in location and design to the requirements of section 6.12.2040.

(7) Tents or other temporary structures to be in place not more than 180 days in any one year.

(8) Open wood or gravel-filled steps, stairways or walkways on lakeshore hills or embankments, limited to not more than four feet wide at any point within 75 feet of the shoreline. Concrete or other solid materials shall constitute hard cover and are prohibited.

(9) Lake water pumphouses which, may be within 75 feet of the shoreline if limited to 20 square feet or less in area and five feet or less in height, and subject to all applicable permits for such use.

(10) Fire rings or barbeque pits.

(11) Gardens, gardening or other horticultural uses, including apiaries and decorative landscaping.

(12) Fences, not to exceed 42 inches in height, and no part of which may be located within 75 feet of the shoreline.

(13) Home occupations, as defined in this chapter. All home occupations shall comply with the provisions of section 6.12.6810, and the licensing provisions of section 4.04.310, when applicable.

(14) New boathouses within 75 feet of the shoreline are specifically prohibited.

(Code 1984, §§ 10.20(4), 10.31(4); Code 2003, § 78-566; Ord. No. 221(2nd series), § 3, 9-23-2002; Ord. No. 93(3rd series), § 5, 6-25-2012; Ord. No. 100(3rd series), § 8, 2-25-2013; Ord. No. 273(3rd series), § 1, 6-13-2022; Ord. No. 284(3rd series), § 2, 11-13-2023)

Sec. 6.12.1970. Permit for private improvements within public rights-of-way.

It is unlawful for any person to alter, improve or use for private purposes in any RS district any platted public right-of-way, any platted public park, or any other property owned by the city without first obtaining a permit from the council, as follows:

(1) *Land alterations.* Grading or physical alteration of any platted public right-of-way for any purpose is prohibited except when such work has been specifically authorized as part of a permit issued by the council. The permit applicant shall provide a detailed land survey of the right-of-way and appropriate engineering drawings sufficient to identify the full extent of all proposed work. Permit approval shall be subject to obtaining a grading permit from city staff; and land alterations involving filling and grading shall be performed with only clean fill, and all other permits as may be required by other agencies having jurisdiction. Public rights-of-way so improved shall be maintained by the licensee.

(2) *Dockage on right-of-way.* Installing, maintaining, keeping or using a private dock on any platted public right-of-way for any purpose, including inland property access, is prohibited except when such dock has been specifically authorized as part of a license issued by the council.

(3) *Encroachments prohibited.* No private property, buildings, structures, fences, boats, vehicles, dock parts, junk or debris shall be built, stored, parked or kept at any time within any platted public right-of-way, within any platted public park, or on any other property owned by the city except as specifically authorized by a permit or license.

(4) *Permit exceptions.* No permit shall be required for any person to walk on or over any platted public right-of-way or any platted public park when such use is made without altering the natural state of the land. No permit shall be required for any person whose property abuts a platted public right-of-way or a platted public park to control weeds or brush, seed, sod, mow or otherwise maintain the right-of-way or park in a neat and presentable manner. Persons whose record lot established by section 6.12.1980 consists of tax parcels divided by platted, unopened public right-of-way may incorporate and use such right-of-way as part of their

yard without a permit, provided no permanent structures are erected or maintained within the right-of-way.

(5) *Public use limited.* Any permit issued under this section shall be deemed to open the platted public right-of-way only to the extent necessary as established in the permit, and for the limited use of the permittee and his invitees.

(6) *Permit limitations.* A permit or license issued under this section shall not grant or vest any property rights to use of the public right-of-way or other public property, or in any improvements. Permits or license issued under this section shall be valid for one year, shall be subject to change, alteration or revocation for cause by the council at any time, and shall be automatically renewable on the anniversary of the date of issuance except upon written notice from the city to the permittee or licensee at least 30 days prior to the anniversary date.

(7) *Hold harmless.* As a condition of issuance of any permit or license, the applicant shall in writing release, indemnify and hold harmless the city from any and all claims or causes of action arising out of the use or alteration of the platted right-of-way by applicant or his invitees.

(8) *Permit hearing and notice.* The planning commission or the council shall hold a public hearing or hearings on each application for a permit as required by section 6.12.280.

(Code 1984, § 10.31(5); Code 2003, § 78-567; Ord. No. 210(3rd series), § 12, 6-25-2018; Ord. No. 273(3rd series), § 2, 6-13-2022)

Sec. 6.12.1980. Lot area requirements.

Within any RS Seasonal Recreational District, no new lot or parcel shall be created less than 5.0 acres in dry-buildable lot area exclusive of any wetlands. Within any RS seasonal recreational district, the following provisions shall govern the buildability, use and/or subdivision of each existing record lot:

(1) *Record lot definition.* For purposes of the RS Seasonal Recreational District, the term "record lot" means all the contiguous or abutting land owned in common by the same person as of November 9, 1981, or at any time such common ownership may occur thereafter, including one or more separately platted lots or unplatted parcels of land, and/or one or more separately identified tax parcels. Because of the unique circumstances and actual use patterns existing on the islands, also included within the definition of the term "record lot" is commonly owned land that is contiguous except for being separated only by platted unopened public right-of-way. Each record lot shall be considered in its entirety to be one lot for zoning purposes.

a. The effective date for determination of common ownership is November 9, 1981, the date of adoption of Ordinance No. 238, establishing a moratorium on development, including land subdivision, on the Lake Minnetonka Islands. Common ownership as of that date has been and shall be determined by the deeds of record at the county recorder's office. This definition shall not preclude the city from recognizing or enforcing the common ownership/lot of record provisions of Ordinance No. 172, or any other similar prior ordinance.

b. The council has identified and establishes 69 record lots on Big Island, Mahpiyata Island and Deering Island as listed by record lot number in subsections (4), (5), (6) and (7) of this section. Each such record lot shall include all land identified by all tax parcel property identification numbers (PIDs) grouped together following the record lot number.

c. Within 60 days after January 13, 1983, the owner of each record lot shall be notified in writing at his last recorded address of the classification of each record lot, including all tax parcels determined to be included in such record lot. All existing uses in the RS district are identified in the record lot inventory, subsections (4), (5), (6) and (7) of this section, and all such uses have been deemed to be seasonal in nature. The notice shall provide that in order to receive the benefits of the automatic lot area variances granted by subsections (6) and (8) of this section, the owner shall, on a form provided by the city, acknowledge the record lot and shall apply for combination of all separate tax parcels pursuant to subsection (2) of this section. Any record lot owner may appeal the record lot classification or use determination to the council with no application fee required within six months of the effective date of this division. The record lot inventory shall be considered accurate and final for all properties except those found on appeal to have a demonstrable cause for change or adjustment.

d. Notice of record lot establishment shall be filed by the city in the chain of title of each property.

e. Future changes in tax parcel property identification numbers caused by combination of parcels for tax purposes or for any other reason shall not alter the establishment of record lots. New record lots shall be created only by council approved subdivisions pursuant to subsection (3) of this section, or by combination of two or more complete record lots.

(2) *Tax parcel combination required.* No new building permit, variance or conditional use permit shall be issued for any purpose on any record lot composed of two or more tax parcels unless the owner of such record lot shall apply for a formal combination of all commonly owned property into one parcel. If contiguous, all property shall be combined into one tax parcel. If separated by public right-of-way, a special lot combination form shall be executed and filed in the chain of title of each separate parcel.

(3) *Subdivision of record lots.* All record lots established in this section shall be continued in common ownership and shall not be subdivided, sold in parts, reduced in area, leased or otherwise separated without application for and council approval of a subdivision in accordance with chapter 6.20. Such subdivisions will normally be approved and additional new record lots created only if all resulting lots are each 5.0 acres of dry-buildable lot area or more. No existing record lot shall be divided or reduced in area to less than 5.0 acres of dry-buildable lot area, except as follows:

a. Lot line rearrangements between abutting properties that do not create an additional building site will normally be approved.

b. Separation of platted lots divided by public rights-of-way may be approved provided the separated lot is combined with other abutting property to enlarge the property without necessarily creating an additional substandard building site.

(4) *Subdividable record lot inventory.* Record lots 1 through 4 inclusive are established, each of which is determined to have a dry-buildable lot area in excess of 10.0 acres per owner. Therefore, each of record lots 1 through 4 inclusive may be subdivided into two or more lots in conformance with the minimum lot area requirements of this section, subject to subdivision application and approval pursuant to subsection (3) of this section and to chapter 6.20. Record lots are identified by record lot number on the

official record lot map and listing on file with the city clerk, and each includes all property identified thereafter by the listed tax parcel property identification numbers.

(5) *Conforming record lot inventory.* Record lots 1 through 7 inclusive are established, each of which is determined to have a dry-buildable lot area of 5.0 acres or more per owner. Therefore, each of record lots 1 through 7 inclusive are in conformance with the minimum lot area requirements of this section, and may be used for any one-family permitted or conditional use in the RS district, subject to all performance standards and approvals required, including tax parcel combination pursuant to subsection (2) of this section. Record lots are identified by record lot number on the official record lot map and listing on file with the city clerk, and each includes all property identified thereafter by the listed tax parcel property identification numbers.

(6) *Substandard buildable record lot inventory.* Record lots 8 through 62 inclusive are established, each of which is determined to have a dry-buildable lot area of less than 5.0 acres per owner, which lot area is substandard pursuant to the minimum lot area requirements of this section. Record lots 8 through 62 inclusive may be developed only in accordance with section 6.12.320(c). Record lots are identified by record lot number on the official record lot map and listing on file with the city clerk, and each includes all property identified thereafter by the listed tax parcel property identification numbers.

(7) *Substandard unbuildable record lot inventory.* Record lots 63 through 70 inclusive are established, each of which is approximately one-third acre in area or smaller, which lot area is too small to accommodate any form of new permanent use without available services such as municipal sewer. One-family seasonal recreational use without structures pursuant to section 6.12.1940(2) shall be permitted subject to strict compliance with all on-site sewage treatment performance standard requirements for the RS district. Record lots 63 through 70 inclusive may be developed only in accordance with section 6.12.320(c). Record lots are identified by record lot number on the official record lot map and listing on file with the city clerk, and each includes all property identified thereafter by the listed tax parcel property identification numbers.

(8) *Substandard unbuildable record lot exception.* Any new record lot resulting from future combination for ownership and tax purposes of any two or more adjacent record lots listed in subsection (2) of this section with each other and/or with another vacant or undeveloped record lot, which total dry-buildable acreage meets or exceeds one-half acre, will be recognized by the council as a buildable lot as if it had been listed under subsection (6) of this section. Each such new record lot may be developed in accordance with section 6.12.320(c) on the official record lot map and listing on file with the city clerk.

(Code 1984, § 10.31(6); Code 2003, § 78-568; Ord. No. 28(3rd series), § 14, 8-22-2005; Ord. No. 92(3rd series), §§ 3—7, 3-26-2012)

Sec. 6.12.1990. Lot width requirements.

Within any RS seasonal recreational district, no new lot or parcel shall be created less than 200 feet in width measured at the shoreline and at the building site. No existing lot of record shall be reduced by any lot line rearrangement to less than 50 feet in width measured at the shoreline and at the building site.

(Code 1984, § 10.31(7); Code 2003, § 78-569)

Sec. 6.12.2000. Yard and setback requirements.

Within any RS Seasonal Recreational District, the following yard and setback requirements shall be observed for all new buildings and

structures and for any addition or alteration to any existing building or structure, whether temporary, seasonal or permanent:

(1) Minimum setback from lakeshore, all buildings and structures, including decks, fences, retaining walls, wells, on-site sewage treatment systems and land alteration of any kind, 75 feet.

(2) Minimum setback from wetlands shall be:

a. Wells and sewage treatment systems, 75 feet.

b. All buildings and structures, land alteration or hard cover of any kind, shall meet the setback requirements established within article XI of this chapter.

(3) Minimum setback from platted street rights-of-way, all buildings and structures, 30 feet.

(4) Minimum setback from internal side or rear property line shall be:

a. All buildings and structures on lots 200 feet or more in width, 50 feet.

b. All buildings and structures on existing record lots 100 feet or more in width but less than 200 feet in width, 30 feet.

c. All buildings and structures on existing record lots less than 100 feet in width, ten feet.

(5) Minimum setback any building to any other, ten feet.

(Code 1984, § 10.31(8); Code 2003, § 78-570; Ord. No. 28(3rd series), § 15, 8-22-2005; Ord. No. 222(3rd series), § 18, 12-10-2018)

Sec. 6.12.2010. Hardcover regulations.

Hardcover in the RS district shall be regulated per the provisions of the stormwater quality overlay district, article XIII of this chapter. Exception: The provisions of section 6.12.9140(1) through (3) regarding proof via calculation of available garage, driveway and sidewalk hardcover shall not be applicable to the RS district.
(Code 1984, § 10.31(9); Code 2003, § 78-571; Ord. No. 105(3rd series), § 1, 5-28-2013)

Sec. 6.12.2020. Building height.

Within any RS Seasonal Recreational District, no structure or building shall exceed 30 feet in height except as provided in section 6.12.6710.
(Code 1984, § 10.31(10); Code 2003, § 78-572; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 10, 6-27-2016)

Sec. 6.12.2030. Building construction standards.

Within any RS Seasonal Recreational District, all new buildings or structures and all additions, repairs, alterations or improvements to existing buildings or structures shall be built in strict conformance with the current edition of the state building code as adopted and amended by the city, and with the following regulations:

(1) *Foundations required.* All new or remodeled seasonal dwellings or guest cabins and all principal dwellings shall be placed on a permanent frost-depth, solid masonry or treated wood foundation that completely encloses the entire perimeter of the building.

(2) *Minimum dwelling area required.* All new or remodeled dwellings or habitable buildings shall meet or exceed the following minimum square footage of enclosed floor area on the main floor:

a. Tents, screenhouses or other permitted accessory structures, no minimum area required.

b. Seasonal dwellings or guest cabins, 400 square feet.

c. Principal dwellings, 800 square feet.

(3) *Minimum dwelling width required.* All new or remodeled dwellings or habitable buildings shall be at least 20 feet in width at the narrowest dimension.

(4) *Minimum roof requirements.* All new or remodeled dwellings, buildings or structures of any kind shall be provided with a fire-retardant roof covering having class A or B rating, including treated but not untreated wood shakes or shingles, or class C mineral surfaced asphalt shingles laid as required in the state building code. All new dwellings shall have a sloped roof of at least 3:12 pitch.

(5) *Minimum plumbing requirements.* All new or remodeled seasonal dwellings over 800 square feet in floor area, all guest cabins over 600 square feet in floor area, and all principal dwellings shall be provided with indoor plumbing consisting of at least one water closet, one lavatory, and one kitchen sink, all connected to an approved on-site sewage treatment system conforming to the requirements of section 6.12.2040.

(6) *Additional fire protection system requirements.* Because of the lack of available public fire protection services, each property owner shall be required to provide additional private fire protection and life safety systems as follows:

a. Fire-resistive roof coverings as required by subsection (4) of this section.

b. All temporary, seasonal or principal dwellings and guest cabins, except tents, having bedrooms or used as sleeping quarters shall be provided with approved smoke detection devices conforming to state building code specifications and location requirements.

c. Every habitable building or structure shall be provided with at least one approved fire extinguisher labeled for Class A, B and C hazards; and the minimum extinguisher size shall be 1A10BC.

d. Every principal dwelling shall be provided with additional fire extinguishing equipment, such as a well, pump and domestic hoseline; a residential-design automatic fire sprinkler system; or other means of fire suppression equipment as may be approved by the council.

e. Every nonresidential building having an occupant load of 50 persons or more shall be provided with an automatic fire sprinkler system conforming to NFPA Standard No. 13, current edition, or with other fire extinguishing equipment as may be approved by the council.

f. The owner of any building or structure existing and in use, including seasonal use, as of the effective date of the ordinance from which this division is derived, shall have a period of two years, not to extend later than January 1, 1985, to comply with the provisions of subsections (6)b and (6)c of this section, and a period of five years, not to extend later than January 1, 1988, to comply with the provisions of subsections (6)d and e of this section; except that if any addition, alteration or repair is undertaken on such building or structure prior to these compliance dates, compliance shall be required as a condition of permit issuance for such work.

(7) *Additional building security requirements.* Because of the remote location of the islands, each property owner shall be responsible for providing additional private security measures for persons and property as follows:

a. Telephone service shall be provided at each principal dwelling, at day-use recreation areas, and at overnight camps.

b. All buildings or structures shall be provided with substantial locking devices on all doors and windows.

c. Owners of seasonal dwellings or other buildings are encouraged, but not required, to place solid lockable shutters over all ground floor

windows and doors when the building is to be unused for any length of time, and especially over the winter months.

d. Any abandoned or hazardous building shall be securely boarded up within 60 days and shall be razed and completely removed within one year of any notice issued by the city.

e. Any intrusion alarm system having an audible alarm shall be self-resetting.

(Code 1984, § 10.31(11); Code 2003, § 78-573)

Sec. 6.12.2040. On-site sewage treatment systems.

Within any RS seasonal recreational district, all lots, properties, buildings and structures shall be provided with on-site sewage treatment systems conforming to the requirements of chapter 5.24, article II, as amended by the following specific exceptions and requirements pertaining to the RS district.

(1) *Systems not required.* Vacant property or property used solely for one-family seasonal recreational use of land without structures, or with accessory structures only, as permitted by section 6.12.1940(2), need not be provided with an on-site sewage treatment system, provided that at any time such property is actually in use by one or more persons for overnight or longer stays an approved marine toilet or portable holding-tank toilet shall be available on the property or within a watercraft docked or moored at the property.

(2) *Outhouses permitted.* Notwithstanding other prohibition in the on-site sewage treatment code (chapter 5.24, article II), outhouses or pit-type toilets may be used on property in the RS district subject to the following restrictions:

a. Outhouses may be used only on property used for:

1. Seasonal dwellings of less than 800 square feet in floor area.

2. Seasonal recreational use of land without structures, or with accessory structures only.

3. Any other permitted or conditional use only upon approval of a variance issued by the council.

b. Outhouses shall be dry with no water plumbed-in.

c. Outhouses shall be constructed in accordance with state pollution control agency specifications and shall be set over a curbed pit of at least 50 cubic feet capacity.

d. Sealed vault-type outhouses shall not be permitted because pump-out and sanitary disposal is unfeasible.

e. Outhouses shall be located at least 75 feet from any lakeshore, wetland or water well, and at an elevation such that the bottom of the pit is at least five feet above the level of the lakeshore and/or the level of any adjacent wetland or drainageway.

f. Existing outhouses not conforming to any or all of the requirements of this subsection (2) shall be abandoned, filled in and the superstructure removed within five years of the effective date of the ordinance from which this section is derived, not to be later than January 1, 1988.

g. It is unlawful for any person to construct, install or relocate an outhouse without first obtaining a permit from the city as required for other on-site systems, except that outhouse permits may be issued to the property owner as well as to licensed contractors. Permit applications shall specify location, setbacks, pit design and pit elevation above the water table. All work on outhouses, including construction, installation, alteration or relocation, shall be subject to inspection and approval by the city to ensure

compliance with the requirements set forth in this subsection (2), including, without limitation, proper design, construction, sanitary setbacks, depth to water table and soil types.

(3) *Alternate devices.* Alternative waste treatment devices are permitted in lieu of an outhouse on any property where outhouses are permitted pursuant to subsection (2) of this section, or where otherwise necessary to provide toilet waste disposal for an existing dwelling where a conforming outhouse or on-site sewage treatment system cannot be installed. Such devices shall include incinerating devices, composting devices or small portable holding-tank toilets which are carried to the mainland for disposal in a sanitary sewerage system. Alternative systems shall be subject to review and approval by the city.

(4) *On-site sewage treatments systems required.* A complete on-site sewage treatment system, including plumbing fixtures, two sealed septic tanks and underground drainfield designed, constructed and maintained in full conformance with the on-site sewage treatment code, is required on all properties in the RS district as follows:

a. Serving all structures containing a principal dwelling.

b. Serving all properties containing two or more dwellings pursuant to a private guest cabin conditional use permit.

c. Serving all seasonal dwellings over 800 square feet in floor area.

d. Serving all dwellings, buildings or structures containing a water-activated toilet regardless of the type or duration of use or occupancy.

e. Any dwelling, building or structure having running water plumbed inside to any sink, lavatory, tub, shower, or any other plumbing fixture, but not a toilet, shall have a conforming grey-water disposal system, including a septic tank and drainfield connected to such fixture drains.

f. Any existing dwelling, building or structure required by one or more of subsections (4)a through e of this section to be connected to an on-site sewage treatment system, but which is not so connected as of the effective date of the ordinance from which this division is derived, or which has an existing system that does not conform to minimum setbacks or other requirements of this division, shall have a new conforming on-site sewage treatment system installed on or before January 1, 1988.

g. All other provisions of chapter 5.24, article II, shall apply to on-site sewage treatment in the RS district, including, without limitation, the requirement for construction permits, construction inspection, and regular maintenance inspections, including payment of the standard annual service charge.

(5) *Owner's responsibility.* It shall be the responsibility of each property owner to demonstrate that the on-site sanitation device or system in use or existing on his property is in conformance with all requirements of this division and chapter 5.24, article II; that the device or system properly treats and/or disposes of the entire sewage input generated on the property; and that the device or system is adequately and properly maintained at all times. If unpermitted nonconforming, mislocated, or failing devices or systems shall be found by the city because of complaint and/or routine inspection, correction orders shall be issued by the building official or on-site manager requiring repair, alteration or replacement in strict accordance with the requirements of this division. Failure of any owner to

obey such a lawful order shall be cause of the city to initiate legal actions including condemnation of all occupancy of the property pursuant to Minn. Stats. §§ 463.15 through 463.261.

(Code 1984, § 10.31(12); Code 2003, § 78-574)

Sec. 6.12.2050. Garbage removal and sanitation.

Within any RS seasonal recreational district, each property owner, occupant or user shall be responsible for packing out and off the islands all garbage, refuse, rubbish, junk, old machinery, parts or debris created or brought onto the island by such person; and for removal of all such materials from all property owned or occupied by such person:

(1) It is unlawful for any person to discard, dump, bury, deposit, drop, leave or allow to remain any garbage, refuse, rubbish, junk, old machinery, inoperable or dismantled motor vehicle, parts or debris on any property in any RS district.

(2) It is unlawful for any person to burn any garbage, refuse or rubbish on any property in any RS district; except that paper products free from any food residue may be burned in fireplaces, closed containers or incinerators.

(Code 1984, § 10.31(13); Code 2003, § 78-575)

Sec. 6.12.2060. Open burning prohibited.

It is unlawful for any person to start or allow to burn any open fire on any property within any RS district without a permit except for permanent gas or masonry barbeques and as permitted under the Uniform Fire Code.

(Code 1984, § 10.31(14); Code 2003, § 78-576)

Sec. 6.12.2070. Tree removal regulations.

No trees within 75 feet of the shoreline with a diameter of six inches or more shall be removed without first obtaining a permit from the council.

(Code 1984, § 10.31(15); Code 2003, § 78-577)

Sec. 6.12.2080. Adoption of official record lot map and listing.

The official record lot map and listing is adopted. A copy of the map and listing shall be kept on file at all times with the city clerk.

(Code 2003, § 78-578; Ord. No. 92(3rd series), § 8, 3-26-2012)

Sec. 6.12.2090. Easement for non-riparian lake access.

An owner of a riparian lot within the Seasonal Recreational (RS) zoning district may only grant an easement over their riparian, RS zoned property to benefit a non-riparian, RS zoned property for lake access purposes.

(Code 2003, § 78-579; Ord. No. 273(3rd series), § 1, 6-13-2022)

Division 8. PRD Planned Residential District

Sec. 6.12.3010. Purpose.

This plan is available to land subdividers subject to council approval, as alternative to standard minimum lot size subdivision of land. The purpose of this plan is to enhance the appearance of neighborhoods through preservation of natural open spaces, to counteract the effects of urban congestion and monotony, to provide cohesive structure to neighborhood design, to offer recreation opportunities close to home, and to aid in improving the welfare in general of city residents.

(Code 1984, § 10.32(1); Code 2003, § 78-601)

Sec. 6.12.3020. Submission of plans.

Landowners may submit land subdivision plans for any R district without adherence to minimum lot size requirements for each building lot, provided that the total number of building lots or dwelling units shall not exceed the number of such lots or units permissible under the minimum lot size requirements of the zoning district or districts in which such land is situated.

(Code 1984, § 10.32(2); Code 2003, § 78-602)

Sec. 6.12.3030. Council discretion.

Dwelling units permitted may be, at the discretion of the council and subject to the conditions set forth by the council, in detached, attached or multiple-family dwelling structures, subject to the limitations provided for in each zoning district.
(Code 1984, § 10.32(3); Code 2003, § 78-603)

Sec. 6.12.3040. Open space.

The dedication, ownership, use and maintenance of open spaces created by the application of a planned residential development shall be subject to conditions deemed necessary by the council to assure the preservation of such open spaces for their intended purposes.
(Code 1984, § 10.32(4); Code 2003, § 78-604)

Sec. 6.12.3050. Dedication of open space.

The dedication and ownership of the open spaces referred to in section 6.12.3040 may be through:

(1) Homeowners' association;

(2) Landlord maintenance;

(3) Special service district;

(4) Municipal ownership; or

(5) Any other method deemed appropriate by the council to accomplish the purposes of this plan.

(Code 1984, § 10.32(5); Code 2003, § 78-605)

Sec. 6.12.3060. Site plan.

The proposed site plan, including location, spacing and basic design of proposed buildings, street and parking plans, water and sewer (public or private) plans, and plans of open space available for park or recreational purposes shall be submitted for approval by the planning commission and the council.
(Code 1984, § 10.32(6); Code 2003, § 78-606)

Sec. 6.12.3070. Hearings.

The council may direct that a public hearing be held to review plans governed by this division.
(Code 1984, § 10.32(7); Code 2003, § 78-607)

Sec. 6.12.3080. Final approval.

Final approval of plans governed by this division shall not be granted until all conditions set by the council are met, and, further, the council shall not approve any such planned residential development prior to the legally binding establishment of the open space dedication, ownership and maintenance provisions, such provisions to be guaranteed by bonding or other means satisfactory to the council.
(Code 1984, § 10.32(8); Code 2003, § 78-608)

Sec. 6.12.3090. Subdivision requirements.

All provisions of subdivision procedure established by chapter 6.20, except as modified in this division, shall govern applications under this plan.
(Code 1984, § 10.32(9); Code 2003, § 78-609)

Division 9. RPUD Residential Planned Unit Development District

Sec. 6.12.3110. Purpose.

The purpose of the RPUD Residential Planned Unit Development District is to provide a district which will allow for the implementation of certain residential housing goals established in the 2000—2020 Orono Community Management Plan (CMP or comprehensive plan). The RPUD district is established to accommodate the densities and types of residential development contemplated in the CMP by incorporating the principles of the planned unit development concept. The RPUD district will encourage the following:

(1) Flexibility in land development and redevelopment in order to utilize new techniques of building design, construction and land development;

(2) Provision of housing to meet lifecycle, and affordable and moderate cost housing needs;

(3) Energy conservation through the use of more efficient building designs and sitings and the clustering of buildings and land uses;

(4) Preservation of desirable site characteristics and open space and protec-

tion of sensitive environmental features, including steep slopes, poor soils and trees;

(5) High quality of design and design compatible with surrounding land uses, including both existing and planned;

(6) Sensitive development in transitional areas located between different land uses and along significant corridors within the city; and

(7) Development which is consistent with the comprehensive plan.

(Code 2003, § 78-621; Ord. No. 202(2nd series), § 1(1), 2-26-2001)

Sec. 6.12.3120. Exceptions.

This section shall not apply to any residential PUD or PRD which has received preliminary or final approval by the city council prior to the effective date of the ordinance from which this division is derived, unless such application is requested by the property owner and approved by the city council.

(Code 2003, § 78-622; Ord. No. 202(2nd series), § 1(9), 2-26-2001)

Sec. 6.12.3130. Permitted uses.

Within the RPUD district, no structure or land shall be used except for one or more of the following uses:

(1) One-family detached dwellings.

(2) Publicly owned parks and playgrounds.

(3) Municipal buildings.

(4) Multifamily attached dwellings only when consistent within the areas of the city designated as urban area in the comprehensive plan.

(Code 1984, § 10.20(2); Code 2003, § 78-623; Ord. No. 202(2nd series), § 1(2), 2-26-2001)

State law reference—State mandated permitted uses, Minn. Stats. § 462.357, subd. 7.

Sec. 6.12.3140. Conditional uses.

Within the RPUD district, no land or structure shall be used for the following uses except by conditional use permit:

(1) *Public service structures.* Public service structures, including, but not limited to, electric transmission lines, buildings, such as telephone exchange stations, booster or pressure regulating stations, wells, and plumbing stations, elevated tanks, lift stations and electrical power substations, provided no building shall be located within 50 feet from any lot line of an abutting lot in an R district. Prior to granting such permit it shall be found that the architectural design of service structures is compatible to the neighborhood in which it is to be located and thus will promote the general welfare. Public service structures that have been approved by the city at required public hearings for public improvement projects shall not require a conditional use permit, but such structures shall be subject to all other appropriate standards set forth in this section; amendments to approved plans involving design and/or placement of these structures will require written notice by the city to all affected property owners 14 days prior to the adoption of the amended plans by the council. Personal wireless services and commercial broadcasting antennas and towers shall not be considered public service structures. Uses allowed by conditional use permit shall be reviewed for compliance with the PUD master development plan and with the applicable conditional use permit standards of this division. Uses allowed by conditional use permit shall also be subject to site and building plan review pursuant to this division.

(2) *Assisted living facilities.* Assisted living facilities as defined in this chapter, subject to the general conditions and multifamily-specific conditions applicable to uses in the RPUD district.

(Code 2003, § 78-624; Ord. No. 202(2nd series), § 1(3), 2-26-2001; Ord. No. 75(3rd series), § 1, 7-12-2010)

Sec. 6.12.3150. Accessory uses.

Within any RPUD district, the only permitted accessory uses and structures are the following:

(1) Private garages and parking space.

(2) Private swimming pools, tennis courts, and paddocks.

(3) Home occupations, as defined in this chapter. All home occupations shall comply with the provisions of section 6.12.6810, and the licensing provisions of section 4.04.310, when applicable.

(4) Signs, as regulated in this chapter.

(5) Buildings temporarily located for purposes of constructing on the premises for a period not to exceed time necessary for such constructing.

(6) Gardening and other horticultural uses, including aviaries and decorative landscape features.

(7) Communication reception/transmission devices as follows:

a. Accessory antennas, which shall be limited to radio and television receiving antennas, satellite dishes, TVROs, and amateur shortwave radio transmitting and receiving antennas. Accessory antennas that are accessory to the principal use of property are permitted accessory uses in all zoning districts, provided they meet the following conditions:

1. *Height.* A ground-mounted accessory antenna shall not exceed 20 feet in height from ground level.

2. *Yards.* Accessory antennas shall not be located within the required front yard setback, corner side yard setback or side yard setback abutting a street.

3. *Roofs.* If vegetation or obstructions interfere with satellite signals at a location in any allowable placement area, the accessory antenna may be placed on the roof of any authorized structure on the premises.

4. *Location.* Accessory antennas shall not be located within a required yard or setback area or within drainage or utility easements. Antenna towers shall be set back from adjacent property lines a horizontal distance no less than the maximum height of the antenna.

5. *Building permits.* A building permit shall be required for the installation of any accessory antenna requiring a conditional use permit. Building permit applications shall be accompanied by a site plan and structural component data for the accessory antenna, including details of anchoring. The building official must approve the plans before installation.

6. *Lightning protection.* Each accessory antenna shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the city.

7. *Electrical code.* Accessory antenna electrical equipment and connections shall be designed and installed in conformance with the National Electrical Code as adopted by the city.

8. *Color/content.* Accessory antennas shall be of a neutral color and shall not be used as signage.

b. Amateur shortwave radio antennas and towers which do not meet the conditions for accessory antennas

may be allowed with a conditional use permit in all zoning districts, provided they meet the following conditions:

1. *Height.* When an amateur shortwave radio antenna is mounted on an antenna tower, the total height of the antenna and tower shall not exceed 65 feet.
2. *Yards.* Amateur shortwave radio antennas and towers shall not be located within a front corner side or side yard.
3. *Setbacks.* Amateur shortwave radio antennas and towers shall not be located within any required setback area and shall be located no less than the height of the antenna and town from the property line.

(8) Privately owned buildings to be used for recreational or social purposes, or for use as storage areas for maintenance equipment or rubbish.

(9) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(Code 1984, § 10.20(4); Code 2003, § 78-625; Ord. No. 161(2nd series), § 6, 6-7-1997; Ord. No. 202(2nd series), § 1(4), 2-26-2001; Ord. No. 221(2nd series), § 3, 9-23-2002; Ord. No. 106(3rd series), § 12, 6-10-2013)

Sec. 6.12.3160. Development standards.

Within the RPUD district, all development shall be in compliance with the following:

(1) *Minimum area; shoreland district limitation.* Each site proposed for rezoning to RPUD shall have a minimum area of five acres, excluding areas within a designated wetland, floodplain or shoreland district or right-of-way, unless the council finds the existence of one of the following:

a. Unusual physical features of the property itself or of the surrounding neighborhood such that development as a RPUD will conserve a physical or topographic feature of importance to the neighborhood or community.

b. The property is directly adjacent to or across a public street from property which has been developed previously as a RPUD or planned residential development and will be perceived as and will function as an extension of that previously approved development.

c. The property is located in an area where the proposed development provides a transition between a commercial or industrial area and an existing residential area or on an intermediate or principal arterial as defined in the comprehensive plan.

d. The property contains steep slopes or a substantial number of significant trees that could be preserved through the clustering of buildings or other design techniques not generally allowed by the existing zoning district.

No property located within 250 feet of the ordinary high-water level (OHWL) of a protected lake or tributary, as defined in article IX of this chapter, shall be rezoned to RPUD. However, for a property that is partially located less than 250 feet from the OHWL and partially located more than 250 feet from the OHWL, the portion located more than 250 feet from the OHWL may be rezoned to RPUD at the discretion of the city council when all other requirements are met.

(2) *Uses.* Each property rezoned to RPUD shall only be used for the use or uses for which the site is designated in the comprehensive plan, except that the city may permit rezoning to RPUD on a site designated for commercial use if the city council finds that such use is in the best interests of the city and is consistent with the requirements of this division. If

a commercial site is to be rezoned to RPUD, the city may forward a copy of the request to the metropolitan council for review.

(3) *Sewer availability.* A site proposed to be rezoned to RPUD with proposed density greater than one unit per two acres must be in the metropolitan urban services area (MUSA) and must be serviced by municipal sewer.

(4) *Density.* Each development in the RPUD district shall have a density within the range specified in the comprehensive plan for the specific site. If the site is not designated in the comprehensive plan for residential use, the appropriate density shall be determined by the city based upon the city council's finding that such density is consistent with the intent of this division and of the comprehensive plan. Developments with proposed densities in excess of the densities contemplated in the comprehensive plan shall be allowed only on properties which are currently zoned and guided for commercial use, in order to maintain the character and integrity of the areas zoned and guided for residential use.

(5) *Incentives.* The city may utilize incentives to encourage the construction of projects which are consistent with the city's housing goals. Incentives may include modification of density (only for properties currently zoned and guided for commercial use) and floor area ratio requirements for developments providing lifecycle housing and affordable and moderate cost housing. Incentives for affordable and moderate cost housing may be approved by the city only after the developer and city have entered into an agreement to ensure that the low and moderate cost units remain available to persons of low and moderate income for at least 20 years.

(6) *Floor area ratio.* Floor area ratios (FARs) shall be limited per the following table:

Comprehensive Plan Designation	*Maximum Floor Area Ratio*[1]
Low or medium density residential (up to 50 and including 6.0 units per acre)	0.5
High density residential (in excess of 6.0 units per acre)	1.0

[1] FAR = Total building floor area/total lot area.

Individual lots within a development in the RPUD district may exceed these standards as long as the average meets these standards.

(7) *Development standards for attached and multifamily dwelling structures.* Each site rezoned to RPUD and developed for attached or multiple-family dwelling uses shall be subject to the following standards:

a. *Setbacks and separation of uses.* Within the RPUD district the setback for all attached and multifamily dwelling buildings and their accessory buildings from any bordering or abutting street line shall be 35 feet for local streets and 50 feet from railroad lines or collector or arterial streets, as designated in the comprehensive plan, except that in no case shall the setback be less than the height of the building. The setback for all buildings from exterior RPUD site lot lines not abutting a public street shall be 35 feet, except that in no case shall the setback be less than the height of the building. Building setbacks from internal public streets shall be determined by the city based on characteristics of the specific RPUD site. Parking lots and driving lanes shall be set back at least 20 feet from all exterior lot lines of a RPUD site. The setback for parking structures, including decks and ramps, shall be 35 feet from local streets and 50 feet from

all other street classifications, except that in no case shall the setback be less than the height of the structure. Parking structure setbacks from external lot lines shall be 50 feet or the height of the structure, whichever is greater, when adjacent to residential properties; 35 feet, when adjacent to nonresidential properties. Parking structure setbacks from internal public or private streets shall be determined by the city based on characteristics of the specific RPUD site. Where industrial uses abut developed or platted single-family lots outside the RPUD site, greater exterior building and parking setbacks may be required in order to provide effective screening. The city council shall make a determination regarding the adequacy of screening proposed by the applicant. Screening may include the use of natural topography or earth berming, existing and proposed plantings and other features, such as roadways and wetlands, which provide separation of uses. Property rezoned to RPUD shall be considered a residential district for purposes of determining building and parking setback requirements on adjacent high density residential, commercial and industrial property outside the RPUD.

b. *Height limitations.* For properties guided for residential use in the comprehensive plan, a building height limit of 30 feet shall apply. For properties currently zoned or guided in the comprehensive plan for commercial use, height may exceed 30 feet but shall not exceed three stories (not including underground parking level) and shall maintain a residential character by incorporating pitched or hipped roof structure. No mansard or flat roofed multiple-family building will be allowed.

c. *Outside storage limitations.* Building materials, recreational vehicles, boats, RV's, snowmobiles, and other items of personal property shall not be stored outside within any site used for attached or multifamily uses.

(8) *Development standards for single-family detached dwellings in the RPUD district.* Each RPUD site developed for single-family detached dwellings at medium density (i.e., densities ranging from one unit per acre to six units per acre) shall be subject to the following standards:

a. Permitted locations: in areas of the city where smaller single-family detached dwelling lots will allow for clustering to preserve significant natural features, or in areas where a mixture of higher density attached dwellings and lower density detached single-family dwellings will result in a development that does not exceed the overall guided density.

b. Minimum SFR lot size: 15,000 square feet.

c. Minimum lot width at the setback line: 90 feet.

d. Minimum lot depth: 125 feet.

e. Minimum front yard setback: 25 feet on internal streets within the RPUD site. On exterior or through streets a setback of 35 feet must be provided on local streets and a 50-foot setback on collector or arterial streets, as defined in the comprehensive plan.

f. Minimum side yard setback: ten feet along interior lot lines; 15 feet on lot lines along the exterior of the RPUD site. Side yards abutting streets must meet the minimum front yard setbacks as noted in subsection (8)e of this section. Structures in side yards abutting another residential zoning district

shall meet the side yard setback requirement of the adjacent zoning district.

g. Rear yard setback: minimum of 40 feet or 20 percent of the depth of the lot, whichever is less.

h. Building height: maximum of 30 feet.

i. All dwelling units, including manufactured homes, shall have a depth of at least 20 feet for at least 50 percent of their width. All dwelling units, including manufactured homes, shall have a width of at least 20 feet for at least 50 percent of their depth.

j. All dwellings shall have a permanent foundation in conformance with the state building code.

k. Accessory structures shall conform to the setbacks established for principal structures, except as follows:

1. All accessory structures located more than ten feet from a principal structure may be located a minimum of ten feet from a rear or side lot line when that line does not abut a street right-of-way.

2. No accessory structure shall be located closer to the front lot line than the principal structure, regardless of the principal structure setback.

l. No accessory structure shall occupy more than 30 percent of the side or rear yard in which it is located, nor exceed 1,000 square feet in area, nor exceed 12 feet in height.

m. Off-street parking shall be provided for at least two vehicles for each single-family dwelling. A suitable location for a garage measuring at least 20 feet by 24 feet without a variance shall be provided and indicated as such on a site plan or certified site plan to be submitted when applying for a building permit to construct a new dwelling or alter an existing garage.

(9) *More than one building allowed.* More than one building may be placed on one platted or recorded lot in a RPUD site.

(10) *Single housing type permitted.* Any RPUD development which involves a single housing type shall be permitted, provided that it is otherwise consistent with the objectives of this division and the comprehensive plan.

(11) *Private recreational area.* Each RPUD development shall provide a minimum of ten percent of the gross project area in private recreational uses for project residents. Such area shall be for active or passive recreational uses suited to the needs of the residents of the project, including swimming pools, trails, nature areas, picnic areas, tot lots and saunas. Private recreational area requirements are in addition to the standard park dedication requirements.

(12) *Ownership.* All property to be included within a RPUD development shall be under unified ownership or control, or subject to such legal restrictions or covenants as may be necessary to ensure compliance with the approved master development plan and final site and building plan.

(13) *Signage.* Signs shall be restricted to those which are permitted in a sign plan approved by the city and shall be regulated by permanent covenants.

(14) *Landscaping, screening and buffering.*

a. *Landscape plan requirements.* Landscape plans shall be prepared by a landscape architect or other qualified person acceptable to the city, drawn to the scale of not less than one inch equals 50 feet and shall show the following:

1. Boundary lines of the property with accurate dimensions;

2. Locations of existing and proposed buildings, parking lots, roads, trails and other improvements;
3. Proposed grading plan with two-foot contour intervals;
4. Location, approximate size and common name of existing trees and shrubs;
5. A planting schedule containing symbols, quantities, common and botanical names, size of plant materials, root condition and special planting instructions;
6. Planting details illustrating proposed locations of all new plant material;
7. Locations and details of other landscape features, including berms, fences and planter boxes;
8. Details of restoration of disturbed areas, including areas to be sodded and seeded;
9. Location and details of irrigation systems; and
10. Details and cross sections of all required screening.

b. *Minimum landscaping requirements.*

1. All open areas of a lot which are not used or improved for required parking areas, drives, trails or storage shall be landscaped with a combination of deciduous and coniferous species, including overstory trees, understory trees, shrubs, flowers and ground cover materials. The plan for landscaping shall include ground cover, bushes, shrubbery, trees, sculpture, foundations, decorative walks or other similar site design features or materials in a quantity having a minimum value in conformance with the following table:

Minimum Tree and Shrub Requirements

Vegetation Type	*Size*	*Quantity*
Overstory deciduous trees	2.5-inch bb (caliper)	One tree per 1,000 gross square feet of building footprint area or one tree per 40 lineal feet of site perimeter, whichever is greater
Coniferous trees	6-foot height bb	Minimum of 30 percent of required overstory trees must be coniferous
Understory shrubs	3-gal. potted or 18-inch	One shrub per 300 gross square feet of building footprint area or one shrub per 30 lineal feet of site perimeter, whichever is greater
Ornamental deciduous trees	1.5-inch bb (caliper)	Not required; but two ornamental deciduous trees may be substituted for one required overstory deciduous tree (maximum substitution equals 25 percent of required overstory deciduous trees)

2. Credits for existing trees. The city council shall have sole discretion whether credit shall be granted for existing healthy trees. In instances where healthy plant materials of acceptable species exist on a site prior to its development,

the application of the standards in this subsection (14)b may be adjusted by the city to allow credit for such material, provided that such adjustment is consistent with the intent of this division.

3. A reasonable attempt shall be made to preserve as many existing trees as is practicable and to incorporate them into the site plan.

4. All new overstory trees shall be balled and burlapped or moved from the growing site by tree spade. Deciduous trees shall have a minimum caliper of 2 ½ inches. Coniferous trees shall be a minimum of six feet in height. Ornamental trees shall have a minimum caliper of 1 ½ inches.

5. All site areas not covered by buildings, sidewalks, parking lots, driveways, trails, patios, or similar hardcover shall be covered with sod or an equivalent ground cover approved by the city. This requirement shall not apply to site areas retained in a natural state.

6. In order to provide for adequate maintenance of landscaped areas, an underground sprinkler system shall be provided as part of each new development, except one- and two-family dwellings and additions to existing structures which do not at least equal the floor area of the existing structure. A sprinkler system shall be provided for all landscaped areas, except areas to be preserved in a natural state.

7. Not more than 50 percent of the required number of trees shall be composed of one species. The city shall maintain a list of prohibited species, which shall not be used for landscaping.

c. *Interior parking lot landscaping.*

1. All parking lots containing over 100 stalls shall be designed to incorporate unpaved, landscaped islands in number and dimension as required by the city. All landscape islands shall contain a minimum of 180 square feet. Islands which are necessary to promote the safe and efficient flow of traffic shall not be subject to the 100-stall standard and shall be required by the city when warranted.

2. Parking lot landscape areas, including landscape islands, shall be reasonably distributed throughout the parking lot area so as to break up expanses of paved areas. Parking lot landscape areas shall be provided with deciduous shade trees, ornamental or evergreen trees, plus ground cover, mulch and/or shrubbery as determined appropriate by the planning commission. Parking lot landscape trees shall be provided at the rate of one tree for each 15 surface parking spaces provided, or major fraction thereof. Parking lot landscaping shall be contained in planting beds bordered by a raised concrete curb or equivalent approved by the planning commission.

d. *Maintenance of landscaping.* The owner, tenant and their respective agents shall be jointly and severally responsible for the maintenance of all landscaping in a condition presenting a healthy, neat and

orderly appearance and free from refuse and debris. Plants and ground cover which are required by an approved site or landscape plan, and which have died, shall be replaced within three months of notification by the city. However, the time for compliance may be extended up to nine months by the city in order to allow for seasonal or weather conditions.

e. *Retaining walls.* Retaining walls exceeding four feet in height, and staged walls which cumulatively exceed 16 feet in height or involve more than four tiers, must be constructed in accordance with plans prepared by a registered engineer or landscape architect.

f. *Landscaping performance security required.* When screening, landscaping or other similar improvements to property are required by this division, a letter of credit shall be supplied by the owner in an amount equal to at least 1 ½ times the value of such screening, landscaping or other improvements. The letter of credit shall be conditioned upon reimbursement of all expenses incurred by the city for engineering, legal, contracting or other fees in connection with making or completing such improvements. The letter of credit shall be provided prior to the issuance of any building permit and shall be valid for a period of time equal to two full growing seasons after the date of installation of the landscaping. The city may accept some other form of security in lieu of a letter of credit in an amount and under such conditions that the city may determine to be appropriate. If construction of the project is not completed within the time prescribed by building permits and other approvals, the city may, at its option, complete the work required at the expense of the owner and the surety. The city may allow an extended period of time for completion of all landscaping, if the delay is due to conditions which are reasonably beyond the control of the developer. Extensions, which may not exceed nine months, may be granted due to seasonal or weather conditions. When an extension is granted, the city shall require such additional security as it deems appropriate.

g. *Screening and buffering.*

1. The following uses shall be screened or buffered in accordance with the requirements of this section:
   (i) Principal buildings and structures and any building or structure accessory thereto used for residential uses at a density of greater than four units per acre shall be buffered from residential lots located in any R district.
   (ii) Off-street parking facilities containing six or more spaces shall be buffered from streets located within 50 feet. Parking facilities shall be buffered with landscape zones.
   (iii) Loading docks shall be screened from all lot lines and public roads.
   (iv) Trash storage facilities shall be screened from all lot lines and public roads.
   (v) Access roads serving multifamily buildings shall be screened as necessary to eliminate the impact of vehicle headlights shining toward adjacent residential neighborhoods.

2. Required screening or buffering may be achieved with fences, walls, earth berms, hedges, or other landscape materials. All walls and fences shall be architecturally harmonious with the principal building. Earth berms shall not exceed a slope of 3:1. The screen shall be designed to employ materials which provide an effective visual barrier during all seasons.
3. All required screening or buffering shall be located on the lot occupied by the use, building, facility or structure to be screened. No screening or buffering shall be located on any public right-of-way or within eight feet of the traveled portion of any street or highway.
4. Screening or buffering required by this subsection (14) shall be of a height needed to accomplish the goals of this subsection (14). Screening methods incorporating roofs over storage, trash or mechanical facilities to screen from higher adjacent properties or buildings may be required. Height of plantings required under this subsection (14) shall be measured at the time of installation.

(15) *Architectural standards.*

a. It is not the intent of the city to restrict design freedom unduly when reviewing project architecture in connection with a site and building plan. However, it is in the best interest of the city to promote high standards of architectural design and compatibility with surrounding structures and neighborhoods. Architectural plans shall be prepared by an architect or other qualified persons acceptable to the city and shall show the following for all structures other than single-family detached dwellings:

1. Elevations of all sides of the building.
2. Type and color of exterior building materials.
3. A typical floor plan.
4. Dimensions of all structures.
5. The location of trash and recycling containers and of heating, ventilation and air conditioning equipment.

b. Unadorned prestressed concrete panels, concrete block and unfinished metal shall not be permitted as exterior materials for residential principal and accessory buildings. This restriction shall apply to all principal structures and to all accessory buildings. The city may, at its discretion, allow architecturally enhanced block or concrete panels.

c. Accessory buildings shall be architecturally compatible with principal structures.

d. All rooftop or ground-mounted mechanical equipment and exterior trash and recycling storage areas shall be fully enclosed or screened so as to be not visible with materials compatible with the principal structure.

e. Underground utilities shall be provided for all new and substantially renovated structures (the term "substantially renovated" shall mean when the renovations exceed 30 percent of the prerenovation value of the structure).

(16) *Flexibility.* The uniqueness of each RPUD requires that specifications and standards for streets, utilities, public facilities and subdivisions may be subject to modification from the city ordinances ordinarily governing them. The city council may

therefore approve streets, utilities, public facilities and land subdivisions which are not in compliance with usual specifications or ordinance requirements, if it finds that strict adherence to such standards or requirements is not required to meet the intent of this section or to protect the health, safety or welfare of the residents of the RPUD, the surrounding area or the city as a whole.

(17) *Traffic studies.* The city may require a traffic analysis to be prepared by a registered traffic engineer approved by the city to assess potential traffic impacts on local streets. If impacts on service levels of roadways and intersections are anticipated, the project will be approved only contingent upon a traffic management plan that adequately mitigates those impacts. The plan may include travel demand management strategies, use of transit facilities or other appropriate measures to reduce traffic generation, and necessary improvements to road systems. The developer shall have the responsibility to install all necessary road system improvements.

(18) *Building permits.* No building or other permit shall be issued for any work on property included within a proposed or approved RPUD development, nor shall any work occur unless such work is in compliance with the proposed or approved RPUD development.

(19) *General regulations applicability.* The requirements contained in this division pertaining to general regulations for residential districts and performance standards shall apply to a RPUD development as deemed appropriate by the city.

(20) *Lighting standards.* All RPUD developments shall be subject to the general performance standards for lighting in this chapter.

(21) *Trails.* When any portion of the project is within 1,000 feet of a public trail system, pedestrian access shall be provided to the trail system by means of a public trail constructed at the developer's expense. Where public rights-of-way are available, at the city's discretion the trail may utilize the public right-of-way. Trails shall be of bituminous construction, or such other material as may be approved by the city and shall be not less than eight feet in width.

(Code 2003, § 78-626; Ord. No. 202(2nd series), § 1(5), 2-26-2001; Ord. No. 94(3rd series), § 2, 9-24-2012; Ord. No. 189(3rd series), § 6, 4-10-2017)

Sec. 6.12.3170. Review of application; procedures.

(a) *Concept plan review.*

(1) In order to receive guidance in the design of a RPUD prior to submission of a formal application, an applicant may submit a concept plan for review and comment by the planning commission and city council. Submission of a concept plan is optional but is highly recommended for large RPUDs. In order for the review to be of most help to the applicant, the concept plan should contain such specific information as is suggested by the city. Generally, this information should include the following:

a. Approximate building, road and trail locations;

b. Height, bulk and square footage of buildings;

c. Type and square footage of specific land uses;

d. Number of dwelling units;

e. Generalized grading plan showing areas to be cut, filled and preserved; and

f. Staging and timing of the development.

(2) The comments of the planning commission and city council shall address the consistency of the concept plan with this section. The comments of the planning commission and city council shall be for guidance only and, if positive, shall not

be considered binding upon the planning commission or city council regarding approval of the formal RPUD application when submitted.

(b) *Master development plan and rezoning.*

(1) Approval of a rezoning to RPUD and approval of a master development plan shall be subject to the procedures outlined in this chapter for a zoning map amendment. The master development plan shall contain the following:

a. Building location, height, bulk and square footage;

b. Type and square footage of specific land uses;

c. Number of dwelling units;

d. Detailed street and utility locations and sizes;

e. Parking layout;

f. Drainage plan, including location and size of pipes and water storage areas;

g. Grading plan and drainage plan, including two-foot contours;

h. Generalized landscape plan;

i. Generalized plan for uniform signs and lighting;

j. Plan for timing and phasing of the development;

k. Covenants or other restrictions proposed for the regulation of the development;

l. Renderings or elevations of all sides of buildings to be constructed in the first phase of the development;

m. Trail plan; and

n. Lighting plan.

(2) Approval of the master development plan shall indicate approval of the listed items in this subsection and shall occur in conjunction with rezoning of the property to RPUD. After rezoning the property to RPUD, nothing shall be constructed on the RPUD site except in conformance with the approved plans and this section. The procedure for notification of and public hearing on the master development plan shall be the same as required for a zoning map amendment by this chapter.

(c) *Development agreement/financial guarantee.* Following the approval of the master development plan but prior to final plan approval, the applicant shall enter into an agreement with the city relating to the terms of the RPUD development, and shall also provide such financial guarantees as the city requires or deems necessary. Such agreement may take the form of:

(1) A development contract;

(2) A site improvement performance agreement; and/or

(3) Another form of binding instrument as may be required by the city.

(d) *Final site and building plan.* Approval of a final site and building plan for the entire RPUD or for specific parts of the RPUD shall be subject to the procedures outlined in this division. The final site and building plan shall contain information as required by the city, including the following:

(1) Detailed utility, street, grading and drainage plans;

(2) Detailed building elevations and floor plans;

(3) Detailed landscaping, sign and lighting plans; and

(4) Detailed trail plan.

(e) *Substantial compliance.*

(1) The final site and building plan shall be in substantial compliance with the approved master development plan. Substantial compliance shall mean:

a. Buildings, parking areas, roads and trails are in substantially the same location as previously approved;

b. The number of residential living units has not increased or decreased from that approved in the master development plan;

c. The gross floor area of any individual building has not been increased from that approved in the master development plan;

d. There has been no increase in the number of stories in any building;

e. Open space has not been decreased or altered to change its original design or intended use; and

f. All special conditions required on the master development plan by the city have been incorporated into the final site and building plan.

(2) Approval of a final site and building plan shall signify approval of all plans necessary prior to application for a building permit, subject to conformance with any conditions on the approval and subject to other necessary approvals by the city.

(f) *Simultaneous review.* Applicants may combine the final site and building plan review with the master development plan review by submitting all information required for both stages simultaneously.

(g) *Basis for approval; conditions.*

(1) In evaluating a site and building plan, the planning commission and city council shall base their recommendations and actions regarding approval of a RPUD on a consideration of the following:

a. Compatibility of the proposed plan with this section and consistency with the goals, policies, and objectives of the comprehensive plan and surface water management plan;

b. Preservation of the site in its natural state to the greatest extent practicable by minimizing tree and soil removal and designing grade changes to be in keeping with the general character and appearance of neighboring properties;

c. Creation of compatible relationships between buildings and open spaces both on the site and adjacent to it, incorporating natural site features and with existing and future buildings having a visual relationship to the development, giving special attention to:

1. An internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community.

2. The amount and location of open space and landscaping.

3. Materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.

d. Promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading;

e. Protection of adjacent and neighboring properties through reasonable provisions for surface water drainage, sound and sight buffers, preservation of views, light and air and those aspects of design not adequately covered by other regula-

tions which may have substantial effects on neighboring land uses; and

f. Such other factors as the planning commission or city council deem relevant.

(2) The planning commission and city council may attach such conditions to their actions as they shall determine necessary or convenient to better accomplish the purposes of this section.

(Code 2003, § 78-627; Ord. No. 202(2nd series), § 1(6), 2-26-2001)

Sec. 6.12.3180. Term of approval.

(a) If application has not been made for a final site and building plan approval pursuant to the approved master development plan for all or a part of the property within a RPUD by December 31 of the year following the date on which the RPUD zoning map amendment became effective or, if within that period no extension of time has been granted, the city council may rezone the property to the original zoning classification at the time of the RPUD application or to a zoning classification consistent with the comprehensive plan designation for the property. In the absence of a rezoning, the approved master development plan shall remain the legal control governing development of the property included within the RPUD.

(b) If construction on the property included within an approved final site and building plan has not started by December 31 of the year following the date on which such final site and building plan was approved or, if building construction in a phase of a RPUD approved to be built in phases has not started within this period, or, if within that period no extension of the time has been granted, the city council may rezone the property to the original zoning classification at the time of the RPUD application or to a zoning classification consistent with the comprehensive plan designation for the property. In the absence of rezoning, the approved master development plan and final site and building plan shall remain the legal control governing development of the property included within the RPUD.

(Code 2003, § 78-628; Ord. No. 202(2nd series), § 1(7), 2-26-2001)

Sec. 6.12.3190. Amendments.

(a) Major amendments to an approved master development plan may be approved by the city council after review by the planning commission. The notification and public hearing procedure for such amendment shall be the same as for approval of the original RPUD. A major amendment is any amendment which:

(1) Substantially alters the location of buildings, parking areas or roads;

(2) Increases or decreases the number of residential dwelling units;

(3) Increases the gross floor area of any individual building;

(4) Increases the number of stories of any building;

(5) Decreases the amount of open space or alters it in such a way as to change its original design or intended use; or

(6) Creates noncompliance with any special condition attached to the approval of the master development plan.

(b) Any other amendment may be made through review and approval by a simple majority vote of the council.

(Code 2003, § 78-629; Ord. No. 202(2nd series), § 1(8), 2-26-2001)

Division 10. B-1 Retail Sales Business District

Sec. 6.12.3210. Purpose.

The B-1 Retail Sales Business District is intended to provide a district for businesses that supply commodities or perform a service primarily for residents in the surrounding neighborhood. The district may adjoin residential districts or other business districts which are subject to

more restrictive controls. The district shall have immediate access to adequate highways and public sanitary sewer.
(Code 1984, § 10.40(1); Code 2003, § 78-641)

Sec. 6.12.3220. Site plan review.

All site plan reviews in any B-1 Retail Sales Business District shall be reviewed as set forth in article II, division 4 of this chapter.
(Code 1984, § 10.40(2); Code 2003, § 78-642; Ord. No. 68(3rd series), § 4, 2-8-2010)

Sec. 6.12.3230. Permitted uses.

Within any B-1 Retail Sales Business District, no structure or land shall be used except for one of the following uses or uses deemed similar by the council:

(1) *Retail and service businesses.* The following neighborhood retail sales and service businesses supplying commodities or performing a service primarily for residents in the surrounding neighborhood:

a. Arts and school supplies store.
b. Banks and insurance companies.
c. Barbershops and beauty shops.
d. Bicycle sales and repair.
e. Books, magazines, record shop.
f. Drugs, candy, ice cream, soft drinks, cosmetics and other usual drugstore merchandise.
g. Dry cleaning and laundry pickup stations, including incidental pressing and repair.
h. Garden supplies, florist shop.
i. Gift or antique shops.
j. Hardware store, paint store.
k. Hobby shops, camera and photographic supply stores.
l. Jewelry shops and repair.
m. Laundromats.
n. Locksmith.
o. Music, radio, TV, appliance sales and repair stores.
p. Newsstands.
q. Office supply store, office machine store.
r. Pet shop.
s. Pipe and tobacco shops.
t. Plumbing, electrical, heating, housewares, furniture, carpet store.
u. Postal substation.
v. Real estate sales.
w. Retail food of all varieties and home supplies.
x. Sewing center and yard goods.
y. Sporting goods store.
z. Tailor shops.
aa. Temporary sales, such as Christmas tree lots.
bb. Travel bureau.
cc. Variety store.
dd. Wearing apparel store, shoe store.
ee. Off-sale liquor store.
ff. Home and garden equipment rental.
gg. Massage therapy centers.
hh. Cannabis retail businesses located not closer than 1,000 feet of a school or 500 feet of a day care, a residential treatment facility, or an attraction within a public park that is regularly used by minors.

(2) *Municipal buildings.* Municipal buildings where the use conducted is customarily considered to be an office use.

(Code 1984, § 10.40(3); Code 2003, § 78-643; Ord. No. 152(2nd series), § 1, 10-28-1996; Ord. No. 72(3rd series), § 1, 6-26-2010; Ord. No. 306(3rd series), § 2, 11-12-2024)

Sec. 6.12.3240. Conditional uses.

Within the B-1 Retail Sales Business District, no structure or land shall be used for one of the following uses without a conditional use permit:

(1) Garages for the servicing and repair of automobiles, provided repair functions are totally enclosed in a building.

(2) Motor fuel stations subject to the provisions set forth in section 6.12.6780.

(3) Restaurant (Class I), in which food is served to customers while seated at counter or table, or cafeteria, in which food is selected by a customer while going through a line and taken to a table for consumption. Neither live entertainment nor intoxicating liquor sales are permitted in Class I restaurants.

(4) Restaurant (Class II), i.e., a fast food, convenience, drive-in, or liquor store restaurant, which is a restaurant where a majority of customers order and are served their food to be consumed at a counter in packages prepared to leave the premises; or a drive-in where most customers consume their food in an automobile regardless of how it is served, or restaurants which serve intoxicating liquor or have live entertainment.

(5) Off-street parking when the principal site of the off-street parking abuts on a lot which is another B or I district and is in the same ownership as the land in the B or I district and subject to those conditions as set forth in article X, division 5 of this chapter and such other conditions as found necessary by the council.

(6) Public service structures, including, but not limited to, electric transmission lines and buildings, such as telephone exchange stations, booster or pressure stations, elevated tanks, lift stations and electric power substations. Personal wireless service and commercial broadcasting antennas and towers shall not be considered public service structures.

(7) Day nurseries, provided not less than 50 square feet of outside play area per pupil is available and fenced.

(8) Professional office and offices of a general nature.

(9) Commercial recreation subject to the provisions set forth in section 6.12.4190.

(10) Clinics for human care on an out-patient basis only.

(11) Dog boarding.

(12) Dog day care.

(13) Dog grooming.

(Code 1984, § 10.40(4); Code 2003, § 78-644; Ord. No. 161(2nd series), § 8, 6-7-1997; Ord. No. 183(2nd series), §§ 1, 2, 2-22-1999; Ord. No. 47(3rd series), § 3, 7-28-2008; Ord. No. 156(3rd series), § 2, 8-10-2015; Ord. No. 160(3rd series), § 1, 11-9-2015)

Sec. 6.12.3250. Accessory uses.

Within any B-1 Retail Sales Business District, the only permitted accessory uses and structures are the following:

(1) Private garages, off-street parking and loading spaces, as regulated in this chapter.

(2) Signs, as regulated in this chapter.

(3) Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary to complete the construction.

(4) Decorative landscape features.

(5) Fences, as regulated in this chapter.

(6) Any incidental repair or processing necessary to conduct a permitted principal use, provided that the incidental use shall not exceed 30 percent of the floor space of the principal building.

(7) Public telephone booths.

(8) Communication reception/transmission devices.

a. *Accessory antennas.* Accessory antennas shall be limited to radio and television receiving antennas, satellite dishes, TVROs, and amateur shortwave radio transmitting and receiving antennas. Accessory antennas that are accessory to the principal use of the property are

permitted accessory uses in all zoning districts, provided they meet the following conditions:

1. *Height.* A ground mounted accessory antenna shall not exceed 20 feet in height from ground level.
2. *Yards.* Accessory antennas shall not be located within the required front yard setback, corner side yard setback or side yard setback abutting a street.
3. *Roofs.* If vegetation or obstructions interfere with satellite signals at a location in any allowable placement area, the accessory antenna may be placed on the roof of any authorized structure on the premises.
4. *Setback.* Accessory antennas shall not be located within a required yard or setback area or within drainage or utility easements. Antenna towers shall be set back from adjacent property lines a horizontal distance no less than the maximum height of the antenna.
5. *Building permits.* A building permit shall be required for the installation of any accessory antenna requiring a conditional use permit. Building permit applications shall be accompanied by a site plan and structural component data for the accessory antenna, including details of anchoring. The building official must approve the plans before installation.
6. *Lighting protection.* Each accessory antenna shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the city.
7. *Electrical code.* Accessory antenna electrical equipment and connections shall be designed and installed in conformance with the National Electrical Code as adopted by the city.
8. *Color/content.* Accessory antennas shall be of a neutral color and shall not be used as signage.

b. *Amateur shortwave radio antennas and towers.* Amateur shortwave radio antennas and fowlers which do not meet the conditions for accessory antennas, may be allowed with a conditional use permit in all zoning districts provided they meet the following conditions:

1. *Height.* When an amateur shortwave radio antenna is mounted on an antenna tower, the total height of the antenna and tower shall not exceed 65 feet.
2. *Yards.* Amateur shortwave radio antennas and towers shall not be located within a front, corner side or side yard.
3. *Setbacks.* Amateur shortwave radio antennas and towers shall not be located within any required setback area and shall be located no less than the height of the antenna and tower from the property line.

(9) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(Code 1984, § 10.40(5); Code 2003, § 78-645; Ord. No. 161(2nd series), § 8, 6-7-1997; Ord. No. 183(2nd series), § 3, 2-22-1999; Ord. No. 106(3rd series), § 13, 6-10-2013)

ascribed to them in this section, except where the context clearly indicates a different meaning:

Charter boat means a watercraft carrying passengers for hire on Lake Minnetonka and which is required to hold a certificate of registration from the Lake Minnetonka Conservation District.

Marina business means engaging in one or more of the permitted, accessory or conditional uses allowed within the B-2 Lakeshore Business District.
(Code 1984, § 10.41(2); Code 2003, § 78-661; Ord. No. 132(2nd series), § 2, 1-23-1995)

Sec. 6.12.3320. Purpose.

The B-2 Lakeshore Business District was originally intended to provide areas where limited commercial businesses could be located to service boats used for recreational purposes on Lake Minnetonka. However, many of the operators of the lakeshore businesses have stripped the trees and vegetation from the shorelands and have expanded the operations so that now the B-2 Lakeshore Business District adversely affect the lake water quality and the real estate values of adjoining properties. The purpose of this division is to provide regulation of these businesses in a manner that will ensure protection of adjacent residential properties which have previously suffered from the unregulated expansion of commercial activities, while protecting and enhancing the quality of the lake and shoreland environment.
(Code 1984, § 10.41(1); Code 2003, § 78-662; Ord. No. 132(2nd series), § 2, 1-23-1995)

Sec. 6.12.3330. Site plan review.

All site plan reviews in the B-2 Lakeshore Business District shall be reviewed as set forth in article II, division 4 of this chapter.
(Code 1984, § 10.41(4); Code 2003, § 78-664; Ord. No. 132(2nd series), § 2, 1-23-1995; Ord. No. 68(3rd series), § 5, 2-8-2010)

Sec. 6.12.3340. Permitted uses.

Within the B-2 Lakeshore Business District, no land or structure shall be used except for one or more of the following uses:

(1) Rental of in-water boat slips.

(2) Sales of boats, motors, trailers and marine accessories.

(3) Repair and servicing of boats.

(4) On-land storage of boats, winter and summer.

(5) Marine fuel sales.

(6) Bait and fishing tackle sales.

(Code 1984, § 10.41(5); Code 2003, § 78-665; Ord. No. 132(2nd series), § 2, 1-23-1995)

Sec. 6.12.3350. Conditional uses.

No conditional use permit shall be granted unless the property is found to be in compliance with the landscaping and screening requirements of this division. All conditional use permit applications shall be reviewed in accordance with the provisions of article V of this chapter. Within any B-2 Lakeshore Business District, no structure or land shall be used for the following uses without a conditional use permit:

(1) Boat clubs (time share). The applicant shall demonstrate that adequate parking is available on the site.

(2) Public boat launching, on-demand (on-demand launching of customer-owned boats stored on the business site). The applicant shall demonstrate that adequate parking is available on the site. Approval shall be subject to Lake Minnetonka Conservation District (LMCD) permit for such use, but the city shall not be obligated to approve such use if approved by the LMCD when parking is inadequate.

(3) Public boat launching, transient. (Launching of boats via a ramp or other means for or by customers when such boats are not stored on the site). The applicant shall demonstrate that adequate car-

trailer parking is available on the site. Hours of operation shall be at council discretion.

(4) Charter boat port of call. A charter boat port of call shall be defined as a location where a charter boat may pick up passengers other than the owner or operator or employees of the charter boat, whether or not the charter boat is normally berthed on the property. The city may place appropriate conditions on a charter boat port of call regarding minimum parking requirements, hours of operation, etc., as may be appropriate to protect public interest. The applicant shall demonstrate to the council that all such conditions are met.

(5) One caretaker dwelling unit, subject to conditions and limitations for such use that may be imposed by the city council.

(Code 1984, § 10.41(7); Code 2003, § 78-666; Ord. No. 132(2nd series), § 2, 1-23-1995)

Sec. 6.12.3360. Accessory uses.

Within any B-2 Lakeshore Business District, the only permitted accessory uses and structures are the following:

(1) Signs, as regulated in this chapter.

(2) Boat head pumpout/sanitary boat waste dumping facility.

(3) Fishing tournaments, subject to all other permit requirements of this Code.

(4) Sale of prepackaged foods or food from vending machines. Prepackaged food includes only food which has been professionally prepared at a location other than on the premises and does not include full-course meals or any food preparation other than warming by use of an infrared or microwave oven. Sale of food from vending machines is allowed.

(5) Dive shops.

(6) Clubhouse (assembly/lounge/kitchenette area for use by slip rental or boat club customers only).

(7) Lessons/teaching (sailing schools, etc.).

(8) Rental of boats.

(9) Sailboard sales/rental.

(10) Ice boating sales/rental/service and operations base.

(11) Ice fishing tackle sales.

(12) Cross-country ski sales/rental/service.

(13) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(Code 1984, § 10.41(6); Code 2003, § 78-667; Ord. No. 132(2nd series), § 2, 1-23-1995; Ord. No. 106(3rd series), § 14, 6-10-2013)

Sec. 6.12.3370. Parking requirements.

Within the B-2 Lakeshore Business District, the off-street parking facilities shall be sufficient to eliminate any traffic or parking congestion likely to be caused by the business conducted. The parking areas need not be paved but shall be provided with appropriate stormwater runoff quality/quantity controls as may be required in this division. The minimum parking requirements shall be as follows:

(1) Six parking spaces shall be provided for each ten boat slips on water or on land.

(2) At least eight off-street parking spaces, plus one additional space for each 800 square feet of floor area over 1,000 feet, including warehousing, and all outside sales and storage areas related to the sales and service functions.

(3) If the proposed use is to include the launching of boats owned by the public for the day from trailers (i.e., public boat launching, transient), ten additional auto-trailer parking spaces shall be provided for each ramp.

(4) If the proposed use is to include a charter boat port of call, one additional parking space for each three seats of gross charter capacity shall be provided, or a plan for off-site parking and shuttle service shall be provided to the city subject to council approval.

(5) The required parking spaces may not be separated by a public roadway from the dock, a storage space, mooring space, floor space or ramp they are designed to serve.

(6) Required off-street parking space may not be utilized for open storage of goods or for the storage of boats; except that during the winter storage season each year, the required off-street parking may be used for winter storage of boats, provided that 20 percent of the required parking spaces remain as a functional parking area. During the transition seasons (April 15 to May 31 and September 16 to November 15), adequate parking shall be maintained on the site, sufficient to eliminate traffic or parking congestion; but in no case shall parking be reduced to less than 20 percent of the required spaces.

(7) Parking may not be allowed in any required yard or landscaping area.

(8) Employee parking spaces shall be in addition to the parking spaces required in subsections (1) through (7) of this section. The number of employee parking spaces shall be designated on an official parking plan to be kept on file with the city.

(9) Where these minimum parking requirements prove to be inadequate for a given use, additional parking may be required in order to continue that use.

(Code 1984, § 10.41(8); Code 2003, § 78-668; Ord. No. 132(2nd series), § 2, 1-23-1995)

Sec. 6.12.3380. Yards.

The minimum required yard areas for the B-2 district shall be landscaped and planted with evergreen and deciduous shrubs and trees in accordance with a detailed landscape plan. Storage of boats, vehicles, equipment and materials shall not be allowed within any required yard.

(Code 1984, § 10.41(9); Code 2003, § 78-669; Ord. No. 132(2nd series), § 2, 1-23-1995)

Sec. 6.12.3390. Landscaping areas.

In addition to the landscaping required in the required yard areas for the B-2 district, the following landscaping areas shall be landscaped in accordance with the following provisions:

(1) The minimum landscaping areas shall be as follows:

a. The lakeshore landscaping area shall be an area that is parallel to the entire lakeshore adjacent to the licensed marina operation and equal to ten percent of the average lot depth, but in no case shall it be less than ten feet nor more than 75 feet. Breaks in the landscaping area for access to the lake shall not exceed an aggregate width of 30 feet for each marina operation.

b. Side yard landscaping area shall be an area that is parallel to the side lot line and not within the lakeshore landscaping area or front yard landscaping area and shall not be less than ten feet deep.

c. Front yard landscaping area shall be an area that is parallel to the street or opposite the lakeshore landscaping area and shall not be less than ten feet deep. Breaks in the landscaping area for access to the public road shall not exceed an aggregate width of 50 feet for each marina operation.

(2) The detailed landscape plan for each landscaping area shall provide for a natural woods area containing primarily evergreen and deciduous trees not less than six feet in height. Shrubs not less than two feet in height shall be interdispersed among the trees so as to eventually provide, at maturity, a natural screen that will not be less than 50 percent opaque during the summer months. No uses shall be allowed in the landscaping area except the required landscaping and access roads. A privacy fence may be required in addition to the natural landscaping which has been planted to

meet the requirements of this district. The use of any fencing shall not satisfy the requirements of providing natural landscaping and solid visual screening. Any yard area requiring landscaping to meet the requirements of this district shall be planted with nursery stock, balled and bagged trees and shrubs. All landscaping shall be maintained in a healthy growing condition.

(3) All the required improvements in the landscaping will be completed prior to the date of issuance of an occupancy certificate or as otherwise provided by this division, whichever date occurs first.

(4) All landscape areas shall be sufficiently delineated by berming, curbing or other acceptable physical barrier so as to eliminate the encroachment of vehicle parking, winter and summer boat storage, and other materials or equipment storage into the required landscape areas.

(5) All ground cover in the required landscaping areas shall be natural living materials, such as grass or other planted ground cover. Decorative rock beds and the like, whether or not lined with plastic, fabric or other weed inhibitors, shall constitute no more than ten percent of the required landscape areas.

(Code 1984, § 10.41(10); Code 2003, § 78-670; Ord. No. 132(2nd series), § 2, 1-23-1995)

Sec. 6.12.3400. Additional performance standards.

Within the B-2 Lakeshore Business District, any land use must meet the following performance standards:

(1) Suitable sanitary facilities connected to public sanitary sewer shall be provided on the premises for men and women, and, further, suitable facilities shall be provided for the disposal of wastes accumulated in boats docked or serviced at the marina, including head pumpout facilities and a designated porta-potty dump station.

(2) Insofar as practicable, all means of access to the operation from any street shall be so located and designed as to avoid the routing of vehicles from the property over streets that primarily serve abutting residential areas. All access roads from the operation to any public paved roadway shall be paved for a distance of at least 30 feet adjacent to the public roadway to minimize dust and noise conditions. All access roads from the operation to any unpaved public roadway shall be treated to minimize dust conditions at least to the extent the unpaved public roadway is dust controlled.

(3) All lighting on the premises shall be shielded so that no direct glare can be seen from adjoining residences, from the lake or from the roadway.

(4) The hours for running engines or operating any boat engine for the purpose of charging batteries, running auxiliary equipment or testing shall be between the hours of 8:00 a.m. and 6:00 p.m. Noise shall be limited per the provisions of this chapter.

(5) The maximum hours of operation for retail sales and service functions shall be 7:00 a.m. to 10:00 p.m., except as necessary to support normal (nontournament) fishing activity or private (noncharter) use of the boats stored on the premises, unless other permission is specifically granted by the council.

(6) Persons in charge shall at all times keep the docks, sea walls and premises in a neat and orderly manner and free from trash, rubbish, repair parts, machinery, equipment and debris of all kinds.

(7) Persons in charge shall prohibit the dumping or throwing of garbage, paper, bottles, cans, refuse or debris into waterway. Persons in charge of mooring areas shall provide garbage cans of sufficient size to hold garbage or refuse to be collected. Dumpsters shall be screened so as to not be visible off-site.

(8) No commercial docks or boat buoys shall extend further into the waters of any lake than is reasonably necessary to accommodate the docking and mooring of such craft as shall customarily and lawfully be used on the lake or so as to interfere with, obstruct, tend to obstruct, or render dangerous for use or passage a body of water within the primary harbor limits of the city. The length of docks and the location of buoys shall be regulated by this Code. All such commercial docks and wharves shall be constructed and maintained of such materials and of such type of construction as will not render them unsafe or likely to endanger public enjoyment of the waters. The use of nonencased expanded-bead polystyrene foam as a dock flotation material has been prohibited. Commercial docks shall be maintained in a neat and orderly manner at all times.

(9) If on-land boat storage facilities are provided, the boats shall be stored in such manner that they do not create a fire hazard. Any outside structures for the purpose of storage of boats may not exceed 15 feet in height. On-land boat storage areas may not be located in the required yards or landscaping areas. The premises shall at all times be maintained in a neat and orderly manner.

(10) Any gasoline offered for sale or stored on the premises shall be placed in tanks or containers as may be required by the council, and as required in chapter 5.08, article II. Such tanks or containers shall be stored in such a manner and location so as not to create a danger to the community.

(11) On-land boat density shall be as follows:

a. *Summer boat density.* The number of boats stored on the premises for any and all reasons shall not exceed that number which can be safely stored in allowable locations while maintaining appropriate ingress, egress and emergency access to the site, as well as maintaining the required number of acceptable parking spaces. Boats shall not be stored in required auto parking spaces during the summer months (June 1 through September 15).

b. *Winter boat density/storage.* The number of boats stored on the premises for any and all reasons during the winter season (November 16 through April 14) shall not exceed that number which can be safely stored in allowable locations while maintaining ingress, egress and emergency access to the site, as well as maintaining the required number of winter parking spaces.

c. A site plan designating the location of summer and winter boat storage shall be submitted for council approval no later than three months after January 23, 1995, and shall require council approval for any future revisions.

(Code 1984, § 10.41(11); Code 2003, § 78-671; Ord. No. 132(2nd series), § 2, 1-23-1995)

Sec. 6.12.3410. Area, height, lot width and yard requirements.

(a) *Height.* No structure or building in any B-1 district shall exceed 30 feet in height.

(b) *Minimum requirements.* The following minimum requirements shall be observed:

(1) Lot area: two acres.

(2) Lot width parallel to lake: 200 feet.

(3) Lot width perpendicular to lakeshore: 200 feet.

(4) Lakeshore yard: 75 feet.

(5) Side yard: ten feet.

(6) Front yard along street: 30 feet.

(Code 1984, § 10.41(12); Code 2003, § 78-672; Ord. No. 132(2nd series), § 2, 1-23-1995; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 12, 6-27-2016)

Sec. 6.12.3420. Setback, hard cover and tree removal regulations.

All property in the B-2 Lakeshore Business District is subject to the requirements of article IX of this chapter. In addition, the following standards shall apply:

(1) *Lakeshore setback regulations.* The building setback from the shoreline shall be 75 feet.

(2) *Setback to residential.* No operation or activities except for storage and parking may be conducted closer than 50 feet to the boundary of an adjoining property line which property is used for residential purposes.

(3) *Setback along streets.* No operation or activities except for storage and parking may be conducted closer than 50 feet to the right-of-way of any existing street, road or highway.

(4) *Lakeshore hard cover regulations.* Within 75 feet of the shoreline there shall be no excavating, filling, hard cover, temporary or permanent structures. Within 75 to 250 feet of the shoreline, there shall be no greater than 25 percent hard cover. Within 250 to 500 feet of the shoreline, there shall be no greater than 30 percent hard cover. Within 500 to 1,000 feet of the shoreline, there shall be no greater than 35 percent hard cover.

(5) *Tree removal regulations.* No trees within 75 feet of the shoreline with a diameter of six inches or more shall be removed without first obtaining a permit from the council. Tree removal and other vegetation management shall be in accordance with the ordinance.

(Code 1984, § 10.41(13); Code 2003, § 78-673; Ord. No. 132(2nd series), § 2, 1-23-1995)

Sec. 6.12.3430. Drainage.

No land shall be developed and no use shall be permitted that results in water runoff causing floods, erosion or deposits on adjacent properties. Site and drainage plans shall be submitted by the applicant any time a new use is applied for, whether through subdivision, variance, conditional use permit or building permit. Such plans shall be provided in such detail as required by the council, and those plans shall be reviewed by the city engineer before submission to the planning commission and the council for approval. Such stormwater runoff may be required to be properly channeled into a natural watercourse, ponding area, storm drain or other public facilities. Construction of facilities to manage the quantity and quality of stormwater runoff may be required. Any change in grade affecting water runoff, whether onto adjacent property or otherwise, must be in compliance with the surface water management plan and articles VIII and IX of this chapter, and shall be consistent with other applicable regulations or provisions of this Code, and is further subject to the approval of other agencies having jurisdiction over the area affected by the drainage.

(Code 1984, § 10.41(14); Code 2003, § 78-674; Ord. No. 132(2nd series), § 2, 1-23-1995)

Sec. 6.12.3440. Nonconforming use.

Notwithstanding any other provision of this division, any nonconforming use of land not involving a structure and any nonconforming use involving a structure with an assessor's fair market value on January 1, 1975, of $3,000.00 shall be allowed to continue as a nonconforming use subject to the provisions as set forth in article II, division 2 of this chapter.

(Code 1984, § 10.41(15); Code 2003, § 78-675; Ord. No. 132(2nd series), § 2, 1-23-1995)

Sec. 6.12.3450. Variances.

(a) Variances may be granted to the provisions of this division in accordance with the provisions set forth in article II, division 3, subdivision II of this chapter.

(b) The council may grant a variance allowing a four-year installation and planting period to meet the requirements of the landscaping and planting provisions of this division to any applicant who:

(1) Submits a detailed landscape plan showing sufficient planting and landscaping in each of the four years in order to

provide at the end of the four years a natural screen that will not be less than 50 percent opaque during the summer months and not less than 25 percent opaque in winter.

(2) Submits a four-year planting and landscaping plan which shall provide that in each year of the plan at least 25 percent of the necessary landscaping and planting (as determined by the council as of May 1, 1995) be planned and completed for each required landscaping area according to the other provisions of this division. The council may vary this requirement in order to allow a higher percentage of the landscaping and planting in any required landscaping area and credit the applicant for the landscaping and planting which otherwise would be required in other landscaping areas.

(Code 1984, § 10.41(16); Code 2003, § 78-676; Ord. No. 132(2nd series), § 2(10.41(16), 10.41(17)), 1-23-1995)

Sec. 6.12.3460. Regulation of structures within the lake; adoption by reference.

The city adopts by reference and makes a part of this chapter as if fully set forth in this division, chapter II of the Lake Minnetonka Conservation District Code as codified on May 27, 1988, including sections 2.001 through 2.12 and subsequent amendments. The city expressly reserves the right to deny any variance to the provisions of chapter II as amended, even though the same variance was granted by the Lake Minnetonka Conservation District.

(Code 2003, § 78-677; Ord. No. 132(2nd series), § 2(10.41(18)), 1-23-1995)

Sec. 6.12.3470. Reference to other ordinances.

This division is expressly conditioned upon the effectiveness of the ordinances of the Lake Minnetonka Conservation District pertaining to marina regulations; and if all or a portion of such ordinances are declared invalid by a court of competent jurisdiction, no marina shall have a longer dock, more boat slips or more boat buoys than what was permitted by the terms of that ordinance on the date it was declared invalid, or than was last approved by the Lake Minnetonka Conservation District, whichever is less. The city expressly reserves the power to be more restrictive in its regulation than the Lake Minnetonka Conservation District Ordinances if the public health, safety and welfare of the citizens of the city so requires.

(Code 2003, § 78-678; Ord. No. 132(2nd series), § 2(10.41(19)), 1-23-1995)

Division 12. B-3 Shopping Center Business District

Sec. 6.12.3510. Purpose.

The B-3 Shopping Center Business District is intended to establish provisions for the designating of a district where a multiple building retail sales and service facility with integrated design and a coordinated physical plan, appropriately located, may be erected. Such district shall be developed as a unit according to an approved plan as provided in this division. The district shall have immediate access to adequate highways and public sanitary sewer.

(Code 1984, § 10.42(1); Code 2003, § 78-701)

Sec. 6.12.3520. Site plan review.

All site reviews in the B-3 Shopping Center Business District shall be reviewed as set forth in article II, division 4 of this chapter, except that for those site plans subject to council review.

(Code 1984, § 10.42(2); Code 2003, § 78-702; Ord. No. 68(3rd series), § 6, 2-8-2010)

Sec. 6.12.3530. Single control.

In order that the purpose of the B-3 district may be realized, the land and buildings and appurtenant facilities shall be in single ownership or under the management or supervision of a central authority.

(Code 1984, § 10.42(2); Code 2003, § 78-703)

Sec. 6.12.3540. Permitted uses.

Within the B-3 Shopping Center Business District, no structure or land shall be used except for one of the following uses or uses deemed similar by the council:

(1) *Retail and service businesses.* The following neighborhood retail sales and service businesses supplying commodities or performing a service primarily for residents in the surrounding neighborhood:

a. Arts and school supplies store.

b. Banks and insurance companies.

c. Barbershops and beauty shops.

d. Bicycle sales and repair.

e. Books, magazines, record shop.

f. Drugs, candy, ice cream, soft drinks, cosmetics and other usual drugstore merchandise.

g. Dry cleaning and laundry pickup stations, including incidental pressing and repair.

h. Garden supplies, florist shop.

i. Gift or antique shops.

j. Hardware store, paint store.

k. Hobby shops, camera and photographic supply stores.

l. Jewelry shops and repair.

m. Laundromats.

n. Locksmith.

o. Music, radio, TV, appliance sales and repair stores.

p. Newsstands.

q. Office supply store, office machine store.

r. Pet shop.

s. Pipe and tobacco shops.

t. Plumbing, electrical, heating, housewares, furniture, carpet store.

u. Postal substation.

v. Real estate sales.

w. Retail food of all varieties and home supplies.

x. Sewing center and yard goods.

y. Sporting goods store.

z. Tailor shops.

aa. Temporary sales, such as Christmas tree lots.

bb. Travel bureau.

cc. Variety store.

dd. Wearing apparel store, shoe store.

ee. Off-sale liquor store.

ff. Home and garden equipment rental.

gg. Massage therapy centers.

hh. Clinics for human care on an outpatient basis only.

ii. Cannabis retail businesses located not closer than 1,000 feet of a school or 500 feet of a day care, a residential treatment facility; or an attraction within a public park that is regularly used by minors.

(2) *Municipal buildings.* Municipal buildings where the use conducted is customarily considered to be an office use.

(Code 1984, §§ 10.40(3), 10.42(4); Code 2003, § 78-704; Ord. No. 152(2nd series), § 1, 10-28-1996; Ord. No. 72(3rd series), § 2, 6-26-2010; Ord. No. 156(3rd series), § 3, 8-10-2015; Ord. No. 306(3rd series), § 3, 11-12-2024)

Sec. 6.12.3550. Conditional uses.

Within any B-3 Shopping Center Business District, no structure or land shall be used for one of the following uses without a conditional use permit:

(1) Garages for the servicing and repair of automobiles, provided repair functions are totally enclosed in a building.

(2) Motor fuel stations, subject to the provisions set forth in section 6.12.6780.

(3) Restaurant (Class I), in which food is served to customers while seated at counter or table, and cafeteria, in which food is selected by a customer while

going through a line and taken to a table for consumption. Neither live entertainment nor intoxicating liquor sales are permitted in Class I restaurants.

(4) Off-street parking when the principal site of the off-street parking abuts on a lot which is in another B or I district, and is in the same ownership as the land in the B or I district and subject to those conditions as set forth in article X, division 5 of this chapter and such other conditions as found necessary by the council.

(5) Public service structures, including, but not limited to, electric transmission lines and buildings, such as telephone exchange stations, booster or pressure stations, elevated tanks, lift stations and electric power substations. Personal wireless service and commercial broadcasting antennas and towers shall not be considered public service structures.

(6) Day nurseries, provided not less than 50 square feet of outside play area per pupil is available and fenced.

(7) Professional office and offices of a general nature.

(8) Shopping center identification sign.

(Code 1984, §§ 10.40(4), 10.42(5); Code 2003, § 78-705; Ord. No. 161(2nd series), § 8, 6-7-1997; Ord. No. 183(2nd series), §§ 1, 2, 2-22-1999)

Sec. 6.12.3560. Accessory uses.

Within any B-3 Shopping Center Business District, the only permitted accessory uses and structures are the following:

(1) Private garages, off-street parking and loading spaces as regulated in this chapter.

(2) Signs, as regulated in this chapter.

(3) Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary to complete the construction.

(4) Decorative landscape features.

(5) Fences, as regulated in this chapter.

(6) Any incidental repair or processing necessary to conduct a permitted principal use, provided that the incidental use shall not exceed 30 percent of the floor space of the principal building.

(7) Public telephone booths.

(8) Communication reception/transmission devices.

a. *Accessory antennas.* Accessory antennas shall be limited to radio and television receiving antennas, satellite dishes, TVROs, and amateur shortwave radio transmitting and receiving antennas. Accessory antennas that are accessory to the principal use of the property are permitted accessory uses in all zoning districts, provided they meet the following conditions:

1. *Height.* A ground mounted accessory antenna shall not exceed 20 feet in height from ground level.

2. *Yards.* Accessory antennas shall not be located within the required front yard setback, corner side yard setback or side yard setback abutting a street.

3. *Roofs.* If vegetation or obstructions interfere with satellite signals at a location in any allowable placement area, the accessory antenna may be placed on the roof of any authorized structure on the premises.

4. *Setback.* Accessory antennas shall not be located within a required yard or setback area or within drainage or utility easements. Antenna towers shall be set back from adjacent property lines a horizontal distance no less than the maximum height of the antenna.

5. *Building permits.* A building permit shall be required for the installation of any accessory antenna requiring a conditional use permit. Building permit applications shall be accompanied by a site plan and structural component data for the accessory antenna, including details of anchoring. The building official must approve the plans before installation.
6. *Lightning protection.* Each accessory antenna shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the city.
7. *Electrical code.* Accessory antenna electrical equipment and connections shall be designed and installed in conformance with the National Electrical Code as adopted by the city.
8. *Color/content.* Accessory antennas shall be of a neutral color and shall not be used as signage.

b. *Amateur shortwave radio antennas and towers.* Amateur shortwave radio antennas and towers which do not meet the conditions for accessory antennas may be allowed with a conditional use permit in all zoning districts, provided they meet the following conditions:
1. *Height.* When an amateur shortwave radio antenna is mounted on an antenna tower, the total height of the antenna and tower shall not exceed 65 feet.
2. *Yards.* Amateur shortwave radio antennas and towers shall not be located within a front, corner side or side yard.
3. *Setbacks.* Amateur shortwave radio antennas and towers shall not be located within any required setback area and shall be located no less than the height of the antenna and tower from the property line.

(9) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(Code 1984, §§ 10.40(5), 10.42(6); Code 2003, § 78-706; Ord. No. 161(2nd series), § 8, 6-7-1997; Ord. No. 183(2nd series), § 3, 2-22-1999; Ord. No. 106(3rd series), § 15, 6-10-2013)

Sec. 6.12.3570. Area, height, yard, setback and design requirements.

(a) *Area.* The minimum lot size in the B-3 district shall be two acres.

(b) *Floor area ratio.* A 0.28 FAR will be required so that the gross leasable area shall not exceed 28 percent of the total land area available.

(c) *Open spaces.* The physical design may include more than one building; however, should such building provide an open space between two buildings, that space shall be not less than half the sum of the heights of the two buildings.

(d) *Front yards.* The minimum front yard shall be 20 feet.

(e) *Rear yards.* The minimum rear yard shall be 30 feet.

(f) *Side yards.* The minimum side yard shall be five feet. Side yards adjacent to an R district shall be 15 feet; side yards adjacent to a street shall be 20 feet.

(g) *Setback requirements.* No building shall be nearer than 60 feet to any lot line; except when abutting or across the street from an R district, no building shall be less than 100 feet from such lot line.

(h) *Landscaping.* The entire area shall be landscaped, occupied by buildings or structures or parking areas so treated as to control dust. Should the development be undertaken in stages, all of the area required to conform to that portion

undertaken shall be developed to meet the preceding requirements. A minimum of 12 percent of the entire area shall be devoted to green space.

(i) *Drives.* The design shall include adequate internal circulation drives not less than 22 feet in width which are exclusive of the required parking area.

(j) *Curb cuts.* The driveway curb cuts to the development shall not exceed 26 feet in width, five feet return curb radii, and be located not less than 60 feet from all intersecting streets.

(k) *Drainage.* No land shall be developed and no use shall be permitted that results in water runoff causing floods, erosion or deposits on adjacent properties. Site and drainage plans shall be submitted by the applicant in such detail as required by the council, and those plans shall be reviewed by the city engineer before submission to the planning commission and the council for approval. Such runoff may be required to be properly channeled into a natural watercourse, ponding area, storm drain or other public facilities. Any change in grade affecting water runoff whether onto adjacent property or otherwise must be in compliance with the surface water management plan and shall be consistent with other applicable regulations and the provisions of this Code and subject to the approval of other agencies having jurisdiction over the area affected by the drainage.

(l) *Fencing.* Wherever a B-3 Shopping Center Business District abuts or is across the street from an R district, an adequate fence or compact evergreen hedge not less than 50 percent opaque nor less than six feet in height shall be erected. When adjacent to a street, it shall not be less than three feet nor more than four feet in height.

(m) *Building design and construction.* See section 6.12.3260(g).

(n) *Height.* No structure or building shall exceed 30 feet in height except as provided in section 6.12.6710.
(Code 1984, § 10.42(7); Code 2003, § 78-707; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 13, 6-27-2016)

Division 13. B-4 Office and Professional Business District

Sec. 6.12.3610. Purpose.

The B-4 Office and Professional Business District is intended to provide a district which is related to and may adjoin residential districts or other business districts for the location of administrative office buildings and related offices. The office uses allowed in this district are those in which there is limited contact with the public and no exterior display or selling of merchandise to the general public. The district shall have immediate access to adequate highways and public sanitary sewer.
(Code 1984, § 10.43(1); Code 2003, § 78-731)

Sec. 6.12.3620. Site plan review.

All site plan reviews in any B-4 Office and Professional Business District shall be reviewed as set forth in article II, division 4 of this chapter.
(Code 1984, § 10.43(2); Code 2003, § 78-732; Ord. No. 68(3rd series), § 7, 2-8-2010)

Sec. 6.12.3630. Permitted uses.

Within any B-4 Office and Professional Business District, no structure or land shall be used except for one or more of the following uses:

(1) Municipal buildings where the use conducted is customarily considered to be an office use.

(2) Professional offices and offices of a general nature.

(3) Clinics for human care on an out-patient basis only.

(4) Banks and insurance offices.

(5) Cannabis retail businesses located not closer than 1,000 feet of a school or 500 feet of a day care, a residential treatment facility, or an attraction within a public park that is regularly used by minors.

(Code 1984, § 10.43(3); Code 2003, § 78-733; Ord. No. 306(3rd series), § 4, 11-12-2024)

Sec. 6.12.3640. Conditional uses.

Within the B-4 Office and Professional Business District, no structure or land shall be used for the following uses without a conditional use permit:

(1) Nursing homes, hospitals, rest homes or retirement homes, provided the site shall contain not less than 600 square feet of lot area for each person to be accommodated and no building is located less than 35 feet from the side lot line.

(2) Private academies, schools, trade schools, colleges and universities for teaching.

(3) Research centers.

(4) Animal hospitals, veterinary clinics or kennels.

(5) Libraries.

(6) Museums.

(7) Historical buildings, museums, art institutes, galleries and playhouses.

(8) Restaurants (Class I), which are restaurants located within and mainly servicing an office building, providing there is no outside display or advertising of the restaurant use.

(9) Off-street parking when the principal site of the off-street parking abuts on a lot which is in another B or I district and is in the same ownership as the land in the B or I district and subject to those conditions as set forth in article X, division 5 of this chapter and other such conditions as found necessary by the council.

(10) Public service structures, including, but not limited to, electric transmission lines and buildings, such as telephone exchange stations, booster or pressure stations, elevated tanks, lift stations and electric power substations. Personal wireless service and commercial broadcasting antennas and towers shall not be considered essential services.

(11) Religious institutions and facilities, including those related structures located on the same site which are an integral part of the religious institution, and convents or homes for persons related to a religious function on the same site. Religious institutions and facilities shall meet the standards of the B-4 district and shall further meet the following requirements:

a. All buildings shall meet a setback of 50 feet from lot lines abutting a residentially zoned property.

b. One parking space shall be provided for each four seats of capacity in the main assembly hall or sanctuary, with additional parking required per the standards of this chapter for other facilities, such as classrooms, licensed day care facilities or offices, when such uses will overlap with the use of the main assembly hall.

c. If required parking is not provided on site, an off-site parking plan satisfactory to the city council shall be provided.

d. Parking areas in side or rear yards shall be set back ten feet from residentially zoned property.

e. If the religious institution property abuts both a local residential street and a collector or arterial roadway, the access shall be onto the collector or arterial.

(Code 1984, § 10.43(4); Code 2003, § 78-734; Ord. No. 161(2nd series), § 9, 6-7-1997; Ord. No. 204(2nd series), § 1, 6-25-2001)

Sec. 6.12.3650. Accessory uses.

Within any B-4 Office and Professional Business District, the only permitted accessory uses and structures are the following:

(1) Private garages, off-street parking and loading spaces, as regulated in this chapter.

(2) Signs, as regulated in this chapter.

(3) Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary to complete the construction.

(4) Decorative landscape features.

(5) Fences, as regulated in this chapter.

(6) Any incidental repair or processing necessary to conduct a permitted principal use, provided that the incidental use shall not exceed 30 percent of the floor space of the principal building.

(7) Public telephone booths.

(8) Communication reception/transmission devices.

a. *Accessory antennas.* Accessory antennas shall be limited to radio and television receiving antennas, satellite dishes, TVROs, and amateur shortwave radio transmitting and receiving antennas. Accessory antennas that are accessory to the principal use of the property are permitted accessory uses in all zoning districts, provided they meet the following conditions:

1. *Height.* A ground mounted accessory antenna shall not exceed 20 feet in height from ground level.

2. *Yards.* Accessory antennas shall not be located within the required front yard setback, corner side yard setback or side yard setback abutting a street.

3. *Roofs.* If vegetation or obstructions interfere with satellite signals at a location in any allowable placement area, the accessory antenna may be placed on the roof of any authorized structure on the premises.

4. *Setback.* Accessory antennas shall not be located within a required yard or setback area or within drainage or utility easements. Antenna towers shall be set back from adjacent property lines a horizontal distance no less than the maximum height of the antenna.

5. *Building permits.* A building permit shall be required for the installation of any accessory antenna requiring a conditional use permit. Building permit applications shall be accompanied by a site plan and structural component data for the accessory antenna, including details of anchoring. The building official must approve the plans before installation.

6. *Lightning protection.* Each accessory antenna shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the city.

7. *Electrical code.* Accessory antenna electrical equipment and connections shall be designed and installed in conformance with the National Electrical Code as adopted by the city.

8. *Color/content.* Accessory antennas shall be of a neutral color and shall not be used as signage.

b. *Amateur shortwave radio antennas and towers.* Amateur shortwave radio antennas and towers which do not meet the conditions for accessory antennas, may be allowed with a conditional use permit in all zoning districts, provided they meet the following conditions:

1. *Height.* When an amateur shortwave radio antenna is mounted on an antenna tower,

the total height of the antenna and tower shall not exceed 65 feet.

2. *Yards.* Amateur shortwave radio antennas and towers shall not be located within a front, corner side or side yard.

3. *Setbacks.* Amateur shortwave radio antennas and towers shall not be located within any required setback area and shall be located no less than the height of the antenna and tower from the property line.

(9) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(Code 1984, §§ 10.40(5), 10.43(5); Code 2003, § 78-735; Ord. No. 161(2nd series), § 8, 6-7-1997; Ord. No. 183(2nd series), § 3, 2-22-1999; Ord. No. 106(3rd series), § 16, 6-10-2013)

Sec. 6.12.3660. Area, height, lot width, yard, setback and design requirements.

(a) *Area.* The minimum lot size in any B-4 district shall be 20,000 square feet.

(b) *Lot width.* The minimum lot width shall be 100 feet.

(c) *Front yards.* The minimum front yard shall be 20 feet.

(d) *Rear yards.* The minimum rear yard shall be 30 feet; and unless the rear yard has access from a public street or alley, a side driveway of 12 feet shall be provided to assure access.

(e) *Setback requirements.* No building shall be nearer than 35 feet to any front lot line, 35 feet to any rear lot line, 15 feet to any side lot line, or 35 feet to any side lot line adjacent to a street; except when abutting or across the street from an R district, no building shall be less than 35 feet from such lot line.

(f) *Fencing.* Wherever a B-4 office and professional business district abuts an R district along the side or rear lot line, a fence or compact evergreen hedge not less than 50 percent opaque nor less than six feet in height (no less than three feet nor higher than four feet adjacent to street) shall be erected along the abutting lines except within the required front yard.

(g) *Building design and construction.* See section 6.12.3260(g).

(h) *Drainage.* No land shall be developed and no use shall be permitted that results in water runoff causing floods, erosion or deposits on adjacent properties. Site and drainage plans shall be submitted by the applicant in such detail as required by the council, and those plans shall be reviewed by the city engineer before submission to the planning commission and council for approval. Such runoff may be required to be properly channeled into a natural watercourse, ponding area, storm drain or other public facilities. Any change in grade affecting water runoff, whether onto adjacent property or otherwise, must be in compliance with the surface water management plan and shall be consistent with other applicable regulations or provisions of this Code and subject to the approval of other agencies having jurisdiction over the area affected by the drainage.

(i) *Height.* No structure or building shall exceed 30 feet in height except as provided in section 6.12.6710.

(Code 1984, § 10.43(6); Code 2003, § 78-736; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 14, 6-27-2016)

Division 14. B-5 Limited Neighborhood Business District

Sec. 6.12.3710. Purpose.

The B-5 Limited Neighborhood Business District is intended to provide a district for businesses that supply commodities or perform a service primarily for residents in the surrounding neighborhood, which businesses are not high traffic generators and do not necessitate an inordinate amount of hard cover. The district may adjoin residential districts or other business districts which are subject to more restrictive controls. The district shall have immediate access to adequate highways and public sanitary sewer. Because of the location of the B-5 district as

contemplated in the area in the city known as Navarre, the uses are limited in order to limit the hardcover in that area and to limit the future generation of traffic for that property in that use district, since there is already a traffic problem in Navarre.
(Code 1984, § 10.44(1); Code 2003, § 78-761)

Sec. 6.12.3720. Site plan review.

All site reviews in any B-5 Limited Neighborhood Business District shall be reviewed as set forth in article II, division 4 of this chapter.
(Code 1984, § 10.44(2); Code 2003, § 78-762; Ord. No. 68(3rd series), § 8, 2-8-2010)

Sec. 6.12.3730. Permitted uses.

Within any B-5 Limited Neighborhood Business District, no structure or land shall be used except for one of the following uses or uses deemed similar by the council:

(1) Municipal buildings.

(2) Offices.

(3) Clinics.

(4) Art and school supply store.

(5) Book and magazine store.

(6) Office supply store.

(7) Banks, loan company, insurance company, real estate office.

(8) Barbershop, beauty shop.

(9) Camera and photograph supply store.

(10) Locksmith.

(11) Hobby shop.

(12) Gift store.

(13) Glassware and pottery.

(14) Antique store.

(15) Jewelry store.

(16) Watch repair.

(17) Library.

(18) Museum.

(19) Record shop.

(20) Music store.

(21) Tobacco shop.

(22) Galleries.

(23) Pet shop.

(24) Massage therapy centers.

(25) Cannabis retail businesses located not closer than 1,000 feet of a school or 500 feet of a day care, a residential treatment facility, or an attraction within a public park that is regularly used by minors.

(Code 1984, § 10.44(3); Code 2003, § 78-763; Ord. No. 72(3rd series), § 3, 6-26-2010; Ord. No. 306(3rd series), § 5, 11-12-2024)

Sec. 6.12.3740. Conditional use.

Within any B-5 Limited Neighborhood Business District, no structure or land shall be used for one of the following uses except by conditional use permit:

(1) Candy, ice cream, popcorn, nuts, frozen desserts, soft drink store.

(2) Dry cleaning store.

(3) Tailor shop.

(4) Pressing and shoeshine shop.

(5) Laundry and cleaning pickup stations.

(6) Veterinary clinic.

(7) Kennels.

(8) Coffee or bagel retail stores, subject to the following conditions:

a. No more than 50 percent of the gross floor area of any single building shall be devoted to coffee and/or bagel retail store uses.

b. No individual coffee or bagel retail store use shall exceed 2,000 square feet of gross floor area. A combined coffee and bagel retail store use shall not exceed 4,000 square feet of gross floor area.

c. The number of incremental parking spaces required for the coffee and/or bagel retail store use shall be calculated using the parking requirement standard for restaurant uses.

The applicant shall demonstrate that the total parking needs for the site will be met.

d. An individual coffee or bagel retail store use shall be limited to a maximum of 45 seats. A combined coffee and bagel retail store use shall be limited to a maximum of 60 seats.

(9) Off-street parking when the principal site of the off-street parking abuts on a lot which is in another B or I district and is in the same ownership as the land in the B or I district, and subject to those conditions as set forth in article X, division 5 of this chapter and other such conditions as found necessary by the council.

(10) Public service structures, including, but not limited to, electric transmission lines in buildings, such as telephone exchange stations, booster or pressure stations, elevated tanks, lift stations and electric power substations. Personal wireless services and commercial broadcasting antennas and towers shall not be considered essential services.

(11) Drug store, subject to the following condition: Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m. for a drive-through service.

(Code 1984, § 10.44(4); Code 2003, § 78-764; Ord. No. 152(2nd series), § 2, 10-28-1996; Ord. No. 161(2nd series), § 10, 6-7-1997; Ord. No. 170(2nd series), § 1, 3-23-1998; Ord. No. 198(2nd series), § 1, 4-24-2000)

Sec. 6.12.3750. Accessory uses.

Within any B-5 Limited Neighborhood Business District, the only permitted accessory uses and structures are the following:

(1) Private garages, off-street parking and loading spaces, as regulated in this chapter.

(2) Signs, as regulated in this chapter.

(3) Buildings temporarily located for purposes of construction on the premises for a period of not to exceed time necessary to complete said construction.

(4) Decorative landscaping features.

(5) Fences, as regulated in this chapter.

(6) Any incidental repair or processing necessary to conduct a permitted principal use, provided that the incidental use shall not exceed 30 percent of the floor space of the principal building.

(7) Public telephone booths.

(8) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(Code 1984, § 10.44(5); Code 2003, § 78-765; Ord. No. 106(3rd series), § 17, 6-10-2013)

Sec. 6.12.3760. Area, height, lot width, setback requirements and design requirements.

(a) *Area.* The minimum lot size in any B-5 Limited Neighborhood Business District shall be 20,000 square feet.

(b) *Lot width.* The minimum lot width shall be 100 feet.

(c) *Front yards.* The minimum front yard shall be 20 feet.

(d) *Rear yards.* The minimum rear yard shall be 30 feet, a side yard adjacent to an R district shall be 15 feet, and a side yard adjacent to a street shall be ten feet.

(e) *Setback requirements.* No building shall be nearer than 35 feet to any front lot line, 35 feet from any rear lot line, 15 feet from any side lot line, or 35 feet to any side lot line adjacent to a street; except abutting or across the street from an R district, no building shall be less than 35 feet from such lot line.

(f) *Fencing.* Wherever a B-5 Limited Neighborhood Business District abuts an R district, along the side or rear lot line, a fence or compact evergreen hedge no less than 50 percent opaque

nor less than six feet in height shall be erected along the abutting lines except within the required front yard.

(g) *Building design and construction.* In addition to other restrictions of this chapter, the use, construction, alteration or enlargements to any building or structure within the district shall meet the following standards:

(1) All exterior wall finishes on any building shall be:

a. Face brick;

b. Natural stone;

c. Specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or texture;

d. Factory fabricated and finished metal framed panel construction, if the panel materials are of any of those noted in subsections (g)(1)a through c of this section, or glass; or

e. Other materials as may be approved by the council.

Combinations of such materials shall be permitted.

(2) All subsequent additions and outbuildings constructed after the erection of an original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming with the original architectural design and general appearance.

(3) No building or structure of a temporary character, trailer, basement, tent or shack shall be constructed, placed or maintained upon the property except as accessory to and during the construction of permanent buildings.

(h) *Drainage.* No land shall be developed and no use shall be permitted that results in water runoff causing floods, erosion or deposits on adjacent properties. Site and drainage plans shall be submitted by the applicant in such detail as required by the council, and those plans shall be reviewed by the city engineer before submission to the planning commission and the council for approval. Such runoff may be required to be properly channeled into a natural watercourse, ponding area, storm drain or other public facilities. Any change in grade affecting water runoff, whether onto adjacent property or otherwise, must be in compliance with the surface water management plan and shall be consistent with other applicable regulations or provisions of this Code and subject to the approval of other agencies having jurisdiction over the area affected by the drainage.

(i) *Height.* No structure or building shall exceed 30 feet in height except as provided in section 6.12.6710.

(Code 1984, § 10.44(6); Code 2003, § 78-766; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 173(3rd series), § 15, 6-27-2016)

Division 15. B-6 Highway Commercial District

Sec. 6.12.3810. Purpose.

The purpose of the B-6 Highway Commercial District is to provide a commercial district specifically tailored to accomplish the commercial development objectives of the Highway 12 Corridor study section of the comprehensive plan.

(Code 1984, § 10.45(1); Code 2003, § 78-791)

Sec. 6.12.3820. Site plan review.

All site reviews in any B-6 Highway Commercial District shall be reviewed as set forth in article II, division 4 of this chapter.

(Code 1984, § 10.45(2); Code 2003, § 78-792; Ord. No. 68(3rd series), § 9, 2-8-2010)

Sec. 6.12.3830. Permitted uses.

Within any B-6 Highway Commercial District, no structure or land shall be used except for one of the following uses or uses deemed similar by the council:

(1) Offices (business and professional).

(2) Banks and financial institutions.

(3) Libraries.

(4) Motels, and hotels.

(5) Cannabis retail businesses located not closer than 1,000 feet of a school or 500 feet of a day care, a residential treatment facility, or an attraction within a public park that is regularly used by minors.

(Code 1984, § 10.45(3); Code 2003, § 78-793; Ord. No. 152(2nd series), § 3, 10-28-1996; Ord. No. 306(3rd series), § 6, 11-12-2024)

Sec. 6.12.3840. Relationship with planned unit developments.

Other types of commercial uses and mixed use developments may be applied for through the planned unit development process. Applications that include commercial uses within the Highway 12 Corridor shall assume the B-6 district as the underlying zoning district.

(Code 1984, § 10.45(4); Code 2003, § 78-794; Ord. No. 152(2nd series), § 4, 10-28-1996)

Sec. 6.12.3850. Conditional uses.

Within any B-6 Highway Commercial District, no structure or land shall be used for one of the following uses without a conditional use permit:

(1) Restaurants (Class I).

(2) The following uses when such use includes a drive-through condition:

a. Offices (business and professional).

b. Banks and financial institutions.

c. Libraries.

d. Motels and hotels.

(Code 2003, § 78-795; Ord. No. 152(2nd series), § 4, 10-28-1996)

Sec. 6.12.3860. Accessory uses.

Within any B-6 Highway Commercial District, the only permitted accessory uses and structures are the following:

(1) Private garages, off-street parking and loading spaces, as regulated in this chapter.

(2) Signs, as regulated in this chapter.

(3) Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary to complete the construction.

(4) Decorative landscape features.

(5) Fences, as regulated in this chapter.

(6) Any incidental repair or processing necessary to conduct a permitted principal use, provided that the incidental use shall not exceed 30 percent of the floor space of the principal building.

(7) Public telephone booths.

(8) Communication reception/transmission devices.

a. *Accessory antennas.* Accessory antennas shall be limited to radio and television receiving antennas, satellite dishes, TVROs, and amateur shortwave radio transmitting and receiving antennas. Accessory antennas that are accessory to the principal use of the property are permitted accessory uses in all zoning districts, provided they meet the following conditions:

1. *Height.* A ground mounted accessory antenna shall not exceed 20 feet in height from ground level.

2. *Yards.* Accessory antennas shall not be located within the required front yard setback, corner side yard setback or side yard setback abutting a street.

3. *Roofs.* If vegetation or obstructions interfere with satellite signals at a location in any allowable placement area, the accessory antenna may be placed on the roof of any authorized structure on the premises.

4. *Setback.* Accessory antennas shall not be located within a required yard or setback area or within drainage or utility

easements. Antenna towers shall be set back from adjacent property lines a horizontal distance no less than the maximum height of the antenna.

5. *Building permits.* A building permit shall be required for the installation of any accessory antenna requiring a conditional use permit. Building permit applications shall be accompanied by a site plan and structural component data for the accessory antenna, including details of anchoring. The building official must approve the plans before installation.

6. *Lighting protection.* Each accessory antenna shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the city.

7. *Electrical code.* Accessory antenna electrical equipment and connections shall be designed and installed in conformance with the National Electrical Code as adopted by the city.

8. *Color/content.* Accessory antennas shall be of a neutral color and shall not be used as signage.

b. *Amateur shortwave radio antennas and towers.* Amateur shortwave radio antennas and towers which do not meet the conditions for accessory antennas may be allowed with a conditional use permit in all zoning districts provided they meet the following conditions:

1. *Height.* When an amateur shortwave radio antenna is mounted on an antenna tower, the total height of the antenna and tower shall not exceed 65 feet.

2. *Yards.* Amateur shortwave radio antennas and towers shall not be located within a front, corner side or side yard.

3. *Setbacks.* Amateur shortwave radio antennas and towers shall not be located within any required setback area and shall be located no less than the height of the antenna and tower from the property line.

(9) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(Code 1984, §§ 10.40(5), 10.45(5); Code 2003, § 78-796; Ord. No. 161(2nd series), § 8, 6-7-1997; Ord. No. 183(2nd series), § 3, 2-22-1999; Ord. No. 106(3rd series), § 18, 6-10-2013)

Sec. 6.12.3870. Area, height, lot width, setback requirements and design requirements.

The following minimum requirements shall be observed in any B-6 district, subject to additional requirements and exceptions contained in article VII of this chapter:

(1) Lot area: two acres.

(2) Lot width: 100 feet.

(3) Setback, principal structure:

a. Front: 30 feet (30 feet or 1 ½ times the building height, whichever is greater, in determining front setbacks for principal and accessory structure only).

b. Side interior: ten feet.

c. Side street: 30 feet.

d. Rear: 30 feet.

(4) Setback, accessory structure:

a. Front: 30 feet (30 feet or 1 ½ times the building height, whichever is

greater, in determining front setbacks for principal and accessory structure only).

b. Side interior: ten feet.

c. Side street: 30 feet.

d. Rear: 30 feet.

(5) Setback, parking:

a. Front: 15 feet.

b. Side interior: five feet.

c. Street side: ten feet.

d. Rear: ten feet.

Setbacks in parentheses apply adjacent to all residential districts.

(6) No land shall be developed and no use shall be permitted that results in water runoff causing floods, erosion or deposits on adjacent properties. Site and drainage plans shall be submitted by the applicant in such detail as required by the council, and those plans shall be reviewed by the city engineer before submission to the planning commission and the council for approval. Such runoff may be required to be properly channeled into a natural watercourse, ponding area, storm drain or other public facilities. Any change in grade affecting water runoff whether onto adjacent property or otherwise must be in compliance with the surface water management plan and shall be consistent with other applicable regulations or provisions of this Code and subject to the approval of other agencies having jurisdiction over the area affected by the drainage.

(7) No structure or building shall exceed 30 feet in height except as provided in section 6.12.6710.

(8) Landscaping.

a. *Landscape plan requirements.* Landscape plans shall be required for any proposed commercial site and shall be prepared by a landscape architect or other qualified person acceptable to the city, drawn to the scale of not less than one inch equals 50 feet, and shall show the following:

1. Boundary lines of the property with accurate dimensions;

2. Locations of existing and proposed buildings, parking lots, roads and other improvements;

3. Proposed grading plan with two-foot contour intervals;

4. Location, approximate size and common name of existing trees and shrubs;

5. A planting schedule containing symbols, quantities, common and botanical names, size of plant materials, root condition and special planting instructions;

6. Planting details illustrating proposed locations of all new plant material;

7. Locations and details of other landscape features, including berms, fences and planter boxes;

8. Details of restoration of disturbed areas, including areas to be sodded and seeded;

9. Location and details of irrigation systems; and

10. Details and cross sections of all required screening.

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b. *Minimum landscaping requirements.* All open areas of a lot which are not used or improved for required parking areas, drives or storage shall be landscaped with a combination of deciduous and coniferous species, including overstory trees, understory trees, shrubs, flowers and ground cover materials. The plan for landscaping shall include

ground cover, bushes, shrubbery, trees, sculpture, foundations, decorative walks or other similar site design features or materials in a quantity having a minimum value in conformance with the following table:

Project Value (including building construction, site preparation, and site improvements)	*Minimum Landscape Value*
Below $1,000,000.00	2.0% of project value
$1,000,000.00—$2,000,000.00	$20,000.00 + 1% of project value in excess of $1,000,000.00
$2,000,001.00—$3,000,000.00	$30,000.00 + 0.75% of project value in excess of $2,000,000.00
$3,000,001.00—$4,000,000.00	$37,500.00 + 0.25% of project value in excess of $3,000,000.00
Over $4,000,000.00	1.0% of project value

In instances where healthy plant materials of acceptable species exist on a site prior to its development, the application of the standards in this subsection (8) may be adjusted by the city to allow credit for such material, provided that such adjustment is consistent with the intent of this division.

1. A reasonable attempt shall be made to preserve as many existing trees as is practicable and to incorporate them into the site plan.
2. All new overstory trees shall be balled and burlapped or moved from the growing site by tree spade. Deciduous trees shall have a minimum caliper of 2 ½ inches. Coniferous trees shall be a minimum of six feet in height. Ornamental trees shall have a minimum caliper of 1 ½ inches.
3. All site areas not covered by buildings, sidewalks, parking lots, driveways, patios, or similar hardcover materials shall be covered with sod or an equivalent ground cover approved by the city. This requirement shall not apply to site areas retained in a natural state.
4. In order to provide for adequate maintenance of landscaped areas, an underground sprinkler system shall be provided as part of each new development, except one- and two-family dwellings and additions to existing structures which do not at least equal the floor area of the existing structure. A sprinkler system shall be provided for all landscaped areas except areas to be preserved in a natural state.
5. Not more than 50 percent of the required number of trees shall be composed of one species. The city shall maintain a list of prohibited species which shall not be used for landscaping.

c. *Interior parking lot landscaping.*

1. All parking lots containing over 150 stalls shall be designed to incorporate unpaved, landscaped islands in number and dimension as required by the city. All landscape islands shall contain a minimum of 180 square feet. Islands which are necessary to promote the safe and efficient flow of traffic

shall not be subject to the 150-stall standard and shall be required by the city when warranted.

2. Parking lot landscape areas, including landscape islands, shall be reasonably distributed throughout the parking lot area so as to break up expanses of paved areas. Parking lot landscape areas shall be provided with deciduous shade trees, ornamental or evergreen trees, plus ground cover, mulch and/or shrubbery as determined appropriate by the planning commission. Parking lot landscape trees shall be provided at the rate of one tree for each 15 surface parking spaces provided, or major fraction thereof. Parking lot landscaping shall be contained in planting beds bordered by a raised concrete curb or equivalent approved by the planning commission.

d. *Maintenance of landscaping.* The owner, tenant and their respective agents shall be jointly and severally responsible for the maintenance of all landscaping in a condition presenting a healthy, neat and orderly appearance and free from refuse and debris. Plants and ground cover which are required by an approved site or landscape plan, and which have died, shall be replaced within three months of notification by the city. However, the time for compliance may be extended up to nine months by the city in order to allow for seasonal or weather conditions.

e. *Retaining walls.* Retaining walls exceeding four feet in height, and staged walls which cumulatively exceed 16 feet in height or involve more than four tiers, must be constructed in accordance with plans prepared by a registered engineer or landscape architect.

f. *Landscaping performance security required.* When screening, landscaping or other similar improvements to property are required by this division, a letter of credit shall be supplied by the owner in an amount equal to at least 1 ½ times the value of such screening, landscaping or other improvements. The letter of credit shall be conditioned upon reimbursement of all expenses incurred by the city for engineering, legal, contracting or other fees in connection with making or completing such improvements. The letter of credit shall be provided prior to the issuance of any building permit and shall be valid for a period of time equal to two full growing seasons after the date of installation of the landscaping. The city may accept some other form of security in lieu of a letter of credit in an amount and under such conditions that the city may determine to be appropriate. If construction of the project is not completed within the time prescribed by building permits and other approvals, the city may, at its option, complete the work required at the expense of the owner and the surety. The city may allow an extended period of time for completion of all landscaping if the delay is due to conditions which are reasonably beyond the control of the developer. Extensions, which may not exceed nine months, may be granted due to seasonal or weather conditions. When an extension is granted, the city shall require such additional security as it deems appropriate.

g. *Screening and buffering.*

1. The following uses shall be screened or buffered in accordance with the requirements of this section:

(i) Principal buildings and structures and any building or structure accessory thereto located in the B-6 zone shall be buffered from residential lots located in any R district.

(ii) Off-street parking facilities containing six or more spaces shall be buffered from streets located within 50 feet. Parking facilities shall be buffered with landscape zones.

(iii) External loading and service areas must be completely screened from the ground-level view from contiguous residential or commercial properties and adjacent streets, except at access points.

(iv) All trash and trash handling equipment shall be stored within the principal structure, within an attached structure accessible from within the principal structure, or totally screened from eye-level view from public streets and adjacent residential properties.

(v) The ground-level view of all mechanical utilities shall be completely screened from contiguous properties and adjacent streets, or designed to be compatible with the architectural treatment of the principal structure.

(vi) The light from automobile headlights and other sources shall be screened whenever it may be directed onto adjacent residential windows.

2. Required screening or buffering may be achieved with fences, walls, earth berms, hedges, or other landscape materials. All walls and fences shall be architecturally harmonious with the principal building. Earth berms shall not exceed a slope of 3:1. The screen shall be designed to employ materials which provide an effective visual barrier during all seasons.

3. All required screening or buffering shall be located on the lot occupied by the use, building, facility or structure to be screened. No screening or buffering shall be located on any public right-of-way or within eight feet of the traveled portion of any street or highway.

4. Screening or buffering required by this subsection (8) shall be of a height needed to accomplish the goals of this subsection (8). Screening methods incorporating roofs over storage, trash or mechanical facilities to screen from higher adjacent properties or buildings may be required. Height of plantings required under this subsection (8) shall be measured at the time of installation.

(9) Architectural standards.

a. It is not the intent of the city to restrict design freedom unduly when reviewing project architecture in connection with a site and building plan. However, it is in the best interest of the city to promote high standards of architectural design

and compatibility with surrounding structures and neighborhoods. Architectural plans shall be prepared by an architect or other qualified persons acceptable to the city and shall show the following for all structures in the B-6 district:

1. Elevations of all sides of the building.
2. Type and color of exterior building materials.
3. A typical floor plan.
4. Dimensions of all structures.
5. The location of trash and recycling containers and of heating, ventilation and air conditioning equipment.

b. Unadorned prestressed concrete panels, concrete block and unfinished metal shall not be permitted as exterior materials for principal and accessory buildings. This restriction shall apply to all principal structures and to all accessory buildings. The city may, at its discretion, allow architecturally enhanced block or concrete panels.

c. Accessory buildings shall be architecturally compatible with principal structures. Accessory structures for trash and trash handling equipment shall be constructed of the same building material as the principal structure and be readily served through swinging doors.

d. All rooftop or ground-mounted mechanical equipment and exterior trash and recycling storage areas shall be fully enclosed or screened so as to not be visible with materials compatible with the principal structure.

e. Underground utilities shall be provided for all new and substantially renovated structures (the term "substantially renovated" shall mean when the renovations exceed 30 percent of the prerenovation value of the structure).

(Code 1984, § 10.45(6); Code 2003, § 78-777; Ord. No. 201(2nd series), § 1, 2-12-2001; Ord. No. 18(3rd series), § 3, 9-27-2004; Ord. No. 94(3rd series), § 3, 9-24-2012; Ord. No. 173(3rd series), § 16, 6-27-2016)

Division 16. I Industrial District

Sec. 6.12.3900. Purpose and review of building permit applications.

(a) *General provisions.* The purpose of the I Industrial District is to permit and encourage the development of high quality industrial uses which are compatible with the aesthetic character of the city and to encourage the development of such industries that are able and willing to achieve superior standards of design and environmental protection. To this end, the city may find that improvements are required to a particular site which are greater than the minimum standards found as part of this district.

(b) *Site plan review.* All site reviews in any I Industrial District shall be reviewed as set forth in article II, division 4 of this chapter.

(c) *Determination of use.* Whenever a proposed use is not clearly defined as to its inclusion in the list of permitted, conditional, or accessory uses in this district, the zoning administrator shall make a determination. The zoning administrator may refer the item to the city council for a final determination, if desired.

(d) *Certificate of occupancy.* Prior to occupancy of any building or premises within the I Industrial District for which a building permit has been obtained, the applicant shall obtain a certificate of occupancy. As a part of this certificate, the applicant shall be required to demonstrate compliance with all of the terms of this division.

(e) *Existing land uses.*

(1) Any building or use that does not conform to the requirements of this division, existing prior to the passage of this division, shall be allowed to continue to operate in

the same manner and to the same extent, subject to the requirements of article II, division 2 of this chapter related to nonconforming uses and related matters.

(2) Where such changes increase the total usable floor area of an existing nonconforming building by less than 25 percent, a property owner may maintain the existing building in its nonconforming state. The requirements for bringing improvements into conformance shall also be applied to legal, nonconforming site improvements such as parking lots and landscaping. Such changes or additions may be made to coordinate with the existing building materials and design without meeting the requirements of this division. The 25 percent threshold shall be measured cumulatively from the date of the adoption of the ordinance from which this division is derived, and shall not be exceeded without applying the requirements of subsection (e)(3) of this section.

(3) Where such changes increase the total usable floor area of an existing nonconforming building by 25 percent or more, the property owner shall be required to bring the building and property into full conformance with this division. The requirements for bringing improvements into conformance shall also be applied to legal, nonconforming site improvements such as parking lots and landscaping. The 25 percent threshold shall be measured cumulatively from the date of the adoption of this division.

(f) *All buildings in I district required to be on platted lots.* All changes to lot configuration shall require platting in accordance with chapter 6.20. No lot identified in whole or in part by a metes and bounds description shall be eligible for a building permit until a final plat has been approved and recorded for said lot.

(Code 2003, § 78-821; Ord. No. 32(3rd series), § 2, 3-27-2006; Ord. No. 68(3rd series), § 10, 2-8-2010)

Sec. 6.12.3910. Permitted uses.

The following are permitted uses within the I Industrial District:

(1) Automobile and truck painting, major repair, body and fender work, upholstering tire recapping and wholesale/fleet sales, but shall not include retail when within a completely enclosed building. The storage of automobiles or trucks in process of repair shall be within a fenced area.

(2) Cabinet and carpentry shops, lumberyards millworks, electrical, plumbing and heating and air conditioning shop.

(3) Manufacturing or assembly of a wide variety of products that produces no exterior noise, glare, fumes, obnoxious products, byproducts or wastes, or creates other objectionable impact on the environment. These shall include the following: manufacturing, compounding, assembly, packaging, treatment or storage of products and materials. Expressly prohibited activities shall include the stockpiling and recycling of aggregate materials or supplies of more than 25 cubic yards.

(4) Office.

(5) Office; showroom.

(6) Office; warehouse.

(7) Medical, dental and optical laboratories.

(8) Research laboratories.

(9) Inside storage or warehousing.

(10) Governmental and public utility buildings and structures.

(11) Essential services.

(12) Cannabis producers located not closer than 1,000 feet of a school or 500 feet of a day care, a residential treatment facility, or an attraction within a public park that is regularly used by minors.

(Code 2003, § 78-822; Ord. No. 32(3rd series), § 2, 3-27-2006; Ord. No. 306(3rd series), § 7, 11-12-2024)

Sec. 6.12.3920. Conditional uses.

(a) *General provisions.* Within the I Industrial District, no structure or land shall be used for one or more of the following uses without approval of a conditional use permit. The following are conditional uses in the I Industrial District:

(1) Open and outdoor storage as an accessory use, provide that:

a. The open storage area is screened and landscaped from adjacent residential uses and public right-of-way.

b. The open outdoor storage area is surfaced with concrete or bituminous.

c. The open outdoor storage area shall not be within any front yard or side yard abutting a public right-of-way. The open outdoor storage shall be setback five feet from all side and rear lot lines and shall not be located within a utility or drainage easement.

d. The open outdoor storage area shall not utilize any required off-street parking, loading areas, or access space.

e. The open outdoor storage area shall not be used for storage of hazardous liquids, solids, gases, or wastes.

f. The property owner shall keep all outdoor storage areas free of refuse, trash, debris, weeds, and waste fill.

(2) Commercial and public radio and television transmitting antennas, and public utility microwave antennas.

(3) Commercial, private, and public satellite dish transmitting or receiving antennas in excess of two meters in diameter.

(4) Accessory, enclosed service activity other than allowed by a permitted use within the I-Industrial District.

(5) Day care centers.

(6) Trucking operations, but not distribution centers.

(7) Trade schools.

(8) Warehouse conversion to mini-storage.

(9) Wholesale showrooms.

(10) Deferment of parking.

(11) Garage condos, provided that:

a. No exterior parking or storage is permitted for a period longer than 24 hours. A parking plan must be provided to demonstrate accessibility to the site.

b. The premises shall not be used or customized for residential living purposes or community gatherings or events.

c. The premises shall not be used for the operation of a business or for retail purposes, including, but not limited to, automobile repair. This does not prohibit minor maintenance, care, or upkeep of motor vehicles, boats, trailers, or recreational vehicles stored in individual units.

d. The management, use, and customization of the garage condos, including common areas, and individual units shall be governed by an association, which association rules shall place adequate controls to ensure compliance with applicable city code.

e. The premises shall maintain adequate access to individual units and any common areas or office space for emergency response and snow removal/storage.

f. The premises shall contain sufficient lighting and/or security measures to deter or mitigate criminal activity and ensure adequate access for emergency response.

g. Any individual unit that is connected to the city sewer and water system shall have individual meters.

(b) *Required conditions and policies of a conditional use permit.* The burden of proof demonstrating compliance with the following criteria shall be the responsibility of the applicant.

In determining whether to approve or deny a conditional use permit, the city council and planning commission shall find that the conditional use permit complies with the following criteria:

(1) *Comprehensive plan.* The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official comprehensive plan of the city.

(2) *Compatibility.* The proposed use is compatible with adjacent present and future anticipated land uses.

(3) *Performance standards.* The proposed use conforms with all applicable performance standards contained in this division.

(4) *No depreciation in value.* The proposed use will not tend to or actually depreciate the area in which it is proposed.

(5) *Nuisance.* Nuisance characteristics generated by the use will not have an adverse effect upon existing and future development in adjacent areas.

(6) *Economic return.* The use will provide an economic return to the community and be commensurate with other industrial uses for which the property could feasibly be used. In considering the economic return to the city, the planning commission and city council may give weight to the sociological impact of proposed use, both positive and negative.

(Code 2003, § 78-823; Ord. No. 32(3rd series), § 2, 3-27-2006; Ord. No. 310(3rd series), § 2, 12-9-2024)

Sec. 6.12.3930. Accessory uses.

Within an I Industrial District, the only permitted accessory uses and structures are the following:

(1) Fences.

(2) Landscaping and decorative features.

(3) Off-street loading.

(4) Off-street parking.

(5) Signs.

(6) Mechanical and utility equipment, provided such equipment does not occupy a required yard adjacent to a street, and is fully screened from view of the public right-of-way.

(7) Telecommunication reception/transmission devices.

a. *Accessory antennas.* Accessory antennas shall be limited to radio and television receiving antennas, satellite dishes, TVROs, and amateur shortwave radio transmitting and receiving antennas. Accessory antennas that are accessory to the principal use of the property are permitted accessory uses in all zoning districts, provided they meet the following conditions:

1. *Height.* A ground mounted accessory antenna shall not exceed 20 feet in height from ground level.

2. *Yards.* Accessory antennas shall not be located within the required front yard setback, corner side yard setback or side yard setback abutting a street.

3. *Roofs.* If vegetation or obstructions interfere with satellite signals at a location in any allowable placement area, the accessory antenna may be placed on the roof of any authorized structure on the premises.

4. *Setback.* Accessory antennas shall not be located within a required yard or setback area or within drainage or utility easements. Antenna towers shall be set back from adjacent property lines a horizontal distance no less than the maximum height of the antenna.

5. *Building permits.* A building permit shall be required for

the installation of any accessory antenna requiring a conditional use permit. Building permit applications shall be accompanied by a site plan and structural component data for the accessory antenna, including details of anchoring. The building official must approve the plans before installation.

6. *Lightning protection.* Each accessory antenna shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the city.

7. *Electrical code.* Accessory antenna electrical equipment and connections shall be designed and installed in conformance with the National Electrical Code as adopted by the city.

8. *Color/content.* Accessory antennas shall be of a neutral color and shall not be used as signage.

b. *Amateur shortwave radio antennas and towers.* Amateur shortwave radio antennas and towers which do not meet the conditions for accessory antennas may be allowed with a conditional use permit in all zoning districts provided they meet the following conditions:

1. *Height.* When an amateur shortwave radio antenna is mounted on an antenna tower, the total height of the antenna and tower shall not exceed 65 feet.

2. *Yards.* Amateur shortwave radio antennas and towers shall not be located within a front, corner side, or side yard.

3. *Setbacks.* Amateur shortwave radio antennas and towers shall not be located within any required setback area and shall be located no less than the height of the antenna and tower from the property line.

(8) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(Code 2003, § 78-824; Ord. No. 32(3rd series), § 2, 3-27-2006; Ord. No. 106(3rd series), § 19, 6-10-2013)

Sec. 6.12.3940. Lot area, height, setbacks, and lot coverage.

(a) Within an I Industrial District, the following requirements shall apply:

(1) Minimum lot requirements: 40,000 square feet.

(2) Minimum building area: 10,000 square feet.

(3) Lot width: 200 feet.

(4) Building setbacks (principal and accessory):

a. Front yard setback: 35 feet.

b. Side yard setback, abutting a major street: 35 feet. This setback applies to side yards adjacent to Wayzata Boulevard and Old Crystal Bay Road.

c. Side yard setback, abutting a minor street: 20 feet. This setback applies to side yards adjacent to all other roads, public or private, within the I Industrial District.

d. Side yard setback, interior: ten feet.

e. Rear yard setback: 20 feet.

(5) Building height: No structure or building shall exceed 40 feet in height except as provided in section 6.12.6710.

(6) Lot coverage: Not more than 35 percent of parcels of three acres or less may be covered by buildings or structures.

(b) Not more than 45 percent of parcels may be covered by buildings or other structures; except that when the total building floor area on a site is contained within a single building, and when the total area used for loading terminals, docks and berths is completely enclosed within the same single building, a lot coverage of not more than 60 percent will be permitted.
(Code 2003, § 78-825; Ord. No. 32(3rd series), § 2, 3-27-2006; Ord. No. 94(3rd series), § 4, 9-24-2012; Ord. No. 173(3rd series), § 17, 6-27-2016)

Sec. 6.12.3950. Building design and construction.

In addition to other restrictions of this chapter, the use, construction, alteration or enlargements to any buildings or structure within this district shall meet the following standards:

(1) *Rooftop equipment.* Rooftop equipment shall be screened from view from the ground at the property line with vertical extensions of the building walls or with parapets or other architectural design features of the same materials used on the walls of the building. Where the topography permits, it is desirable to screen such equipment from adjacent property, but it is not the intent of this requirement to increase the height of the screening significantly above that of the equipment in order to screen it from view from tall buildings or from higher ground.

(2) *Form, scale and proportion.* The form and proportion of buildings shall be consistent or compatible with the scale, form and proportion of existing development in the immediate area.

(3) *Unusual buildings.* The use of unusual shapes, color and other characteristics that cause new buildings to call excessive attention to themselves and create disharmony shall be avoided.

(4) *Mass and voids.* The rhythm of structural mass to voids, such as windows and glass doors, of a front façade should relate to the rhythms established in adjacent buildings.

(5) *Long façades.* Where large structures with overly-long façades (walls) are proposed, such as warehouses, building mass should be articulated with variations in the building plane and parapet height and through the use of other unique design or site plan features.

(6) *Architectural design.* Architectural design should create harmony through the use of different textures, complementary colors, shadow lines and contrasting shapes. The use of walls in a single color, with little detailing or completely blank is discouraged.

(7) *Monotony.* Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form and siting shall be used to provide visual interest.

(8) *Roofs.* Careful consideration of durable materials, proportions and shapes, emphasizing the importance of roofs as integral and embracing elements of the over-all design, is particularly important.

(9) *Materials.* Use of substantial amounts of high quality masonry materials (face brick, stucco, stone) is encouraged. Buildings shall be constructed with no less than 67 percent of these materials, excluding window and door areas. Architectural concrete panels and rock faced concrete block may comprise a maximum of 33 percent of the exterior materials used on the building. The 67 percent threshold may be reduced, or the 33 percent threshold exceeded, only by conditional use permit for alternative materials. The city council shall consider the architectural quality and whether the proposed building exceeds the various requirements of this section in deciding whether or not to grant a conditional use permit for alternative materials. The use of aluminum siding, metal ribbed panels and extensive mirrored glass surfaces is discouraged except as accent materials. Evaluation of building materials shall be based on the

quality of its design and relationship and compatibility to building materials in the immediate neighborhood.

(10) *Design uniformity.* Architectural treatments (e.g., building materials, colors, façade design, roof lines, screening) shall be consistent and compatible on all sides. Treatment that is uniform on all sides will be deemed to meet the requirements of this principle. Adjacent land uses, visibility from public streets and use of screening devices (walls, fences, berms, landscaping) are criteria to be considered when varying this treatment. The applicant will have the burden of demonstrating the reasons for differing treatment on different sides (e.g., the need for truck access on one side and pedestrian access on another).

(Code 2003, § 78-826; Ord. No. 32(3rd series), § 2, 3-27-2006)

Sec. 6.12.3960. Off-street parking.

(a) *General provisions.* If any increase in the size, or changes in the uses, of such an existing principal use is made beyond the size or for other than the uses above allowed, then additional off-street parking spaces shall be provided pursuant to this section, but only for the additional spaces resulting from the increase in size or changes in uses.

(b) *Number of uses.* The required number of off-street parking spaces shall be located on the same lot as the principal use or on an adjacent lot under the control of the owner of the principal use. For purposes hereof, control may be derived from ownership or by lease or easement continuing for a period of not less than 25 years. In the alternative, the city council may approve off-site parking for a period coterminous with the building lease. The required parking spaces shall not be separated from the principal use building by a street. Seventy-five percent of all required spaces shall be located within 500 feet of the entrances to the principal use building and 100 percent shall be within 1,000 feet.

(c) *Setbacks.*

(1) Exposed parking spaces or drive aisles (except that portion of the driveway crossing the public right-of-way to give access to the street) shall be located within the following setbacks:

a. Major street: 20 feet. This setback applies to side yards adjacent to Wayzata Boulevard and Old Crystal Bay Road.

b. Minor street: ten feet. This setback applies to side yards adjacent to all other roads, public or private, within the I Industrial District.

c. Rear lot line: ten feet. Within adjoining industrial developments, private access, truck circulation area, and undivided parking areas may be permitted, provided that each individual parcel meets all other district requirements.

d. Interior side lot line: ten feet.

(2) Parking, truck circulation area, and drive aisles shall be set back a minimum of ten feet from all buildings to provide a space for landscaping and sidewalks. Parking, truck circulation, and drive aisles may be located directly adjacent to buildings in rear and side yards which do not abut public streets, and where the property owner demonstrates that the proposed parking area will be fully screened from view of the public right-of-way.

(d) *Required parking.*

(1) Automobile service centers: one space for each 400 square feet of leasable area, plus one space for each employee on the maximum work shift.

(2) Offices, medical and dental laboratories, business or professional offices: one space per 200 square feet.

(3) Multitenant industrial buildings: one space for each 400 square feet of gross

floor area, or the sum of the component gross floor areas as follows, whichever is greater:

a. One space for each 200 square feet of office space.

b. One space for each 2,000 square feet of warehouse space.

c. One space for each 300 square feet of manufacturing, processing, packaging, treatment and assembly space.

d. One space for each 500 square feet of space containing machines and equipment for conducting scientific research, testing or experimentation.

(e) *Floor area.* The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus ten percent.

(f) *Computation.* When determining the number of off-street parking spaces, any fraction of a number shall constitute an additional space.

(g) *Snow storage in parking stalls.* Provision shall be made in the parking area for adequate snow storage or removal in order to ensure that the required number of spaces is available at all times during the year.

(h) *Circulation.* Traffic circulation systems shall be designed to accommodate anticipated traffic demands. Vehicular traffic generated by industrial uses shall be channeled and controlled in a manner which will avoid congestion or interference with other vehicular transportation systems and pedestrians and which will avoid creating traffic hazards and excessive traffic.

(i) *Parking size.* Each parking space shall have a minimum width of nine feet and a minimum depth of 20 feet exclusive of aisle and maneuvering space.

(j) *Curb cut size.* No curb cut access shall exceed 24 feet in width unless approved by the city engineer.

(k) *Grade.* The grade elevation of any parking area or driveways shall not exceed four percent.

(l) *Surfacing.* Except as otherwise determined by the city council, all industrial uses shall have customer parking areas and driveways which are surfaced with asphalt.

(m) *Lighting.* Any lighting used to illuminate an off-street parking area shall be hooded and so arranged as to reflect the light away from adjoining property, abutting residential uses, and public rights-of-way.

(n) *Required screening.* All open off-street parking areas of five or more spaces shall be screened with landscaping and/or other materials from abutting or surrounding residential districts.

(o) *Landscaped islands.* A minimum of one landscaped parking island per 20 parking stalls shall be required within any industrial use. Areas meeting the conditions listed in subsection (c)(2) of this section which are proposed for truck circulation, but converted to parking per a plan approved by the city shall be exempt from this provision.

(p) *Signs.* No signs shall be so located as to restrict the sight lines and orderly operation and traffic movement within any parking lot or driveway. All signs shall be in conformance with section 6.12.7120.

(q) *Deferment of parking.* A reduction in the number of required parking stalls may be permitted by a conditional use permit as outlined in section 6.12.3920, provided that the following conditions are met:

(1) Evidence is provided demonstrating that the parking requirements of the proposed use will be less than the parking required under this section during the peak demand period. Factors to be considered when reviewing the proposed parking demand shall include, but not to be limited to:

a. Size, type, and use of building.

b. Number of employees.

c. Projected volume and turnover of employees.

d. Projected frequency and volume of delivery or service vehicles.

e. Number of company vehicles.

f. Storage of vehicles on the site.

(2) In no case shall the amount of parking provided be less than one-half to the amount of parking required by the ordinance.

(3) The property owner can demonstrate that the site has sufficient property under the same ownership to accommodate the expansion of the parking facilities to meet the minimum requirements of this section if the parking demand exceeds on-site supply.

(4) On-site parking shall only occur in areas designed and constructed for parking in accordance with this section. The area reserved as proof-of-parking shall be sodded or seeded and maintained as green space. No permanent buildings shall be permitted in the proof-of-parking area.

(5) The conditional use permit approving parking deferral under this section shall be recorded per city practice, providing that additional parking shall be constructed in accordance with this section.

(6) To qualify for a parking deferment, the site must comply with all current zoning requirements.

(Code 2003, § 78-827; Ord. No. 32(3rd series), § 2, 3-27-2006)

Sec. 6.12.3970. Loading.

In addition to other restrictions of this chapter, all loading or unloading into or out of trucks in excess of three-fourths ton capacity shall be conducted at facilities specifically designed and designated for that purpose. Those facilities, designated as loading facilities, shall be subject to the following regulations:

(1) A minimum of one loading berth per 50,000 square feet of gross floor area or part thereof. Loading berth shall be 55 feet in length, 14 feet in width, and 15 feet in height.

(2) All loading docks shall be located within the perimeter of the principal or accessory building and shall be completely enclosed except for the opening needed for access to a vehicle during the time it is standing at a berth.

(3) No loading facility shall be located within the required front street or side street setback for the principal building or within ten feet of an interior side lot line or rear lot line.

(Code 2003, § 78-828; Ord. No. 32(3rd series), § 2, 3-27-2006)

Sec. 6.12.3980. Landscaping.

(a) *General provisions.* Where any industrial use abuts a property zoned for residential use, the industry shall provide screening of the parking areas along the boundary of the residential property. Screening of such parking areas shall also be provided where a business or industry is directly across the street from a residential zone.

(b) *Fencing.* All fences shall be placed within the property being fenced.

(1) Fences extending across a required front yard or required side yard which abut a street on a corner lot shall be at least 75 percent open for a passage of air and light and shall maintain the traffic visibility.

(2) Industrial fences shall not exceed eight feet in height.

(c) *Minimum number of plantings.* Industrial districts shall contain, at a minimum the greater of two trees per 1,000 square feet of gross floor area or two trees per 40 lineal feet of site perimeter whichever is greater.

(d) *Minimum planting size.* All landscaping incorporated in said plan shall conform to the following standards and criteria. All plants must at least equal the following minimum size: All trees shall be balled and burlapped (B&B) and shrubs shall be container grown unless otherwise

approved by city staff. Type and mode of planting are dependent upon time of planting season, availability, and site conditions (soils, climate, ground water, irrigation, grading, etc.).

(1) Shade trees: 1.5 to two inches.

(2) Ornamental trees: one inch.

(3) Coniferous trees: four to six feet.

(4) Large deciduous tree: two to four feet.

(5) Large coniferous shrubs: two to four feet.

(6) Small deciduous shrubs: 18 to 24 inches.

(7) Small coniferous shrubs: 18 to 24 inches.

(e) *Spacing.*

(1) Plant material centers shall not be located closer than three feet from the property line and shall not be planted to conflict with public plantings based on the judgment of the zoning administrator.

(2) Where plant materials are planted in two or more rows, plantings shall be staggered in rows unless otherwise approved by the zoning administrator.

(3) Where plants or screening is intended, large deciduous and coniferous shrubs shall not be planted more than four feet on center.

(f) *Types of new trees.* Plantings, suitable trees include, but are not limited to, the following:

(1) Oak.

(2) Red maple.

(3) Sugar maple.

(4) Hackberry.

(5) Birch.

(6) Honey locust.

(7) Littleleaf linden.

(8) American linden.

(9) Green ash.

(10) Ginkgo.

(11) Kentucky coffee tree.

(g) *Design.* The landscape plan must show some form of designed site amenities (i.e., composition of plant materials, and/or creative grading, decorative lighting, exterior sculpture, etc., which are largely intended for aesthetic purposes). All areas within the property lines (or beyond, if side grading extends beyond) shall be treated. All exterior areas not paved or designated as drives, parking or storage, must be planted with ornamental vegetation (lawns, ground covers or shrubs) unless otherwise approved by the zoning administrator.

(h) *Seeding and sod.* Seeding may be used when the city determines sod is not practical or desirable such as, but not limited to, open spaces, sites that are rough graded and areas that cannot be developed (such as those located within a power line easement).

(i) *Slopes and berms.* Slopes that are to be maintained as turf in excess of 2:1 are prohibited unless approved by the zoning administrator. All berms must incorporate trees and plantings into the design. In no situation shall berms be used as the sole means of screening.

(j) *Ground areas under building roof overhangs.* All ground areas under the building roof overhang must be treated with a decorative mulch and/or foundation planting.

(k) *Detention ponds.* Stormwater ponds shall be landscaped with an average of a ten-foot buffer strip of shade and ornamental trees, evergreens, shrubbery, natural grasses, ground cover and/or other plant materials to provide an aesthetically appealing setting. This landscaping plan shall be in addition to the required landscaping.

(l) *Irrigation systems.* All principal use structures shall provide an exterior water supply for use in landscape purposes. The exceptions to this are one- and two-family dwellings and additions to existing structures equal to or less than ten percent of the square feet of the existing structure.

(m) *Landscape guarantee.* All new plants shall be guaranteed for two full years from the time planting has been completed. All plants shall be alive and in satisfactory growth at the end of the guarantee period or be replaced.
(Code 2003, § 78-829; Ord. No. 32(3rd series), § 2, 3-27-2006)

Sec. 6.12.3990. Drainage.

No land shall be developed and no use shall be permitted that results in water runoff causing floods, erosion or deposits on adjacent properties. Site and drainage plans shall be submitted by the applicant in such detail as required by the council, and those plans shall be reviewed by the city engineer before submission to the planning commission and the council for approval. Such runoff may be required to be properly channeled into a natural watercourse, ponding area, storm drain or other public facilities. Any change in grade affecting water runoff, whether onto adjacent property or otherwise, must be in compliance with the surface water management plan and shall be consistent with other applicable regulations of provisions of this Code and subject to the approval of other agencies having jurisdiction over the area affected by the drainage.
(Code 2003, § 78-830; Ord. No. 32(3rd series), § 2, 3-27-2006)

Sec. 6.12.4000. Lighting.

Any lighting used to illuminate a structure, an off-street parking area, or other area in an industrial district shall be arranged so as to deflect light away from any adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:

(1) *Lighting cutoff.* The luminaire shall contain a cutoff which directs and cuts off the light at an angle of 90 degrees or less.

(2) *Lighting adjacent property.* Lighting sources shall not be permitted so as to light adjacent property in excess of the maximum intensity.

(3) *Architectural/historical light fixtures.* Architectural/historical light fixtures that feature globes that are not shielded or lighting of entire façades or architectural features of a building may be approved by the city council. In no case shall the light affect adjacent property in excess of the maximum intensity.

(4) *Light poles.* All light poles shall be of a dark color. Light colored light poles shall be prohibited.

(5) *Height of source and pole.* The maximum height of the fixture and pole above the ground grade permitted for light sources is 30 feet. A light source mounted on a building shall not exceed the height of the building. In no case shall the height of a light source mounted on a pole or on a building exceed the height limits of the zoning district in which the use is located unless allowed by conditional use permit.

(6) *Intensity.* No light source or combination thereof which casts light on a public street shall exceed one foot-candle (meter reading) as measured from the right-of-way of said street nor shall any light source or combination thereof which casts light on adjacent residential property exceed four-tenths (0.4) foot candles (meter reading) as measured at the property line.

(7) *Location.* The light source of an outdoor light fixture shall be set back a minimum of ten feet from a street right-of-way and five feet from an interior side or rear lot line.

(8) *Hours.* The use of outdoor lighting for parking lots shall be turned off one hour after closing except for approved security lighting.

(Code 2003, § 78-831; Ord. No. 32(3rd series), § 2, 3-27-2006)

Sec. 6.12.4010. Signage.

All signs shall conform to the sign standards of article X, division 4 of this chapter.
(Code 2003, § 78-832; Ord. No. 32(3rd series), § 2, 3-27-2006; Ord. No. 2015(3rd series), § 2, 9-10-2018)

ARTICLE V. CONDITIONAL USES

Division 1. Generally (Reserved)

*Division 2. Permit**

Sec. 6.12.4040. Purpose.

In order to give the district use regulation the flexibility necessary to achieve the objectives of this chapter, in certain districts, conditional uses are permitted, subject to the granting of a use permit. Conditional uses include those uses generally not suitable in a particular zoning district, but which may under some circumstances be suitable. When such circumstances exist, a conditional use permit may be granted. Conditions may be applied to issuance of the permit, and a periodic review of the permit may be required. The permit shall be issued for a particular use and not for a particular person. Because of their unusual characteristics, conditional uses require consideration so they may be located properly with respect to the objectives of this chapter and the comprehensive municipal plan and with respect to their effects on surrounding properties. In order to achieve these purposes, the council is empowered to grant and to deny applications for conditional use permits and to impose reasonable conditions upon the granting of these permits.
(Code 1984, § 10.09(1); Code 2003, § 78-911)

Sec. 6.12.4050. Reference to planning commission.

Before the council may grant conditional use permits for such conditional uses as prescribed in the district regulations of this chapter, the request shall be referred to the planning commission for study concerning the effect of the proposed use on the ordinance and on the character and development of the neighborhood and for recommendation in regard to granting such conditional use and its conditions, if any, or for the denial of such conditional use. The council may by unanimous action waive reference to the planning commission.
(Code 1984, § 10.09(2); Code 2003, § 78-912)

Sec. 6.12.4060. Application.

Whenever this chapter requires a conditional use permit, an application in writing may be filed with the zoning administrator, together with such filing fee as may be established by the council and shall be accompanied by a site plan and such information and showing as may be necessary or desirable, including, but not limited to, the following:

(1) Site plan drawn at scale dimensions with setbacks noted.

(2) Location of all buildings, heights and square footage.

(3) Curb cuts, driveways, parking spaces.

(4) Off-street loading areas.

(5) Drainage plan.

(6) Type of business, proposed number of employees by shift.

(7) Proposed floor plan with use indicated and building elevations.

(8) Sanitary sewer and water plan with estimated use per day.

(9) A lighting plan showing the lighting of parking area, walks, security lighting and driveway entrance light.

(10) A landscape plan with a schedule of the plantings.

(11) An abstractor's certified property certificate showing the property owners within 500 feet of the outer boundaries of the property in question.

(Code 1984, § 10.09(3); Code 2003, § 78-913; Ord. No. 210(3rd series), § 13, 6-25-2018)

Sec. 6.12.4070. Failure of planning commission to act.

If no recommendation is transmitted by the planning commission within 60 days after refer-

*State law reference—Conditional use permits, Minn. Stats. § 462.3595.

ral of the application for conditional use to the commission, the council may take action without further awaiting such recommendation.
(Code 1984, § 10.09(4); Code 2003, § 78-914)

Sec. 6.12.4080. Hearings and notice.

The planning commission or council may hold a public hearing on each application for a conditional use permit as required by section 6.12.280. At the public hearing the planning commission or the council shall review the application and the statements and drawings submitted with the application and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained. Any party may appear at the hearing in person or by agent or attorney. Subject to such limitations as may be imposed by the council, the planning commission or the council may adopt rules for the conduct of proceedings before it. Such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The city shall provide for a record of the proceedings, which shall include the minutes of the meetings, the findings, and the action taken on each matter heard, including the final action.
(Code 1984, § 10.09(5); Code 2003, § 78-915; Ord. No. 210(3rd series), § 14, 6-25-2018)

State law reference—Conditional use permit hearings, Minn. Stats. § 462.3595, subd. 2.

Sec. 6.12.4090. Granting of permit.

(a) The planning commission may recommend and the council may grant a conditional use permit as the use permit was applied for or in modified form. On the basis of the application and the evidence submitted, the city must find that the proposed use at the proposed location is or will be:

(1) Consistent with the community management plan;

(2) Compliant with the zoning code, including any conditions imposed on specific uses as required by article V, division 3 of this chapter;

(3) Adequately served by police, fire, roads, and stormwater management;

(4) Provided with an adequate water supply and sewage disposal system;

(5) Not expected to generate excessive demand for public services at public cost;

(6) Compatible with the surrounding area as the area is used both presently and as it is planned to be used in the future;

(7) Consistent with the character of the surrounding area, unless a change of character is called for in the community management plan;

(8) Compatible with the character of buildings and site improvements in the surrounding area, unless a change of character is called for in the community management plan;

(9) Not expected to substantially impair the use and enjoyment of the property in the area or have a materially adverse impact on the property values in the area when compared to the impairment or impact of generally permitted uses;

(10) Provided with screening and buffering adequate to mitigate undesirable views and activities likely to disturb surrounding uses;

(11) Not create a nuisance which generates smoke, noise, glare, vibration, odors, fumes, dust, electrical interference, general unsightliness, or other means;

(12) Not cause excessive nonresidential traffic on residential streets, parking needs that cause a demonstrable inconvenience to adjoining properties, traffic congestion, or unsafe access;

(13) Designed to take into account the natural, scenic, and historic features of the area and to minimize environmental impact;

(14) All exterior lighting shall be so directed so as not to cast glare toward or onto the public right-of-way or neighboring residential uses or districts; and

(15) Not detrimental to the public health, public safety, or general welfare.

(b) A conditional use permit may be granted subject to such conditions as the council may prescribe.

(c) A conditional use permit shall remain in effect as long as the conditions imposed by the city council are observed, but nothing in this section shall prevent the city from enacting or amending official controls to change the status of conditional uses.

(d) A certified copy of any conditional use permit shall be filed with the county recorder or registrar of titles. The conditional use permit shall include the legal description of the property included.
(Code 1984, § 10.09(6); Code 2003, § 78-916; Ord. No. 77(3rd series), § 1, 7-12-2010)

Sec. 6.12.4100. Denial of permit.

The council shall set forth contemporaneously in writing and in detail all the reasons for the denial of the conditional use permit application. No application for a conditional use permit which has been denied wholly or in part shall be resubmitted for a period of six months from the date of denial, except on grounds of new evidence or proof of changes of conditions found to be valid by the planning commission.
(Code 1984, § 10.09(7); Code 2003, § 78-917)

Sec. 6.12.4110. Lapse of permit.

A conditional use permit shall lapse one year following the date on which it became effective unless prior to that time a building permit is issued by the building inspector and construction is commenced and pursued toward completion on the site which was the subject of the conditional use permit application. A conditional use permit may be renewed for an additional period of one year provided the request is filed prior to the expiration of one year from the date when the use permit is filed with the zoning administrator. The council may grant or deny an application for renewal of a conditional use permit. In no case shall more than three, one year extensions be granted.
(Code 1984, § 10.09(8); Code 2003, § 78-918; Ord. No. 153(3rd series), § 4, 8-10-2015)

Sec. 6.12.4120. Lapse of use.

Should a conditional use permit lapse or cease for a period of six months, future use shall be in conformance with the terms of this chapter unless such lapse or cessation is determined to be due to illness, natural disaster or acts of war.
(Code 1984, § 10.09(9); Code 2003, § 78-919)

State law reference—Conditional use permit duration, Minn. Stats. § 462.3595, subd. 3.

Sec. 6.12.4130. Conditional use permits for nonconforming uses.

All nonconforming uses actually and legally existing on December 1, 1974, shall be issued a conditional use permit upon application not later than January 1, 1976. Such conditional use permit shall allow the continuation of the nonconforming use to the same extent and degree as then existing on December 1, 1974. Such permits shall be granted without application fee, and the council shall be limited in such permits to the full and accurate statements of the conditions pertaining to the existing uses. Such permits shall not be subject to periodic review.
(Code 1984, § 10.09(10); Code 2003, § 78-920)

Sec. 6.12.4140. Conditional use permit review.

The city hereby reserves the right to inspect the premises where a conditional use permit has been issued, after receiving permission from the property owner or receiving the appropriate court order, to ensure compliance with the provisions of this division or and conditions imposed. Conditional use permits shall not be subject to periodic council review for the purpose of change or revocation unless such a review is one of the conditions of the original permit or unless the actual land use is determined to be in violation of the terms of the permit.
(Code 1984, § 10.09(11); Code 2003, § 78-921; Ord. No. 192(3rd series), § 1, 4-10-2017)

Sec. 6.12.4150. Unlawful act.

It is unlawful to violate any condition of a conditional use permit.
(Code 1984, § 10.09(12); Code 2003, § 78-922)

Division 3. Requirements for Specific Uses

Sec. 6.12.4180. Conditional use permit for essential services.

A conditional use permit is required for all structures, including utility poles and rights-of-way, which are an integral part of a system for public transportation as for transmitting power, water, heat, communications, gas or sewage by any public utility. The council shall grant a conditional use permit only after a showing that the public safety, health and welfare will not be harmed by the essential services. Personal wireless services and commercial broadcasting antennas and towers shall not be considered essential services.

(Code 1984, § 10.03(17); Code 2003, § 78-946; Ord. No. 161(2nd series), § 2, 6-7-1997)

Sec. 6.12.4190. Commercial recreation.

A conditional use permit is required for commercial recreation uses. The council shall grant a conditional use permit only after the applicant demonstrates that public safety, health and welfare will not be negatively affected by the use, in particular the use will not create traffic congestion, interfere with the operation of adjacent uses, and create an unreasonable demand for public safety services. If a commercial use is part of a multitenant building, any exterior alteration shall be compatible with the architectural style of the building. Such conditional use permit may include conditions to mitigate potential adverse effects on adjacent uses, including, but not limited to, restricting the hours of operation and total floor area of the use.

(Code 2003, § 78-949; Ord. No. 47(3rd series), § 4, 7-28-2008)

ARTICLE VI. PLANNED UNIT DEVELOPMENT (PUD)

Sec. 6.12.4210. Authorization.

Planned unit development authorization may allow the following:

(1) *Variety.* Within a comprehensive site design concept a mixture of land uses, housing types and densities.

(2) *Sensitivity.* Through the departure from the strict application of required setbacks, yard areas, lot sizes, minimum house sizes, minimum requirements, and other performance standards associated with conventional zoning, which can maximize the development potential of land while remaining sensitive to its unique and valuable natural characteristics.

(3) *Efficiency.* The consolidation of areas for recreation and reductions in street lengths and other utility related expenses.

(4) *Density transfer.* The project density may be clustered, basing density on number of units per acre versus specific lot dimensions.

(5) *District integration.* The combination of uses which are allowed in separate zoning districts, such as:

a. Mixed residential allows both densities and unit types to be varied within the project.

b. Mixed residential with increased density acknowledging the greater sensitivity of PUD projects; regulation provides increased density on the property if a PUD is utilized.

c. Mixed land uses with the integration of compatible land uses within the project.

(6) *Applicability.* Utilization of this zoning district is limited to the Highway 12 Corridor as set forth in the city's comprehensive plan amendment No. 2, adopted May 23, 1988; and to the Navarre area as set forth in the city community management plan adopted September 13, 2010.

(Code 1984, § 10.53(1); Code 2003, § 78-1001; Ord. No. 132(3rd series), § 1, 1-26-2015)

Sec. 6.12.4220. Allowed uses.

Uses within the PUD may include only those uses designated on the official comprehensive land use plan. Specific allowed uses and performance standards for each PUD shall be delineated in an ordinance and development

plan. The PUD development plan shall identify all the proposed land uses, and those uses shall become permitted uses with the acceptance of the development plan. Any change in list of uses presented in the development plan will be considered an amendment to the PUD and will follow the procedures specified in section 6.12.4250.
(Code 1984, § 10.53(2); Code 2003, § 78-1002)

Sec. 6.12.4230. Required standards.

(a) For the purpose of administering this article, the city shall apply the standards contained in the conventional zoning district that is most similar to the proposed development. In the event of mixed-use developments, the zoning administrator shall determine the appropriate underlying zoning standards, subject to the approval of the city council.

(b) The city shall consider the proposed PUD from the point of view of all standards and purposes of the comprehensive land use plan to achieve a maximum coordination between the proposed development and the surrounding uses, the conservation of woodlands and wetlands, the protection of health, safety and welfare of the community and residents of the PUD. To these ends, the city council shall consider:

(1) The location of the buildings, compatibility, parking areas and other features with respect to the topography of the area and existing natural features such as streams and large trees;

(2) The efficiency, adequacy and safety of the proposed layout of internal streets and driveways;

(3) The adequacy and location of green areas;

(4) The adequacy, location and screening of parking areas; and

(5) Such other matters as the council may find to have a material bearing upon the stated standards and objectives of the comprehensive land use plan.

(Code 1984, § 10.53(3); Code 2003, § 78-1003)

Sec. 6.12.4240. Coordination with subdivision regulations.

Subdivision review under chapter 6.20 shall be carried out simultaneously with the review of the PUD. The plans required under this article shall be submitted in a form which will satisfy the requirements of chapter 6.20 for the preliminary and final plat.
(Code 1984, § 10.53(4); Code 2003, § 78-1004)

Sec. 6.12.4250. Revisions and/or changes.

(a) Minor changes in the location, placement and height of structures may be authorized by the development review committee if required by engineering or other circumstances not foreseen at the time the final plan was approved and filed with the zoning administrator.

(b) Significant changes in the location, size or height of structures, any rearrangement of lots, blocks and building tracts, changes in the provision of common open spaces, and all other changes to the approved final development plan may be made only after a public hearing conducted by the council. Any changes shall be recorded as amendments to the recorded copy of the final development plan.

(c) All of the provisions of this chapter applicable to the original district within which the planned unit development district is established shall apply to the PUD district except as otherwise provided in approval of the final plan.

(d) If substantial development has not occurred within a reasonable time after approval of the PUD zoning district as set forth in the developer's agreement, the city council may instruct the planning commission to initiate rezoning to the original zoning district. It shall not be necessary for the city council to find that the rezoning was in error.
(Code 1984, § 10.53(5); Code 2003, § 78-1005)

Sec. 6.12.4260. Phasing and guarantee of performance.

(a) The planning commission shall compare the actual development accomplished in the various PUD zones with the approved development schedule.

(b) Upon recommendation of the planning commission and for good cause shown by the property owner, the council may extend the limits of the development schedule.

(c) The construction and provision of all of the common open space and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of dwelling units, if any. The development review committee shall review all of the building permits issued for the PUD and examine the construction which has taken place on the site. If they find that the rate of construction of dwelling units is greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, they shall forward this information to the council for action.

(d) A letter of credit shall be required to guarantee performance by the developer. The amount of this letter of credit, and the specific elements of the development program that it is intended to guarantee, will be stipulated in the development agreement.
(Code 1984, § 10.53(6); Code 2003, § 78-1006)

Sec. 6.12.4270. Control of planned unit development following completion.

(a) After the certificate of occupancy has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within the planned development shall be governed by the final development plan.

(b) After the certificate of occupancy has been issued, no changes shall be made in the approved final development plan except upon application as provided below:

(1) Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the development review committee if they are consistent with the purposes and intent of the final plan. No change authorized by this section may increase the cube of any building or structure by more than ten percent.

(2) Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved under section 6.12.4250.

(3) Any other changes in the final development plan must be authorized by an amendment of the final development plan under section 6.12.4250.

(Code 1984, § 10.53(7); Code 2003, § 78-1007)

Sec. 6.12.4280. Procedure for processing a planned unit development.

(a) *Application conference.* Upon filing of an application for PUD, the applicant of the proposed PUD shall arrange for and attend a conference with the zoning administrator. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his proposal for the area for which it is proposed and its conformity to the provisions of this chapter before incurring substantial expense in the preparation of plans, surveys and other data.

(b) *Purpose.* The general concept plan provides an opportunity for the applicant to submit a plan to the city showing his basic intent and the general nature of the entire development without incurring substantial cost. The plan shall include the following:

(1) Overall maximum PUD density range.

(2) General location of major streets and pedestrian ways.

(3) General location and extent of public and common open space.

(4) General location of residential and nonresidential land uses with approximate type and intensities of development.

(5) Staging and time schedule of development.

(6) Other special criteria for development.

(c) *Schedule.*

(1) The developer meets with the zoning administrator to discuss the proposed developments.

(2) The applicant shall file the concept stage application and preliminary plat, together with all supporting data.

(3) Within 30 days after verification by the zoning administrator that the required plan and supporting data is adequate, the planning commission shall hold a public hearing.

(4) The planning commission shall conduct the hearing and report its findings and make recommendations to the city council.

(5) The city may request additional information from the applicant concerning operational factors or retain expert testimony at the expense of the applicant concerning operational factors.

(6) The council may hold a public hearing after the receipt of the report and recommendations from the planning commission. If the planning commission fails to make a report within 60 days after receipt of the application, the city council may proceed without the report. The council may approve the concept plan and attach such conditions as it deems reasonable. Approval shall require a four-fifths vote of the entire council.

(d) *Development stage.* Following general concept approval, if given, the applicant shall submit the development stage application and final plat. The application shall proceed and be acted upon in accordance with section 6.12.4250 for zoning district changes. If appropriate because of the limited scale of the proposal, the concept stage and development stages may proceed simultaneously.

(e) *Applications; general concept stage.* Ten copies of the following exhibits, analysis and plans shall be submitted to the city.

(1) *Plat.* Preliminary plat and information required by chapter 6.20.

(2) *General information.*

a. The landowner's name and address and his interest in the subject property.

b. The applicant's name and address if different from the landowner.

c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.

d. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidence as the city attorney may require to show the status of title or control of the subject property.

(3) *Present status.*

a. The address and legal description of the property.

b. The existing zoning classification and present use of the subject property and all lands within 1,000 feet of the property.

c. A map depicting the existing development of the property and all land within 1,000 feet of the property and indicating the location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within 100 feet of the property.

d. A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the city's comprehensive plan and how the

proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the city.

e. Graphic reproductions of the existing site conditions at scale of one inch equals 100 feet.

1. Contours; minimum two-foot intervals.
2. Location, type and extent of tree cover.
3. Slope analysis.
4. Location and extent of water bodies, wetlands and streams and floodplains within 300 feet of the property.
5. Significant rock outcroppings.
6. Existing drainage patterns.
7. Vistas and significant views.
8. Soil conditions as they affect development.

All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.

f. Schematic drawing of the proposed development concept, including, but not limited to, the general location of major circulation elements, public and common open space, residential and other land uses.

g. A statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:

1. Area developed to residential uses.
2. Area developed to residential use by building type.
3. Area devoted to common open space.
4. Area devoted to public open space.
5. Approximate area devoted to streets.
6. Approximate area devoted to, and number of, off-street parking and loading spaces and related access.
7. Approximate area and floor area devoted to commercial uses.
8. Approximate area and floor area devoted to industrial or office use.

h. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such state and overall chronology of development to be followed from stage to stage.

i. When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.

j. Any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.

k. Schematic utilities plans indicating placement of water, sanitary and storm sewers.

l. The city may excuse an applicant from submitting any specific item of

information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal.

m. The city may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD.

(f) *Applications: development stage.* Development stage submissions should depict and outline the proposed implementations of the general concept stage for the PUD. Information from the general concept stage may be included for background and to provide a basis for the submitted plan. The development stage submissions shall include but not be limited to:

(1) A final plat and information required by chapter 6.20.

(2) Ten sets of preliminary plans drawn to a scale of not less than one inch equals 100 feet (or scale requested by the administrator) containing at least the following information:

a. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the county where the subject property is situated).

b. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.

c. The location, size, use and arrangement, including height in stories and feet and total square feet of ground area coverage and floor area of proposed buildings, and existing buildings which will remain, if any.

d. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements, including bike and pedestrian; and the total site coverage of all circulation elements.

e. Location, designation and total area of all common open space.

f. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.

g. Proposed lots and blocks, if any, and numbering system.

h. The location, use and size of structures and other land uses on adjacent properties.

i. Detailed sketches and provisions of proposed landscaping.

j. General grading and drainage plans for the developed PUD.

k. Any other information that may have been required by the planning commission or the council in conjunction with the approval of the general concept plan.

(3) An accurate legal description of the entire area within the PUD for which final development plan approval is sought.

(4) A tabulation indicating the number of residential dwelling units and expected population.

(5) A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. drugstore, dry cleaning, supermarket).

(6) Preliminary architectural typical plans indicating use, floor plan, elevations and exterior wall finishes of proposed buildings, including mobile homes.

(7) A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights-of-way, utility lines and facilities, lots, block, public and common open space, general landscaping plan, structures, including mobile homes, and uses.

(8) Preliminary grading and site alteration plan illustrating changes to existing

topography and natural site vegetation. The plan should clearly reflect the site treatment and its conformance with the approved concept plan.

(9) A preliminary plat prepared in accordance with chapter 6.20.

(10) A soil erosion control plan acceptable to watershed districts, department of natural resources, soil conservation service, or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.

(Code 1984, § 10.53(8); Code 2003, § 78-1008; Ord. No. 210(3rd series), § 15, 6-25-2018)

Sec. 6.12.4290. Planned unit development No. 2—Dunbar PUD.

(a) *Legal description.* PUD No. 2 is legally described as Lots 1 and 2, Block 1, Orono Ambar, Hennepin County, Minnesota.

(b) *Referenced individually.* Lot 1, Block 2, Orono Ambar, when referenced individually, shall be hereinafter referred to as PUD No. 2A. Lot 2, Block 1, Orono Ambar, when referenced individually, shall be hereinafter referenced as PUD No. 2B.

(c) *Incorporated herein by reference.* The Dunbar PUD plans attached as exhibits to the PUD No. 2A and 2B agreements, on file in the office of the zoning administrator under File #2640/2641, are incorporated by reference as if set out in full.

(d) *Allowable uses.* The uses allowed in the PUD are as follows:

(1) Uses allowed in PUD No. 2A are any permitted or accessory uses allowed in the B-6 Highway Commercial District.

(2) Uses allowed in PUD No. 2B include the following:

a. Senior independent living housing, limited to one building, subject to the performance standards of the RPUD zoning district and as further limited within city council Resolution No. 4704 and the PUD 2B agreement on file in the office of the zoning administrator under File #2640/2641.

b. Any accessory use as regulated in the RPUD district, except as further limited within city council Resolution No. 4704 and the PUD 2B agreement on file in the office of the zoning administrator under File #2640/2641.

(e) *Development standards.* Development standards shall be as indicated on the approved PUD general development plan as documented within city council Resolution No. 4704 and the PUD 2A and PUD 2B agreements on file in the office of the zoning administrator under File #2640/2641.

(Code 2003, § 78-1009; Ord. No. 207(2nd series), § 3(10.53(9)), 10-22-2001)

Sec. 6.12.4300. Planned unit development No. 4—Dahlstrom Development Corporation PUD.

(a) *Legal description.* PUD No. 4 is legally described as Lots 1 through 46, inclusive, Block 1; Lots 1 through 10 inclusive, Block 2; and Outlots A, B, C, D, E, F, G, H, I, J and K, Stonebay, Hennepin County, Minnesota.

(b) *Incorporated herein by reference.* The Dahlstrom Development, LLC PUD plans attached as exhibits to the PUD No. 4 agreement, on file in the office of the planning director under File #02-2789/02-2840, are incorporated by reference as if set out in full.

(c) *Allowable uses.* The uses allowed in the PUD are as follows:

(1) Outlots A and D, Stonebay, are platted as outlots for future development in accordance with the uses guided within the 2000—2020 Orono Community Management Plan (CMP), and may not be used until such time that they have been rezoned via the planned unit development process and platted into buildable lots.

(2) Outlots B and C, Stonebay, are platted as outlots for stormwater management and utility purposes, and trail purposes only.

(3) Lots 1 through 46, inclusive, Block 1; Lots 1 through 10, inclusive; and Outlots E, F, G, H, I, J and K, Stonebay, are platted to be used for multifamily dwelling purposes subject to the provisions and standards of the RPUD district and as further limited within city council Resolution No. 4915 and the PUD No. 4 agreement on file in the office of the planning director under File #02-2789/02-2840. Outlots E, F, G and H shall not be developed for the approved uses until completion of final platting into lots and blocks.

(d) *Development standards.* Development standards shall be as indicated on the approved PUD general development plan as documented within city council Resolution No. 4915 and the PUD No. 4 agreement on file in the office of the planning director under File #02-2789/02-2840.
(Code 2003, § 78-1010; Ord. No. 225(2nd series), § 3(10.53(11)), 5-12-2003)

ARTICLE VII. HIGHWAY 12 CORRIDOR STUDY AREA

Division 1. Generally (Reserved)

Division 2. Special Requirements for Rezoning

Sec. 6.12.4410. Minimum area.

To ensure consistency with the goals and objectives of the Highway 12 Corridor Study, applications for rezoning within the study area must include a minimum of five acres, except that exceptions to this requirement may be granted for certain properties being rezoned to RPUD under the conditions established in the RPUD district standards. The plans submitted along with these applications must also include enough information regarding the effect of the proposed development on surrounding parcels to ensure that the property can be developed in a manner that is both compatible with adjacent properties and consistent with the Highway 12 Corridor Study.
(Code 1984, § 10.52(1); Code 2003, § 78-1061; Ord. No. 203(2nd series), § 1, 2-26-2001)

Sec. 6.12.4420. Access and circulation plan.

The plans submitted along with the application must propose access to the proposed development which is consistent with the transportation planning objectives of the Highway 12 Corridor Study. All public easements and road and trail right-of-way that is needed to allow the construction of service roads, trails and/or the expansion of Trunk Highway 12 past the subject property, shall be dedicated to the city.
(Code 1984, § 10.52(2); Code 2003, § 78-1062; Ord. No. 203(2nd series), § 2, 2-26-2001)

Sec. 6.12.4430. Sanitary sewer and municipal water availability.

(a) The available sanitary sewer and municipal water capacity to serve the development of this corridor is currently very limited. Therefore, any plans to develop within this area must either demonstrate that it can occur utilizing current sewer and water allocations or they must include improvements to increase the capacity of the systems serving this area.

(b) If sanitary sewer or municipal water system improvements are proposed as part of the application, then the feasibility of providing this service will also be scrutinized along with an improvement financing plan to ensure that the costs associated with providing this additional capacity will be paid for by the development.
(Code 1984, § 10.52(3); Code 2003, § 78-1063)

Sec. 6.12.4440. Stormwater management.

Site drainage plans must be submitted to ensure consistency with the stormwater management objectives of the Highway 12 Corridor Study. Plans will be carefully reviewed to ensure both that proposed stormwater ponding areas contain sufficient storage capacity and whatever

additional measures are necessary to guarantee that the quality of runoff from the site, meets or exceeds the city's standards.
(Code 1984, § 10.52(4); Code 2003, § 78-1064)

Sec. 6.12.4450. Available zoning districts.

(a) Due to the unique set of constraints and opportunities that affect future decisions regarding development within the Highway 12 Corridor Study Area, applicants for rezoning are strongly encouraged to utilize the planned unit development approach. However, applications will be accepted for rezoning requests for any of the following existing zoning districts within the city, consistent with a finding of consistency with the Highway 12 Corridor Study and subject to compliance with all of the additional requirements established in this article:

B-6	Highway Commercial District
PRD	Planned Residential Development District
R-1A	One-Family Residential District
R-1B	One-Family Residential District
M-6	Multiple-Family Planned Residential District
RPUD	Residential Planned Unit Development District

(b) Any proposal which requires a modification to zoning or subdivision requirements must be done as a planned unit development.
(Code 1984, § 10.52(5); Code 2003, § 78-1065; Ord. No. 203(2nd series), § 3, 2-26-2001)

Sec. 6.12.4460. Building design and construction.

Except within the I-Industrial District, in addition to other restrictions of this chapter, the use, construction, alteration or enlargements to any building or structure within the district shall meet the following standards (buildings within the I-Industrial District shall conform to building design and construction standards found in section 6.12.3950):

(1) All exterior wall finishes on any building shall be:

a. Face brick;

b. Natural stone;

c. Specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative materials or texture;

d. Factory fabricated and finished metal framed panel construction, if the panel materials are of any of those noted in subsections (1)a through c of this section, or glass; or

e. Other materials as may be approved by the council. Combinations of such materials shall be permitted.

(2) All subsequent additions and outbuildings constructed after the erection of an original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming with the original architectural design and general appearance.

(3) No building or structure of a temporary character, trailer, basement, tent or shack shall be constructed, placed or maintained upon the property except as accessory to and during the construction of permanent buildings.

(Code 1984, § 10.52(6); Code 2003, § 78-1066; Ord. No. 32(3rd series), § 4, 3-27-2006)

Sec. 6.12.4470. Requirement of development agreement.

All development permits authorized within the Highway 12 Corridor Study Area shall be subject to the execution of a development agreement. The development agreement shall clearly identify the timing of all of the public improvements associated with the development and the developers' financial commitments related to these improvements. The agreement shall also include any and all other conditions of approval deemed necessary to ensure compliance with the special minimum requirements for rezoning the Highway 12 Corridor Study Area, as well as the goals and objectives of the Highway 12 Corridor Study.
(Code 1984, § 10.52(7); Code 2003, § 78-1067)

ARTICLE VIII. FLOODPLAIN MANAGEMENT*

Division 1. Statutory Authorization, Findings of Fact and Purpose

Sec. 6.12.4510. Statutory authorization.

The state legislature has, in Minn. Stats. chs. 103F and 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the city council does ordain as follows in this article. (Code 2003, § 78-1101; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4520. Purpose.

(a) This article regulates development in the flood hazard areas of the city. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this article to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

(b) National Flood Insurance Program compliance. This article is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR 59 through 78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(c) This article is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.
(Code 2003, § 78-1102; Ord. No. 177(3rd series), § 1, 9-12-2016)

*State law references—Floodplain management, Minn. Stats. § 103F.101 et seq.; floodplain management ordinances, Minn. Stats. § 103F.121.

Division 2. General Provisions

Sec. 6.12.4610. How to use this article.

This article adopts the floodplain maps applicable to the city and includes three floodplain districts: floodway, flood fringe, and general floodplain.

(1) Where floodway and flood fringe districts are delineated on the floodplain maps, the standards in divisions 4 or 5 of this article will apply, depending on the location of a property.

(2) Locations where floodway and flood fringe districts are not delineated on the floodplain maps are considered to fall within the general floodplain district. Within the general floodplain district, the floodway district standards in division 4 of this article apply unless the floodway boundary is determined, according to the process outlined in division 6 of this article. Once the floodway boundary is determined, the flood fringe district standards in division 5 of this article may apply outside the floodway.

(3) The use shall be permitted within the floodway district to the extent that they are not prohibited by any other provision of this Code and provided all permits or authorizations are received as may be required by other provisions of this Code or regulation of other governmental agencies having jurisdiction, including, without limitation, the state department of natural resources, the Minnehaha Creek Watershed District, and the Lake Minnetonka Conservation District.

(Code 2003, § 78-1103; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4620. Lands to which article applies.

(a) This article applies to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments to the map as being located within the boundaries of the floodway, flood fringe, or general floodplain districts.

(b) The floodway, flood fringe and general floodplain districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this article. In case of a conflict, the more restrictive standards will apply.
(Code 2003, § 78-1104; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4630. Incorporation of maps by reference.

The following maps together with all attached material are hereby adopted by reference and declared to be a part of the official zoning map and this article. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016 and the flood insurance rate map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the city clerk's office:

Effective flood insurance rate map panels: 27053C0144F, 27053C0292F, 27053C0304F, 27053C0165F, 27053C0301F, 27053C0306F, 27053C0312F, 27053C0311F, 27053C0284F, 27053C0302F, 27053C0307F, 27053C0316F, 27053C0285F, 27053C0303F, 27053C0308F.

(Code 2003, § 78-1105; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4640. Regulatory flood protection elevation.

The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
(Code 2003, § 78-1106; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4650. Interpretation.

The boundaries of the zoning districts are determined by scaling distances on the flood insurance rate map.

(1) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The city administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

(2) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their appeal to the planning commission and to submit technical evidence.

(Code 2003, § 78-1107; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4660. Abrogation and greater restrictions.

It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this article imposes greater restrictions, the provisions of this article prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.
(Code 2003, § 78-1108; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4670. Warning and disclaimer of liability.

This article does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This article does not create liability on the part of the city or its officers or employees for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.
(Code 2003, § 78-1109; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4680. Severability.

If any division, clause, provision, or portion of this article is adjudged unconstitutional or invalid

by a court of law, the remainder of this article shall not be affected and shall remain in full force.
(Code 2003, § 78-1110; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4690. Definitions.

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

100-year floodplain means lands inundated by the regional flood. See *Regional flood.*

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

Base flood elevation means the elevation of the regional flood. The term "base flood elevation" is used in the flood insurance survey.

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

Conditional use means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

(1) Certain conditions as detailed in the zoning ordinance exist.

(2) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

Critical facilities means facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, day care facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

Development means any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Equal degree of encroachment means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Farm fence means a fence as defined by Minn. Stats. § 344.02, subd. 1(a) through (d). An open type fence of posts and wire is not considered to be a structure under this article. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this article.

Flood means a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

Flood frequency means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood fringe means the portion of the special flood hazard area (one percent annual chance flood) located outside of the floodway. The term "flood fringe" is synonymous with the term "floodway fringe" used in the flood insurance study for the county.

Floodplain means the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Floodprone area means any land susceptible to being inundated by water from any source. See *Flood.*

Floodproofing means a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

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

Lake Minnetonka means the naturally occurring lake shown on all the official maps referenced in this chapter, including all bays, channels, inlets, lagoons, marshland and other water-connected portions, whether naturally occurring or artificially created:

(1) Defined ordinary high-water elevation, 929.4 feet MSL.

(2) Defined floodplain boundary, 100-year flood, 931.5 feet MSL as established by the Minnehaha Creek Watershed District (MCWD).

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

New construction means structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this article.

Obstruction means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Principal use or structure means all uses or structures that are not accessory uses or structures.

Reach means a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Recreational vehicle means a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. The term "recreational vehicle" is synonymous with the term "travel trailer/travel vehicle."

Regional flood means a flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one percent chance or 100-year recurrence interval. The term "regional flood" is synonymous with the term "base flood" used in a flood insurance study.

Regulatory flood protection elevation (RFPE) means an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(1) The regulatory flood protection elevation within the floodway and flood fringe districts, except for Lake Minnetonka,

shall be established by adding 1.0 foot to the base floodwater surface elevations within floodway listed in the floodway data table contained in the flood insurance study. Regulatory flood protection elevations between cross sections shall be interpolated.

(2) The regulatory flood protection elevation for Lake Minnetonka shall be 932.5 MSL.

(3) The regulatory flood protection elevation within the general floodplain district shall be calculated by a qualified registered professional engineer in accordance with procedures set forth in this article.

Repetitive loss means flood related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Special flood hazard area is a term used for flood insurance purposes synonymous with the term "100-year floodplain."

Start of construction includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit's expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria and other similar items.

Substantial damage means damage of any origin sustained by a structure where the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means, within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. For the purpose of this article, the term "historic structure" is as defined in 44 Code of Federal Regulations 59.1.

(Code 2003, § 78-1111; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4700. Annexations.

The flood insurance rate map panels adopted by reference into section 6.12.4630 may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of the ordinance from which this article is derived. If any of these floodplain land areas are annexed into the city after the date of adoption of the ordinance from which this article is derived, the newly annexed floodplain lands will be subject to the provisions of this article immediately upon the date of annexation.
(Code 2003, § 78-1112; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4710. Detachments.

The flood insurance rate map panels adopted by reference into section 6.12.4630 will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of this article. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of the city after the date of adoption of the ordinance from which this article is derived, the newly detached floodplain lands will be subject to the provisions of this article immediately upon the date of detachment.
(Code 2003, § 78-1113; Ord. No. 177(3rd series), § 1, 9-12-2016)

Division 3. Establishment of Zoning Districts

Sec. 6.12.4810. Districts.

(a) *Floodway district.* The floodway district includes those areas within Zones AE that have a floodway delineated as shown on the flood insurance rate map adopted in section 6.12.4630, as well as portions of other lakes, wetlands, and basins within Zones A and AE (that do not have a floodway delineated) that are located at or below the ordinary high-water level as defined in Minn. Stats. § 103G.005, subd. 14.

(b) *Flood fringe district.* The flood fringe district includes areas within Zones AE that have a floodway delineated on the flood insurance rate map adopted in section 6.12.4630, but are located outside of the floodway. For other lakes, wetlands and other basins within Zones A and AE that do not have a floodway delineated, the Flood Fringe District also includes those areas below the one percent annual chance (100-year) flood elevation but above the ordinary high-water level as defined in Minn. Stats. § 103G.005, subd. 14.

(c) *General floodplain district.* The general floodplain district includes riverine areas within Zones A and AE that do not have a delineated floodway as shown on the flood insurance rate map adopted in section 6.12.4630.
(Code 2003, § 78-1114; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4820. Applicability.

Within the floodplain districts established in this article, the use, size, type and location of development must comply with the terms of this article and other applicable regulations. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems. All uses not listed as permitted uses or conditional uses in divisions 4, 5 and 6 are prohibited. In addition, critical facilities, as defined in section 6.12.4690, are prohibited in all floodplain districts.
(Code 2003, § 78-1115; Ord. No. 177(3rd series), § 1, 9-12-2016)

Division 4. Floodway District (FW)

Sec. 6.12.4910. Permitted uses.

The following uses, subject to the standards set forth in section 6.12.4920, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

(1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(2) Industrial-commercial loading areas, parking areas, and airport landing strips.

(3) Open space uses, including, but not limited to, private and public golf courses, tennis courts, driving ranges, archery ranges,

picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single- or multiple-purpose recreational trails.

(4) Residential lawns, gardens, parking areas, and play areas.

(5) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the department of natural resources' area hydrologist is notified at least ten days prior to issuance of any permit.

(Code 2003, § 78-1116; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4920. Standards for floodway permitted uses.

(a) The use must have a low flood damage potential.

(b) The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.

(c) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (one percent chance) flood.

(Code 2003, § 78-1117; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4930. Conditional uses.

The following uses may be allowed as conditional uses following the standards and procedures set forth in section 6.12.5540 and further subject to the standards set forth in section 6.12.4940, if otherwise allowed in the underlying zoning district or any applicable overlay district.

(1) Structures accessory to the uses listed in section 6.12.4910(1) through (5) and the uses listed below.

(2) Extraction and storage of sand, gravel, and other materials.

(3) Marinas, boat rentals, docks, piers, wharves, and water control structures.

(4) Storage yards for equipment, machinery, or materials.

(5) Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in section 6.12.4690, are permitted uses.

(6) Travel-ready recreational vehicles meeting the exception standards in section 6.12.5420.

(7) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

(8) All forms of shoreline protection, including wood, metal, mortared stone or concrete seawalls.

(Code 2003, § 78-1118; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.4940. Standards for floodway conditional uses.

(a) All uses. A conditional use must not cause any increase in the stage of the one percent chance or regional flood or cause an increase in flood damages in the reach or reaches affected.

(b) Fill; storage of materials and equipment:

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

(2) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

(3) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the one percent

chance or regional flood may only be allowed if the city council has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

(c) Accessory structures. Accessory structures, as identified in section 6.12.4930(1), may be permitted, provided that:

(1) Structures are not intended for human habitation;

(2) Structures will have a low flood damage potential;

(3) Structures will be constructed an placed so as to offer a minimal obstruction to the flow of floodwaters;

(4) Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;

(5) Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the state building code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.

(6) As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the state building code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

a. To allow for the equalization of hydrostatic pressure, there must be a minimum of two automatic openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

b. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(d) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minn. Stats. § 103G.245.

(e) A levee, dike or floodwall constructed in the floodway must not cause an increase to the one percent chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(f) Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
(Code 2003, § 78-1119; Ord. No. 177(3rd series), § 1, 9-12-2016)

Division 5. Flood Fringe District (FF)

Sec. 6.12.5010. Permitted uses.

Permitted uses are those uses of land or structures allowed in the underlying zoning district that comply with the standards in section 6.12.5020. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use, provided it does not constitute a public nuisance.
(Code 2003, § 78-1124; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5020. Standards for flood fringe permitted uses.

(a) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protec-

tion elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

(b) Accessory structures. As an alternative to the fill requirements of section 6.12.5020(a), structures accessory to the uses identified in section 6.12.5010 may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the state building code, provided that:

(1) The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.

(2) All portions of floodproofed accessory structures below the regulatory flood protection elevation must:

a. Be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls;

b. Be constructed with materials resistant to flood damage; and

c. Have all service utilities be watertight or elevated to above the regulatory flood protection elevation.

(3) Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

a. To allow for the equalization of hydrostatic pressure, there must be a minimum of two automatic openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

b. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(c) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with section 6.12.5020(a), or if allowed as a conditional use under section 6.12.5030(3).

(d) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

(e) All service utilities, including ductwork, must be elevated or watertight to prevent infiltration of floodwaters.

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

(g) All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

(h) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning/emergency evacuation plan acceptable to the city.

(i) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (one percent chance) flood.

(j) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications,

due consideration must be given to the needs of industries with operations that require a floodplain location.

(k) Manufactured homes and recreational vehicles must meet the standards of division 9 of this article.
(Code 2003, § 78-1125; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5030. Conditional uses.

The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in section 6.12.5540:

(1) Any structure that is not elevated on fill or floodproofed in accordance with section 6.12.5020(a) and (b).

(2) Storage of any material or equipment below the regulatory flood protection elevation.

(3) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with section 6.12.5020(a).

(4) The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in section 6.12.5040(f).

(Code 2003, § 78-1126; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5040. Standards for flood fringe conditional uses.

(a) The standards listed in sections 6.12.5020(d) through (j) to all conditional uses.

(b) Basements, as defined by section 6.12.4930, are subject to the following:

(1) Residential basement construction is not allowed below the regulatory flood protection elevation.

(2) Nonresidential basements may be allowed below the regulatory flood protection elevation, provided the basement is structurally dry floodproofed in accordance with subsection (d) of this section.

(c) Where lot size constraints prevent the fill elevation from extending 15 feet beyond the structure, a reduction in the fill extension may be allowed for lots less than 65 feet wide, provided the lots were established prior to October 26, 1978, the initial establishment of a floodplain ordinance.

(d) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the state building code. Structurally dry floodproofing must meet the FP1 or FP2 floodproofing classification in the state building code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(e) The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

(1) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (one percent chance) flood event.

(2) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the city.

(3) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

(f) Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

(g) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if the enclosed area is above-grade on at least one side of the structure; it is designed to internally flood and is constructed with flood-resistant materials; and it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(1) *Design and certification.* The structure's design and as-built condition must be certified by a registered professional engineer as being in compliance with the general design standards of the state building code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding.

(2) *Specific standards for above-grade, enclosed areas.* Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

a. The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters without any form of human intervention; and

b. That the enclosed area will be designed of flood-resistant materials in accordance with the FP3 or FP4 classifications in the state building code and shall be used solely for building access, parking of vehicles or storage.

(Code 2003, § 78-1127; Ord. No. 177(3rd series), § 1, 9-12-2016)

Division 6. General Floodplain District (GF)

Sec. 6.12.5110. Permitted uses.

(a) The floodway district permitted uses listed in section 6.12.4910 are permitted uses.

(b) All other uses are subject to the floodway/flood fringe evaluation criteria specified in section 6.12.5120. Division 4 applies if the proposed use is determined to be in the floodway district. Division 5 of this article applies if the proposed use is determined to be in the flood fringe district.

(Code 2003, § 78-1128; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5120. Procedures for floodway and flood fringe determinations.

(a) Upon receipt of an application for a permit or other approval within the general floodplain district, the city administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.

(b) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the floodway or flood fringe district. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in subsection (c) of this section.

(c) The determination of floodway and flood fringe must include the following components, as applicable:

(1) Estimate the peak discharge of the regional (one percent chance) flood.

(2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half foot. A lesser stage increase than one-half foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.

(4) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minn. Stats. §§ 6120.5000 through 6120.6200 and 44 CFR 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective department of natural resources' area hydrologist prior to commencing the analysis.

a. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high-water information.

b. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.

c. Photographs showing existing land uses, vegetation upstream and downstream, and soil types.

d. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(d) The city administrator will review the submitted information and assess the technical evaluation and the recommended floodway and/or flood fringe district boundary. The assessment must include the cumulative effects of previous floodway encroachments. The city administrator may seek technical assistance from a designated engineer or other expert person or agency, including the department of natural resources. Based on this assessment, the city administrator may approve or deny the application.

(e) Once the floodway and flood fringe district boundaries have been determined, the city administrator must process the permit application consistent with the applicable provisions of divisions 4 and 5 of this article.
(Code 2003, § 78-1129; Ord. No. 177(3rd series), § 1, 9-12-2016)

Division 7. Land Development Standards

Sec. 6.12.5210. Applicability to land.

Recognizing that floodprone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the city.
(Code 2003, § 78-1130; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5220. Subdivisions.

No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities.

Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this article.

(1) All lots within the floodplain districts must be able to contain a building site outside of the floodway district at or above the regulatory flood protection elevation.

(2) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (one percent chance) flood has been approved by the city. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

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

(4) In the general floodplain district, applicants must provide the information required in section 6.12.5120 to determine the regional flood elevation, the floodway and flood fringe district boundaries and the regulatory flood protection elevation for the subdivision site.

(5) If a subdivision proposal or other proposed new development is in a floodprone area, any such proposal must be reviewed to assure that:

a. All such proposals are consistent with the need to minimize flood damage within the floodprone area;

b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

c. Adequate drainage is provided to reduce exposure of flood hazard.

(Code 2003, § 78-1131; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5230. Building sites.

If a proposed building site is in a floodprone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

(1) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Constructed with materials and utility equipment resistant to flood damage;

(3) Constructed by methods and practices that minimize flood damage; and

(4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Code 2003, § 78-1132; Ord. No. 177(3rd series), § 1, 9-12-2016)

Division 8. Public Utilities, Railroads, Roads, and Bridges

Sec. 6.12.5310. Public utilities.

All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the state building code or elevated to the regulatory flood protection elevation.

(Code 2003, § 78-1140; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5320. Public transportation facilities.

Railroad tracks, roads, and bridges to be located within the floodplain must comply with divisions 4 and 5 of this article. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
(Code 2003, § 78-1141; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5330. On-site water supply and sewage treatment systems.

Where public utilities are not provided:

(1) On-site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and are subject to the provisions in Minn. R. ch. 4725.4350, as amended; and

(2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. They must not be subject to impairment or contamination during times of flooding and are subject to the provisions in Minn. R. ch. 7080.2270, as amended.

(Code 2003, § 78-1142; Ord. No. 177(3rd series), § 1, 9-12-2016)

Division 9. Manufactured Homes, Manufactured Home Parks, and Recreational Vehicles

Sec. 6.12.5410. Manufactured homes.

New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

(1) Placement or replacement of manufactured home units is prohibited in the floodway district.

(2) If allowed in the flood fringe district, placement or replacement of manufactured home units is subject to the requirements of division 5 of this article and the following standards:

a. New and replacement manufactured homes must be elevated in compliance with division 5 of this article and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

b. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in section 6.12.5220(2).

(Code 2003, § 78-1143; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5420. Recreational vehicles.

New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the following exemption criteria or be treated as new structures meeting the requirements of this article:

(1) Recreational vehicles are exempt from the provisions of this article if they are

placed in any of the following areas and meet the criteria listed in subsection (2) of this section:

a. Individual lots or parcels of record.

b. Existing commercial recreational vehicle parks or campgrounds.

c. Existing condominium-type associations.

(2) Criteria for exempt recreational vehicles:

a. The vehicle must have a current license required for highway use.

b. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

c. No permanent structural type additions may be attached to the vehicle.

d. The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.

e. Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in section 6.12.5410(2).

f. An accessory structure must constitute a minimal investment

(3) Recreational vehicles that are exempt in subsection (2) of this section lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of division 5 of this article. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

(Code 2003, § 78-1144; Ord. No. 177(3rd series), § 1, 9-12-2016)

Division 10. Administration

Sec. 6.12.5510. City administrator.

The city administrator or other official designated by the administrator must administer and enforce this article.

(Code 2003, § 78-1145; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5520. Permit requirements.

(a) *Permit required.* A permit must be obtained from the city administrator prior to conducting the following activities:

(1) The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement, as defined in this article.

(2) The use or change of use of a building, structure, or land.

(3) The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence, as defined in this article.

(4) The change or extension of a nonconforming use.

(5) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

(6) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

(7) Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.

(8) Any other type of development, as defined in this article.

(b) *Application for permit.* Permit applications must be submitted to the city administrator on forms provided by the city administrator. The permit application must include the following as applicable:

(1) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.

(2) Location of fill or storage of materials in relation to the stream channel.

(3) Copies of any required municipal, county, state or federal permits or approvals.

(4) Other relevant information requested by the city administrator as necessary to properly evaluate the permit application.

(c) *Certificate of city compliance for a new, altered, or nonconforming use.* No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the city administrator stating that the use of the building or land conforms to the requirements of this article.

(d) *Certification.* The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this article. Floodproofing measures must be certified by a registered professional engineer or registered architect.

(e) *Record of first floor elevation.* The city administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The city administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

(f) *Notifications for watercourse alterations.* Before authorizing any alteration or relocation of a river or stream, the city administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minn. Stats. § 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(g) *Notification to FEMA when physical changes increase or decrease base flood elevations.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the city administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data. (Code 2003, § 78-1146; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5530. Variances and appeals.

(a) *Variance applications.* An application for a variance to the provisions of this article will be processed and reviewed in accordance with applicable state statutes and article II, division 3 of this chapter.

(b) *Adherence to state floodplain management standards.* A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

(c) *Additional variance criteria.* The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

(1) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances may only be issued by a community upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) *Flood insurance notice.* The city administrator must notify the applicant for a variance that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

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

(e) *General considerations.* The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

(1) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;

(2) The danger that materials may be swept onto other lands or downstream to the injury of others;

(3) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;

(4) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;

(5) The importance of the services to be provided by the proposed use to the community;

(6) The requirements of the facility for a waterfront location;

(7) The availability of viable alternative locations for the proposed use that are not subject to flooding;

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(9) The relationship of the proposed use to the comprehensive land use plan and floodplain management program for the area;

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.

(f) *Submittal of hearing notices to the department of natural resources (DNR).* The city administrator or designee shall submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(g) *Submittal of final decisions to the DNR.* A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(h) *Record-keeping.* The city administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the

National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(i) *Appeals.* The city council shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this article. An appeal must be filed within ten days of the administrative official's order, requirement, decision, or determination. Failure to file an appeal within ten days of the decision shall constitute a waiver of the person's right to a hearing.
(Code 2003, § 78-1147; Ord. No. 177(3rd series), § 1, 9-12-2016; Ord. No. 178(3rd series), § 13, 10-10-2016)

Sec. 6.12.5540. Conditional uses.

(a) *Administrative review.* An application for a conditional use permit under the provisions of this article will be processed and reviewed in accordance with chapter IV, article V of this title.

(b) *Factors used in decision-making.* In passing upon conditional use applications, the city council must consider all relevant factors specified in other sections of this article, and those factors identified in section 6.12.5530.

(c) *Conditions attached to conditional use permits.* The city council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this article. Such conditions may include, but are not limited to, the following:

(1) Modification of waste treatment and water supply facilities.

(2) Limitations on period of use, occupancy, and operation.

(3) Imposition of operational controls, sureties, and deed restrictions.

(4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

(5) Floodproofing measures, in accordance with the state building code and this article. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(d) *Submittal of hearing notices to the department of natural resources (DNR).* The city administrator or designee must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(e) *Submittal of final decisions to the DNR.* A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.
(Code 2003, § 78-1148; Ord. No. 177(3rd series), § 1, 9-12-2016)

Division 11. Nonconformities

Sec. 6.12.5610. Continuance of nonconformities.

A use, structure, or occupancy of land which was lawful before the passage or amendment of the ordinance from which this article is derived but which is not in conformity with the provisions of this article may be continued subject to the following conditions. Historic structures are subject to the provisions of subsections (1) through (6) of this section.

(1) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in subsection (2) of this section. Expansion or enlargement of uses, structures or occupancies within the floodway district is prohibited.

(2) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing

its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 through FP4 floodproofing classifications) allowable in the state building code, except as further restricted in subsections (3) and (7) of this section.

(3) If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, that shall be considered substantial improvement, and the entire structure must meet the standards of division 4 or 5 of this article for new structures, depending upon whether the structure is in the floodway or flood fringe district, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.

(4) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this article. The assessor must notify the city administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.

(5) If any nonconformity is substantially damaged, as defined in section 6.12.4690, it may not be reconstructed except in conformity with the provisions of this article. The applicable provisions for establishing new uses or new structures in division 4 or 5 will apply depending upon whether the use or structure is in the floodway or flood fringe, respectively.

(6) If any nonconforming use or structure experiences a repetitive loss, as defined in 6.12.4690, it must not be reconstructed except in conformity with the provisions of this article.

(7) Any substantial improvement, as defined in section 6.12.4690, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of division 4 or 5 of this article for new structures, depending upon whether the structure is in the floodway or flood fringe district.

(Code 2003, § 78-1149; Ord. No. 177(3rd series), § 1, 9-12-2016)

Division 12. Penalties and Enforcement

Sec. 6.12.5710. Violation constitutes a misdemeanor.

Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

(Code 2003, § 78-1150; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5720. Other lawful action.

Nothing in this article restricts the city from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the city administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this article and will be prosecuted accordingly.

(Code 2003, § 78-1151; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5730. Enforcement.

In responding to a suspected ordinance violation, the city may utilize the full array of enforcement actions available to it, including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The city must act in good faith to enforce these official controls and

to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
(Code 2003, § 78-1152; Ord. No. 177(3rd series), § 1, 9-12-2016)

Division 13. Amendments

Sec. 6.12.5810. Floodplain designation; restrictions on removal.

The floodplain designation on the official zoning map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the commissioner of the department of natural resources (DNR) if the commissioner determines that, through other measures, lands are adequately protected for the intended use.
(Code 2003, § 78-1153; Ord. No. 177(3rd series), § 1, 9-12-2016)

Sec. 6.12.5820. Amendments require DNR approval.

All amendments to this article must be submitted to and approved by the commissioner of the department of natural resources (DNR) prior to adoption. The commissioner must approve the amendment prior to community approval.
(Code 2003, § 78-1154)

Sec. 6.12.5830. Map revisions require ordinance amendments.

The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in section 6.12.4630.
(Code 2003, § 78-1155; Ord. No. 177(3rd series), § 1, 9-12-2016)

ARTICLE IX. SHORELAND MANAGEMENT*

Division 1. Generally

Sec. 6.12.5910. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined in this section, words or phrases used in this article shall be interpreted as defined elsewhere in this chapter. All distances, unless otherwise specified, shall be measured horizontally.

Animal feedlot means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this Code, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered as animal feedlots. Pastures shall not be considered as animal feedlots when the area enclosed as pasture is equal to or greater than 1.0 acre per animal unit.

Bluff means a topographic feature, such as a hill, cliff or embankment, having the following characteristics (an area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff):

(1) Part or all of the feature is located in a shoreland area;

(2) The slope rises at least 25 feet above the ordinary high-water level of the water body;

(3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high-water level averages 30 percent or greater; and

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

*State law reference—Shoreland development, Minn. Stats. § 103F.201 et seq.

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

Bluff, toe of the, means the lower point of the lowest 50-foot segment with an average slope exceeding 18 percent. If the lowest such point is lakeward of the OHWL, the OHWL will be defined as the toe.

Bluff, top of the, means that point on the cross section of a bluff below which the slope becomes more than 18 percent and above which the average slope for a distance of 50 feet or more is 18 percent or less.

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

Deck means a horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site.

Duplex, triplex and *quad* mean a dwelling structure on a single lot, having two, three and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

Dwelling site means a designated location where a dwelling unit is intended to be constructed.

Dwelling site, transient, means a designated location for temporary or transient residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling unit means a building or a portion of a building designed or intended to be occupied exclusively for residential purposes, including provisions for sleeping, eating, cooking and sanitation for not more than one family, but not including rooms in motels, hotels, nursing homes, boardinghouses, nor trailers, tents, cabins, recreational vehicles, nor lodging rooms.

Extractive use means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minn. Stats. §§ 93.44 through 93.51.

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

Industrial use means the use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

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

Ordinary high-water level (OHWL) means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high-water level is the operating elevation of the normal summer pool. The designated OHWL has been determined by the state department of natural resources for certain water bodies as shown in section 6.12.5970.

Planned unit development (PUD) means a type of development characterized by a unified site design for a number of residential dwelling units or nonresidential sites on a parcel, whether for sale, rent or lease, often involving clustering of units or sites to provide areas of common open space or a mixture of structure types and land uses. Two types of PUD are provided for in this chapter:

(1) *Planned residential development (PRD),* in which the nature of allowed uses is nontransient residential, including attached and detached single-family or multiple-family dwellings, subject to the limitations provided for in each zoning district.

(2) *Planned unit development (PUD), Highway 12 Corridor,* in which the nature of allowed uses may include residential, commercial, institutional, public and semi-public uses as set forth in the city's comprehensive plan amendment No. 2, and it is limited to areas within the Highway 12 Corridor as defined in that amendment. The Highway 12 PUD offers a mixture of land uses, housing types and densities.

Note: No properties which could be developed via the Highway 12 PUD are within the shoreland overlay district.

Public use means the use of land by the general public or by a public agency on behalf of the general public, for any purpose.

Public waters means any waters as defined in Minn. Stats. § 103G.005, subds. 15 and 16.

Semipublic use means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside their regular constituency of the organization.

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

Sewage treatment system means septic tanks and a soil absorption system or other type of on-site sewage treatment system as described in chapter 5.24, article II.

Sewerage system means pipelines or conduits, pumping stations and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

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

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

Shoreland means land located within 1,000 feet from the ordinary high-water level of a lake, pond or flowage and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. Where topographic divides occur at lesser distances from the involved water, the limits of shoreland have been modified per the official map entitled "Shoreland Overlay District," on file at the city offices.

Significant historic site means any archaeological site, standing structure or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the state register of historic sites, or is determined to be an unplatted cemetery that falls under the provisions of Minn. Stats. § 307.08. An historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the state archaeologist or the director of the state historical society. All unplatted cemeteries are automatically considered to be significant historic sites.

Steep slope means lands having average slopes of 12 percent or greater as measured over horizontal distances of 50 feet or more, that are not bluffs.

Surface water-oriented commercial use means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business.

Variance means the same as that term is defined or described in Minn. Stats. ch. 462.

Water-oriented accessory structure or facility means a small, aboveground building or other improvement, except stairways, fences, docks and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of

such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, lock boxes, and detached decks.

Wetlands shall have the same meaning as the term "protected wetlands" in section 6.12.8110.
(Code 2003, § 78-1211; Ord. No. 101(2nd series), § 1(10.56(3)), 2-24-1992; Ord. No. 126(2nd series), § 1, 4-25-1994; Ord. No. 127(2nd series), §§ 2—4, 7-11-1994; Ord. No. 28(3rd series), § 16, 8-22-2005; Ord. No. 59(3rd series), § 1, 5-11-2009; Ord. No. 94(3rd series), § 5, 9-24-2012; Ord. No. 130(3rd series), § 1, 1-26-2015)

Sec. 6.12.5920. Statement of purpose.

The purpose of this article is to promote the public health, safety and general welfare by providing for the wise subdivision, use and development of shorelands abutting public waters that exist within the city's corporate boundaries. The city recognizes that the uncontrolled use and development of shorelands has a negative impact on not only the quality of surface waters, but on the economic, recreational and natural environmental values of shorelands and the waters they surround. The specific intent of this article is to:

(1) Protect the water quality of Lake Minnetonka and other lakes within the city by allowing development of uses in the shoreland areas which are compatible with the city's comprehensive land use management plan.

(2) Provide appropriate standards for development which will minimize the impact of shoreland development on the water quality and the economic, aesthetic and natural environment values of the city's lakes.

(Code 2003, § 78-1212; Ord. No. 101(2nd series), § 1(10.56(1)), 2-24-1992)

Sec. 6.12.5930. Statutory authorization.

This article is adopted pursuant to the authorization and policies contained in Minn. Stats. ch. 103F, Minn. Stats. §§ 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in Minn. Stats. ch. 462.
(Code 2003, § 78-1213; Ord. No. 101(2nd series), § 1(10.56(2)), 2-24-1992; Ord. No. 127(2nd series), § 1, 7-11-1994)

Sec. 6.12.5940. Amendments.

All amendments to this article, including amendments to the official maps, must be submitted to the commissioner of the department of natural resources prior to adoption. Further, amendments to underlying zoning district standards which may be in conflict with this section must also be submitted to the commissioner of the department of natural resources prior to adoption.
(Code 2003, § 78-1214; Ord. No. 101(2nd series), § 1(10.56(21)), 2-24-1992)

Sec. 6.12.5950. Jurisdiction.

The provisions of this article shall apply to the shorelands of the public water bodies as classified in section 6.12.5970.
(Code 2003, § 78-1215; Ord. No. 101(2nd series), § 1(10.56(4)), 2-24-1992)

Sec. 6.12.5960. Compliance.

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland areas; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this article and other applicable regulations.
(Code 2003, § 78-1216; Ord. No. 101(2nd series), § 1(10.56(5)), 2-24-1992)

Sec. 6.12.5970. Classification of public waters.

The public waters of the city have been classified below consistent with the criteria found in Minn. Stats. § 6120.3300, and the protected waters inventory map for the county:

	OHWL (feet)	*Protected Waters Inventory I.D. #*
Natural Environment (NE) lakes		
Lake Classen	974.5	162-P
Dickey Lake	985.5	161-W
French Lake (South Basin only)	930.0	140-P
Lydiard Lake	970.9	159-P
Lake Katrina	—	154-P
Wolsfeld Lake (Medina)	—	157-P
Recreational Development (RD) lakes		
Long Lake	944.3	160-P
Mooney Lake	988.0	134-P
Tanager Lake	929.4	141-P
Hadley Lake (Plymouth)	961.4	109-P
General Development (GD) lakes		
Forest Lake	929.4	139-P
Lake Minnetonka	929.4	133-P

Tributary streams

	From			*To*		
Tributary Name	*Sec.*	*TWP*	*R*	*Sec.*	*TWP*	*R*
Long Lake Creek	35 (Basin 160P)	118	23	10 (Basin 141P)	117	23
Wolsfeld Creek	27 (City Limit)	118	23	26 (Basin 160P)	118	23
Tributary to Wolsfeld Creek from Holy Name Lake	26 (City Limit)	118	23	27	118	23
Dickeys Lake Creek	27 (Basin 161P)	118	23	34 (Basin 160P)	118	23
Stubbs Bay Creek	32 (Basin 162P)	118	23	5 (Basin 133P)	117	23
Painter's Creek	30 (Basin 154P)	118	23	31 (City Limit)	118	23

(Code 2003, § 78-1217; Ord. No. 101(2nd series), § 1(10.56(7)), 2-24-1992; Ord. No. 127(2nd series), § 5, 7-11-1994)

Sec. 6.12.5980. Establishment of SD Shoreland Overlay District.

The SD Shoreland Overlay District is defined and established to include the following lands within the city:

(1) All lands within 1,000 feet of the ordinary high-water level of the lakes classified natural environment, recreational development, and general development in section 6.12.5970. The shoreland overlay district includes lands within the city that are located within 1,000 feet of lakes located in adjacent cities, namely Hadley Lake in the City of Plymouth and Wolsfeld Lake in the City of Medina.

(2) All lands within 300 feet of the ordinary high-water level of the watercourses clas-

sified as tributary streams in section 6.12.5970. Where the floodplain of the tributary streams as defined in article VIII of this chapter or as defined elsewhere in this chapter extends further than 300 feet from the ordinary high-water level, the boundary of the shoreland overlay district shall be extended to include those areas designated as floodplain.

(Code 2003, § 78-1218; Ord. No. 101(2nd series), § 1(10.56(8)), 2-24-1992)

Sec. 6.12.5990. Adoption of official map and interpretation of district boundaries.

The official map of the shoreland overlay district is adopted. A copy of the map shall be kept on file at all times with the city clerk. In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other powers granted by state statutes. The boundaries of the shoreland overlay district shall be determined by scaling distances on the official map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official map, the city engineer shall make necessary interpretation based on the ordinary high-water level. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the city and to submit technical evidence if he so desires.

(Code 2003, § 78-1219; Ord. No. 101(2nd series), § 1(10.56(9)), 2-24-1992; Ord. No. 27(2nd series), § 6, 7-11-1994)

Sec. 6.12.6000. Zoning district compliance with minimum requirements.

(a) The zoning district standards of this chapter currently comply with the lot size, lot width, permitted use and conditional use standards set forth by the department of natural resources shoreland management regulations, Minn. R. 6120.2500 through 6120.3900.

(b) The following city zoning districts are partially or fully located within the shoreland overlay district:

LR-1A	RR-1A	B-1
LR-1B	RR-1B	B-2
LR-1C	RS	B-3
LR-1C-1	B-5	B-4

(c) The following zoning districts are also potentially available for use within the shoreland areas:

B-6	R-1B
PUD	R-1A RPUD

(d) Any future changes within the zoning districts listed above shall meet the department of natural resources regulations effective July 3, 1989.

(Code 2003, § 78-1220; Ord. No. 101(2nd series), § 1(10.56(15)), 2-24-1992; Ord. No. 202(2nd series), § 1, 2-26-2001; Ord. No. 243(3rd series), § 2, 4-13-2020)

Sec. 6.12.6010. Subdivision/platting provisions.

(a) *Land suitability.* Each lot created through subdivision, including planned unit developments or planned residential developments authorized elsewhere in the zoning and platting codes, must be suitable in its natural state for the proposed use with minimal alteration. In analyzing the suitability of land for a specific use, the city shall consider:

(1) Susceptibility to flooding;

(2) Existence of wetlands;

(3) Soil and rock formations with severe limitations for development;

(4) Severe erosion potential;

(5) Steep topography;

(6) Inadequate water supply or sewage treatment capabilities;

(7) Near-shore aquatic conditions unsuitable for water-based recreation;

(8) Important fish and wildlife habitat;

(9) Presence of significant historic sites; or

(10) Any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

(b) *Consistency with other controls.* Subdivisions shall conform to all official controls of the city. Subdivision will not be approved where a later variance from one or more standards in the official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless adequate and conforming water supply and sewage treatment systems can be provided for each lot in conformance with chapter 5.24, article II. Each lot shall meet the minimum lot size and dimensional requirements set forth elsewhere in this Code, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

(c) *Information requirements.* Sufficient information must be submitted by the applicant for the city to make a determination of land suitability. In addition to information required by other provisions in this chapter and chapter 6.20, the following information shall also be submitted:

(1) Topographic contours at two-foot intervals showing limiting site characteristics.

(2) The surface water features required in Minn. Stats. § 505.02, subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources.

(3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations, such as soil borings, percolation tests or other methods.

(4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities.

(5) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data.

(6) A line or contour representing the ordinary high-water level, the toe and the top of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(d) *Dedications.* When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands, as regulated in article VIII of this chapter.

(e) *Lakeshore access lots.* Lots intended as accesses to public waters or as recreational areas for use by owners of nonriparian lots within a subdivision must meet or exceed the minimum standards set forth in this section.
(Ord. No. 101(2nd series), § 1(10.56(18)), 2-24-1992)

Sec. 6.12.6020. Riparian access and rights.

For properties which as a result of the designation of the OHWL are found to abut the boundary of a lake, stream or tributary, no section of this chapter shall be construed as obligating the city to approve variances to provisions of this chapter prohibiting physical improvements, structures or land alteration within protected wetlands, floodplain areas or shorelands. Nothing in this chapter shall be considered as establishing or increasing riparian rights. This article is intended to regulate land use and establish building and zoning restrictions only.
(Code 2003, § 78-1221; Ord. No. 101(2nd series), § 1(10.56(20)), 2-24-1992)

Division 2. Administration and Enforcement

Sec. 6.12.6110. Enforcement.

The zoning administrator is responsible for the administration and enforcement of this article.

Any violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this article can occur regardless of whether or not a permit is required for a regulated activity pursuant to section 6.12.6120.
(Code 2003, § 78-1246; Ord. No. 101(2nd series), § 1(10.56(6)), 2-24-1992)

Sec. 6.12.6120. Land alteration and building permits required.

A permit is required for the construction of buildings, building additions, related work such as construction of decks and signs, installation or alteration of sewage treatment systems, grading and filling activities, and other activities as regulated in article X, division 7 of this chapter.
(Code 2003, § 78-1247; Ord. No. 101(2nd series), § 1(10.56(10)), 2-24-1992; Ord. No. 243(3rd series), § 2, 4-13-2020)

Sec. 6.12.6130. Certificate of zoning compliance.

The zoning administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in section 6.12.6120. This certificate will specify that the use of land conforms to the requirements of this article. Any use, arrangement or construction at variance with that authorized by permit shall be unlawful.
(Code 2003, § 78-1248; Ord. No. 101(2nd series), § 1(10.56(11)), 2-24-1992)

Sec. 6.12.6140. Variances.

Variances may only be granted in accordance with Minn. Stats. ch. 462 and as otherwise regulated in this chapter. When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance required elsewhere in this article shall also include the planning commission's and city council's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
(Code 2003, § 78-1249; Ord. No. 101(2nd series), § 1(10.56(12)), 2-24-1992)

State law reference—Variances, Minn. Stats. § 462.357, subd. 6(2).

Sec. 6.12.6150. Conditional uses.

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures and criteria and conditions for review of conditional uses established in this chapter. The following additional evaluation criteria and conditions apply within the shoreland overlay district:

(1) *Evaluation criteria.* A thorough evaluation of the water body and the topographic, vegetation and soils conditions on the site must be made to ensure:

a. The prevention of soil erosion or the possible pollution of public waters, both during and after construction;

b. The visibility of structures and other facilities as viewed from public waters is limited;

c. The site is adequate for water supply and on-site sewage treatment; and

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

(2) *Conditions attached to conditional use permits.* The city council upon consideration of the criteria listed in subsection (1) of this section and the purposes of this article, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this article. Such conditions may include, but are not limited to, the following:

a. Increased setbacks from the ordinary high-water level.

b. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.

c. Special provisions for the locations, design and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(Code 2003, § 78-1250; Ord. No. 101(2nd series), § 1(10.56(13)), 2-24-1992)

Sec. 6.12.6160. Notifications to the department of natural resources.

Copies of all notices of any public hearings to consider variances, amendments or conditional uses under this article must be sent to the commissioner of the department of natural resources and postmarked at least ten days before the hearings. Notices of hearing to consider proposed subdivisions/plats must include copies of the subdivision/plat. Upon final action by the city council, a copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under this article must be sent to the commissioner of the department of natural resources and postmarked within ten days of final action.

(Code 2003, § 78-1251; Ord. No. 101(2nd series), § 1(10.56(14)), 2-24-1992)

Sec. 6.12.6170. Nonconformities.

All legally established nonconformities as of February 24, 1992, may continue subject to applicable state statutes and as regulated elsewhere in this Code. In shoreland areas, the following standards shall also apply:

(1) *Construction on nonconforming lots of record.* Development or use of existing lots of record shall be regulated as set forth in section 6.12.320.

(2) *Additions/expansions to nonconforming structures.* All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements set forth in this chapter. Any deviation from these requirements must be authorized by a variance pursuant to provisions of this chapter.

(3) *Nonconforming sewage treatment systems.* A nonconforming sewage treatment system (also defined as a noncompliant system) located within the shoreland overlay district must be upgraded and made conforming, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property, except that systems which are noncompliant due solely to lack of three feet of unsaturated soil or sand between the distribution device and the limiting soil characteristics shall have seven years in which to become compliant per the provisions of chapter 5.24, article II. All other noncompliant sewage treatment system provisions of chapter 5.24, article II shall apply to all shoreland areas.

(Code 2003, § 78-1252; Ord. No. 101(2nd series), § 1(10.16(17)), 2-24-1992; Ord. No. 162(2nd series), § 1, 9-22-1997; Ord. No. 243(3rd series), § 2, 4-13-2020)

Division 3. Shoreland Overlay District Standards

Sec. 6.12.6210. General requirement; greater restriction.

The shoreland overlay district standards are in addition to the requirements set forth in this chapter for the various zoning districts. In case of conflict, the most restrictive provision applies.

(Code 2003, § 78-1276; Ord. No. 101(2nd series), § 1(10.56(16)), 2-24-1992; Ord. No. 243(3rd series), § 2, 4-13-2020)

Sec. 6.12.6220. Minimum lot area/lot width standards.

Minimum lot area and lot width standards of the underlying zoning district shall apply, with the following exceptions:

(1) No lot within 1,000 feet of a general development lake and approved for duplex use per section 6.12.1030, 6.12.1130,

6.12.1330, 6.12.1430, 6.12.1530, or 6.12.1620 shall be less than 135 feet in width nor less than 26,000 square feet in area, if riparian, nor less than 17,500 square feet in area, if nonriparian, but such lot shall also meet the minimum lot area and width requirements of the respective underlying zoning district.

(2) No lot within 300 feet of a tributary and approved for duplex use per section 6.12.1030, 6.12.1130, 6.12.1330, 6.12.1430, 6.12.1530, or 6.12.1620 shall be less than 150 feet in width when no sewer is available, nor less than 115 feet in width when sewer is available, but such lot shall also meet the minimum lot width requirements of the respective underlying zoning district.

(Code 2003, § 78-1277; Ord. No. 101(2nd series), § 1(10.56(16)(A)), 2-24-1992; Ord. No. 63(3rd series), § 1, 9-14-2009; Ord. No. 243(3rd series), § 2, 4-13-2020)

Sec. 6.12.6230. Lakeshore access lots.

Lots intended as accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet the following minimum standards:

(1) Any such lakeshore access lot shall be designated as an outlot and shall not be considered as a buildable residential lot.

(2) Such an outlot shall not be subject to minimum lot area or width standards, except that the number of inland nonriparian lots which may gain access via such outlot shall not exceed the number obtained by dividing the outlot width measured at the shoreline by the required zoning district lot width, rounded down to the nearest whole number.

(3) Such outlot shall be jointly owned by all owners of nonriparian lots in the subdivision who are provided riparian access rights on the access outlot.

(4) No such access outlot shall be created as part of a subdivision plat except when the building lots within the subdivision are separated by an existing public or private roadway from the lakeshore, and the land on either side of the roadway was in common ownership as of the effective date of Ordinance No. 101, adopted February 24, 1992.

(5) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring or docking. They can also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions. Such covenants are subject to city approval.

(Code 2003, § 78-1278; Ord. No. 101(2nd series), § 1(10.56(16)(B)), 2-24-1992)

Sec. 6.12.6240. Placement of buildings and structures on lots.

When more than one setback applies to a site, buildings, structures, and facilities must be located to meet all setbacks. Buildings and structures shall be located as follows:

(1) *Building, structure, and on-site sewerage system setbacks (in feet) from ordinary high-water level.*

Public Water Classification	*Setbacks*		
	Building/Structure		*Sewage Treatment System*
	Unsewered	*Sewered*	
NE	150	150	150
RD	100	75	75
GD	75	75	75
Tributary	100	75	75

(2) *Additional building and structure setbacks.* The following additional setbacks apply, regardless of the classification of the water body:

Setback from:	*Setback (in feet)*
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state or county highway and local public and private roads	30[1]

[1] Except for accessory buildings on lakeshore lots as regulated in this chapter and except for buildings and structures subject to less restrictive side yard adjacent to street setbacks as regulated in the various zoning districts.

(3) *Bluff impact zones.* Buildings, structures and accessory facilities, except stairways, landings and lock boxes, must not be placed within bluff impact zones.

(4) *Uses without water-oriented needs.* Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high-water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(5) *Fences, docks, retaining walls.* No fence shall be placed within the shore setback zone. Portions of dock located landward of the OHWL shall be considered as a landing, subject to the regulations for landings per section 6.12.6270. Retaining walls within the shore setback zone may be permitted according to the following:

a. A retaining wall may be constructed within the shore setback zone if it is an integral part of a permitted lake access stair and the retaining wall is designed to be the minimum size necessary.

b. A replacement retaining wall, including a change in material, may be permitted within the shore setback zone when all of the following conditions are met:

1. The wall is under four feet in height, and in the same location; and
2. The existing wall shows signs of failure.

c. A wall within a defined bluff and bluff setback; and/or a replacement wall four feet in height or greater; and/or any new walls shall require a conditional use permit. New walls and replacement walls greater than four feet in height must meet the following conditions. The wall must be:

1. Designed to correct an established erosion problem; and
2. Suitable given the demonstrated need; and
3. Designed by a registered engineer or landscape architect, depending on project scope; and
4. Designed to be the minimum size necessary to control the erosion problem.

(6) *Average lakeshore setback.* No principal or accessory building shall be located closer to the ordinary high-water line (OHWL) on a lakeshore lot than the average distance from the shoreline of existing principal buildings on adjacent lots; this does not apply to patios and other accessory structures less than 42

inches above existing grade and/or stairways, lifts, landings, lockboxes, flagpoles and pump houses. Further, the average lakeshore setback shall apply only to classified lakes and shall not apply to tributaries. The average lakeshore setback line shall be a straight line connecting the most lakeward protrusions of the principal buildings on the immediately adjacent lakeshore lots.

a. In situations where improvement is proposed on a lot adjacent to a vacant lot or right-of-way, the average lake shore setback shall be equivalent to the setback of the most lakeward protrusion of the principal building on the immediately adjacent improved lakeshore lot.

b. In situations where the average lake shore setback line bisects the principal building located on either adjacent lot, the next most adjacent lake side point of the bisected principal building shall be used for determining the average lakeshore setback. If the line continues to bisect the principal building, the next most lakeside point is to be used until the setback line does not bisect the principal building on an adjacent lot.

(Code 2003, § 78-1279; Ord. No. 101(2nd series), § 1(10.56(16)(C)), 2-24-1992; Ord. No. 11(3rd series), § 1, 5-24-2004; Ord. No. 106(3rd series), § 28, 6-10-2013; Ord. No. 157(3rd series), § 1, 8-10-2015; Ord. No. 222(3rd series), § 19, 12-10-2018; Ord. No. 234(3rd series), § 1, 10-14-2019; Ord. No. 243(3rd series), § 2, 4-13-2020; Ord. No. 284(3rd series), § 3, 11-13-2023; Ord. No. 303(3rd series), § 2, 4-8-2024)

Sec. 6.12.6250. Minimum lowest floor elevations.

All structures located within the shoreland overlay district which are subject to the floodplain regulations of article VIII of this chapter shall be placed at an elevation consistent with the requirements of that article. The regulatory flood protection elevation shall be established as set forth in section 6.12.4640. All structures constructed within the shoreland overlay district shall have their lowest floor, including basement, placed at an elevation no lower than the regulatory flood protection elevation. Where the regulatory floodplain elevation cannot reasonably be determined, the minimum elevation at which the lowest floor, including basement, may be placed shall be determined as follows:

(1) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high-water level, whichever is higher.

(2) For rivers and streams, by placing the lowest floor at least three feet above the flood of record.

(Code 2003, § 78-1280; Ord. No. 101(2nd series), § 1(10.56(16)(D)), 2-24-1992)

Sec. 6.12.6260. Water-oriented accessory structures.

The only water-oriented accessory structures allowed to be located nearer the ordinary high-water level than the normal structure setback as specified in this article shall be:

(1) One lockbox no greater than 20 square feet in area and no higher than 48 inches in height;

(2) One flagpole setback from side lot lines a distance no less than the required principal structure side yard setback for the zoning district; and

(3) One pumphouse no greater than 20 square feet in area and no higher than 48 inches in height.

(Code 2003, § 78-1281; Ord. No. 101(2nd series), § 1(10.56(16)(E)), 2-24-1992; Ord. No. 106(3rd series), § 27, 6-10-2013)

Sec. 6.12.6270. Driveways, stairways, lifts and landings.

(a) Driveways must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, a driveway may be placed

within these areas when designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters, and shall be designed and constructed to minimize and control erosion to public waters consistent with the requirements of all agencies with jurisdiction and in accordance with chapter 6.16 as approved by the community development director.

(b) Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways, lifts and landings shall be allowed in the shore setback zone and must meet the following design requirements:

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

(2) Landings for stairways and lifts shall not exceed 32 square feet in area.

(3) Canopies or roofs are not allowed on stairways, lifts, or landings.

(4) Stairways, lifts and landings may be either constructed above the ground on posts or pilings or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

(5) Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water, assuming summer, leaf-on conditions, whenever practical.

(6) Facilities necessary to provide shore area access to physically handicapped persons shall be allowed, provided that the dimensional and performance standards of subsections (b)(1) through (5) of this section are completed in addition to the requirements of the Minn. Stats. ch. 1340.

(7) A building permit shall be obtained for construction of stairways, lifts and landings regardless of whether such improvements are constructed above, at or below grade.

(Code 2003, § 78-1282; Ord. No. 101(2nd series), § 1(10.56(16)(F)), 2-24-1992; Ord. No. 59(3rd series), § 2, 5-11-2009; Ord. No. 243(3rd series), § 2, 4-13-2020; Ord. No. 311(3rd series), § 1, 12-9-2024)

Sec. 6.12.6280. Steep slopes.

Any applicant requesting a permit for construction of sewage treatment systems, roads, driveways, structures, grading, or other improvements on steep slopes shall provide adequate information to allow the city to evaluate possible soil erosion impacts and development of visibility from public waters before such permit may be issued. Grading plans prepared for steep slopes shall be prepared by a professional engineer licensed by the state. When necessary, conditions may be attached to issued permits to prevent erosion and preserve existing vegetation screening of structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

(Code 2003, § 78-1283; Ord. No. 101(2nd series), § 1(10.56(16)(G)), 2-24-1992; Ord. No. 243(3rd series), § 2, 4-13-2020)

Sec. 6.12.6290. Height of structures.

No structure within the shoreland overlay district shall exceed the height limitations set forth in the standards for the underlying zoning district.

(Code 2003, § 78-1284; Ord. No. 101(2nd series), § 1(10.56(16)(H)), 2-24-1992)

Sec. 6.12.6300. Vegetation alterations.

(a) *Tree removal and replacement.* No tree within 75 feet of the shoreline of public waters identified in section 6.12.5970, or within the bluff impact zone, with a diameter of six inches or more (or 19 inches in circumference or greater) measured three feet above the ground may not be removed without first obtaining a permit from the city staff. Trees removed within 75 feet of the

shoreline shall be replaced at a similar setback from the OHWL as the removed tree, based on the following:

(1) Live trees less than 36 inches in diameter require one inch of replacement tree per inch of tree diameter removed.

(2) Live trees greater than 36 inches in diameter require one-half inch of replacement tree per diameter inch of tree removed.

(3) Replacement trees shall be at least 1.5 inches in diameter and of a type approved by the city. Trees may be inspected by city staff prior to their removal. All replacement trees shall be a species native to the state as listed on the state DNR's native trees list. All replacement trees must be approved by the city.

(4) Dead or diseased trees or trees deemed hazardous by a certified arborist may not be removed without a permit from city staff. The removed trees shall be replaced at a ratio of one tree per tree removed, regardless of size. The replacement tree shall be replanted at a similar setback from the OHWL as the removed tree and be approved by the city administrator or designee. The city may solicit the review of the tree by an independent arborist, at the property owner's expense.

(b) *Intensive vegetation clearing.*

(1) Intensive vegetation clearing within 75 feet of the shoreline of public waters identified in section 6.12.5970, on steep slopes or within the bluff impact zone within the shoreland overlay district is prohibited. Limited clearing of shrubs and trees less than six inches in diameter and cutting, pruning, and trimming of trees of any size is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of permitted stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted lockboxes, provided that the screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.

(2) All intensive vegetation clearing, including the clearing of invasive species, shall require a permit from city staff and shall require the submittal of a revegetation plan acceptable to the city. The plan shall include erosion control measures if deemed necessary by the city.

(Code 2003, § 78-1285; Ord. No. 101(2nd series), § 1(10.56(16)(I)), 2-24-1992; Ord. No. 127(2nd series), § 7, 7-11-1994; Ord. No. 178(3rd series), § 14, 10-10-2016; Ord. No. 243(3rd series), § 2, 4-13-2020; Ord. No. 274(3rd series), § 1, 6-13-2022; Ord. No. 303(3rd series), § 3, 4-8-2024; Ord. No. 311(3rd series), § 2, 12-9-2024)

Sec. 6.12.6310. New public and private roads.

New public and private roads, parking areas, and public or private watercraft access ramps shall not be constructed within the shore setback of the public waters enumerated in section 6.12.5970. If no alternatives exist, such improvements shall be subject to the standard zoning variance review procedure, and such review shall consider the following:

(1) Such improvements shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters.

(2) All roads and parking areas shall be designed and constructed to minimize and control erosion to public waters consistent with the requirements of all agencies with jurisdiction and in accordance with chapter 6.16.

(Code 2003, § 78-1286; Ord. No. 101(2nd series), § 1(10.56(16)(J)), 2-24-1992; Ord. No. 127(2nd series), § 8, 7-11-1994; Ord. No. 163(2nd series), § 3, 12-8-1997; Ord. No. 171(2nd series), § 2, 4-4-1998; Ord. No. 28(3rd series), § 17, 8-22-2005; Ord. No. 133(3rd series), §§ 2, 3, 1-26-2015; Ord. No. 219(3rd series), § 4, 12-10-2018; Ord. No. 243(3rd series), § 2, 4-13-2020; Ord. No. 311(3rd series), § 3, 12-9-2024)

Sec. 6.12.6320. Stormwater management.

The following general and specific standards shall apply in addition to those standards found in article VIII of this chapter and section 6.20.910:

(1) When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.

(2) A development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities and erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(3) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities, such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

(4) When constructed facilities are used to perform water management, documentation must be provided by a registered professional civil engineer that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district.

(5) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(Code 2003, § 78-1287; Ord. No. 101(2nd series), § 1(10.56(16)(K)), 2-24-1992)

Sec. 6.12.6330. Hardcover limitations.

Hardcover on all lots within the shoreland overlay district shall comply with the requirements of article XIII of this chapter.

(Code 2003, § 78-1288; Ord. No. 94(3rd series), § 6, 9-24-2012)

Sec. 6.12.6340. Standards for commercial, public and semipublic uses.

(a) Surface-water-oriented commercial uses and public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters, if permitted by the underlying zoning district standards. Those uses with water-oriented needs must meet the following standards:

(1) In addition to meeting impervious coverage (hardcover) limits, setbacks, and other zoning standards in this article, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

(2) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

(3) Uses that depend on patrons arriving by watercraft may use the minimum amount of signage and lighting necessary to convey needed information to the public, subject to the following general standards:

a. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.

b. Signs may be placed, when necessary, within the shore setback zone if they are designed in size to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must

be shielded or directed to prevent illumination out across public waters.

c. The aggregate square footage of sign space per property shall not exceed the limitations on sign square footage as regulated in article X, division 4 of this chapter.

d. Non sign-related outside lighting may be located within the lakeshore setback zone or over public waters only if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(b) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high-water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
(Code 2003, § 78-1289; Ord. No. 101(2nd series), § 1(10.56(16)(M)), 2-24-1992; Ord. No. 243(3rd series), § 2, 4-13-2020)

Sec. 6.12.6350. Agricultural use standards.

(a) When permitted in the underlying zoning district, general cultivation farming, grazing, nurseries, horticulture, truck farming and wild crop harvesting shall be allowed in the shoreland overlay district; except that no such activity shall occur within the shore setback zone nor on steep slopes or bluff impact zones. Steep slopes, shore setback zone and bluff impact zones shall be maintained in permanent vegetation.

(b) Animal feedlots must meet the following standards:

(1) New feedlots, if permitted, must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high-water level of all public waters basins; and

(2) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high-water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high-water level setback or encroach on bluff impact zones.

(Code 2003, § 78-1290; Ord. No. 101(2nd series), § 1(10.56(16)(N)), 2-24-1992)

Sec. 6.12.6360. Forest management standards.

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-Point-Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management Best Management Practices in Minnesota.
(Code 2003, § 78-1291; Ord. No. 101(2nd series), § 1(10.56(16)(O)), 2-24-1992)

Sec. 6.12.6370. Extractive use standards.

In addition to interim use permit requirements included within article XIV of this chapter, the following standards apply:

(1) *Site development and restoration plan.* An extractive use site development and restoration plan must be developed, approved and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

(2) *Setbacks for processing machinery.* Processing machinery must be located consistent with setback standards for buildings from ordinary high-water levels of public waters and from bluffs.

(Code 2003, § 78-1292; Ord. No. 101(2nd series), § 1(10.56(16)(P)), 2-24-1992; Ord. No. 243(3rd series), § 2, 4-13-2020)

Sec. 6.12.6380. Water supply.

Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state department of health and the state pollution control agency.
(Code 2003, § 78-1293; Ord. No. 101(2nd series), § 1(10.56(16)(Q)), 2-24-1992)

Sec. 6.12.6390. Sewage treatment.

Any premises used for human occupancy must be provided with an adequate method of sewage treatment per chapter 5.24, article II. On-site sewage treatment systems must be set back from the ordinary high-water level in accordance with the setbacks contained in section 6.12.6240. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with section 6.12.6170.
(Code 2003, § 78-1294; Ord. No. 101(2nd series), § 1(10.56(16)(R)), 2-24-1992)

Sec. 6.12.6400. Significant historic sites.

No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
(Code 2003, § 78-1295; Ord. No. 101(2nd series), § 1(10.56(16)(S)), 2-24-1992)

Division 4. PRD/PUD Standards

Sec. 6.12.6510. Types of allowed planned developments.

Residential planned unit developments (planned residential developments or PRDs) are allowed in the shoreland overlay district for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Land use districts in which they are an allowable use are identified in the individual zoning district descriptions in this chapter; except rezoning to M-6 and development via the M-6 PRD shall not be allowed within the shoreland overlay district.
(Code 2003, § 78-1321; Ord. No. 101(2nd series), § 1(10.56(19)(A)), 2-24-1992)

Sec. 6.12.6520. Commercial PUDs.

Commercial planned unit developments are limited to land within the Highway 12 Corridor as set forth in the city's comprehensive plan Amendment No. 2 adopted May 23, 1988. The following further restriction shall apply: No land located within the shoreland overlay district shall be developed via a commercial PUD. Any proposed amendment to this chapter which would allow commercial PUD development within the shoreland overlay district shall be subject to review by the department of natural resources to ensure consistency with DNR requirements for shoreland areas.
(Code 2003, § 78-1322; Ord. No. 101(2nd series), § 1(10.56(19)(B)), 2-24-1992)

Sec. 6.12.6530. Processing of residential planned unit developments.

Residential planned unit developments (PRDs) shall be processed as a conditional use permit as required by the individual zoning district standards.
(Code 2003, § 78-1333; Ord. No. 101(2nd series), § 1(10.56(19)(C)), 2-24-1992)

Sec. 6.12.6540. Application for a planned residential development.

The applicant for a PRD must submit the following documents, in addition to the information required in article IV, division 10 of this chapter, prior to final action's being taken on the application request:

(1) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at two-foot intervals.

(2) Property owners' association agreement with mandatory membership, in accordance with the requirements of this article.

(3) Deed restrictions, covenants, permanent easements or other instruments that:

a. Properly address future vegetative and topographic alterations, construction of additional buildings, and beaching of watercraft; and

b. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in this article.

(4) Those additional documents as requested by the city that are necessary to explain how the PRD will be designed and will function.

(Code 2003, § 78-1324; Ord. No. 101(2nd series), § 1(10.56(19)(D)), 2-24-1992)

Sec. 6.12.6550. Site-suitable area evaluation.

Proposed new or expansions to existing PRDs must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation:

(1) The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high-water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions

	Unsewered (feet)	*Sewered (feet)*
General development lakes—First tier	200	200
General development lakes—Second and additional tiers	267	200
Recreational development lakes	267	267
Natural environment lakes	400	320
Tributaries	300	300

(2) The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs or land below the ordinary high-water level of public waters. This suitable area and the proposed project are then subjected to the PRD density evaluation steps to arrive at an allowable number of dwelling units or sites.

(Code 2003, § 78-1325; Ord. No. 101(2nd series), § 1(10.56(19)(E)), 2-24-1992)

Sec. 6.12.6560. PRD allowable density evaluation.

The procedures for determining the allowable density of a PRD is as follows:

(1) The suitable area within each tier is divided by the single residential lot size standard of the underlying zoning district, yielding the allowable number of dwelling units or sites for each tier (fractions shall be rounded down to the nearest whole number, but may be transferred as noted in subsection (2) of this section).

(2) Allowable densities or numbers of units or excess fractions of units may be transferred from any tier to any other tier further from the water body but must not be transferred to any other tier closer.

(3) No density increases based on increased setbacks or other factors will be allowed.

(Code 2003, § 78-1326; Ord. No. 101(2nd series), § 1(10.56(19)(F)), 2-24-1992)

Sec. 6.12.6570. Maintenance and administration requirements.

(a) *Generally.* Before final approval of a PRD, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

(b) *Open space preservation.* Deed restrictions, covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means must be provided to

ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

(1) Commercial uses prohibited.

(2) Vegetation and topographic alterations other than routine maintenance prohibited.

(3) Construction of additional buildings or storage of vehicles and other materials prohibited.

(4) Uncontrolled beaching of watercraft prohibited.

(c) *Development, organization and functioning.* Unless an equally effective alternative community framework is established, when applicable, all PRDs must use an owners' association with the following features:

(1) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.

(2) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.

(3) Assessments must be adjustable to accommodate changing conditions.

(4) The association must be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.

(Code 2003, § 78-1327; Ord. No. 101(2nd series), § 1(10.56(19)(G)), 2-24-1992)

Sec. 6.12.6580. Open space requirements.

PRDs must contain open space meeting all of the following criteria:

(1) At least 50 percent of the total project area must be preserved as open space.

(2) The following items shall not be included in the computation of minimum open space:

a. Dwelling units or sites.

b. Road rights-of-way.

c. Land covered by road surfaces.

d. Parking areas.

e. Structures.

f. Commercial facilities or uses.

(3) The following items shall be included in the computation of minimum open space:

a. Wetlands.

b. Significant historic sites.

c. Unplatted cemeteries.

d. Other areas with physical characteristics unsuitable for development in their natural state.

e. The lakeshore setback zone, based on normal required structure setbacks, must be included as open space. For PRDs, the entire lakeshore setback zone must be preserved in its natural or existing state, except for those improvements necessary to provide reasonable pedestrian access to the water body as regulated elsewhere in this chapter.

(4) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

(5) The appearance of open space areas, including topography, vegetation and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.

(Code 2003, § 78-1328; Ord. No. 101(2nd series), § 1(10.56(19)(H)), 2-24-1992)

Sec. 6.12.6590. Erosion control and stormwater management.

Erosion control and stormwater management plans must be developed, and the PRD must:

(1) Be designed and the construction managed to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure.

Temporary ground covers, sediment entrapment facilities, vegetated buffered strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by the Minnehaha Creek Watershed District may be required if project size and site physical characteristics warrant.

(2) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff.

(Code 2003, § 78-1329; Ord. No. 101(2nd series), § 1(10.56(19)(I)), 2-24-1992; Ord. No. 94(3rd series), § 7, 9-24-2012)

Sec. 6.12.6600. Centralization and design of facilities.

Centralization and design of facilities and structures must be done according to the following standards:

(1) PRDs must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the state department of health, the state pollution control agency, and as regulated elsewhere in this chapter. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewerage system.

(2) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification:

a. Setback from the ordinary high-water level.

b. Elevation above the surface water features.

c. Maximum height.

(3) Shore recreation facilities, including, but not limited to, swimming areas, docks and watercraft mooring areas, must be centralized and located in an area suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock or other relevant factors. The number of dwelling units or sites which may be granted lake access shall not exceed the number of riparian dwelling units or sites which could be created under a standard subdivision. The allowable number of dock slips or moorings and the designation of which dwelling units or sites shall have the right to use those slips or moorings shall be subject to council approval and shall be defined in the covenants governing the PRD. In no case shall the number of slips or moorings exceed the number allowed under the official controls of the Lake Minnetonka Conservation District. All docks serving three or more dwelling units shall be subject to the joint use dock licensing requirements in chapter 6.28, article II.

(4) Structures. Parking areas and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color or other means acceptable to the city, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

(5) Accessory structures and facilities must meet the required principal structure setback and must be centralized, except for those pedestrian access and equipment storage structures allowed elsewhere in this chapter.

(Code 2003, § 78-1330; Ord. No. 101(2nd series), § 1(10.56(19)(J)), 2-24-1992)

Sec. 6.12.6610. Conversion.

Existing resorts or other land uses may be converted to planned residential developments if all of the following standards are met:

(1) Proposed conversions must be initially evaluated using the same procedures for PRDs involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

(2) Deficiencies involving water supply and sewage treatment, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore setback zone and bluff impact zone deficiencies must be evaluated, and reasonable improvements be made as part of the conversion. These improvements must include, where applicable, the following:

a. Removal of extraneous buildings, docks or other facilities that no longer need to be located in shore setback zone or bluff impact zone.

b. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water.

c. If existing dwelling units are located in the shore setback zone or bluff impact zone, conditions shall be attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and alteration requirements when they are rebuilt or replaced.

(4) Existing dwelling unit or dwelling site densities that exceed the standards in section 6.12.6560 may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

(Code 2003, § 78-1331; Ord. No. 101(2nd series), § 1(10.56(19)(K)), 2-24-1992; Ord. No. 243(3rd series), § 2, 4-13-2020)

ARTICLE X. SUPPLEMENTARY REQUIREMENTS AND RESTRICTIONS

Division 1. Generally

Sec. 6.12.6710. Height of structures.

On any lot sloping downhill from the street, which has an average ground slope on that portion of the lot to be occupied by the main building of 25 percent or more (measured in the general direction of the side lot lines), an additional 12 feet of height may be permitted in such main building and the garage or parking space may be in the required front yard, provided a yard of ten feet or more is maintained.

(Code 1984, § 10.75(1)—(3); Code 2003, § 78-1366; Ord. No. 161(2nd series), § 12, 6-7-1997; Ord. No. 106(3rd series), § 20, 6-10-2013)

Sec. 6.12.6720. Combination of separated parcels prohibited.

No lot or parcel of land which is divided by a public, private or platted road or road easement, which results in any segment's being less than the minimum acreage required for that zoning district, shall be allowed to be combined with any separated parcel of land across the road for purposes of qualifying under the minimum acreage, open space, required yard, setback or sanitary or septic system requirements; nor shall building or density credits be credited or transferred between such parcels under any provisions of this chapter. Each separate parcel must individually conform to the provisions of this chapter in connection with construction of improvements on each parcel.

(Code 1984, § 10.03(6)(B); Code 2003, § 78-1367)

Sec. 6.12.6730. One principal building per lot.

Except in the case of planned residential developments, no more than one principal building shall be located on a lot; except that staff may issue a permit to use a manufactured home that shall meet all required setback standards for an existing dwelling while a new principal structure is being constructed. Such permit shall be issued for a period of three months, and any extensions must be approved by the city and shall expire upon issuance of a certificate of occupancy for the new structure and such structure removed.
(Code 1984, § 10.03(7); Code 2003, § 78-1368)

Sec. 6.12.6740. Lots to face streets.

Each lot shall face on a public street or appropriate private easement.
(Code 1984, § 10.03(8); Code 2003, § 78-1369)

Sec. 6.12.6750. Special standards for back lots created after January 1, 1994.

Back lots which were created as part of a subdivision that received preliminary subdivision approval after January 1, 1994, are subject to the following special requirements in addition to the standards required in section 6.20.1060:

(1) Dimensional standards for back lots shall be as follows:

a. Lot area shall be 150 percent of the zoning district requirement. Wetlands may be allowed as area credit for meeting the 150 percent back lot area requirement, as long as the back lot contains sufficient contiguous dry buildable land to satisfy the minimum acreage requirement of the underlying zoning district.

b. Lot width measured parallel to the front or street lot line at the street yard setback line of a lakeshore back lot, or at the front yard setback line of a non-lakeshore back lot, shall meet the zoning district width requirement. The street yard or front yard for any back lot will be a yard starting where the narrow access outlot corridor ends and the lot begins. Lakeshore back lots shall meet the lot width standard at the shoreline, at the lakeshore setback line, and at the street yard setback line.

c. The depth of the required street yard or front yard shall be 150 percent of the zoning district front yard requirement.

d. The required side yard and rear yard depths for back lots shall be 150 percent of the zoning district yard requirements. The required lakeshore yard of a lakeshore back lot shall meet the zoning district lakeshore yard requirements.

(2) A front lot created as part of a front/back lot division shall meet all zoning district area, width and setback standards; except that the required side yard of the front lot adjacent to the access outlot shall be equivalent to the side street yard requirement for that zoning district.

(3) Access requirements shall be as follows:

a. Access outlots shall be 30 feet minimum width, and shall be wide enough to accommodate drainage, snow removal and screening without encroaching on neighboring properties.

b. In approving front/back lot divisions, the city may require that both front lot and back lot share a driveway access within the access outlot if the council determines that creating an additional access to the existing street will be a potential safety hazard.

c. Driveways within a back lot shall be located at least ten feet from the side or rear lot lines of adjacent lots.

d. No more than two residences may be served by a driveway located within an access outlot.

e. No access outlot may be platted abutting an adjacent access outlot except when the intent is to combine the two access outlots for creation of a public or private road meeting city standards.

(4) Screening requirements shall be as follows:

a. Driveways constructed in access outlots shall be adequately screened by fencing or vegetation at the discretion of the city, at all points to the rear of the required street yard of the front lot, so as to eliminate intrusion of vehicle headlights into the side or rear yard of adjacent lots.

b. The street yard of the back lot shall be adequately screened by fencing or vegetation at the discretion of the city, so as to eliminate intrusion of vehicle headlights into the side or rear yards of adjacent lots.

(5) Accessory structures shall adhere to all requirements of this chapter, with the following additional requirements:

a. Accessory structures within a back lot shall be allowed no closer than ten feet to a neighboring property's side or rear yard.

b. Accessory structures shall not be allowed within the required street yard of a back lot nor within the required rear yard of a front lot which abuts the street yard of a back lot.

c. No accessory structure shall be allowed within an access outlot.

(Code 2003, § 78-1370; Ord. No. 122(2nd series), § 2, 12-13-1993; Ord. No. 64(3rd series), § 1, 9-14-2009)

Sec. 6.12.6760. Traffic visibility.

No fences, structures or planting more than three feet high in an R district on corner lots shall be permitted to obstruct traffic visibility within a triangular area defined as follows: beginning at the intersection of the projected curblines of two intersecting streets; thence 30 feet along one curbline; thence diagonally to a point 30 feet from the point of beginning on the other curbline; thence to the point of beginning. (Code 1984, § 10.03(16); Code 2003, § 78-1371)

Sec. 6.12.6770. Dwelling use prohibited.

No cellar, tent, trailer or accessory building shall at any time be used as an occupied dwelling unless otherwise approved as guest houses.

(1) Minn. Stats. § 462.3593 authorizes and defines temporary family health care dwellings.

(2) The state statute allows a municipality to opt out of the requirements of Minn. Stats. § 462.3593. Because temporary family health care dwellings are inconsistent with the density objectives of the comprehensive plan and the character established and protected by the city ordinances, the city hereby opts out of the temporary family health care dwelling section.

(Code 1984, § 10.03(11); Code 2003, § 78-1372; Ord. No. 175(3rd series), § 1, 7-11-2016)

Sec. 6.12.6780. Gas stations.

Motor fuel stations in all districts shall be subject to the following performance standards:

(1) *Fencing.* A fence, wall or landscaping of acceptable design not over six feet or less than five feet in height shall be constructed along the property line when the use abuts property residentially used or in an R district, and the fence shall be adequately maintained. Application of this provision shall not require a fence within the required front yard or within 15 feet of any street right-of-way line.

(2) *Surfacing.* The entire site other than that taken up by a structure or planting shall be surfaced with a material to control dust and drainage.

(3) *Drainage.* A drainage system subject to approval of the city engineer shall be installed.

(4) *Curbs.* A box curb not less than six inches above grade shall separate the public right-of-way from the motor vehicle service areas, except at approved entrances and exits.

(5) *Lighting.* The lighting shall be accomplished in such a way as to have no objectionable direct source of light visible from the public right-of-way or adjacent land in residential use.

(6) *Pumps.* Pump islands shall be installed and conform to yard requirements.

(7) *Driveways.* No driveway at a property line shall be less than 30 feet from the intersection of two street right-of-way lines.

(8) *Signs.* Signs shall be as regulated in the city sign code.

(9) *Sales prohibited.* No sales of motor vehicles shall be permitted except as an integral part of a new car agency.

(10) *Number limited.* Two stations only will be permitted at the same intersection. Two such stations shall be permitted within each district without council approval.

(Code 1984, § 10.61(18); Code 2003, § 78-1373; Ord. No. 261(3rd series), § 9, 6-14-2021)

Sec. 6.12.6790. Drive-ins.

Drive-in establishments in all districts shall be subject to the following performance standards:

(1) *Fencing.* A screening fence not over six feet nor less than four feet in height, which is at least 50 percent opaque throughout its height, shall be constructed along the property line; or a planting strip not less than 15 feet in width reserved and planted along the property line shall be developed according to a submitted planting plan that meets the approval of the planning commission.

(2) *Lighting.* The outside lighting, if installed, shall be in accordance with a plan approved by the council.

(Code 1984, § 10.61(19); Code 2003, § 78-1374)

Sec. 6.12.6800. Fallout and blast shelters.

The purpose of this section is to establish provisions to permit the construction and maintenance of fallout and blast shelters. Fallout and blast shelters are permitted as principal or accessory uses and structures in any district, subject to the yard regulations of the district. Such shelters may contain or be contained in other structures or may be constructed separately, and in addition to shelter use, may be used for any principal or accessory use permitted in the district, subject to the district regulations on such use, but shall not be used for principal or accessory uses prohibited expressly or by implications in the district. The council may permit a fallout or blast shelter to be used for other purposes which are permitted, conditional or accessory uses in the district in which the shelter is located if the council finds that all of the general requirements of this chapter concerning such uses are satisfied, and in addition establishes that:

(1) The use other than as a shelter is compatible with the shelter proposed;

(2) The function as a shelter would not be materially impaired by the proposed use; and

(3) If a conditional use permit is required, this permit would have been granted regardless of whether the shelter was involved.

(Code 1984, § 10.70; Code 2003, § 78-1375)

Sec. 6.12.6810. Home occupations.

(a) *Purpose.* Home occupation regulations are established to ensure that home occupations will not adversely affect the character and livability of the surrounding residential neighborhood. The home occupation shall function as an acces-

sory and subordinate use to the principal use of the dwelling unit. In order to protect the public health, safety and welfare within residential neighborhood, home occupations shall be divided into two regulatory levels:

(1) Level 1 home occupations are home occupations that comply with all standards of subsection (d) of this section and which have no potential neighborhood impacts. Level 1 home occupations may be operated without a license or permit.

(2) Level 2 home occupations are home occupations that comply with all standards of subsection (d) of this section but which could have potential neighborhood impacts; and home occupations that do not comply with all standards of subsection (d) of this section and which are not prohibited home occupations under subsection (e) of this section. Level 2 home occupations are required to be licensed under the provisions of section 4.04.310. Level 2 home occupations may include, but are not strictly limited to:

a. Those with employed persons other than occupants of the dwelling.

b. Those carried out partially or wholly in an accessory structure, where allowed, including storage of materials, equipment or commercial vehicles in an accessory building.

c. Those involving the use or parking of a commercial or nonpassenger vehicle, whether such use or parking is in a building or outside.

d. Those which do not meet one or more of the specified performance standards.

e. Those which generate excessive traffic under the standards of subsection (d)(13) of this section.

In cases where it is unclear whether a home occupation should be classified as Level 1 or Level 2, the zoning administrator shall make such a determination subject to city council confirmation if requested by the operator of the home occupation.

(b) *Conformance required.* All existing home occupations shall be brought into conformity with this section within one year of the adoption of the ordinance from which this section is derived.

(c) *License required for Level 2 home occupations.* An annual license shall be obtained by any person operating a Level 2 home occupation as defined in this chapter, under the provisions of section 4.04.310.

(d) *Home occupation regulations.* The regulations recognize that many types of home occupations can be conducted with minimal or no effect on the surrounding neighborhood. Home occupations shall be subject to the following standards:

(1) The home occupation shall be clearly incidental and secondary to the residential use of the premises, and shall result in no incompatibility with or disturbance to the surrounding area.

(2) Employed persons. No one other than the occupants of the dwelling and one employee or associate shall be on the property at any given time in relation to the home occupation. No employee or associate or combination of either shall work on the premises for more than 40 hours in one week. The home occupation may employ additional nonresident employees only if their work activities are performed off the premises. Personal vehicles of employees working off the premises shall be parked within a building or shall be fully screened from the street and from adjoining properties. Domestic employees shall not be considered employees of the home occupation.

(3) Exterior alterations or modifications that change the residential character or appearance of the dwelling unit or accessory structure to that of a commercial nature shall be prohibited.

(4) Interior alterations or modifications that eliminate the kitchen, habitable areas for sleeping, and bathrooms shall be prohibited.

(5) The home occupation shall be conducted within the enclosed area of the dwelling unit, with the exception of lessons or instruction for outdoor activities, such as equestrian training and riding, tennis and other court sports, gardening and swimming. In the RR-1A and RR-1B, one-family rural residential districts, home occupations or storage associated with the home occupation may be conducted within accessory structures subject to the following conditions:

a. No home occupation conducted wholly or in part in an accessory structure shall produce noise, light and glare, odor, vibration or traffic that will in any way have a perceptible effect upon adjacent or nearby property.

b. The home occupation shall conform with all other applicable zoning requirements.

c. The property must be conforming in area, and the accessory structure must be conforming in location.

(6) Outdoor storage prohibited. Outdoor storage or display of materials, goods, supplies or equipment related to the conduct of the home occupation shall be prohibited, except that licensed passenger vehicles used in the home occupation may be parked outside provided they are in compliance with all other requirements of this section.

(7) Parking. All vehicle parking required for conduct of the home occupation shall be off-street. The off-street parking area required for the principal residential use shall be retained exclusively for the principal residential use and shall not be made unusable by the home occupation. Off-street parking areas providing more than two spaces for the home occupation shall be visually screened from adjacent residential lots.

(8) Commercial or nonpassenger vehicles. Parking/storage of any commercial or nonpassenger vehicles used in the home occupation shall be within a fully enclosed building. Noise, odors or vibration from the operation of such vehicles shall not be discernible at the property line.

(9) No equipment, machinery, or materials other than of a type normally found in or compatible with a dwelling unit shall be allowed.

(10) No retail sales and delivery of products or merchandise to the public shall occur on the premises except when accessory to the services provided.

(11) No home occupation activity of a nonresidential character shall be discernible from any private or public street. There shall be no exterior signage or display, or interior signs or display which are visible from outside the dwelling, except that a single nameplate sign of not more than two square feet in area per surface, nor more than two surfaces, may be placed on the property. Such sign, if displayed, shall include only the name of property owner and the site address, and shall not identify the type of business.

(12) The hours of operation that a home occupation may be accessible to the public shall be limited to the hours between 8:00 a.m. and 7:00 p.m.

(13) The home occupation shall not generate excessive traffic that is detrimental to the residential character of the surrounding properties or the neighborhood. For the purposes of this subsection, more than five customers or clients per day, or more than two customers at any given time, may be determined to be an excessive and detrimental level of traffic. The number shall apply to each dwelling unit, regardless of the number of home occupations conducted in the dwelling

unit. The criteria used by the zoning administrator to determine impact shall include, but not be limited to:

a. The characteristics of the neighborhood, including current land use, lot sizes, lot widths, parking availability, and screening.

b. Type of street, width, and traffic volumes.

c. The availability and location of off-street parking.

(14) Shipment and delivery of products, merchandise, or supplies shall be limited to the hours of 8:00 a.m. to 7:00 p.m. and shall regularly occur only in single rear axle straight trucks or smaller vehicles typically used to serve residential areas.

(15) No sound or noise created by the operation of the home occupation shall be audible at the property lines except between the hours of 8:00 a.m. and 7:00 p.m. Home occupations shall otherwise comply with all noise provisions of this chapter.

(16) Any activity or event organized for the purpose of displaying or selling merchandise shall not be held more than six times per year. This section shall not be construed as requiring a license or permit for occasional garage sales or tag sales.

(e) *Prohibited home occupations.* The following uses, by their nature of operation, have a pronounced tendency to increase beyond the limits permitted for home occupations. These uses have objectionable operational characteristics that adversely impact residential neighborhoods and shall be prohibited as home occupations:

(1) Service, repair, or painting of any motorized vehicle, including, but not limited to, motor vehicles, trailers, boats, personal watercraft, recreational vehicles, and snowmobiles.

(2) Hair styling establishments that serve more than one person at a time.

(3) Adult uses, as defined in this Code. Adult uses are prohibited as a home occupation for the reasons set forth in section 6.12.6820, based on the effects and impacts of sexually oriented businesses as set forth in the state attorney general's Report of the Attorney General's Working Group on Regulation of Sexually Oriented Businesses, dated June 6, 1989, and in the Task Force Report on Sexually Oriented Businesses, authored by the Cities of Minnetonka, St. Louis Park and Shakopee, which considered relevant studies from six cities.

(4) Dispatch centers where persons come to a site and are dispatched to other locations.

(5) Medical or dental clinic.

(6) Rental businesses.

(7) Contracting, excavating, welding or machine shops.

(8) Commercial kennels and veterinary clinics.

(9) Tow truck services.

(10) Ceramic studios with kilns of volume six cubic feet or more.

(11) The sale, lease, trade or other transfer of firearms or ammunition by a firearms dealer, except when such dealer is federally licensed to conduct such activity.

(12) Sale or use of hazardous materials in excess of consumer quantities which are packaged for consumption by individual households for personal care or household use.

(f) *Reasonable accommodation for disabled persons.* Persons with physical or other legally recognized disabilities may request reasonable accommodation by requesting a waiver of one or more of the requirements of this section. The zoning administrator may only grant waivers on the basis of the applicant's physical limitations to function within such requirements.
(Code 2003, § 78-1376; Ord. No. 221(2nd series), § 4, 9-23-2002)

Sec. 6.12.6820. Sexually oriented businesses.

(a) *Purpose.* In order to protect the city's community image, property values, public health, safety, welfare, and business environment, the city has found it necessary, in light of the harmful and unwanted secondary effects that certain businesses generate, to restrict where such businesses may locate within the city and to regulate those businesses. Only those businesses with secondary effects on neighboring properties and the city are intended to be regulated. This section is not intended to restrict or regulate art.

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

Adult use means and includes every type and variety of bookstore, adult motion picture theater, adult motion picture sales/rental operation, adult mini-motion picture theater, massage parlor, steam room/bathhouse/sauna facility, companionship establishment, rap/conversation parlor, adult health/sport club, cabaret, adult gift or novelty business, motion picture arcade, adult modeling studio, adult hotel/motel, body painting studio, and any other premises, enterprise, establishment, business, operation, or place that is open to some or all members of the public, at, in, on, or from which materials, entertainment, or services are presented, displayed, depicted, described, distributed, sold, or rented that constitute or contain an emphasis on specified anatomical areas or specified sexual activities, and shall include each and every specified adult business. Any activity or material that is classified as obscene under Minn. Stats. § 617.241, as such statute may hereafter be amended, do not constitute an adult use and is specifically prohibited.

Adult use, accessory, means an adult use for which the presentation, display, depiction, description, distribution, sale, or rental of goods, services, entertainment, or materials that constitute or contain an emphasis on specified anatomical areas or specified sexual activities is not a dominant activity. An accessory adult use typically does not involve or include any activity except the sale or rental of merchandise.

Adult use, exempt, means an adult use wherein the presentation, display, depiction, description, distribution, sale, or rental of goods, services, entertainment, or materials that constitute or contain an emphasis on specified anatomical areas or specified sexual activities is conducted only on a diminutive scale, such that it is extremely incidental to any dominant activity and, individually or in combination, occupies or comprises less than five square feet of the total floor, wall, and shelf area of the adult use. Exempt adult uses shall not include or involve any activity except the sale or rental of merchandise, and no external or internal advertising of any adult or sexually oriented merchandise shall be permitted.

Adult use, principal, means an adult use in, on, or from which the sole or a dominant activity involves the presentation, display, depiction, description, distribution, sale, or rental of goods, services, entertainment, or materials that constitute or contain an emphasis on specified anatomical areas or specified sexual activities. For purposes of this definition, the term "dominant activity" means any activities that, individually or in combination, provide at least two percent of the gross receipts of the adult use's entire business operation at that site, and/or occupy or comprise up to ten percent or more of the total floor, wall, and shelf area within the site or 150 square feet or more of floor, wall, and shelf area within the site.

Protected use means and includes the following: licensed day care centers; public or private educational facilities classified as elementary, junior high, or senior high schools; public libraries; public parks; on-sale liquor establishments; churches and church-related facilities; and residential properties or uses.

Specified adult business means and includes the following:

(1) *Adult bookstore* means a business or commercial enterprise that provides for

barter, rental, or sale items consisting of printed matter, pictures, slides, records, audio tape, videotape, motion picture film, or other visual or aural media, from which minors are excluded by reason of age or where a substantial or significant portion of such items are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(2) *Adult gift or novelty business* means a business or commercial enterprise that has as a principal activity the sale of devices, implements, equipment, or novelties that are designed, marketed, used, or sold for the primary purpose of stimulating human genitals or otherwise providing sexual stimulation.

(3) *Adult health club* and *adult sports club* mean a business or commercial enterprise that is named, signed, advertised, or promoted as a facility or club providing health- or sports- related goods, services, or equipment, from which minors are excluded by reason of age or that is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(4) *Adult hotel or motel* means a business or commercial enterprise that provides rooms, facilities, or lodging on a short-term basis and wherein material or entertainment is presented, displayed, provided, or otherwise made available that is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(5) *Adult mini-motion picture theater* means a business or commercial enterprise operating in, on, or from a building or portion thereof that has a legal capacity of less than 50 persons, from which minors are excluded by reason of age or that is used for presenting visual media or materials that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(6) *Adult modeling studio* means a business or commercial enterprise the primary or dominant activity of which is to provide for its customers to observe, paint, paint upon, sketch, draw, sculpt, photograph, videograph, or otherwise depict or portray, with the intent of providing sexual stimulation or sexual gratification to such customers, specified anatomical areas of one or more models or subjects, or one or more models subjects who are engaging in specified sexual activities.

(7) *Adult motion picture arcade* means any place to which the public is permitted or invited wherein coin, slug electronically or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are provided or maintained to show images to no more than one person per machine at any one time where the images so displayed are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities, and the individual viewing areas are not screened, including, but not limited to, doors and curtains, in any way to obstruct the viewing areas from monitoring.

(8) *Adult motion picture theater* means a business or commercial enterprise operating in, on, or from a building or portion thereof that has a legal capacity of 50 or more persons, from which minors are excluded by reason of age or that is used for presenting visual media or materials that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(9) *Body painting studio* means a business or commercial enterprise that provides the service of applying paint or other substance, whether transparent or nontransparent, to or on any specified anatomical area of any person.

(10) *Cabaret* means a business or commercial enterprise that provides dancing or other live entertainment, from which minors are excluded by reason of age or where

such entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of specified anatomical areas or specified sexual activities.

(11) *Companion establishment* means a business or commercial enterprise that provides the service of engaging in or listening to conversation, talk, or discussion between an owner, employee, or agent of the enterprise and a customer, if such service is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(12) *Conversation/rap parlor* means a business or commercial enterprise that provides the service of engaging in or listening to conversation, talk, or discussion, from which minors are excluded by reason of age or where such service is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(13) *Massage parlor* means a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(14) *Sauna, steam room,* and *bathhouse facility* mean a business or commercial enterprise that provides one or more steam or heat bathing rooms or sauna or steam room facilities, where the services provided are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities, or from which minors are excluded by reason of age.

(15) *Adult use, other,* means any place to which the public is permitted, a business or commercial enterprise that is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

Specified anatomical area means and includes the following:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activity means and includes the following:

(1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct; anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty;

(2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;

(3) Use of human or animal ejaculation, sodomy, oral copulations, coitus or masturbation;

(4) Fondling or touching nude human genitals, pubic region, buttocks or female breast;

(5) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons;

(6) Erotic or lewd touching, fondling or other sexually oriented conduct with an animal by a human being; or

(7) Human excretion, urination, menstruation, vaginal or anal irrigation.

(c) *Regulations.*

(1) *Adult uses, principal.*

a. All principal adult uses shall require a conditional use permit.

b. All principal adult uses shall be located within the I Industrial district.

c. All principal adult uses shall be located at least the following specified distances, measured radially in a straight line from the closest point of the building or actual leased space of the principal adult use to the property line of a protected use or other adult use, whether the protected use is located in the city or an adjoining community:

1. A distance of at least 250 feet from the following:
   (i) Licensed day care centers.
   (ii) Public or private educational facilities classified as an elementary, junior high, or senior high schools.
   (iii) Public libraries.
   (iv) Public parks.
   (v) On-sale liquor establishments.
   (vi) Churches and church-related facilities.

2. A distance of at least 1,000 feet from the following:
   (i) Other adult uses.
   (ii) Residential properties, unless separated from such residential properties by a railroad right-of-way or a state highway.

d. No principal adult use shall locate in any building which is also utilized for any protected use.

e. At the time of application for a conditional use permit, any property that is proposed to be occupied by a principal adult use must comply with all current zoning, health fire, and building regulations that apply to the site and building.

f. No principal adult use may occupy a lot with a lot width of less than 200 feet. In addition, each principal adult use shall provide one parking space for each employee on duty, plus parking for customers according to the following schedule:

1. Motion picture theater: one space per six seats actually provided or the maximum seating capacity of the theater.

2. Motion picture arcade: one space per machine.

3. All other principal adult uses: one space per 15 square feet of floor area that is open to or used by the public or customers of the principal adult use.

g. Sign requirements. All principal adult uses shall comply with the following sign requirements:

1. All signs shall be flat wall signs.

2. The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street.

3. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.

4. Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square foot sign shall be placed on the door to state hours of operation and admittance is restricted to adults only.

h. Hours of operation. Principal adult use businesses shall not be open

between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday.

(2) *Adult uses, accessory.*

a. All accessory adult uses shall require a conditional use permit.

b. All accessory adult uses shall be located only within the B-1, B-3, B-4, B-5 and B-6 districts.

c. All accessory adult uses shall be located at least the following specified distances, measured radially in a straight line from the closest point of the building or actual leased space of the accessory adult use to the property line of a protected use or other adult use, whether the protected use is located in the city or an adjoining community:

1. A distance of at least 250 feet from the following:
   (i) Residential properties.
   (ii) Licensed day care centers.
   (iii) Public or private educational facilities classified as an elementary, junior high, or senior high schools.
   (iv) Public libraries.
   (v) Public parks.
   (vi) On-sale liquor establishments.
   (vii) Churches and church-related facilities.

2. A distance of at least 500 feet from the following: Other adult uses.

d. No accessory adult use shall locate in any building which is also utilized for any protected use.

e. Accessory adult uses shall restrict and prohibit access to minors by the physical separation from areas of general access of items that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

1. *Movie rentals.* Display areas for movies that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities shall be restricted from general view and shall be located within a separate room, the access or entrance to which is in clear view and under control of the persons responsible for the operation or controlled in some other effective manner which meets with the approval of the zoning administrator.

2. *Magazines.* Magazines that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

3. *Other adult materials or services.* Accessory adult uses offering or providing items that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities and that are not specifically cited in subsections (c)(2)e.1 and 2 of this section shall comply with the intent of this section, subject to the final approval of the city council.

f. Accessory adult uses shall be prohibited from external advertising and signing of items that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

g. At the time of application for the conditional use permit, any property that is to be occupied by an accessory adult use must comply with all the current zoning, health, fire, and building regulations that apply to the site and building.

(Code 2003, § 78-1377; Ord. No. 193(2nd series), § 1, 11-8-1999)

Sec. 6.12.6830. Communication reception/transmission devices.

(a) *Accessory antennas.* Accessory antennas shall be limited to radio and television receiving antennas, satellite dishes, TVROs, and amateur shortwave radio transmitting and receiving antennas. Accessory antennas that are accessory to the principle use of property are permitted accessory uses in all zoning districts, provided that they meet the following conditions:

(1) *Height.* A ground-mounted accessory antenna shall not exceed 20 feet in height from ground level.

(2) *Yards.* Accessory antennas shall not be located within the required front yard setback, corner side yard setback or side yard setback abutting a street.

(3) *Roofs.* If vegetation or obstructions interfere with satellite signals at a location in any allowable placement area, the accessory antenna may be placed on the roof of any authorized structure on the premises.

(4) *Location.* Accessory antennas shall not be located within a required yard or setback area or within drainage or utility easements. Antenna towers shall be set back from adjacent property lines a horizontal distance no less than the maximum height of the antenna.

(5) *Building permits.* A building permit shall be required for the installation of any accessory antenna requiring a conditional use permit. Building permit applications shall be accompanied by a site plan and structural component data for the accessory antenna, including details of anchoring. The building official must approve the plans before installation.

(6) *Lightning protection.* Each accessory antenna shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the city.

(7) *Electrical code.* Accessory antenna electrical equipment and connections shall be designed and installed in conformance with the National Electrical Code as adopted by the city.

(8) *Color/content.* Accessory antennas shall be of a neutral color and shall not be used as signage.

(b) *Amateur shortwave radio antennas and towers.* Amateur shortwave radio antennas and towers which do not meet the conditions for accessory antennas may be allowed with a conditional use permit in all zoning districts, provided they meet the following conditions:

(1) *Height.* When an amateur shortwave radio antenna is mounted on an antenna tower, the total height of the antenna and tower shall not exceed 65 feet.

(2) *Yards.* Amateur shortwave radio antennas and towers shall not be located within a front, corner side or side yard.

(3) *Setbacks.* Amateur shortwave radio antennas and towers shall not be located within any required setback area and shall be located no less than the height of the antenna and tower from the property line.

(Code 2003, § 78-1378; Ord. No. 106(3rd series), § 29, 6-10-2013)

Sec. 6.12.6840. Alternative energy systems.

(a) *Scope.* This section applies to alternative energy systems in all zoning districts.

(b) *Purpose and intent.* The purpose and intent of this section is to establish standards and procedures by which the installation and operation of alternative energy systems shall be regulated within the city. The city finds that it is

in the public interest to encourage alternative energy systems that have a positive impact on energy production and conservation while not having an adverse impact on the community.

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

(1) *General definitions.*

Accessory means a system designed as a secondary use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption.

Alternative energy system means a ground source heat pump, wind energy conversion system, hydronic furnace or solar energy system.

(2) *Ground source heat pump system definitions.*

Closed loop ground source heat pump system means a system that circulated a heat transfer fluid, typically food-grade antifreeze, through pipes or coils buried beneath the land surface or anchored to the bottom of a body of water.

Ground source heat pump system means a system that uses the relatively constant temperature of the earth or a body of water to provide heating in the winter and cooling in the summer. System components include open or closed loops of pipe, coils or plates; fluid that absorbs and transfers heat; and a heat pump unit that processes heat for use or disperses heat for cooling; and an air distribution system. Also sometimes referred to as a geothermal system.

Heat transfer fluid means a non-toxic and food grade fluid such as potable water, aqueous solutions of propylene glycol not to exceed 20 percent by weight or aqueous solutions of potassium acetate not to exceed 20 percent by weight.

Horizontal ground source heat pump system means a closed loop ground source heat pump system where the loops or coils are installed horizontally in a trench or series of trenches no more than 20 feet below the land surface.

Open loop ground source heat pump system means a system that uses groundwater as a heat transfer fluid by drawing groundwater from a well to a heat pump and then discharging the water over land, directly in a water body or into an injection well.

Vertical ground source heat pump system means a closed loop ground source heat pump system where the loops or coils are installed vertically in one or more borings below the land surface.

(3) *Solar energy systems definitions.*

Building-integrated solar energy system means a solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building including, but not limited to, photovoltaic or hot water solar systems contained within roofing materials, windows, skylights and awnings.

Flush-mounted solar energy system means a roof-mounted system mounted directly abutting the roof. The pitch of the solar collector may exceed the pitch of the roof up to five percent but shall not be higher than ten inches above the roof.

Passive solar energy system means a system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Photovoltaic system means a solar energy system that converts solar energy directly into electricity.

Solar energy system means a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

(4) *Wind energy conversion systems definitions.*

Horizontal axis wind turbine means a wind turbine design in which the rotor shaft is parallel to the ground and the blades are perpendicular to the ground.

Hub means the center of a wind generator rotor, which holds the blades in place and attaches to the shaft.

Hub height means the distance measured from natural grade to the center of the turbine hub.

Monopole tower means a tower constructed of tapered tubes that fit together symmetrically and are stacked one section on top of another and bolted to a concrete foundation without support cables.

Small wind energy conversion system (SWECS) means a WECS of 5,000 kW nameplate generating capacity or less.

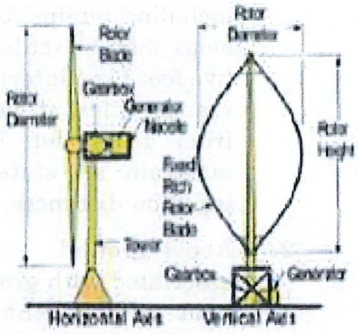
Total height means the highest point above natural grade reached by a rotor tip or any other part of a wind turbine.

Vertical axis wind turbine means a type of wind turbine where the main rotor shaft runs vertically.

Wind energy conversion system (WECS) means an electrical generating facility that consists of a wind turbine, feeder lines, associated controls and may include a tower.

Wind turbine means any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

Wind Turbine Configurations



(5) *Hydronic furnace definitions.*

Hydronic furnace means an outdoor wood boiler that provides heating or hot water using a firebox surrounded by a water jacket enclosed within an insulated shed. A fire is started inside the firebox, and the water temperature is controlled by a thermostatically actuated damper.

(d) *Ground source heat pump systems.*

(1) *Zoning districts.* Ground source heat pump systems in accordance with the standards in this section are allowed as a permitted accessory use in all zoning districts.

(2) *Standards.*

a. *System requirements.*

1. Only closed loop ground source heat pump systems utilizing heat transfer fluids as defined in subsection (c) of this section are permitted. Open loop ground source heat pump systems are not permitted.
2. Ground source heat pump systems in water bodies owned or managed by the city are not permitted.
3. Ground source heat pump systems in private ponds constructed within uplands and that are not protected wetlands are permitted.

b. *Setbacks.*

1. All components of ground source heat pump systems, including pumps, borings and loops shall be set back at least five feet from interior side and rear lot lines, at least ten feet from front lot lines, and maintain all state-mandated isolation distances.

2. Above-ground equipment associated with ground source heat pumps shall not be installed in the front yard of any lot or the side yard of a corner lot adjacent to a public right-of-way and shall meet all required accessory structure setbacks for the applicable zoning district.

c. *Construction.*

1. All access shall be over the owner's land and due care shall be taken to avoid hazard, inconvenience or damage to public streets and nearby public or private property.

2. Necessary precautions shall be taken in stockpiling excavated materials to avoid erosion, dust or other infringements upon adjacent property.

3. All wiring, installation of pipes, grading and all other installations and construction shall be subject to inspection.

4. Disturbed land shall be restored to its prior condition after completion of construction.

d. *Easements.* Ground source heat pump systems shall not encroach on public drainage, utility, roadway or trail easements.

e. *Noise.* Ground source heat pump systems shall comply with state pollution control agency standards outlined in Minn. R. ch. 7030, as amended.

f. *Screening.* Ground source heat pumps are considered mechanical equipment and are subject to the screening requirements of the applicable zoning district.

(3) *Safety.* Ground source heat pumps shall be certified by Underwriters Laboratories, Inc. and meet the requirements of the state building code.

(4) *Abandonment.* If the ground source heat pump system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained in accordance with the following:

a. The heat pump and any external mechanical equipment shall be removed.

b. Pipes or coils below the land surface shall be filled with grout to displace the heat transfer fluid. The heat transfer fluid shall be captured and disposed of in accordance with applicable regulations. The top of the pipe, coil or boring shall be uncovered and grouted.

c. Private pond ground source heat pump systems shall be completely removed from the bottom of the body of water.

(5) *Permits.* A city building permit and any other required agency permits shall be obtained for any ground source heat pump system prior to installation. Borings for vertical systems are subject to approval from the state department of public health.

(e) *Solar energy systems.*

(1) *Zoning districts.* Solar energy systems in accordance with the standards in this section are allowed as a permitted accessory use in all zoning districts.

(2) *Standards.*

a. *Exemption.* Passive or building-integrated solar energy systems are exempt from the requirements of this section and shall be regulated as any other building element.

b. *Roof-mounted systems allowed.* The only solar energy systems allowed in the city are those that are roof-mounted,

c. *Height.* Roof-mounted solar energy systems shall comply with the maximum height requirements in the applicable zoning district.

d. *Setbacks.* Roof-mounted solar energy systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.

e. *Roof mounting.* Roof-mounted solar collectors shall be mounted parallel to the surface of the roof and within three feet of the roof surface, unless manufacturer's documentation is provided indicating that collectors must be angled to provide optimum performance. No portion of the collectors or their mounting system shall extend above the peak or ridge height of a pitched roof. On a flat roof, collectors and their mounting systems shall not extend more than five feet above the roof surface.

f. *Easements.* Solar energy systems shall not encroach on public drainage, utility, roadway or trail easements.

g. *Screening.* Solar energy systems shall be screened from view to the extent possible without impacting their function.

h. *Aesthetics.* All solar panels shall be designed, installed, positioned and constructed of materials so as not to cause any glare or reflective sunlight onto neighboring properties or structures, nor toward vehicular traffic on land or on a lake, and so as to not obstruct views. Reflection angles from collector surfaces shall be oriented away from neighboring windows. Where necessary, screening may be required to address glare.

i. *Feeder lines.* The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near substations or points of interconnection to the electric grid.

(3) *Safety.*

a. *Standards and certification.*

1. Certification. Solar energy systems shall be certified by Underwriters Laboratories, Inc. and the National Renewable Energy Laboratory, the Solar Rating and Certification Corporation or other body as determined by the building official. The city reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

2. The equipment or device must be designed and constructed in compliance with all applicable building and electrical codes, and (if for co-generation) must be in compliance with all state and federal regulations regarding co-generation of energy.

b. *Utility connection.* All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect must be provided if required by the utility.

(4) *Abandonment.* If the solar energy system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance.

The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including transmission equipment.

(5) *Permits.* A building permit shall be obtained for any solar energy system prior to installation.

(f) *Wind energy conversion systems.*

(1) *Zoning districts.* Small wind energy conversion systems (SWECS) in accordance with the standards in this section are permitted accessory uses on lots at least ten acres in gross area within the RR-1A and RR-1B Rural Residential zoning districts. SWECS in accordance with the standards in this section are allowed as a conditional use on lots at least five acres in gross area and subject to conditional use permit approval in the following commercial or industrial districts: B-1 Retail Sales; B-4 Office and Professional; B-6 Highway Commercial; B-6 PUD; and I Industrial.

(2) *Standards for SWECS in residential zoning districts.*

a. *Number.* No more than one SWECS is permitted per parcel.

b. *Height.* In the RR-1A and RR-1B zoning districts, a maximum hub height of 30 feet is allowed as a permitted accessory use.

c. *Blade length.* A maximum blade length of 15 feet is permitted.

d. *Clearance.* The minimum distance from the ground for the lowest point of a blade or any other moving part shall be 12 feet.

e. *Roof mounting.* Roof or wall mounted SWECS are not permitted.

f. *Setbacks.* The base of the SWECS tower shall be set back at least 100 feet from all property lines. SWECS shall not be installed in the front yard of any lot or in the side yard of a corner lot adjacent to a public right-of-way. SWECS shall not be located more than 100 feet from the principal structure on the property.

g. *Easements.* SWECS shall not encroach on public drainage, utility, roadway or trail easements.

h. *Noise.* SWECS shall comply with the state pollution control agency standards outlined in Minn. R. ch. 7030 at all property lines.

i. *Screening.* SWECS are exempt from the screening requirements for the district in which they are located.

j. *Aesthetics.* All portions of the SWECS shall be a nonreflective surface, subject to the approval of the city administrator or his/her designee. Only monopole towers are permitted. The appearance of the turbine, tower and any other related components shall be maintained throughout the life of the SWECS pursuant to industry standards. Systems shall not be used for displaying any advertising, nor for other uses, including, but not limited to, cell phone antennas, flags, ham radio antennas, etc. No components unnecessary to the operation of the SWECS shall be allowed. Systems shall not be illuminated.

k. *Feeder lines.* The electrical collection system shall be placed underground within the interior of each parcel.

l. *Vibration.* No wind energy conversion system shall produce vibrations through the ground that are perceptible beyond the property on which it is located.

m. *Location.* No SWECS shall be allowed within the shoreland overlay district. SWECS shall be setback a distance at least equal to the height of the SWECS from a floodplain, pond or wetland.

(3) *Standards for SWECS in commercial and industrial zoning districts.*

a. *Number.* No more than one SWECS is permitted per parcel.

b. *Height.* In commercial and industrial zoning districts, a maximum hub height of 30 feet is allowed.

c. *Blade length.* A maximum blade length of 15 feet is permitted.

d. *Clearance.* The minimum distance from the ground for the lowest point of a blade or any other moving part shall be 12 feet.

e. *Roof mounting.* Roof or wall mounted SWECS are not permitted.

f. *Setbacks.* The base of the SWECS tower shall be set back at least 100 feet from all property lines. SWECS shall not be installed in the front yard of any lot or in the side yard of a corner lot adjacent to a public right-of-way. SWECS shall not be located more than 100 feet from the principal structure on the property.

g. *Easements.* SWECS shall not encroach on public drainage, utility, roadway or trail easements.

h. *Noise.* SWECS shall comply with the state pollution control agency standards outlined in Minn. R. ch. 7030 at all property lines.

i. *Screening.* SWECS are exempt from the screening requirements for the district in which they are located.

j. *Aesthetics.* All portions of the SWECS shall be a nonreflective surface, subject to the approval of the city administrator or his/her designee. Only monopole towers are permitted. The appearance of the turbine, tower and any other related components shall be maintained throughout the life of the SWECS pursuant to industry standards. Systems shall not be used for displaying any advertising, nor for other uses, including, but not limited to, cell phone antennas, flags, ham radio antennas, etc. No components unnecessary to the operation of the SWECS shall be allowed. Systems shall not be illuminated.

k. *Feeder lines.* The electrical collection system shall be placed underground within the interior of each parcel.

l. *Vibration.* No SWECS shall produce vibrations through the ground that are humanly perceptible beyond the property on which it is located.

m. *Location.* No SWECS shall be allowed within the shoreland overlay district. WECS shall be setback a distance equal to the height of the WECS from a floodplain, pond or wetland.

(4) *Safety.*

a. *Standards and certification.*

1. *Standards.* SWECS shall meet minimum standards such as International Electrotechnical Commission (IEC) 61400-2 or the American Wind Energy Association's (AWEA) Small Wind Turbine Performance and Safety Standard or other standards as determined by the city administrator or his/her designee.

2. *Certification.* SWECS shall be certified by Underwriters Laboratories, Inc. and the National Renewable Energy Laboratory, the Small Wind Certification Council or other body as determined by the city administrator or his/her designee. The city reserves the right to deny a building permit for proposed SWECS deemed to have inadequate certification or testing for operation in a severe winter climate.

3. *Maintenance.* SWECS shall be maintained under an agreement or contract by the manufacturer or other qualified entity. The owner of the SWECS shall once every two years have the SWECS inspected by a licensed qualified professional and submit to the city a report on the status and condition of the SWECS.

b. *Utility connection.* All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect must be provided if required by the utility.

(5) *Abandonment.* If the SWECS remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure, including foundations to below natural grade and transmission equipment.

(6) *Permits.* A building permit shall be obtained for any SWECS prior to installation.

(7) *Power distribution.* The power produced from a SWECS shall only be used for on-site consumption except if connected to the local utility power grid per the provisions of this section.

(g) *Hydronic furnaces.* Hydronic furnaces are not an allowed use or structure within any zoning districts in the city.

(Code 2003, § 78-1379; Ord. No. 119(3rd series), § 1, 12-9-2013; Ord. No. 142(3rd series), §§ 1, 2, 4-13-2015; Ord. No. 262(3rd series), § 1, 11-8-2021)

Division 2. Yards and Open Spaces

Sec. 6.12.6910. Reduction prohibited.

No yard or other open space shall be reduced in area or dimensions so as to make such yard or other open space less than the minimum required by this chapter; and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced.

(Code 1984, § 10.03(14)(A); Code 2003, § 78-1401)

Sec. 6.12.6920. Application to only one dwelling or group.

No required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, other open spaces, or minimum lot area requirements for any other building or dwelling group.

(Code 1984, § 10.03(14)(B); Code 2003, § 78-1402)

Sec. 6.12.6930. Lot coverage and massing standards.

In all zoning districts other than the I Industrial district, all lots that have a gross acreage of less than two acres shall comply with the following massing standards for buildings:

(1) *Maximum total footprints allowed.*

a. On lots equal to or greater than 10,000 square feet in area, the total combined footprints of all principal and accessory buildings shall not exceed 20 percent of the gross lot area.

b. On lots of less than 10,000 square feet in area, the total combined footprints of all principal and accessory buildings shall not exceed 2,000 square feet.

(2) *Calculation of massing.* All buildings shall be included in the calculation of the total combined footprints by buildings.

(Code 1984, § 10.03(14)(C); Code 2003, § 78-1403; Ord. No. 215(2nd series), § 1, 3-11-2002; Ord. No. 99(3rd series), § 1, 1-28-2013; Ord. No. 170(3rd series), § 2, 6-13-2016; Ord. No. 187(3rd series), § 1, 3-13-2017; Ord. No. 222(3rd series), § 2, 12-10-2018)

Sec. 6.12.6940. Permitted encroachments.

(a) The following shall not be considered to be encroachments on yard setback requirements:

(1) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and similar building elements, provided they do not extend more than two feet into a required yard.

(2) Nameplate signs for one-family dwellings subject to the provisions of article X, division 4 of this chapter; lights for illuminating parking areas, loading areas or yards for safety and security purposes, provided the direct source of light is not visible from the public right-of-way or adjacent residential property and is located at least five feet from the front lot line; public utility poles and overhead lines; mailboxes.

(3) Steps, sidewalks, uncovered porches, stoops, or similar structures which do not extend above the height of the ground floor level of the principal building and extend to a distance of not less than two feet from any lot line.

(4) Bays, cantilevers, and fire escapes. In side or rear yards only, the following encroachments are permitted:

a. Bays and/or cantilevers which are not part of the defined building footprint, may extend up to two feet into the required side or rear yard, provided the aggregate area of the bays and/or cantilevers is not more than 20 square feet; and

b. Fire escapes not exceeding a width of three feet and a depth of four feet.

(5) Driveways and parking areas when constructed, located, and used in compliance with other provisions contained within this chapter. Driveways and parking areas may extend to within five feet of a side lot line.

(6) Retaining walls, planters, and similar structures, subject to the following provisions:

a. Retaining walls, planters and similar structures may be located in all required yards when all of the following conditions are met:

1. The structure is located at least ten feet from the edge of the traveled roadway;

2. The structure is not located within a drainage, utility, or other easement, except upon approval in writing for an encroachment agreement by the city; or similar approval from another regulatory and/or utility agency;

3. The structure creates no impacts to drainage direction, rate, or volume for adjacent properties.

4. The structure is two feet in height or less above the existing grade.

b. Retaining walls, planters, and similar structures exceeding two feet in height above existing ground level or which are located less than five feet from a side property line.

c. Retaining walls, planters and similar structures exceeding the allowed height of a fence shall be located to meet the required accessory structure setbacks established for that yard.

(7) Window wells including those for fire egress which do not extend more than five feet from the building, and are no closer than two feet to the property line.

(8) Air conditioning or heating equipment may be located within a required yard but shall be located within five feet of the building it serves; shall not be located within an existing or required drainage and/or utility easement; and shall be located at least five feet from any lot line.

(9) Fences erected in all zoning districts are considered a permitted encroachment when they conform to the standards listed below. A fence shall be located a minimum of ten feet from the edge of the paved, traveled roadway. The following words, terms and phrases, when used in this subsection (a)(9), shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

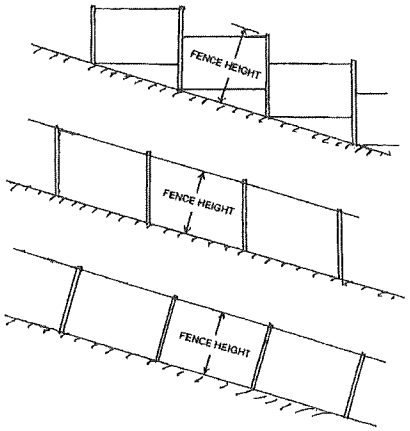
Fence height means the measurement from the top of any part of the fence, including posts or other structural supports, lattice, ornate top design elements, and so forth measured to the existing ground level below the fence, as measured perpendicular to the slope (see Drawing: Fence Height Measurement on Sloped Site). Exception: Post finials extending above the top of the fence shall not be deemed as part of the fence for height determination purposes as long as they do not exceed ten inches in width per finial and do not extend above the top of the fence by more than six inches.

Fence monument means a fence monument is a permanent structure or object, with or without a footing, made with masonry or stone materials, used in place of, and functioning as a post that supports a fence.

Permanent fence means a fence that is installed in a fixed or enduring manner that is not intended for a seasonal or temporary purpose.

Temporary fence means a fence that is not permanently secured or anchored to the ground by posts or affixed footings, and is installed and removed on a limited term or seasonal basis such as: snow fences, garden fences, seasonal recreational fences such as hockey boards; fences installed for safety or access management purposes for special events; and fences installed for the duration of a construction project such as silt fences, erosion control bioretention logs, and septic drainfield site protection fences.

Drawing: Fence Height Measurement on Sloped Site



a. *Nonlakeshore lots.*

1. Fences and walls within a required front yard or side street yard shall not exceed a height of 42 inches above existing ground level.

2. Fences and walls within a required rear or side yard shall not exceed a height of six feet above existing ground level.

b. *Lakeshore lots.*

1. Fences within the required street (rear) yard or side street yard of a lakeshore lot shall not exceed 42 inches above existing ground level. Exception: A fence not exceeding six feet in height may be located along the street lot line, and within the rear street setback of a lake frontage lot which abuts a major thoroughfare. A major thoroughfare for purposes of this section means any county road or state highway. If such fence involves fill or berming, the total combined height of both fence and fill shall not exceed six

feet above the height of the crown of the major thoroughfare.

2. Fences within the required side yard of a lakeshore lot shall not exceed six feet in height, and shall not exceed 42 inches in height for any portion located lakeward of a line drawn between the most lakeward projection of the fence owner's principal residence structure and the most lakeward projection of the principal residence structure on the adjacent property abutting the side yard in which the fence is located.

3. Fences shall not be constructed within the defined lakeshore yard of a lakeshore lot, i.e., shall not be located within 75 feet of the shoreline for general development lakes, 100 feet for recreational lakes, or 150 feet for natural environment lakes.

4. When the building site of a lakeshore lot is separated from the lakeshore by a public or private road, the following definitions will apply for fence location purposes subject to the provisions of this section: When the yard on the opposite side of the building site from the lake does not abut a street, such yard shall be considered as a standard rear yard. The yard between the building site and the street shall be considered as a standard front yard.

c. *Special provisions.* Split rail fences of no more than three rails within a required front, street or side street yard may have a maximum top rail height of 48 inches above existing ground level. Board rail fences within a front, street or side street yard for the specific purpose of enclosing permitted domestic animals may have a top rail height of 60 inches and shall be no more than 50 percent opaque.

d. *Intersection sightline obstruction prohibited.* No fence shall be installed so as to obstruct a required clear view at street intersections as required by section 6.12.6760.

e. *Fence construction and maintenance.*

1. The owner of a fence shall maintain it in a condition of reasonable repair and appearance and shall not allow it to become or remain in disrepair or in a dangerous condition.

2. Fences shall be installed with the finished side facing neighboring properties or the street. The term "finished side" means that side having no structural supports.

3. Fencing materials shall consist of permanent all weather products.

4. Temporary fencing shall not be allowed to remain on the property following final inspection, or issuance of a certificate of occupancy for a permitted construction project, or protection of property during a similar project or winter conditions. The term "winter conditions" means October 15 through March 31 of the following year. Temporary fencing associated with a special event shall be removed within seven days of the end of such event. Temporary fencing materials shall not be allowed to remain on a permanent basis on a parcel.

5. Existing fences that are legally nonconforming as to location, height, design, or other characteristics may be replaced in kind.

(10) Fence monument, as part of a fence erected in all residential zoning districts are considered as a nonencroachment when it conforms to the following standards:

a. Property corners shall be located and identified (staked);

b. Fence monuments must be set back a minimum of five feet from all property boundaries and never fewer than ten feet from the edge of the paved, traveled roadway;

c. An individual fence monument shall be limited to a maximum footprint of six square feet;

d. Fence monuments may not exceed the maximum allowed height of the associated fence, including any appurtenances. Any fence monument exceeding the maximum height must meet accessory structure setbacks for the appropriate district;

e. Building permit requirements:

1. A building permit is required if footings are proposed;

2. Construction plans with footing details are required to be submitted for permit approval;

3. If the fence and/or fence monuments exceed six feet in height, a building permit is required.

(11) Entrance monuments, defined for the purpose of this section as a nearly permanent physical structure or object, natural or artificial, used to depict an entrance to the property, erected in all residential zoning districts are considered nonencroachments when they conform with the following standards:

a. Each monument, with a maximum of two per approved driveway access, shall be limited to a single pillar with a footprint measuring no larger than 25 square feet and no length to exceed five feet;

b. The monument must be setback a minimum of five feet from all property boundaries and never fewer than ten feet from the edge of the paved, traveled roadway;

c. Plans and/or elevation views of the proposed monuments are required to be submitted for approval by the planning director;

d. All signage proposed for the monuments must comply with article X, division 4 of this chapter;

e. The monuments are limited to eight feet in height, including any appurtenances. Any monument exceeding the maximum height must meet principal structure setback requirements;

f. When more than one monument is proposed, and serving two or fewer residences, a minimum horizontal width of 16 feet is required between them;

g. When more than one monument is proposed, and serving three or more residences, a minimum horizontal width of 22 feet is required between them;

h. Lighting is allowed, in conformance with section 6.12.7780 and at the discretion of the planning director.

i. A building permit is required for installation and the property corners must be located for inspection purposes.

(12) Gates, when proposed, must meet the following requirements:

a. The gate must open into the property not outward towards the right-of-way;

b. Gates serving two or fewer residences shall have a minimum horizontal width of 14 feet in the full open position;

c. Gates serving three or more residences shall have a minimum horizontal width of 20 feet in the full open position;

d. For all properties, gate height may not exceed the height of the monument, measured from grade, unless principal structure setbacks are met (if monuments are not proposed then gate height shall be regulated in accordance with the fence height regulations of subsection (a)(9) of this section;

e. For locked and/or secured gates, a Knox box meeting the standards set forth by the police and fire department must be provided for emergency access; and

f. On major thoroughfares the monuments and gates must be located 40 feet from the paved, traveled road to allow for vehicle stacking. A major thoroughfare for the purposes of this section means any county road or state highway.

(13) Lawn irrigation systems are permitted in any required yard. Non-pressurized lines for irrigation systems may be installed in the adjacent right-of-way, at the system owner's risk. The system owner shall relocate or remove the lawn irrigation system from the right-of-way at the system owner's expense in the event said relocation or removal is required by the city or other utility company authorized to use the city right-of-way. The system owner shall defend, indemnify, and hold harmless the city its officials, and employees from and against any and all claims, liability for loss, damage, or injury arising directly or indirectly from the lawn irrigation system or to the system that is in the right-of-way.

(b) The following shall not be considered to be encroachments on structure height requirements:

(1) Parapet walls that extend no more than three feet above the height of the building.

(2) HVAC cooling towers.

(3) Elevator penthouses.

(Code 1984, § 10.03(15); Code 2003, § 78-1405; Ord. No. 211(2nd series), §§ 1—5, 11-26-2001; Ord. No. 12(3rd series), § 1, 5-24-2004; Ord. No. 30(3rd series), § 1, 11-28-2005; Ord. No. 43(3rd series), § 1, 2-25-2008; Ord. No. 106(3rd series), § 22, 6-10-2013; Ord. No. 139(3rd series), § 1, 2-23-2015; Ord. No. 140(3rd series), § 1, 3-23-2015; Ord. No. 170(3rd series), §§ 3, 4, 6-13-2016; Ord. No. 188(3rd series), § 1, 3-22-2017; Ord. No. 189(3rd series), § 5, 4-10-2017; Ord. No. 209(3rd series), § 1, 6-11-2018; Ord. No. 222(3rd series), § 22, 12-10-2018; Ord. No. 272(3rd series), § 1, 6-13-2022; Ord. No. 299(3rd series), § 10, 3-11-2024)

Sec. 6.12.6950. Additional yard provisions.

Required yards in the districts specified shall be subject to the following additional requirements:

(1) *Through lots.* Through lots in any district shall have a required front yard on each street.

(2) *B and I districts; adjacent lots.* In the B and I districts, for lots that are nonconforming with respect to area, the minimum front yard setback for the principal building shall be equal to the average depth of the existing front yards on the adjacent nonresidential lots on each side of the nonconforming lot fronting on the same street. However, the depth of such front yard shall not be less than ten feet.

(Code 1984, § 10.75(4); Code 2003, § 78-1406; Ord. No. 199(3rd series), § 1, 6-12-2017; Ord. No. 222(3rd series), § 23, 12-10-2018)

Division 3. Accessory Buildings and Structures

Sec. 6.12.7010. Accessory buildings and structures on through lots.

All accessory buildings on through lots located in R districts shall meet the principal building setbacks that are established for the appropriate district.

(Code 1984, § 10.03(10); Code 2003, § 78-1431; Ord. No. 15(3rd series), § 1, 6-28-2004; Ord. No. 222(3rd series), § 24, 12-10-2018; Ord. No. 299(3rd series), § 11, 3-11-2024)

Sec. 6.12.7020. Time of construction.

No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.
(Code 1984, § 10.03(9)(A); Code 2003, § 78-1432; Ord. No. 13(3rd series), § 1, 5-24-2004; Ord. No. 222(3rd series), § 25, 12-10-2018)

Sec. 6.12.7030. Accessory dwelling units.

The provisions for accessory dwelling units are as follows:

(1) *Purpose.* The city recognizes the need to encourage alternate housing types based on current housing trends. There is an increased desire to support multigenerational housing. This provision is intended to accommodate single-family residential property owners who wish to invest in their homes and add value while providing alternative housing options within the city. The purpose of this subdivision is to permit and regulate permanent accessory dwelling units (ADUs) only as a permitted accessory use subject to the regulations set forth herein. By allowing only those accessory dwelling units that are in compliance with all of the performance standards of this subdivision, the character and quality of existing neighborhoods will be protected.

(2) *Performance standards.* No property within a single-family residential district shall have more than one dwelling unit, except an ADU may be permitted as an accessory use to a single-family dwelling when the following requirements are met:

a. The property must be located within the R-1A, R-1B, LR-1A, LR-1B, LR-1C, LR-1C-1, RR-1A, or RR-1B Zoning Districts.

b. An ADU, attached or detached, shall only be permitted on lots one acre or greater in area.

c. No more than one ADU shall be permitted on a lot or parcel.

d. Total floor area of an ADU shall be no more than 50 percent of the primary dwelling unit's total floor area. The total floor area of an ADU shall not be less than 300 square feet.

e. The ADU shall not have separate utility connections. The primary residence and ADU must be served by shared municipal water, sanitary sewer, gas, and electric utility services. If not served by municipal sewer and water, the primary residence and ADU shall meet the private well and septic requirements of this Code.

f. An ADU shall be designed and maintained so as to be consistent with the architectural design, integrated materials, style, appearance, and character of the primary residence as a single-family residence.

g. A minimum of two off-street parking spaces (enclosed or on a driveway) shall be required for the ADU.

h. ADUs must be constructed on a permanent foundation with no wheels.

i. The property shall only have one address. The ADU may not be addressed separately from the primary residence.

j. The ADU may not be subdivided or otherwise segregated in ownership from the primary residence structure.

(3) *Permit requirements.* It is unlawful for a property owner to construct or allow occupancy within an ADU which does not comply with all of the following requirements:

a. Building permit required. An ADU, as permitted in this chapter, shall be constructed and maintained in accordance with all state laws and

state building, plumbing, electrical, mechanical, and fire code regulations and city Code requirements.

b. A rental license shall not be granted to an ADU. An ADU cannot be rented separately from the primary residence.

c. The property owner must execute a covenant providing that the ADU will be maintained in compliance with the above performance standards and permit requirements.

(Code 2003, § 78-1433; Ord. No. 279(3rd series), § 26, 11-14-2022)

Sec. 6.12.7040. Building size restrictions.

No accessory building shall exceed 1,000 square feet of footprint area, except that accessory buildings in excess of 1,000 square feet shall be considered oversized and will be allowed under the following conditions:

(1) Not more than one oversized accessory building (OAB) shall be permitted on any property. An OAB is defined as an accessory building of footprint area in excess of 1,000 square feet.

(2) An OAB is regulated by the following table:

Lot Area (acres)	*Maximum Allowed Cumulative Total of All Accessory Building Footprint Areas on a Property (square feet)*
0—1.99	2,000
2.00—3.00	2,400
3.01—3.50	2,800
3.51—4.00	3,200
4.01—4.50	3,600
4.51—5.00	4,000
5.01—6.00	4,400
6.01—7.00	4,800
7.01—8.00	5,200
8.01—9.00	5,600
9.01—10.00	6,000
10.01—11.00	6,400
11.01—12.00	6,800
12.01—13.00	7,000
13.01—14.00	8,000
14.01 or more	1.30% of lot area

(3) Any OAB shall be subject to the following conditions:

a. Principal building setbacks must be met. Further, no OAB shall be nearer the front lot line than the front line of the principal building on the property.

b. The maximum height for such accessory building shall be 30 feet or the defined height of the principal residence building on the property, whichever is less.

(Code 1984, § 10.03(9)(C); Code 2003, § 78-1434; Ord. No. 106(3rd series), § 24, 6-10-2013; Ord. No. 222(3rd series), § 27, 12-10-2018; Ord. No. 232(3rd series), § 1, 10-14-2019; Ord. No. 278(3rd series), § 3, 10-10-2022; Ord. No. 299(3rd series), § 12, 3-11-2024)

Sec. 6.12.7050. Garages on lake lots.

Accessory buildings on lake lots with garage doors facing a street shall meet the applicable principal building setbacks for the district; section 6.12.9120 shall apply.

(Code 1984, § 10.03(9)(D); Code 2003, § 78-1435; Ord. No. 52(3rd series), § 2, 11-24-2008; Ord. No. 106(3rd series), § 25, 6-10-2013; Ord. No. 222(3rd series), § 28, 12-10-2018)

Sec. 6.12.7060. Plumbing.

Because the provision of plumbing fixtures and wastewater plumbing in accessory buildings has the potential to allow such buildings to be used as dwelling units, and because it is the policy of the city to limit residential development density to the allowed densities within the respective zoning districts, plumbing in accessory buildings shall be regulated as follows:

(1) The provision of outside sillcocks and indoor water supply shall be allowed in any accessory building.

(2) Installation of a toilet and/or sink in any accessory building shall be subject to the provision of municipal sanitary sewer or a conforming sewage treatment system designed to handle the anticipated flows from such fixtures.

(3) Installation of any combination of fixtures which includes a bathtub or shower shall be subject to the property owners executing a covenant providing that the accessory building will not be:

a. Used for a home occupation unless specifically approved by the city or if allowed by this Code.

b. Rented, leased, or otherwise provided for use as a dwelling under any circumstances.

(Code 2003, § 78-1437; Ord. No. 179(2nd series), § 1, 10-12-1998; Ord. No. 45(3rd series), § 11, 2-25-2008; Ord. No. 222(3rd series), § 30, 12-10-2018; Ord. No. 257(3rd series), § 2, 5-10-2021; Ord. No. 299(3rd series), § 13(78-1437), 3-11-2024)

Sec. 6.12.7070. Building placement.

(a) All principal and accessory buildings on the same lot must be separated by a ten foot setback from other buildings.

(b) Within RR-1A and RR-1B districts, an accessory building less than 1,000 square feet may be located streetward of the principal building provided principal building setbacks and the exterior materials provisions in 6.12.7080(b) are met.

(Code 1984, § 10.03(12); Code 2003, § 78-1438; Ord. No. 165(3rd series), § 1, 3-14-2016; Ord. No. 299(3rd series), § 13(78-1438), 3-11-2024)

Sec. 6.12.7080. Exterior materials.

(a) Accessory buildings and principal buildings shall be consistent in design and color. Except for accessory buildings that are less than 120 square feet in area or are located on lots two acres in area or larger.

(b) All accessory buildings located streetward of the principal building within RR-1A and RR-1B districts shall be consistent in design, color, and exterior materials with the principal building.

(Code 2003, § 78-1440; Ord. No. 52(3rd series), § 3, 11-24-2008; Ord. No. 222(3rd series), § 32, 12-10-2018; Ord. No. 299(3rd series), § 13(78-1439), 3-11-2024)

Division 4. Sign Code

Sec. 6.12.7110. Recitals.

This division shall be known, cited and referred to as the "Orono Sign Code," except as referred to herein, where it shall be known as "this division."

(Code 2003, § 78-1465; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Sec. 6.12.7120. Purpose.

This division is intended to establish a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe, and attractive community, and the need for effective communications, including business identification. It is the intent of these sign regulations, to promote the health, safety, general welfare, aesthetics, and image of the community by regulating signs that are intended to communicate to the public in all areas of the city. It is not the purpose or intent of this division to regulate the message displayed on any sign. The purpose of this division is to authorize:

(1) Permanent signs which establish a high standard of aesthetics and are appropriate for the planned character in each sign district as established in section 6.12.7240;

(2) Signs that are compatible with their surroundings;

(3) Signs that are designed, constructed, installed, and maintained in a manner that does not adversely impact public safety or create a hazard to motorists, pedestrians, or cyclists;

(4) Signs that are proportioned to the scale of, and are architecturally compatible with, principal structures;

(5) Permanent signs which give preference to the on-premises owner or occupant;

(6) Temporary commercial signs and advertising displays which provide an opportunity

to advertise while restricting signs that create visual clutter and hazards at public right-of-way intersections;

(7) Minimize adverse effects on nearby property; and

(8) Provide for fair and consistent enforcement of the sign regulations set forth herein under the authority of the city.

(Code 2003, § 78-1466; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Sec. 6.12.7130. Findings.

The city finds it is necessary for the promotion and preservation of the public health, safety, welfare, and aesthetics of the community to control the construction, location, size, and maintenance of signs. Further, the city finds:

(1) Permanent and temporary signs have a direct impact on and relationship to the image and aesthetic of the community;

(2) The manner of installation, location, and maintenance of signs affects the public health, safety, welfare, and aesthetics of the community;

(3) An opportunity for viable identification of community businesses, residences, and institutions must be established;

(4) The safety of motorists, cyclists, pedestrians, and other users of public streets and property is affected by the number, size, location, and appearance of signs that create a hazard for drivers;

(5) Installation of signs suspended from, projecting over, or placed on the tops of buildings, walks, or other structures may constitute a hazard during periods of high winds and an obstacle to effective firefighting and other emergency service;

(6) Uncontrolled and unlimited signs and sign types adversely impact the image and aesthetic attractiveness of the community and thereby undermine economic value and growth;

(7) Uncontrolled and unlimited signs, particularly temporary signs which are commonly located within or adjacent to public right-of-way or are located at driveway/street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians and also adversely impacts a logical flow of information;

(8) Commercial signs are generally incompatible with residential uses and should be strictly limited in residential zoning districts; and

(9) The right to express noncommercial opinions in any zoning district must be protected, subject to reasonable restrictions on size, height, location, and number.

(Code 2003, § 78-1467; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Sec. 6.12.7140. Scope of regulations.

The sign regulations set forth in this division shall apply to all structures and land uses. This division describes the signage standards for the sign districts that overlay the zoning districts of the city. Specific additional regulations are established for signs which are unique in purpose and not easily addressed by district regulations. No person, property owner, or lessee shall place, erect, alter, modify, enhance, or change in any way a sign that does not conform to the requirements of this division and all other applicable regulations.

(Code 2003, § 78-1468; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Sec. 6.12.7150. Definitions.

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

Auxiliary sign means a sign that provides direction for internal circulation, parking or entry, restrictions on parking, security warnings, or other similar primarily noncommercial signs that are directed at people that are entering, exiting, or on a particular property. Auxiliary signs do not include outdoor advertising signs.

Banner means any temporary sign of lightweight fabric or similar material mounted to a pole or a building at one or more edges.

Billboard. See *Outdoor advertising sign.*

Canopy / awning sign means a message or logo on an awning or canopy which is constructed according to the requirements of the building code, is an integral part of the building, and is consistent with the architecture and design of the building.

Clear vision area means an area within a triangle that is measured along the edge of the driving surface of the road starting at the intersection of two roads and driveways (public or private) and extending 30 feet in each direction from the intersection and then a line connecting these two end points.

Changeable message sign means a message that is not permanently attached to the sign face but is not a dynamic display. The message is changed manually.

Commercial message sign means any message which identifies a business or product or promotes the sale of any product or service.

Dynamic display means any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. The term "dynamic display" includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. The term "dynamic display" also includes, but is not limited to, any rotating, revolving, moving, flashing, blinking, projecting, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, digital ink, or any other method or technology that allows the sign face to present a series of images or displays.

Freestanding sign means a self-supporting sign usually held up by uprights placed in the ground or any other base that is anchored to the ground.

Grand opening means commencement of operation of a new business. A grand opening is considered to occur if there is a new business, a business name change or change in type of business or activity.

Graphic sign means a sculpture attached to or sign painted directly on a wall that is primarily symbolic or representational in nature and not alpha or numeric in content or copy.

Illuminated sign means any sign, which has characters, letters, figures, designs or outlines which are illuminated by an artificial light source.

Incidental sign means any sign that is generally not readable from property other than where the sign is located, such as from adjacent property or a public street, as determined by the city administrator or their designee. Signs may include on-site wayfinding signs, gas pump signs, and menu boards.

Lighting, backlit means an illuminated sign where the light source which illuminates the wall behind individual sign letters is hidden from view. The sign letters are opaque and appear as a silhouette against the lighted surface.

Lighting, external, means the sign is illuminated by means of external light fixtures directed at the sign.

Lighting, internal, means an illuminated sign having the source of illumination located inside a translucent panel and is not directly visible.

Monument sign means a freestanding sign installed on the ground with the sign copy mounted on a base and at least as wide as the sign.

On-premises sign means a sign whose message is related to the property or the activity and use occurring on the property on which the sign is located. On-premises signs include multi-tenant identification signs that may advertise

tenants on different property, provided such tenants are within the same approved PUD and parking is shared between properties.

Outdoor advertising sign means any sign that is located outdoors and that advertises a product, business, service, event, or any other matter that is not available, or does not take place, on the same premises as the sign. Outdoor advertising signs are commonly called billboards. An outdoor advertising sign does not include a sign that is not readily understandable or readable from property other than where the sign is located, such as from adjacent property or a public street, as determined by the city administrator or their designee.

Permanent sign means any sign that is not temporary.

Pole sign means a freestanding sign that is elevated off the ground by one or more poles.

Portable sign means a temporary sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs include, but are not limited to, A-frame or T-frame signs, sandwich signs, signs mounted on a trailer, bench, wheeled carrier, or other non-motorized mobile structure with or without wheels.

Projecting sign means a sign, other than a wall sign, that is attached to and projects more than 18 inches from the building façade.

Re-facing means the process of replacing the sign copy, message, logo, or graphic on a sign without altering or moving the structure to which the sign face is attached.

Regulatory or directional signs means a traffic control sign in state statutes; any identification sign installed on public property by a public authority; and any other identification, regulatory, or warning sign approved by the city for installation on public or private land.

Roof sign means a sign that is mounted on the roof of a building or on a parapet wall that is above the roof line.

Rotating sign means a sign or a portion of a sign which moves in a rotating, oscillating or similar manner other than changing signs.

Service area canopy means an open air roof-like structure that projects from the wall of a building or is freestanding and is for the purpose of shielding equipment and/or people from the elements; is often found covering service or gasoline station islands.

Sign means any written message, pictorial presentation, number, illustration, decoration, banner or other device that is used to announce, direct attention to, identify, advertise or otherwise make anything known. For purpose of maintenance or removal, the term "sign" shall also include frames and support structures.

Sign area means the area in square feet of the single smallest rectangle, circle, or triangle that contains the sign copy.

Sign height means the distance measured perpendicular from the highest point of the sign structure to the average grade at the base of the sign.

Temporary sign means a sign designed to be displayed for a limited period of time that is not permanently affixed to the land or to a structure.

Wall sign means a sign attached to or erected against an exterior wall surface of a building or structure.

Window sign means a sign mounted inside of a building within the window area that is applied or fastened to the window in a manner that is intended to be viewed from outside the building.
(Code 2003, § 78-1469; Ord. No. 2015(3rd series), § 1, 9-10-2018; Ord. No. 261(3rd series), § 1, 6-14-2021)

Sec. 6.12.7160. Application process.

An application for a sign permit shall be made on the city's permit platform. The applicant shall provide all required information.
(Code 2003, § 78-1470; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Sec. 6.12.7170. Review process.

The city administrator or their designee shall approve or deny the sign permit application in an expedited manner, no more than 30 days from the receipt of the completed application, including applicable fees. All complete permit applications not reviewed within 30 days shall be deemed approved. Applicants shall be notified in writing if the application is denied, including the reasons for denial.
(Code 2003, § 78-1471; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Sec. 6.12.7180. Appeals process.

Appeals shall be made as outlined in sections 6.12.410 through 6.12.440 no later than ten days following the decision.
(Code 2003, § 78-1472; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Sec. 6.12.7190. Fees.

Sign permit fees and the impoundment fee shall be set by the city council by ordinance from time to time.
(Code 2003, § 78-1473; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Sec. 6.12.7200. Inspection and enforcement.

Provisions for sign inspection and enforcement are as follows:

(1) *Inspection authority.* All signs shall be subject to inspection by the city administrator or their designee, who is hereby authorized to enter upon any property or premise to ascertain whether the provisions of this division are being obeyed. Such entrance shall be made during business hours unless an emergency exists.

(2) *Signs in disrepair.* The city administrator or their designee may order the removal of any sign that is not maintained in accordance with the maintenance provisions of this ordinance. Upon failure to comply with such notice within the time specified in such order, the city council may declare the sign to be a public nuisance, impound it, and assess the cost of removal to the sign owner or the sign owner's agent.

(3) *Impoundment of signs on public property or within public right-of-way.* The city administrator or their designee may, at any time and without notice, impound signs that have been installed on public property, within the public right-of-way, or within a public easement that are in violation of this division. The sign owner or their agent may retrieve an impounded sign subject to the following rules:

a. Payment of an impoundment release fee. Any subsequent impoundments within one calendar year for a particular property or sign owner will require payment of double the initial impoundment release fee.

b. Any impounded sign may be retrieved from the impounded area within three business days of the impoundment or the city administrator or their designee may dispose of it. The impoundment area can be located by contacting city hall. Any cost incurred by the city for disposal of an impounded sign may be assessed to the sign owner or the sign owner's agent.

c. The city shall have no obligation to notify a property owner that it has impounded a sign.

d. The city shall not be held liable for any damage to an impounded sign.

(Code 2003, § 78-1474; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Sec. 6.12.7210. Exempt signs.

All signs shall require an approved sign permit prior to placement except for the signs specifically noted in this section. Exempted signs shall not reduce the permitted signage for a property. These exemptions shall not relieve the owner of the sign from the responsibility of its maintenance

and its compliance with the provisions of this division or any other law or ordinance regulation the same.

(1) Regulatory or directional signs. All regulatory or directional signs, including, but not limited to, traffic control and other regulatory purpose signs, street signs, identification signs, informational signs, danger signs, and railroad crossing signs.

(2) Non-commercial signs in an election year. Signs of any size containing non-commercial speech may be posted in any number beginning 46 days before the state primary in a state general election year until ten days following the general election and 13 weeks prior to any special election until ten days following the special election provided that the signs are in compliance with state statutes.

(3) Address signs. Address identification signs not exceeding four square feet in area for each structure or portion of a structure with an assigned address. Street identification numbers are required in all sign districts and should be clearly visible from the street.

(4) Exempt residential signs. Properties in sign district 1 shall be allowed up to eight square feet of signage provided that a single sign is no larger than six square feet, the signs are not illuminated, and freestanding signs are at least five feet from any property line.

(5) Portable signs. Portable A-frame, T-frame, sandwich, or other similar signs that do not exceed six square feet in size, are not illuminated, are located within 15 feet of the primary entrance to a building, and are displayed only during the hours of business operation. No more than two of these signs shall be in place at any given time.

(6) Incidental signs.

(7) Window signs. Window signs that are inside of a building shall not require a permit but shall be in accordance with section 6.12.7240, Table 1.

(8) Non-commercial signs. Any sign display or device allowed under this section may contain any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity service for sale, and that complies with the size, height, and lighting requirements of this division.

(9) Change of copy. No permit shall be required to change the text of a sign provided the sign structure and face is not otherwise enlarged, modified, enhanced or altered in any way.

(Code 2003, § 78-1475; Ord. No. 2015(3rd series), § 1, 9-10-2018; Ord. No. 261(3rd series), § 2, 6-14-2021)

Sec. 6.12.7220. Prohibited signs.

The following signs shall be prohibited in all sign districts:

(1) Signs with moving, swinging, revolving, or rotating parts.

(2) Freestanding pole signs.

(3) Roof signs.

(4) Projecting signs.

(5) Noncompliant signs. Any sign not constructed, wired, assembled, attached, or supported in conformance with applicable building or other codes and regulations.

(6) Signs in the right-of-way. Signs in the public right-of-way except as provided for, by state statutes, or allowed by the agency regulating the right-of-way.

(7) Outdoor advertising signs, including billboards.

(8) Portable signs. Portable signs shall be prohibited, except for portable A-frame, T-frame, sandwich, or other similar signs that do not exceed six square feet in size.

(9) Signs in the clear vision area.

(10) Signs imitating traffic control signs. Signs that are designed to resemble official traffic signs except signs which are used to control traffic on private property.

(11) Any sign, sign type, sign lighting, or sign technology not specifically listed as permitted in this division shall be prohibited.

(Code 2003, § 78-1476; Ord. No. 2015(3rd series), § 1, 9-10-2018; Ord. No. 261(3rd series), § 3, 6-14-2021)

Sec. 6.12.7230. Regulation by sign district.

For the purpose of regulating signs, the following sign districts are adopted:

District	*Description*
1	All residential properties zoned R-1A, R-1B, LR-1A, LR-1B, LR-1C, LR-1C-1, RR-1A, RR-1B, RR-1B-1, RS, PRD, RPUD
2	M-6, all nonresidential uses located in a residential district, including, but not limited to schools, places of worship, neighborhood identification features
3	B-1, B-2, B-4, B-5, B-6
4	B-3
5	I, PID

(Code 2003, § 78-1477; Ord. No. 2015(3rd series), § 1, 9-10-2018; Ord. No. 261(3rd series), § 4, 6-14-2021)

Sec. 6.12.7240. Permitted sign type, area, height, and illumination by sign district.

All signs shall conform to the applicable standards in Table 1, Sign Standards by Sign District. The following provisions shall also apply:

(1) *Wall sign.* Wall signs shall not extend more than 18 inches from the wall they are attached to.

(2) *Monument signs.*

a. No more than one monument sign shall be permitted on any site except in cases where properties front more than one public street. For properties that front more than one public street, one additional monument sign may be permitted provided that the additional monument sign does not exceed half the size of the maximum sign area allowed for a monument sign in the underlying district.

b. The sign area of a monument sign shall only be calculated using one side of the sign. If the two sides are different sizes, the larger side shall be used for determining sign area.

c. Monument signs shall be located at least five feet from any property line and shall not project over the property line. Clear vision shall be maintained from all streets and driveways.

d. The total area of a monument sign shall not exceed 1.5 times the permitted sign copy area of a monument sign. The total sign area includes all sign copy, graphics, and structure.

(3) *Service area canopy.* The street facing edge or face of a service area canopy is permitted up to 50 square feet of sign area in addition to all other sign areas permitted on site. Such street facing edge or face of a service area canopy may be illuminated externally, internally, or backlit, but no other part of the face of the canopy shall be illuminated.

(4) *Awnings and canopies.* No part of an awning or sun canopy shall be less than eight feet or greater than 12 feet above grade. Any sign area on the awning, if illuminated, will be deducted from the permitted sign area. The fabric or material used for the awning or canopy must be opaque and no internal illumination is permitted.

(5) *Adult use signs.* In addition to this division, all adult use oriented signs shall comply with the sign requirements in the sexually oriented business ordinance.

Table 1. Sign Standards by Sign District

Sign Type	*District 1*	*District 2*	*District 3*	*District 4*	*District 5*
Total sign area on a parcel shall be in proportion to the lot frontage on a street, described by the ratio: 1 foot of street frontage to X feet of sign area, unless otherwise noted	1:1	1:1	1:1	1:2.5	5% of building façade
Wall					
Maximum sign copy area—single sign	6 sf	20 sf	60 sf	100 sf	45 sf
Max height	Wall height	Wall height	Wall height	Wall height	Wall height
Lighting	Not permitted	E/I/B	E/I/B	E/I/B	E/I/B
Freestanding					
Type	M	M	M	M	M
Maximum sign copy area	6 sf	32 sf	60 sf	60 sf	45 sf
Max height	8 ft	8 ft	18 ft	20 ft	10 ft
Lighting	Not permitted	E/I/B	E/I/B	E/I/B	E/I/B
Graphic					
Maximum sign area	8 sf	20 sf	60 sf	60 sf	45 sf
Max Height	Wall height	Wall height	Wall height	Wall height	Wall height
Lighting	Not permitted	E/I/B	E/I/B	E/I/B	E/I/B
Window					
Maximum coverage area	Not permitted	Not permitted	35% of window area	35% of window area	35% of window area
Auxiliary					
Maximum sign copy area per sign	8 sf	8 sf	8 sf	8 sf	8 sf
Wall height	Not permitted	4 ft	6 ft	6 ft	8 ft
Freestanding height	4 ft	4 ft	6 ft	6 ft	8 ft

E = External

I = Internal

B = Backlit

M = Monument

P = Pole (single pole support only)

(Code 2003, § 78-1478; Ord. No. 2015(3rd series), § 1, 9-10-2018; Ord. No. 261(3rd series), § 5, 6-14-2021)

Sec. 6.12.7250. Changeable message sign.

(a) No more than 35 percent of the actual sign area of a permitted sign in a nonresidential district shall be capable of displaying changing messages. The remainder of the sign area shall not have the capability to change messages even if not used.

(b) Dynamic display that depicts time, temperature, or fuel prices only shall not be calculated as changeable copy for the purposes of determining the 35 percent limit.

(Code 2003, § 78-1479; Ord. No. 2015(3rd series), § 1, 9-10-2018; Ord. No. 261(3rd series), § 6, 6-14-2021)

Sec. 6.12.7260. Allocation of permanent signs on multitenant development sites.

In multitenant buildings or sites, the permitted sign area and sign types, except for freestand-

ing signs, may be installed by each individual business establishment that has exclusive use of some portion of the street or otherwise primary level of the building and direct access to the outside. Tenants located on the street or otherwise primary level in a center with a common mall or atrium shall be considered to have direct access to the outside for the purpose of this section. The management and ownership of any business establishment proposing to install signage must be separate and distinct from the management and ownership of any other establishment in the same building or on the same building lot.

(1) *Multitenant buildings and properties sign allocation.* Signage for establishments occupying a multitenant building or site but not located on the street or primary level of the building must be provided from the allocation of sign area and type to the occupants of the street or primary level of the building as determined by the property owner.

(2) *Freestanding signs on multitenant buildings and properties.* For freestanding signs, a multitenant parcel shall be considered one parcel and freestanding signs shall be permitted in accordance with section 6.12.7240, Table 1. In the case of multiple tenant sites, the permitted freestanding sign area shall be allocated by the property owner among its tenants.

(Code 2003, § 78-1480; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Sec. 6.12.7270. Temporary on-premises signs.

All temporary signs shall require an approved sign permit prior to placing the sign and shall conform to the following:

(1) *Temporary sign permit length.* Temporary signs, including portable signs, streamers, pennants, banners, inflatables, or other similar objects with a commercial message may be displayed on four occasions per calendar year with a maximum of ten days for each occasion. The four occasions may be used consecutively with one permit. Temporary sign permits are nontransferable to other properties or establishments on the same property.

(2) *Single occupant parcels.*

a. No more than one permitted temporary sign shall be permitted at any given time. The area of the temporary signage shall not exceed one-half of the permitted sign area as allowed in section 6.12.7240, Table 1 for a particular sign type in the underlying sign district.

b. Freestanding temporary signs shall only be permitted in districts where freestanding signs are permitted as allowed in section 6.12.7240, Table 1.

(3) *Multitenant parcels.*

a. Each individual business establishment that has exclusive use of some portion of the street or otherwise primary level of the building and direct access to the outside qualifies for the temporary signs permitted in subsection (1) of this section. Sign permits shall not be transferrable to other business establishments.

b. Temporary wall signage may be permitted for each individual business establishment that has exclusive use of some portion of the street or otherwise primary level of the building and direct access to the outside. The total temporary wall sign area for each tenant shall not exceed one-half of the permitted permanent wall sign area as allowed in section 6.12.7240, Table 1. Each business shall not have more than one wall or freestanding temporary sign at a time.

c. One temporary freestanding sign may be permitted for each individual business establishment that has exclusive use of some portion of the street or otherwise primary level of

the building and direct access to the outside. The total area of all temporary freestanding signage for the parcel shall not exceed one-half of the permitted area of permanent freestanding signage for the parcel as allowed in section 6.12.7240, Table 1. The total permitted temporary freestanding sign area shall be allocated by the property owner or their designee among its tenants.

(4) *Grand openings.* New businesses with grand openings are eligible for one additional temporary sign permit of any type permitted in the underlying sign district with an approved permit. The sign may be in place for up to 30 days provided all other requirements in this section are met and the required permits are obtained. This eligibility shall expire six months after the business opens.

(5) *Sale, rent, or lease space.*

a. *Lots.* Parcels for sale, rent, or lease, may obtain a temporary sign permit for one temporary freestanding sign per street frontage that does not expire until seven days after the parcel is leased or sold. A freestanding sign shall not exceed 32 square feet in size. All other provisions in this section 78-1481 shall apply.

b. *Space.* Buildings with space for sale, rent or lease may obtain a temporary sign that does not expire until the space is leased or sold, provided that the sign is not illuminated or greater than 32 square feet in size.

(6) *Residential, commercial, industrial developments.* For the purpose of selling or promoting a residential project, including its architect, engineer, developer, financer, or contractor of three or more dwelling units; a commercial area, or an industrial area, one sign not to exceed 48 feet of advertising surface may be erected upon the project site. Such sign shall not remain after 90 percent of the project is developed. One sign per street frontage may be permitted.

(7) *Temporary sign height.* A temporary sign shall not exceed the height limits listed in section 6.12.7240, Table 1, for a permanent sign of a particular sign type in a given district, including inflatable signs and balloons.

(8) *Sign installation.* A temporary sign shall be secured and well-constructed so as not to create a hazard to pedestrians or vehicles.

(9) *Illumination.* A temporary sign shall not be illuminated.

(10) *Location.* The permitted location of all temporary signs is subject to change as determined by the city administrator or their designee in order to protect the public health, safety, welfare, and aesthetics.

(Code 2003, § 78-1481; Ord. No. 2015(3rd series), § 1, 9-10-2018; Ord. No. 261(3rd series), § 7, 6-14-2021)

Sec. 6.12.7280. Sign standard adjustments.

Adjustments to the requirements and standards for the height, number, type, lighting, area, and/or location of a sign or signs established by this division may be approved with a site plan review or planned unit development process as described in article II, division 4 and article VI of this chapter. In order to approve any sign standard adjustment, the following criteria of this section shall be satisfied:

(1) There are site conditions that require a sign adjustment to allow the sign to be reasonably visible from a street immediately adjacent to the site.

(2) The sign adjustment will allow a sign of exceptional design or style that will enhance the area or that is more consistent with the architecture and design of the site.

(3) The sign adjustment will not result in a sign that is inconsistent with the purpose of the zoning district in which the property is located or the current land use.

(Code 2003, § 78-1482; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Sec. 6.12.7290. Maintenance and repair.

All signs shall be kept in good repair and free from peeling paint, rust, damaged or rotted support, framework or other material, broken or missing faces or missing letters. Any structure from which a sign has been moved or removed shall be repaired with materials and/or painted or stained to match the existing background.

(1) *Sign permit not required.* Activities not requiring a sign or building permit shall include replacing or repairing lamps, ballasts, transformers, trim, sign fasteners, nuts, or washers; painting the pole or base of freestanding signs; and painting the cabinet of freestanding signs or building signs.

(2) *Sign permit required.* For any sign that required a permit, the following activities shall not be considered normal maintenance and repair and a permit shall be required:

a. Removing the sign for the repair of the cabinet or any part thereof.

b. Changes made to a sign's size or illumination, including, but not limited to, height, width, area, adding or removing illumination.

c. Changes in poles, structural supports, bases or shrouds, footings, or anchor bolts, moving the sign to a new location, or replacement of the interior or exterior cabinet frame, except the sign face.

(3) *Building permit.* A building permit may be required for any signs involving the construction of or changes to a sign structure and/or electrical connections as determined by the building official.

(Code 2003, § 78-1483; Ord. No. 2015(3rd series), § 1, 9-10-2018; Ord. No. 261(3rd series), § 8, 6-14-2021)

Sec. 6.12.7300. Nonconforming signs.

It is the intent of this division that nonconforming signs shall not be enlarged or expanded, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this division to permit legal nonconforming signs to remain, provided that such signs are safe, maintained so as not be unsightly, and have not been abandoned or removed subject to the following provisions:

(1) *Nonconforming sign continuance.* A legal nonconforming sign may be continued through repair, replacement, restoration, maintenance, or improvement but shall not be expanded or moved to a new location.

(2) *Nonconforming sign discontinuance.* If the use of the nonconforming sign or sign structure is discontinued for a period of one year, the sign or sign structure shall not be reconstructed or used except in conformity with the provisions of this division.

(3) *Nonconforming sign damaged or destroyed.* Should a nonconforming sign or sign structure be damaged or destroyed by any means to an extent greater than 50 percent of its market value and all required permits for its reconstruction have not been applied for within 180 days of when the sign or sign structure was damaged, it shall not be reconstructed or used except in conformity with the provisions of this division.

(4) *Sign regulation conformance.* Should a nonconforming sign or sign structure be permanently moved for any reason for any distance, it shall thereafter conform to the regulations for the sign district in which it is located after it is moved.

(5) *Loss of nonconforming land use.* An existing sign devoted to a use not permitted by article IV of this chapter in the zoning district in which it is located shall not be enlarged, expanded, or moved except in changing the sign to a sign permitted in the sign district in which it is located.

(6) *Loss of nonconforming status.* When a building or use loses its nonconforming status, all signs devoted to the structure or use shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

(Code 2003, § 78-1484; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Sec. 6.12.7310. Severability.

If any section, subsection, sentence, clause or phrase of this division is for any reason held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this division. The city council hereby declares that it would have adopted this division in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

(Code 2003, § 78-1485; Ord. No. 2015(3rd series), § 1, 9-10-2018)

Division 5. Off-Street Parking and Loading

Subdivision I. In General

Sec. 6.12.7410. General provisions.

(a) *Purpose of off-street parking and loading requirements.* Regulation of off-street parking and loading spaces in this division is to alleviate or prevent congestion of the public right-of-way and so to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking, loading and unloading from motor vehicles in accordance with the utilization of various parcels of land and structures. All applications for an occupancy certificate in all districts shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of off-street parking and loading spaces in compliance with requirements of this division.

(b) *Application of parking rules in all districts.* In addition to the regulations and requirements set forth elsewhere in this chapter, the provisions of this division regarding off-street parking shall apply to the required and nonrequired off-street parking facilities in all use districts.

(c) *Parking requirements waived for buildings under construction on September 14, 1967.* Structures or uses for which a building permit has been issued prior to September 14, 1967, but for which work has not been completed shall be exempt from the parking requirements of this division if the structure is started within six months after September 16, 1967, and continues to completion.

(d) *Existing parking not to be reduced.* Off-street parking spaces and loading spaces existing on September 14, 1967, shall not be reduced in number unless the number exceeds the requirements set forth in this division for a similar new use.

(e) *Floor area.* The term "floor area" for the purpose of calculating the number of off-street parking spaces shall mean the net usable floor area of the various floors, devoted to retail sales, services, office spaces, processing and fabrication, exclusive of hallways, utility space and storage areas other than warehousing.

(f) *Seating facilities.* In stadiums, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 22 inches of such seating facility shall be counted as one seat for the purpose of determining required parking.

(g) *Size of parking spaces.* Each parking space shall be not less than nine feet wide and 20 feet long, and each space shall be served adequately by access drives. For purposes of calculating parking space requirements, one parking space for one vehicle shall equal 300 square feet of storage and maneuvering area, including access drives.

(h) *Commercial vehicle parking.* Off-street parking accessory to residential use shall be subject to the provisions of section 6.12.7820. Additionally, vehicles in excess of 14,000 pounds GVW shall be subject to the provisions of section 6.12.7820(3)b. and no trailer in excess of 10,000

pounds GVW shall be parked or stored in a residential district except when loading, unloading or rendering a service.

(i) *Location of parking.* Required off-street parking in the R districts shall be on the same lot as the principal building.
(Code 1984, § 10.61(4); Code 2003, § 78-1491; Ord. No. 4(3rd series), § 1, 11-11-2003)

Sec. 6.12.7420. Residential driveways, approaches and turnarounds.

(a) A single driveway approach may not serve more than two single residential lots from the same road. Lots defined as through lots or corner lots shall only be allowed a driveway approach to one public road. There shall never be more than driveway approaches on residential lots fronting on a local street.

(b) Driveway turnarounds are required on all driveways or driveway approaches entering onto a state highway, county road, or collector roadway as determined in the comprehensive plan. Driveway turnarounds are required on all entrances to public roads within the city where deemed necessary by the city engineer. The city engineer shall make this determination, based on traffic counts, sight distances, street grades and other relevant factors. If a driveway turnaround is required by the city engineer, such requirement shall be stated on any permit issued by him pursuant to this article.

(c) All driveway improvements must meet the driveway standards outlined in chapter 3.04, article III.
(Ord. No. 303(3rd series), § 4(78-1492), 4-8-2024)

Sec. 6.12.7430. Business driveways, approaches and turnarounds.

(a) One business driveway is allowed per development unless a greater number of driveways are approved by the city or are approved as part of the site plan review. The business driveway approach in a business or industrial district may not be wider than either the access road or 32 feet at the property line, whichever is less. The curb cut shall not exceed the width of the driveway approach at the property line by more than 20 feet, unless approved as part of a site plan.

(b) Loading docks, ramps, and vehicular entrances must be located so that accessing such facilities will not require backing onto or maneuvering within the road right-of-way. Loading docks, ramps, and vehicular entrances must be located in such a manner that driveways wider than permitted by this article will not be necessary.

(c) Driveway turnarounds shall be required on all driveways or driveway approaches entering onto a state highway, county road or a collector roadway. Driveway turnarounds shall be required on all entrances to roads within the city where deemed necessary by the city engineer, based upon traffic counts, sight distances, street grades and other relevant factors. Such requirements shall be stated on any permit issued by the city engineer pursuant to this article.

(d) All driveways must be located at least ten feet from the side property line; however, a driveway that is shared by two parcels of land is exempt from this requirement.

(e) All driveway improvements must meet the driveway standards outlined in chapter 3.04, article III.
(Ord. No. 303(3rd series), § 4(78-1493), 4-8-2024)

Sec. 6.12.7440. Regulatory signs.

An address sign is required to be placed adjacent to any driveway serving two or more lots. The address sign must be visible when viewed from the right-of-way. The address sign shall conform to setback requirements within Orono's Sign Code.
(Ord. No. 303(3rd series), § 4(78-1494), 4-8-2024)

Subdivision II. Parking

Sec. 6.12.7510. Setbacks for parking.

Required off-street parking in all districts shall meet the following setback requirements:

(1) *R districts.* Within all R districts, all vehicles must have a garage stall or open parking space on the same lot as the principal use served. Open parking spaces on lots must have a location other than a required yard, except that such parking may be located in a rear yard to within ten feet of an interior side lot line and to within five feet of a rear lot line. All vehicle parking must be on an approved hard surface.

(2) *B districts.* Within the B-2 district parking shall not be allowed in a required yard or landscaping area. Within the B-1, B-3 and B-4 districts, parking spaces and/or garages shall be located in areas other than a required yard; except that open, off-street parking spaces may be located in a rear yard to within three feet of the rear or side lot line unless the rear or side lot line is in common with an R district; in which case the setback distance shall be the same as required for the R district. All vehicle parking must be on an approved hard surface.

(3) *I Industrial districts.* All off-street parking spaces shall conform with the requirements of section 6.12.3960.

(Code 1984, § 10.61(5); Code 2003, § 78-1511; Ord. No. 32(3rd series), § 6, 3-27-2006; Ord. No. 299(3rd series), § 14, 3-11-2024)

Sec. 6.12.7520. Joint parking.

(a) Required parking facilities serving two or more uses in the B district may be located on the same lot, provided that the total number of parking spaces so furnished shall be not less than the sum total of the separate requirements for each use and provided:

(1) The proposed joint parking space is within 300 feet of the use it will serve;

(2) The applicants shall show that there is no substantial conflict in the principal operating hours of the two or more buildings or uses for which joint use of off-street parking facilities is proposed; and

(3) A properly drawn legal instrument approved by the city attorney and executed by the parties concerned for joint use of off-street parking facilities shall be filed with the city clerk. This instrument may be a three or more party agreement, including the city.

(b) Required parking facilities located within the I Industrial District shall conform with the requirements of section 6.12.3960.

(Code 1984, § 10.61(6); Code 2003, § 78-1512; Ord. No. 32(3rd series), § 7, 3-27-2006)

Sec. 6.12.7530. Control of parking facilities.

When required accessory off-street parking facilities are provided elsewhere than on the lot on which the principal use served is located, written authority for using such property for off-street parking shall be filed with the city so as to maintain the required number of off-street parking spaces during the existence of the principal use. No such parking facilities at its closest point shall be located more than 100 feet from the premises nor more than 300 feet from the principal use or building served.

(Code 1984, § 10.61(7); Code 2003, § 78-1513)

Sec. 6.12.7540. Storage prohibited.

Required off-street parking space in all districts shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for lease, rent or sale.

(Code 1984, § 10.61(8); Code 2003, § 78-1514)

Sec. 6.12.7550. Design and maintenance of parking areas.

(a) *Access.* Parking areas shall be designed so as to provide an adequate means of access to a public alley or street. This driveway access shall not exceed 30 feet in width at the public walk centerline and shall be so located as to cause the

least interference with traffic movement. All off-street parking spaces shall have access off driveways and not directly off a public street.

(b) *Fractional spaces.* When the determining of the number of required off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space.

(c) *Signs.* Signs located in any parking area necessary for orderly operation of traffic movement shall be in addition to accessory signs otherwise permitted.

(d) *Surfacing.* All of the area intended to be utilized for parking space and driveways for four or more vehicles shall be surfaced with material to control dust and drainage.

(e) *Lighting.* If lighting is provided, it shall be accomplished in such a manner as to have no direct source of light visible from the public right-of-way or adjacent land.

(f) *Curbing.* All open off-street parking areas designed to have head-in parking along any lot line shall provide a tire bumper or curb of adequate height and properly located to ensure that no part of any car will project beyond the required setbacks.
(Code 1984, § 10.61(9); Code 2003, § 78-1515)

Sec. 6.12.7560. Required off-street parking.

Except within the I Industrial District, where the principal use of the structure served is as listed, the minimum parking facilities (open or enclosed) shall be as shown. Within the I Industrial District, minimum parking facilities (open or enclosed) shall conform to section 6.12.3960.

(1) Single-family dwelling, two per dwelling unit.

(2) Multiple dwelling, two per dwelling unit.

(3) Motel, motor hotel, motor court or hotel, four, plus at least one for each guest room provided in the design of the building.

(4) School, high school through college, at least one for each seven students based on design capacity, plus one for each three classrooms.

(5) Churches, auditoriums, undertaking establishments, at least one for each four seats based on the design capacity of the main assembly hall.

(6) Theater, athletic field, at least one for each six seats of design capacity.

(7) Community center, post office, YMCA, YWCA, physical cultural studio, pool halls, libraries, private clubs, lodges, museums, ten, plus one for each 300 square feet of floor area in excess of 2,000 square feet of floor space in the principal structure.

(8) Hospital, at least one for each three hospital beds.

(9) Golf courses, country clubs, tennis clubs, public swimming pools, 20, plus one for each 300 square feet in excess of 1,000 square feet of floor space in the principal structure.

(10) Day nurseries, four, plus one for each 500 square feet in excess of 1,000 square feet of floor space in the principal structure.

(11) Office buildings and professional offices, banks, savings institutions, at least one for each 200 square feet of floor area.

(12) Drive-in establishments, at least one for each 15 square feet of floor area in the building.

(13) Bowling alley, at least six for each alley.

(14) Motor service stations, at least three, plus two additional off-street parking spaces for each service stall.

(15) Retail sales and service establishments, at least one for each 150 square feet of net floor area.

(16) Restaurants, cafes, bars, taverns, nightclubs, at least one for each 80 square feet of public floor area.

(17) Furniture store, appliance store, warehouse under 15,000 square feet of floor area, auto sales, grainhouses, ken-

nels and studios, at least one for each 500 square feet in excess of the first 500 square feet of floor area in the principal structure.

(18) Auto repair, major, bus terminals, taxi terminals, boat and marine sales and service, bottling companies, shop for trade (employing six people or less), garden supply stores, building materials sales, at least eight, plus one for each 800 square feet of floor area over 1,000 feet, including warehousing and all outside sales and storage area related to the sales and service functions.

(19) Skating rinks, ski areas, dance halls, public auction houses, and similar recreational uses, at least 15, plus one for each 300 square feet of floor area over 1,000 square feet.

(20) Manufacturing, fabrication or processing of a product or material, at least four, plus one for each 800 square feet of building. One additional off-street parking space shall be provided for each 2,500 square feet or fraction thereof of land devoted to outside storage.

(Code 1984, § 10.61(10); Code 2003, § 78-1516; Ord. No. 32(3rd series), § 8, 3-27-2006)

Subdivision III. Loading

Sec. 6.12.7610. Application of loading rules to all districts.

(a) Except for buildings and uses within the I Industrial District, the regulations and requirements regarding off-street loading and unloading shall apply to the required and non-required loading and unloading facilities in all the districts. If in the application of these requirements a fractional number is obtained, one loading space shall be provided for a fraction of one-half or more, and no loading space shall be required for a fraction of less than one-half.

(b) Loading requirements within the I Industrial District shall conform to section 6.12.3970.

(Code 1984, § 10.61(11); Code 2003, § 78-1536; Ord. No. 32(3rd series), § 9, 3-27-2006)

Sec. 6.12.7620. Location of loading berths.

All loading berths shall be 25 feet or more from the intersection of two street right-of-way lines. Loading berths shall not occupy any yard requirement bordering a street.

(Code 1984, § 10.61(12); Code 2003, § 78-1537)

Sec. 6.12.7630. Size of loading berths.

Unless otherwise specified, the first berth required shall not be less than 12 feet in width and 25 feet in length. Additional berths shall be as specified, but not less than 12 feet in width and 25 feet in length. All loading berths shall maintain a height of 14 feet or more.

(Code 1984, § 10.61(13); Code 2003, § 78-1538)

Sec. 6.12.7640. Access to loading berths.

Each loading berth shall be located with appropriate means of access to a public street or alley in a manner which will least interfere with traffic.

(Code 1984, § 10.61(14); Code 2003, § 78-1539)

Sec. 6.12.7650. Surfacing of loading berths.

All loading berths and accessways shall be improved with a durable material.

(Code 1984, § 10.61(15); Code 2003, § 78-1540)

Sec. 6.12.7660. Storage prohibited.

Any area allocated as a required loading berth or access drive, so as to comply with the terms of this division, shall not be used for the storage of goods or inoperable vehicles nor be included as a part of the area necessary to meet the off-street parking area.

(Code 1984, § 10.61(16); Code 2003, § 78-1541)

Sec. 6.12.7670. Required loading berths.

Where the principal use of the structure served is as listed, the minimum number of loading berths shall be as shown:

(1) Auditoriums, convention hall, public building, hospital, school, hotel, sports arena, at least one loading berth 25 feet in length for each building having 1,000 to 10,000 square feet of floor area. For

buildings having 10,000 to 100,000 square feet of floor area, one additional loading berth 50 feet in length.

(2) Retail sales and service stores, offices, at least one loading berth 25 feet in length for each building having 6,000 square feet of floor area or more, plus one additional loading berth 50 feet in length for buildings over 25,000 square feet up to 100,000 square feet.

(3) Manufacturing, fabrication, processing and warehousing, at least one loading berth 25 feet in length for each building having 3,000 square feet or fraction thereof, plus one loading berth 50 feet in length for each 25,000 square feet of floor area up to 100,000 square feet, plus one loading berth for each 50,000 square feet of floor area over the first 100,000 square feet of floor area. The operator of the business shall have the option to declare the length of the berths required for buildings above 100,000 square feet of floor area, except that half or more of the total number of berths required shall be 50 feet in length.

(4) For other uses, there shall be provided adequate off-street loading space in connection with all structures which require receipt or distribution of materials by vehicles.

(Code 1984, § 10.61(17); Code 2003, § 78-1542)

Division 6. Performance Standards

Sec. 6.12.7710. Standards for all districts.

The guiding of rural and suburban development so as to develop a compatible relationship of uses to achieve the purposes and guiding principles established by this chapter depends upon certain standards being maintained. Uses permitted in the various districts; conditional and accessory uses; and any use authorized by special permit, variance, the application of any credit, formula or special planning procedure, such as PRDs or PIDs or other provisions of this chapter, shall conform to the standards of this division. These standards shall apply in all districts.

(Code 1984, § 10.60(1); Code 2003, § 78-1566)

Sec. 6.12.7720. Density.

Permitted uses or application of the various provisions of this chapter or other laws, including provisions relating to conditional and accessory use, uses authorized by special permit, variance, the application of any credit, formula, or special planning procedure, whether singly or in combination, shall not result in a density greater than four dwelling units per acre of dry buildable land or air space used for construction in any zoning district.

(Code 1984, § 10.60(2); Code 2003, § 78-1567)

Sec. 6.12.7730. Noise.

Any use established shall be so operated that no noise resulting from that use is perceptible beyond the boundaries of the plat line of the site on which such use is located. This standard shall not apply to incidental traffic, parking, loading, construction or maintenance operations.

(Code 1984, § 10.60(3); Code 2003, § 78-1568)

Sec. 6.12.7740. Smoke, particulate matter.

Any use established, enlarged or remodeled after September 14, 1967, shall be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental to or shall endanger the public health, safety, comfort or general welfare of the public. For purpose of grading the density of smoke, the Ringelmann Chart published and used by the United States Bureau of Mines shall be employed. The emission of smoke shall not be of a density greater than No. 2 on the Ringelmann Chart.

(Code 1984, § 10.60(4); Code 2003, § 78-1569)

Sec. 6.12.7750. Toxic or noxious matter.

Any use established shall be so operated as not to discharge across the boundaries of the lot or through percolation into the subsoil beyond the boundaries of the lot wherein such use is located, toxic or noxious matter in such concentra-

tion as to be detrimental to or endanger the public health, safety, comfort or welfare or cause injury or damage to property or business.
(Code 1984, § 10.60(5); Code 2003, § 78-1570)

Sec. 6.12.7760. Odors, solid matter.

Any use established, enlarged or remodeled shall be so operated as to prevent the emission of odorous or solid matter of such quality and quantity as to be readily detectable at any point beyond the lot line of the site on which the use is located.
(Code 1984, § 10.60(6); Code 2003, § 78-1571)

Sec. 6.12.7770. Vibration.

Any use creating periodic earth-shaking vibrations, such as may be created from a drop forge, shall be prohibited if such vibrations are perceptible beyond the lot line of the site on which the use is located. The standard shall not apply to vibrations created during the process of construction.
(Code 1984, § 10.60(7); Code 2003, § 78-1572)

Sec. 6.12.7780. Glare or heat.

Any use requiring an operation producing an intense heat or light transmission shall be performed with the necessary shielding to prevent such heat or light from being detectable at the lot line of the site on which the use is located. Lighting in all instances shall be diffused or directed away from R districts and public streets.
(Code 1984, § 10.60(8); Code 2003, § 78-1573)

Sec. 6.12.7790. Explosives.

Any use requiring the storage, utilization or manufacturing of products which could decompose by detonation shall be located not less than 400 feet from any R district line.
(Code 1984, § 10.60(9); Code 2003, § 78-1574)

Sec. 6.12.7800. Screening.

(a) Screening shall be required in residential zones where:

(1) Any off-street parking area which contains more than four parking spaces and is within 30 feet of an adjoining residential lot line; and

(2) Where the driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential lot line.

(b) The screening required in this section shall consist of a solid fence or wall at least 50 percent open, not less than four feet nor more than five feet in height, but shall not extend within 15 feet of any street or driveway opening onto a street. The screening shall be placed along the property lines or in case of screening along a street, 15 feet from the street right-of-way with landscaping (trees, shrubs, grass and other planting) between the screening and the pavement. A louvered fence shall be considered solid if it blocks direct vision. Planting of a type approved by the planning commission may also be required in addition to or in lieu of fencing.
(Code 1984, § 10.60(10), (11); Code 2003, § 78-1575)

Sec. 6.12.7810. Maintenance.

In all districts, all structures, required landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.
(Code 1984, § 10.60(12); Code 2003, § 78-1576)

Sec. 6.12.7820. Exterior storage in R districts.

In all R districts, it is the responsibility of the owner of any property, improved or unimproved, to maintain the outdoor areas; including courtyards and the like, of the property and adjacent rights-of-way in a manner that complies with the following requirements. All recreational vehicles, mobile homes, camping trailers, motor homes, pickup coaches, travel trailers, special mobile equipment, and utility trailers shall meet the requirements of this Code. Additionally, all exterior storage must comply with subsection (6) of this section.

(1) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them

in this subsection, except where the context clearly indicates a different meaning:

Blight means a deteriorated condition, something that impairs or destroys.

Boat, for the purposes of this article, means any water craft required to be registered or licensed by the state, but excluding canoes, kayaks, paddle boards, or pedal boats.

Junk means any cast-off, damaged, discarded, junked, obsolete, salvage, scrapped, unusable, worn-out or wrecked object, thing or material composed in whole or in part of asphalt, brick, carbon, cement, plastic, or other synthetic substance, fiber, glass, metal, paper, plaster, plaster of paris, rubber, terra cotta, wool, cotton, cloth, canvas, organic matter or other substance, regardless of perceived market value or requiring reconditioning in order to be used for its original purpose.

Recreational vehicle and *mobile home* mean and include the following definitions, and shall not include any manufactured housing unit bearing a state-manufactured housing seal or certificate, for uses including, but not limited to, those listed below:

Camping trailer means a folding structure, mounted on wheels and designed for travel, recreation and vacation uses, also called a pop-up camper.

Motor home means a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

Pickup camper means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

Travel trailer means 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.

Special mobile equipment means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditch digging equipment, moving dollies, pump hoists and other well-drilling equipment, street sweeping vehicles, and other machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck-tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving equipment. The term "special mobile equipment" does not include travel trailers, dump trucks, truck-mounted transit mixers, truck-mounted feed grinders, or other motor vehicles designed for the transportation of persons or property to which machinery has been attached.

Utility trailer means any motorless vehicle, other than a boat trailer or personal watercraft trailer, designed for carrying of snowmobiles, motorcycles, all-terrain vehicles, or property on its own structure and for being drawn by a motor vehicle but shall not include boat trailers, a trailer drawn by a truck-tractor semitrailer combination, or an auxiliary axle on a motor vehicle which carries a portion of the weight of the motor vehicle to which it is attached.

(2) *Parking regulated.* Parking of recreational vehicles, motor homes and utility trailers shall be regulated as follows:

a. It is unlawful for any person to park a motor home or recreational vehicle upon public property for human habitation

b. It is unlawful for any person to park or store a utility trailer, motor home, recreational vehicle in any R district

for more than 24 hours, except in a required side or rear yard at least five feet from any property line.

c. It is unlawful to use a motor home or recreational vehicle for human habitation on any private property for more than 72 hours without a permit from the city.

(3) *Vehicle storage.* All vehicles parked or stored on any property within the city shall be operable and currently licensed. The parking of vehicles, other than recreational vehicles, in R districts is regulated as follows:

a. Parking of vehicles other than recreational vehicles, with a maximum gross vehicle weight (GVW) of 14,000 pounds or less is allowed in all R districts.

b. Parking of vehicles in R districts in excess of 14,000 pounds GVW has the potential to create negative impacts on the surrounding neighborhood. These impacts may include noise (from operation as well as maintenance of vehicle); vibration; glare; odors; soil/water contamination (from dripping, washing, etc.); hazards to pedestrians by way of proximity, especially on private roads; wear and tear on local or private roads; propensity to offload remaining cargo on site at end of day; and visual incompatibility with the character of a neighborhood. Such use may be acceptable under certain conditions in zoning districts where lot areas are generally two acres or larger. Therefore, parking of such vehicles requires each of the following conditions be met:

1. Property owner must be vehicle owner or operator.

2. Vehicle must be set back 50 feet from property lines.

3. Vehicle must not be visible from neighboring properties and public streets; vegetative screening is preferred.

4. Maintenance of said vehicle shall occur within an enclosed building.

5. The vehicle shall not constitute a nuisance at any time.

6. In a shared driveway situation, the applicant shall demonstrate that the appropriate easement exists.

7. Minimum lot size of five acres. For any property at least two acres but less than five acres in area, where it can be shown that prior to the effective date of the ordinance from which this section is derived such a vehicle was previously stored on a regular basis prior to and after January 1, 2004, a vehicle storage permit may be granted if the conditions of subsections (3)b.1 through 6 of this section are met, subject also to the following limitations:

(i) A vehicle storage permit may only be issued for properties within the RR-1B, RR-1A, and LR-1A zoning districts.

(ii) Such permit shall be granted only to the current property owner and only for the specific vehicle applied for. The current owner may replace the vehicle in kind, but shall not add other such vehicles. Any replacement vehicle must be registered with the city within 30 days to transfer its permitted status.

(iii) This permit shall not apply to subsequent

property owners, subsequent property owners shall not be considered as having a grandfathered permit by virtue of their predecessor's permit.

(iv) This permit shall automatically and permanently expire if the vehicle storage is voluntarily discontinued for a period of one year.

(4) *Storage of boats and boat trailers.* Boats, unoccupied boat trailers, and boats on trailers shall be subject to the following storage requirements when not stored for commercial purposes:

a. *Licensing, operability and restorations.* All boats stored outside on a residential property shall be currently licensed to the owner or occupant of the property. All boats stored on a property shall be in operable condition. For the purposes of this section, the term "inoperable condition" means a boat lacking parts essential to operation, including, but not limited to, motor, propeller, battery; or having the interior, including the driver's position, used for storage in such a manner that no person can operate the vehicle.

b. *Principal residence required.* No boat shall be stored on a property or on a group of contiguous commonly owned properties that does not contain a principle residence structure.

c. *Required setbacks.* Boats, including trailered boats, and unoccupied boat trailers may be stored in any yard, provided that a five feet setback is provided.

d. *Screening.* Screening is not required for outside boat storage when in conformance with this section. If boats are shrink wrapped, white is the preferred color but is not mandatory.

e. *Dispute resolution.* Complaints regarding boats stored in lakeshore yards and potentially impacting a neighbor's views of the lake will be referred to a dispute resolution committee, consisting of the planning director, the building official, and a member of the planning and zoning staff.

(5) *Prohibited parking or storage.* Outdoor parking or storage of special mobile equipment as defined in this section shall be prohibited in any R district.

(6) *Prohibited material storage.* Any violation of this section is subject to abatement upon seven days' written notice to the owner of private premises on which such material is found or any conditions in violation of this code section exist. The owner of the property will be determined as shown by the records of the office of the county recorder. The city may remove such matter or correct any conditions in violation, and certify the cost of such removals or corrections as any other special assessment. Additionally, the city may also seek injunctive relief for violation of this section. Owners of private property shall remove and keep removed from all exterior areas of all residential properties the following items:

a. *Pest harborage.* All exterior property shall be free from rodent harborage and infestation. Boxes, lumber, scrap metal, and similar materials shall not be allowed to accumulate outside a structure in a manner that attracts an infestation of pests. Materials permitted and approved for exterior storage shall be neatly stacked.

b. *Trash and debris.*

1. All household garbage, offal, dead animals, animal and human waste, and waste materials.

2. Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, plastic bags or trash.
3. Accumulations of clothing and any other items not designed for outdoor storage.

c. *Non-trash items.*

1. Accumulations of wood pallets.
2. Accumulations of vehicle parts or tires.
3. All construction and building materials unless such materials are being used at the time in the construction of a building, in which case such construction must be permitted and on a continuous, uninterrupted basis.
4. All appliances or appliance parts.
5. All indoor or upholstered furniture of a type or material which is deteriorated by exposure to outdoor elements.
6. Brush piles exceeding 15 feet in diameter and six feet in height.
7. All recycling materials except for reasonable accumulations, amounts consistent with a policy of regular removal, which are stored in a well-maintained manner according to chapters 5.12 and 5.20.
8. All other non-trash items which:
   (i) Are of a type or quantity inconsistent with normal and usual use; or
   (ii) Are of a type or quantity inconsistent with the intended use of the property; or
   (iii) Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

d. *Fertilizer and burial of waste.* No person shall leave, deposit, or cause to be placed on any private ground any garbage, sewage, waste, debris, carcass, or other substance or matter which is offensive or unhealthy by decomposition unless the same be buried at least three feet under the surface of the ground, provided that the use of manure and phosphorous free fertilizer in the normal course for agriculture or horticulture is permitted.

(Code 1984, § 10.60(13); Code 2003, § 78-1577; Ord. No. 206(2nd series), § 1, 9-10-2001; Ord. No. 4(3rd series), § 2, 11-11-2003; Ord. No. 21(3rd series), § 1, 11-8-2004; Ord. No. 29(3rd series), §§ 1—3, 10-24-2005; Ord. No. 256(3rd series), § 1, 5-10-2021; Ord. No. 303(3rd series), § 5, 4-8-2024)

Sec. 6.12.7830. Waste materials.

Waste material shall not be washed into the public storm sewer system nor the sanitary sewerage system without first having received a permit to do so from the city. If the permit is not granted, a method of disposal shall be devised which will not require continuous land requisition for permanent operation and will not cause a detrimental effect to the adjacent land. Should the waste be of solid form rather than fluid, the storage area shall be so located and fenced as to be removed from public view. In all districts, all waste material, debris, refuse, garbage, materials not currently in use for construction or otherwise regulated in this section shall be kept in an enclosed building or properly contained in a closed container for such purposes. The owner of vacant land shall be responsible for keeping such vacant land free of waste material and noxious weeds.

(Code 1984, § 10.60(14); Code 2003, § 78-1578)

Sec. 6.12.7840. Drainage.

No land shall be developed and no use shall be permitted that results in water runoff causing

flooding, or erosion on adjacent properties. Such runoff shall be properly channeled into a storm drain, watercourse, ponding area or other suitable facility.
(Code 1984, § 10.60(15); Code 2003, § 78-1579)

Sec. 6.12.7850. Traffic control.

The traffic generated by any use shall be channelized and controlled in a manner that will avoid congestion on public streets, safety hazards or excessive traffic through residential streets. Vehicles backing from a parking space shall not back into the public street. No access drive to any lot shall be located within 20 feet of any two intersecting street right-of-way lines.
(Code 1984, § 10.60(16); Code 2003, § 78-1580)

Sec. 6.12.7860. Radiation, electrical disturbance.

No activities shall be permitted that emit dangerous radio activity beyond enclosed areas. There shall be no electrical disturbance adversely affecting the operation of any point of any equipment, including, but not limited to, radio and television reception other than that of the creator of the disturbance.
(Code 1984, § 10.60(17); Code 2003, § 78-1581)

Division 7. Grading and Land Alterations

Sec. 6.12.7900. Purpose.

The purpose of this section is to promote the health, safety, and welfare of the community and to establish reasonable uniform limitations, standards, and controls for land alterations, excavating, filling and grading within the city. The regulations will allow the city to better manage stormwater discharge, ensuring drainage does not negatively impact neighboring properties, manage hauling traffic and noise, and prevent erosion issues onto adjacent properties, wetlands, lakes, and roads. It is the intent that development conform to the character of the land wherever practical, and the reconfiguration of the land necessary to support development be kept to the minimum amount necessary.
(Code 2003, § 78-1590; Ord. No. 243(3rd series), § 3, 4-13-2020)

Sec. 6.12.7910. Information required.

All information required by the city shall be submitted for review. Required information may include, but is not limited to: Grading plans, cut/fill calculations, haul route proposals, erosion control plan, and watershed district comments.

(1) Grading plans involving steep slopes, bluffs, or prepared for slope failure mitigation shall be prepared by a professional engineer licensed in the state. Grading plans shall show proper drainage and protection of adjoining properties.

(2) The city engineer shall have the authority to refer any requests for land alteration permits to the city council for review and approval in instances where the land alteration appears to create negative impacts to the infrastructure network, length of time of the project, or be inconsistent with the goals and policies of the community management plan.

(Code 2003, § 78-1591; Ord. No. 243(3rd series), § 3, 4-13-2020)

Sec. 6.12.7920. Permit required.

(a) Unless approved as part of a project in which a permit has been issued, a separate land alteration permit shall be required for the following:

Location	Activity			
	Lake yard or shore setback zone	*Activity in the shoreland overlay district, but outside the lake yard*	*All other areas, lots that are 5 acres or less*	*All other areas, lots greater than 5 acres in size*
Grading	0—10 cubic yards, or 0—1,000 sf of area	50—2,500 cubic yards, or 5,000—10,000 sf of area	50—2,500 cubic yards, or 5,000—10,000 sf of area	50—5,000 cubic yards, or 5,000—20,000 sf of area
Import/export	Between 10 cy and up to 500 cy	Between 50 and 500 cy	Between 50 and 2,500 cy	Between 50 and 5,000 cy
Stockpiling	Up to 90 days	Up to 180 days	Up to 180 days	Up to 180 days

(b) Within shoreland overlay district. All grading and filling activity as a part of approved permits for construction of structures, sewage treatment systems, and driveways shall adhere to the standards for issuance of this article.

(Code 2003, § 78-1592; Ord. No. 243(3rd series), § 3, 4-13-2020)

Sec. 6.12.7930. Standards for issuance.

(a) In addition to the rules, process, and procedures outlined with chapter 6.16, permits are issued based on the applicant's ability to meet and adhere to the following standards:

(1) Grading or filling in any Type 1, 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:

a. Sediment and pollutant trapping and retention;

b. Storage of surface runoff to prevent or reduce flood damage;

c. Fish and wildlife habitat;

d. Recreational use;

e. Shoreline or bank stabilization; and

f. Noteworthiness, including special qualities, such as historic significance, critical habitat for endangered plants and animals, or others.

This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other sections of city ordinances or by other local, state or federal agencies, including, but not limited to, watershed districts, state department of natural resources, or the United States Army Corps of Engineers.

(2) Alteration activities shall be in accordance with section 6.16.090, including, but not limited to:

a. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

b. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

c. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

d. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Natural Resources Conservation Service.

(3) Fill or excavated material must not be placed in a manner that creates an unstable slope.

(4) Plans to place fill or excavated material on steep slopes must be reviewed by the city engineer for continued slope stability and shall not create finished slopes of 30 percent or greater.

(5) Fill or excavated material shall not be placed in bluff impact zone, unless approved by the city engineer as part of a slope stabilization project.

(6) Any alterations below the ordinary high-water level of public waters must first be authorized by the commissioner of the department of natural resources under Minn. Stats. § 103G.245.

(7) Alterations of topography may only be permitted if they do not adversely affect adjacent or nearby property.

(8) Any permit involving the import or export of material, the proposed haul route shall maximize use of county and state roads and be approved by the city engineer. In addition, the city engineer shall review the proposed haul route and document the condition of the city streets prior to import/export activity. The city may require an escrow deposit to guarantee repair of city streets damaged by the hauling activity.

(b) Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, are prohibited above the ordinary high-water level. Such excavations below the elevation or the ordinary high-water level are subject to approval of the department of natural resources and other agencies with concurrent jurisdiction.

(c) Additional requirements for grading and land alterations may apply to projects within floodplain management areas under article VIII of this chapter.
(Code 2003, § 78-1593; Ord. No. 243(3rd series), § 3, 4-13-2020)

Sec. 6.12.7940. Interim use permit requirements.

Interim use permits may be required for certain grading and land alterations projects outlined in city Code article XIV, division 1 of this chapter.
(Code 2003, § 78-1594; Ord. No. 243(3rd series), § 3, 4-13-2020)

ARTICLE XI. WETLANDS PROTECTION

Division 1. Generally

Sec. 6.12.8010. Purpose and intent.

(a) The purpose of this section is to recognize, preserve and protect the environmental, aesthetic and hydrologic functions of the city's wetlands by regulating the use of wetlands and their adjacent properties in conjunction with the goals of the environmental protection plan within the community management plan. These functions include, but are not limited to, sediment control, pollution control, filtration, fish and wildlife habitat and aquifer recharge. The surface water management plan will provide guidance for stormwater treatment requirements and wetland restoration opportunities in order to protect the integrity of wetlands.

(b) The intent of this section is to protect wetlands to the maximum extent possible while allowing a reasonable use of the property. This section adopts the regulations and standards of the Wetland Conservation Act of 1991 (WCA), Laws of Minnesota 1991, chapter 354, as amended, and the rules adopted pursuant to the WCA. It also establishes a wetland overlay district. This overlay district further regulates the underlying land use as allowed by other districts or the WCA.
(Code 2003, § 78-1601; Ord. No. 28(3rd series), § 1, 8-22-2005; Ord. No. 94(3rd series), § 8, 9-24-2012; Ord. No. 103(3rd series), § 1, 5-28-2013)

Division 2. Designation of Protected Wetlands

Sec. 6.12.8110. Wetland types.

The wetlands protected and regulated by this section are Types 1, 2, 3, 4, 5, 6, 7, and 8

wetlands, as defined in circular 39, Wetlands of the United States, 1971 edition, United States Department of the Interior, unless the wetland is within a shoreland district in which case the more restrictive rules regarding setbacks would apply. Protected wetlands are further defined as follows:

(1) Type 1—Seasonally flooded basins or floodplains: Type 1 wetlands are seasonally flooded basins or flats in which soil is covered with water or is waterlogged during variable seasonal periods but usually is well-drained during much of the growing season. Type 1 wetlands are located in depressions and in overflow bottom lands along water courses. Vegetation varies greatly according to the season and duration of the flooding, and includes bottom land hardwoods, as well as herbaceous plants.

(2) Type 2—Inland fresh meadow: Occurs along the shallow edges of lakes, marshes and floodplains, or in perched depressions. The soil is usually without standing water during much of the growing season, but is waterlogged within at least a few inches of the surface. Vegetation includes grasses, sedges, rushes and various herbaceous plants.

(3) Type 3—Inland shallow fresh marsh: Soil is usually water logged during the growing season, often covered with as much as six inches or more of water. Vegetation includes grasses, bulrushes, cattails, arrowheads, smartweeds and other emergent aquatic vegetation.

(4) Type 4—Inland deep fresh marsh: Soil covered with six inches to three feet or more of water during growing season. Vegetation includes cattails, reeds, bulrushes and wild rice. Open water areas may contain pondweeds, naiads, coontail, watermilfoils and other submergent aquatic vegetation.

(5) Type 5—Inland open fresh water: Water is usually less than ten feet deep and is fringed by a border of emergent vegetation. Vegetation includes pondweeds, naiads, coontail, watermilfoils and other submergent aquatic vegetation.

(6) Type 6—Shrub swamp: Occurs along sluggish streams or on floodplains. The soil is usually waterlogged during the growing season, and is often covered with as much as six inches of water. Vegetation includes alder, willow and dogwood.

(7) Type 7—Wooded swamp: Occurs along sluggish streams, on floodplains, on flat perched depressions and in shallow lake basins. The soil is waterlogged to within a few inches of its surface during the growing season and is often covered with as much as one foot of water. Vegetation typical to this wetland includes tamarack, white cedar, black spruce, balsam fir, red maple and black ash.

(8) Type 8—Bog: Occurs along sluggish streams, on flat perched depressions and shallow lake basins. The soil is waterlogged and supports a spongy covering of mosses. Vegetation typical to this wetland type includes sphagnum moss, heath shrubs and sedges. State bogs contain leatherleaf, Labrador tea, cranberries and pitcher plants. Scattered stunted black spruce and tamarack also are common features of bogs.

(Code 2003, § 78-1602; Ord. No. 28(3rd series), § 1, 8-22-2005)

Sec. 6.12.8120. Boundaries of the wetland overlay districts and designation of official city wetland map.

This section establishes wetland overlay districts. These districts are subject to additional requirements beyond those required by the WCA. The boundaries of the wetland overlay districts are identified graphically on the official city wetland map (CWM) which is hereby adopted by reference, a copy of which shall be kept on file in the office of the city clerk and shall be available for public review during all normal office hours. Wetlands in addition to those shown on the city wetland map may exist, and may be identified by

wetland delineations under WCA rules. If a specific wetland delineation has been done under WCA rules, then the boundaries of the wetland overlay district for that location will be as shown in the delineation. The city may require wetland delineations to determine compliance with WCA rules and to determine administrative wetland boundaries; however, property owners may have wetland delineations done for their properties on their own initiative. The delineation must be done by a qualified professional according to WCA rules and be acceptable to the city administrator, who may require review by city consultants or a technical evaluation panel if necessary. Approved WCA wetland delineations must be provided to the city in a hard copy format and a CAD or GIS format in county coordinates. The city administrator will have the approved WCA wetland delineations shown on the official city wetland map. Public waters are not included in the overlay district, unless a wetland is part of a public water.
(Code 2003, § 78-1603; Ord. No. 28(3rd series), § 1, 8-22-2005; Ord. No. 196(3rd series), § 1, 5-22-2017)

Sec. 6.12.8130. Interpretation of wetlands boundaries.

Whenever a wetland boundary is disputed or uncertain, the city administrator may require the submission of a registered survey of the property and field staking showing the city-designated wetland contour or a delineation of the wetland, and such other information as the director may require in order to resolve the dispute or uncertainty. The city administrator may require review by city consultants or a technical evaluation panel if necessary. No boundary change may be authorized on the basis of fill that was placed on the site after the city designated the area as part of the wetland overlay district. Persons aggrieved by a decision of the city administrator may appeal such decision in accordance with the provisions of section 6.12.440 and the WCA rules.

(1) *Delineation types.*

a. A Tier 1 boundary determination is a review of known information to determine an understood boundary, and may be used when the proposed project is located on a lot where a wetland is believed to exist, but the project is not likely to impact the wetland due to project scope, distance, and/or topography. Known information may include aerial photography, third-party studies, and/or site visits. A Tier 1 boundary determination is not a delineation.

b. A Tier 2 delineation is a delineation is conducted by a certified wetland delineator and verified by the local government unit. Tier 2 delineation information shall be provided on a certified certificate of survey.

(2) *Delineation required.* The type of delineation shall be determined by the city administrator or their designee.

a. Tier 1 boundary determinations may be required for accessory structures, accessory buildings, and other projects primarily outside the wetland or wetland buffer area.

b. Tier 2 delineations shall be required for projects that include a new residential principal structure, a project that impacts the wetland, a subdivision, or a project that otherwise is regulated by the waterbody crossings and structures rule or stormwater management rule of the Minnehaha Creek Watershed District, unless waived by the watershed district. A Tier 2 delineation may also be required for a project proposed at or within five feet of the buffer/setback line.

c. A Tier 1 boundary determination may be substituted for the Tier 2 delineation when the applicant can demonstrate the wetland boundary location to the satisfaction of the city and the watershed district, due to topography, distance of the project to the wetland, site specific features, and known information.

(Code 2003, § 78-1604; Ord. No. 28(3rd series), § 1, 8-22-2005; Ord. No. 196(3rd series), § 2, 5-22-2017)

Division 3. Buffer Areas

Sec. 6.12.8210. Wetland buffer areas and setbacks.

(a) This section establishes authority for wetland buffer areas around protected wetlands. Buffer areas are necessary and beneficial to maintain the health of wetlands. Buffer areas protect the edge of wetlands from erosion while filtering sediment, chemicals and other nutrients from runoff that drains into wetlands. Buffer areas can improve the biological diversity and health of a wetland environment while reducing the adverse impacts of human activities.

(b) All wetlands within the city are within the Minnehaha Creek Watershed District (MCWD), which has rules and regulations for the establishment and maintenance of wetland buffers. In an effort to avoid overlapping or conflicting regulations, the city defers jurisdiction for the establishment and maintenance of wetland buffers to the Minnehaha Creek Watershed District. If application of MCWD buffer regulations is in conflict with city regulations, the watershed district requirements shall apply.

(c) Setbacks. Where the MCWD has established or requires a wetland buffer, the wetland buffer rules shall apply.

(1) Where the MCWD does not require a buffer, a 25-foot setback shall be required between the edge of all wetlands from any building (principal or accessory) or other structure, septic systems, or wells. The wetland edge shall be determined as required in section 6.12.8130.

(2) Setback revegetation. Areas within the required setback area subject to filling, grading or excavation as part of a construction project shall be revegetated immediately upon completion of such earthwork.

(d) The city has established wetland protection strategies in the city's surface water management plan (SWMP) (January 2011). The protection classification for each wetland will be found on the Wetland Management Classification Map and List, which is hereby adopted by reference, a copy of which shall be kept on file in the office of the city clerk and shall be available for public review during all normal office hours. The Minnehaha Creek Watershed District required buffer area widths are based on the four protection classifications.

(Code 2003, § 78-1605; Ord. No. 28(3rd series), § 1, 8-22-2005; Ord. No. 103(3rd series), § 2, 5-28-2013; Ord. No. 196(3rd series), § 3, 5-22-2017; Ord. No. 205(3rd series), § 1, 4-9-2018)

Division 4. Uses

Sec. 6.12.8310. Permitted uses.

Within the wetland overlay districts no land may be used except for one or more of the following uses:

(1) Native wetland vegetation, provided that no change is made to the ground elevation;

(2) Wildlife and nature preserves;

(3) Overhead utility lines and poles that are less than two feet in diameter;

(4) Docks which provide reasonable access to the lakeshore and do not exceed eight feet in width;

(5) Public and private flood control structures, ponding and drainage facilities and associated accessory appurtenances as approved by the city; or

(6) Environmental monitoring or control facilities, including those related to water quality and wildlife regulation.

(Code 2003, § 78-1606; Ord. No. 28(3rd series), § 1, 8-22-2005; Ord. No. 103(3rd series), § 3, 5-28-2013)

Sec. 6.12.8320. Conditional uses.

(a) Within the wetland overlay districts no land may be used for the following except by conditional use permit and except in conformance with the standards specified in section 6.12.8410:

(1) Private and public recreational uses, including golf courses, impervious trails, picnic grounds and boat ramps;

(2) Public utilities, including necessary structures;

(3) Other non-structural facilities similar to those permitted by this section which also meet the intent of this section, as determined by the city; or

(4) Public structures associated with recreational uses permitted by this section or by section 6.12.8310 that are designed in an environmentally sensitive manner and will withstand periodic flooding, except for structures designed or used for habitation or the storage of equipment;

(5) Unpaved hiking, skiing and horseback riding trails which comply with WCA standards.

(b) No conditional use permit will be granted unless its approval will not adversely impact wetlands, wetland buffer areas where they exist or are required, and surrounding properties, the intent of this article or the goals and policies of the community management plan. If applicable, granting of a conditional use permit will be conditioned upon approval of the request by all other appropriate regulatory governmental agencies, including, but not limited to, the Minnehaha Creek Watershed District (MCWD), the Lake Minnetonka Conservation District (LMCD), or the state department of natural resources. (Code 2003, § 78-1607; Ord. No. 28(3rd series), § 1, 8-22-2005; Ord. No. 103(3rd series), § 4, 5-28-2013)

Division 5. Standards for the Wetland Overlay District, Buffer Areas and Neighboring Lands

Sec. 6.12.8410. Standards.

The following standards apply to all land within the wetland overlay districts, existing and MCWD-required wetland buffer areas, and to neighboring lands:

(1) *Protection of wetlands.*

a. Except as modified or regulated by the standards of this subsection, all requirements of the underlying zoning district apply.

b. No structures are allowed in the wetland overlay districts except those allowed as of right or by conditional use permit by division 4 of this article.

c. Activities including, but not limited to, building (other than a boardwalk or dock), paving, mowing, vegetation removal, filling, dumping, yard waste disposal or fertilizer application are prohibited. Invasive non-native vegetation, such as European buckthorn and noxious weeds, may be removed by obtaining a vegetation removal permit from the city.

d. Before grading or construction near a wetland, the owner or contractor must place erosion control fencing on the upland side of the perimeter of the wetland, or as required by the city. This fencing must remain in place until all development activities that may affect the wetland have been finished and adequate vegetative cover has been established at which time the fencing must be removed.

e. All structures must have a minimum basement floor elevation not less than one foot above the 100-year flood elevation.

f. All hard-surface runoff must be treated in accordance with the requirements of the city and the appropriate watershed district. Treatment may include site retention, skimmers, weirs or sedimentation ponds of appropriate scale. Structures and ponds serving this purpose must be properly maintained and serviced by the property owner.

g. Discharge into the wetlands must occur at a rate no greater than allowed by the city engineer in accordance with the city's surface water management plan and the appropriate MCWD requirements.

(2) *Protection of wetland buffer areas.* Existing and MCWD-required wetland buffers shall be maintained and protected per the requirements of existing covenants as well as MCWD regulations as administered by MCWD.

(3) *Nonconformities.*

a. *Effect of wetland boundary expansion.* An existing structure, driveway or parking area meeting the required setback from a city-designated wetland boundary or existing established buffer area is considered a legal nonconforming development if a later wetland delineation or implementation of a wetland buffer shows that the wetland or its buffer is closer than the required setback.

b. *Existing nonconformities.* An existing structure, driveway or parking area that does not meet the required setback from a city-designated wetland boundary or buffer area, is considered a legal nonconforming development.

(Code 2003, § 78-1608; Ord. No. 28(3rd series), § 1, 8-22-2005; Ord. No. 103(3rd series), § 5, 5-28-2013; Ord. No. 196(3rd series), § 4, 5-22-2017)

Sec. 6.12.8420. Removal of lands from the wetlands overlay district.

(a) Removal of wetlands from a wetland overlay district (i.e. by filling, etc.) requires a zoning amendment and an amendment of the official city wetland map. The amendments must be made pursuant to the provisions of section 6.12.230 and WCA replacement rules. These amendments must be consistent with the purpose of this article, the city's surface water management plan and the goals and policies of the community management plan. In determining the appropriateness of a rezoning request, the city council will consider the size of the wetland overlay district, the magnitude of the area proposed for removal, hydrological and ecological effects and the type and function of wetlands involved in order to provide the maximum feasible protection.

(b) Wetlands within an overlay district may only be removed according to WCA rules and if at least an equal area of wetland replacement is created to compensate for the wetland being filled. Unless otherwise approved by the city council, compensatory wetland area must be provided within the city and within the same subwatershed (Painter's Creek, Long Lake Creek, Classen Creek, Lake Minnetonka) as the wetland being altered, if available.

(c) In addition to application requirements, the city may require submission and approval of the following information:

(1) A copy of the wetland replacement plan application submitted to the MCWD;

(2) A concept plan showing the ultimate use of the property;

(3) A grading plan, in hard copy format and a CAD or GIS format in the county coordinates, with appropriate drainage calculations and erosion controls prepared by a registered engineer;

(4) A landscaping or revegetation plan;

(5) Such other information as may be necessary or convenient to evaluate the proposed permit; and

(6) A MnRAM assessment approved by the MCWD.

(Code 2003, § 78-1609; Ord. No. 28(3rd series), § 1, 8-22-2005)

Sec. 6.12.8430. Alteration of wetlands.

(a) No alteration of land within a wetland overlay district or an existing established wetland buffer is allowed without a wetlands alteration permit, subject to recommendation by the planning commission and approval of the city council. The planning commission must hold a public hearing per section 6.12.280. Activities that constitute an alteration regulated by this section include changes to the size, depth or contour of the wetlands or its existing established buffer, dredging, or alterations of wetlands or buffer

vegetation. Alterations do not include wetland planting or the selective clearing or pruning of trees or vegetation that are dead, diseased, noxious weeds or similar hazards. A wetland alteration permit is not required when a wetland district is rezoned to another zoning classification.

(b) Alteration of land within a wetland overlay district will only be allowed if water storage is provided in an amount compensatory to that removed. Unless otherwise approved by the city council, compensatory wetland area must be provided within the same subwatershed district as the wetland being altered. In determining the appropriateness of an alteration request, the city council will consider the size of the total wetland district, the magnitude of the area proposed for alteration, the aesthetic, hydrological and ecological effect, the type and function of wetlands involved, and such other factors as may be appropriate in order to provide the maximum feasible protection to the wetlands. Application for a wetlands alteration permit must be accompanied by such information as required by the city, including:

(1) A copy of the wetland replacement plan application submitted to the MCWD;

(2) A concept plan showing the ultimate use of the property;

(3) A grading plan, in hard copy format and a CAD or GIS format in the county coordinates, with appropriate drainage calculations and erosion controls prepared by a registered engineer;

(4) A landscaping or revegetation plan;

(5) Such other information as may be necessary or convenient to evaluate the proposed permit; and

(6) A MnRAM assessment approved by the MCWD.

(Code 2003, § 78-1610; Ord. No. 28(3rd series), § 1, 8-22-2005; Ord. No. 103(3rd series), § 6, 5-28-2013; Ord. No. 210(3rd series), § 16, 6-25-2018)

Sec. 6.12.8440. Public control of wetlands.

(a) The city council may require that the owner of any property affected by this article must establish wetland easements or restrictive covenants to be recorded within the property's chain of title. These easements or covenants must describe the boundaries of the wetland; and prohibit any building, paving, mowing, cutting, filling, dumping, yard waste disposal or fertilizer application within the wetland. The owner or developer must record these easements or covenants with the final plat, with deeds from a lot division or, if no subdivision is involved, before the city issues a grading permit or building permit for an affected property. The applicant must submit evidence that the easement or covenant has been submitted to the county for recording.

(b) If the city council does not require an easement or covenant, the city may record a notice of the wetland requirements against the property. The property owner must still comply with the requirements of this section.

(Code 2003, § 78-1611; Ord. No. 28(3rd series), § 1, 8-22-2005; Ord. No. 103(3rd series), § 7, 5-28-2013)

Sec. 6.12.8450. Violations.

Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

(Code 2003, § 78-1613; Ord. No. 28(3rd series), § 1, 8-22-2005)

Sec. 6.12.8460. Authority/enforcement actions.

Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include, but are not limited to:

(1) In responding to a suspected article violation, the city administrator and the city may utilize the full array of enforcement actions available to it, including, but not

limited to, prosecution and fines, injunctions, after-the-fact permits, and/or orders for corrective measures to the guilty party.

(2) When an article violation is either discovered by or brought to the attention of the city administrator, the city administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the MCWD along with the community's plan of action to correct the violation to the degree possible.

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

a. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

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

(4) If the responsible party does not appropriately respond to the city administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this article and shall be prosecuted accordingly. The city administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this article.

(Code 2003, § 78-1614; Ord. No. 28(3rd series), § 1, 8-22-2005; Ord. No. 196(3rd series), § 5, 5-22-2017)

ARTICLE XII. CONSERVATION DESIGN

Division 1. Generally

Sec. 6.12.8510. Purpose and intent.

The city, as a result of the rural oasis study conducted in 2005, finds that there is an intrinsic link between the natural systems and the valued scenic character that exist throughout the community. The requirements of this conservation design ordinance are meant to preserve and enhance this ecological/aesthetic character by requiring:

(1) Protection and enhancement of drainageways and water quality;

(2) Protection and enhancement of ecological communities;

(3) Reinforcement and establishment of ecological connections throughout the city;

(4) Augmentation and preservation of viewsheds including corridor enclosure and buffering;

(5) Preservation and improvement of views; and

(6) Preservation or reinterpretation of local landmarks.

(Code 2003, § 78-1631; Ord. No. 67(3rd series), § 1, 1-11-2010)

Sec. 6.12.8520. Applicability.

The conservation design master planning requirements of this article apply to all proposed residential subdivisions or multiunit residential developments greater than five acres in total area or guided for urban density (greater than one unit per two acres).

(Code 2003, § 78-1632; Ord. No. 67(3rd series), § 1, 1-11-2010)

Sec. 6.12.8530. Definitions.

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

City natural resource inventory means an element of the city's community management plan that displays the ecological connections within and beyond the city.

Conservation design means a two-phased approach to design and development that maintains or improves ecological assets, provides infrastructure that works with the land, and incorporates people's instinctive desire to experience nature. Some conservation design strategies include: identifying and avoiding sensitive natural features, planning roads along contours, allowing lots to border natural open space, integrating ecological stormwater management, using smaller lots, and educating developer and buyers about the ecological values of the landscape. The first phase entails an inventory and analysis of the potential development site's natural features, existing land uses, and wetland delineation. The second phase entails analyzing the design implications of the findings from the initial phase, alternative stormwater design, and a conceptual design for road and lot layouts.

Corridor enclosure means the nature, appearance and relative degrees of screening provided by roadside vegetation. Corridor enclosure types include:

Edged enclosure means a solid wall of vegetation along roadside, views focused along corridor.

Open enclosure means long views beyond the right-of-way, no real sense of corridor enclosure.

Tunneled enclosure means vegetation begins to completely enclose roadway, above and sides, creating a small scale roadway experience.

Varied enclosure means the enclosure changes rapidly along corridor, short stretches of open, edged, and tunneled corridor.

Ecological management categories.

Level 1 means ecological "off-limits" areas, including wetlands and required buffers, historic drainage.

Level 2 means ecological opportunities, including existing degraded drainageways and existing degraded ecosystem remnants.

Level 3 means ecological possibilities, areas suitable for stormwater treatment.

Note: These Ecological Management Categories are not intended to directly correlate with MLCCS M-34X Natural Community Quality Modifiers.

Landmark preservation and enhancement means preserving and maintaining distinct cultural features, landmarks and unique points of local character, both natural and man-made, to maintain a familiar sense of place in the community.

Minnesota Land Cover Classification System (MLCCS). The Minnesota Land Cover Classification System (MLCCS) displays data on natural/semi-natural and cultural cover types at the highest level of classification. The next four levels of classification each reveal further specifications such as plant types, soil hydrology, hardcover and plant species. Using MLCCS data is the first step in producing a natural resource inventory of a development site.

Significant tree stand means a grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying 500 or more square feet of property, which are comprised of deciduous trees six inches or larger in diameter (dbh) or coniferous trees 12 feet or more in height. Additionally, those forest or woodland remnants identified as high, moderate or good quality in the city's natural resources inventory shall be considered as significant tree stands.

View analysis means the process of determining whether a view is positive or negative.

Negative views means views of structures, particularly multifamily residential, institutional, and commercial and industrial uses. Views of power lines, telephone poles and other utility infrastructure.

Positive views means views of natural areas, water bodies, established parks, wetlands, rural and historic land uses.

(Code 2003, § 78-1633; Ord. No. 67(3rd series), § 1, 1-11-2010; Ord. No. 94(3rd series), § 9, 9-24-2012)

Division 2. Basic Application and Plan Requirements

Sec. 6.12.8610. Application requirements and procedures.

The developer shall follow the steps outlined below as part of the development review process:

(1) Review and respond to the goals and policies for environmental protection and natural resource management as established in the city's community management plan and the recommendations contained within the city's natural resources inventory. The intent is to establish the property's ecological connections both within the city and as part of the regional ecological system.

(2) If the property exists adjacent to a documented corridor in the rural oasis study, review and respond to the existing aesthetic and ecological analysis.

(3) If the property is not adjacent to a documented corridor in the rural oasis study, developer shall have a qualified consultant prepare a similar analysis and submit it to the city for review. This analysis shall include the documentation of views, corridor enclosure, and landmarks through a plan analysis and photographs. Developer shall be charged a standard fee established in the city fee schedule to cover the expenses of the city in hiring a consultant to review the ecological site analysis submitted by the developer.

(4) Additionally, submit a natural resources inventory of the site, including all of the following elements:

a. Review of the MLCCS data pertinent to the site.

b. Tree survey, including all significant individual trees greater than six feet diameter, and stands of trees, identifying tree species and size.

c. Wetland inventory, including delineation reports.

d. Topographic survey indicating existing drainage patterns.

e. Analysis of the site based on the findings and recommendations of the city's natural resources inventory with regards to:

1. Conceptual greenways and open space corridors;

2. Existence of rare plant communities;

3. Potential need for proactive management and protection.

(Code 2003, § 78-1634; Ord. No. 67(3rd series), § 1, 1-11-2010)

Sec. 6.12.8620. Basic conservation design master plan requirements and evaluation criteria.

(a) The developer shall prepare a conservation design master plan for development of the property, consisting of written and visual documentation including maps in an acceptable electronic format, addressing the following topics:

(1) Consideration of the existing drainage system;

(2) Establishment of a stormwater management system, using multicell treatment principles, and defining proposed methods of stormwater phosphorus reduction;

(3) Removal of invasive species and diseased trees;

(4) Protection of significant tree stands and woodlands that support scenic and/or ecological goals, including mitigation of any such stands to be impacted by development activities;

(5) Protection of existing wetlands, including augmentation of buffers, mitigation of impacts, and enhancement of degraded systems;

(6) Justification and mitigation of any negative impact to ecological communities. The term "negative impact" includes any modification to a lower level of ecological community quality, as described by the Minnesota Land Cover Classification System (M-34X modifiers);

(7) Maintenance of ecological connections through site design, as shown on the city's natural resource inventory;

(8) Maintenance and protection of existing positive views, and mitigation of any existing or proposed negative views using appropriate measures such as site layout, screening, building design and coloration, etc.; and

(9) Preservation or reinterpretation of existing landmarks.

(b) The planning commission and city council shall evaluate the conservation design master plan to determine whether the proposed development:

(1) Preserves existing drainage patterns and enhances stormwater collection and conveyance by applying an ecologically-based multicell stormwater management system that improves ecosystems by reducing reliance on manmade infrastructure, reducing downstream runoff of contaminants, and enhancing ecological connections;

(2) Includes a program for the removal of invasive species and diseased trees; protects significant tree stands and woodlands that support scenic and/or ecological goals; and includes mitigation of any such stands that will be impacted by development activities;

(3) Protects existing wetlands by implementing new buffers or augmenting existing buffers; mitigates identified wetland impacts; and enhances degraded wetland systems;

(4) Results in no negative impact to ecological communities of Ecological Management Categories 1 and 2; results in no negative modification of any ecological communities as described by the Minnesota Land Cover Classification System; and establishes, maintains and improves native ecological communities including natural and semi-natural areas to provide wildlife habitat and support natural ecological functions (i.e. drainage, filtering, buffering, etc.);

(5) Establishes or maintains ecological connections through site design, as shown on the city's natural resource inventory that will enhance stormwater collection and conveyance, promote ecological and wildlife corridors, and provide recreational opportunities for residents;

(6) Preserves and where appropriate augments or improves roadway corridor enclosure to promote community aesthetics associated with the city's rural character; preserves open rural views and other aesthetic elements of the landscape; and mitigates the negative visual impacts of development;

(7) Preserves, maintains, or reinterprets existing landmarks and unique points of local character, and preserves distinct cultural features that will maintain a familiar sense of place in the community.

(Code 2003, § 78-1635; Ord. No. 67(3rd series), § 1, 1-11-2010)

Division 3. Density Bonus Standards

Sec. 6.12.8710. Density bonuses for urban density development.

For residential development in the city's defined urban area (zoning districts allowing densities in excess of one unit per two acres, and including properties identified in the city's community management plan for conversion to urban density) within the ranges of the guided density a density bonus may be allowed if the city council finds that the performance bonus requirements of this division have been met. The city council shall determine the extent of density bonus awarded for such properties. Example: Properties guided in the community management plan for a density range of two to four units per acre have a base

density of two units per acre; while the high end of the density range is not guaranteed, the city council at its discretion may allow development at a final density of up to four units per acre through the performance bonus process.
(Code 2003, § 78-1636; Ord. No. 67(3rd series), § 1, 1-11-2010)

Sec. 6.12.8720. Performance bonus requirements.

Within the urban density area, developers have the opportunity to increase the base density by going above and beyond the basic conservation design master plan requirement. By implementing a combination of development enhancements that not only preserve but improve the natural characteristics of the property or preserve and enhance existing landmarks, the developer shall become eligible for a density bonus. The extent of such density bonus shall be determined by the city council. Development enhancements include, but are not necessarily limited to, the following:

(1) Reforestation beyond existing woodland limits;

(2) Water quality improvements;

(3) Improvements in ecological grade of existing communities;

(4) Upgrading of edge buffering to maximum, or tunneled, character; and

(5) Major preservation or enhancement of existing landmarks.

(Code 2003, § 78-1637; Ord. No. 67(3rd series), § 1, 1-11-2010)

Division 4. Long-Term Preservation

Sec. 6.12.8810. Preservation requirements.

The developer shall establish and implement measures that will ensure the preservation and maintenance of those elements of the development that are determined to require long-term or permanent protection from development or misuse. Such measures may include, but are not limited to, conservation easements, deed restrictions, private covenants, transfer of ownership to agencies such as the Minnesota Land Trust or the Nature Conservancy, or to the city via dedication, etc.
(Code 2003, § 78-1638; Ord. No. 67(3rd series), § 1, 1-11-2010)

Sec. 6.12.8820. Buyer education.

The developer shall establish covenants documenting the elements of the development to be protected and how they are to be protected, and shall establish a defined program for education of the initial purchasers of lots within the development as to the limitations that affect future use of the property.
(Code 2003, § 78-1639; Ord. No. 67(3rd series), § 1, 1-11-2010)

Division 5. Resources

Sec. 6.12.8910. Facilitating conservation design.

The primary references for facilitating the conservation design process include the following:

(1) Orono Rural Oasis Study (DSU, 2005).

(2) 2008—2030 City of Orono Community Management Plan, Chapter 3A—Environmental Protection Plan (City of Orono, 2009).

(3) Orono Natural Resources Inventory (Hennepin County Department of Environmental Services/Bonestroo Natural Resources Group, 2006).

(4) Minnesota Land Cover Classification System (MLCCS).

(Code 2003, § 78-1640; Ord. No. 67(3rd series), § 1, 1-11-2010)

ARTICLE XIII. STORMWATER QUALITY OVERLAY DISTRICT

Division 1. Generally

Sec. 6.12.9010. Purpose.

The city recognizes through its comprehensive plan that managing stormwater runoff is essential

for protection of the water quality of Lake Minnetonka, for preservation of the natural wildlife habitat within marshlands, and for protection against flooding and flood damage. Accordingly, the city has established this stormwater quality overlay district to organize regulations deemed necessary to ensure high quality stormwater runoff throughout the city.
(Code 2003, § 78-1670; Ord. No. 94(3rd series), § 11, 9-24-2012)

Sec. 6.12.9020. Adoption of the stormwater quality overlay district map.

The map entitled City of Orono Stormwater Quality Overlay District Map, dated September 24, 2012, hereinafter referred to as the "stormwater overlay district map," and all explanatory matters thereon, are hereby adopted and made a part of this article.
(Code 2003, § 78-1671; Ord. No. 94(3rd series), § 11, 9-24-2012)

Sec. 6.12.9030. District application.

(a) The provisions of this article shall apply to all parcels within the jurisdiction of the city that are shown to be within one of the stormwater quality protection zones depicted on the stormwater overlay district map.

(b) All parcels within the stormwater quality overlay district shall adhere to both the general requirements for all overlay district parcels listed in division 2 of this article as well as the specific requirements in division 3 of this article for the stormwater quality protection zone to which the parcel is assigned.
(Code 2003, § 78-1672; Ord. No. 94(3rd series), § 11, 9-24-2012)

Division 2. General Regulations for All Parcels Within the Stormwater Quality Overlay District

Sec. 6.12.9110. Hardcover restriction zones.

Within 75 feet of the ordinary high-water level (OHWL) of any lake or tributary, and within any bluff or shore impact zone, no hardcover shall be placed, located or constructed, except for driveways, stairways, lifts, landings and lockboxes as regulated by the shoreland overlay district.
(Code 2003, § 78-1680; Ord. No. 94(3rd series), § 11, 9-24-2012)

Sec. 6.12.9120. Driveways generally.

(a) All driveways shall comply with the following minimum dimensional standards:

(1) Driveways serving end loading garages shall maintain a width equivalent to the width of all overhead doors extending 15 feet out from the garage doors.

(2) Driveways serving side loading garages shall provide a minimum turn around or back up depth of 20 feet, as measured from the garage door.

(3) Minimum driveway taper ratio shall be 2:1.

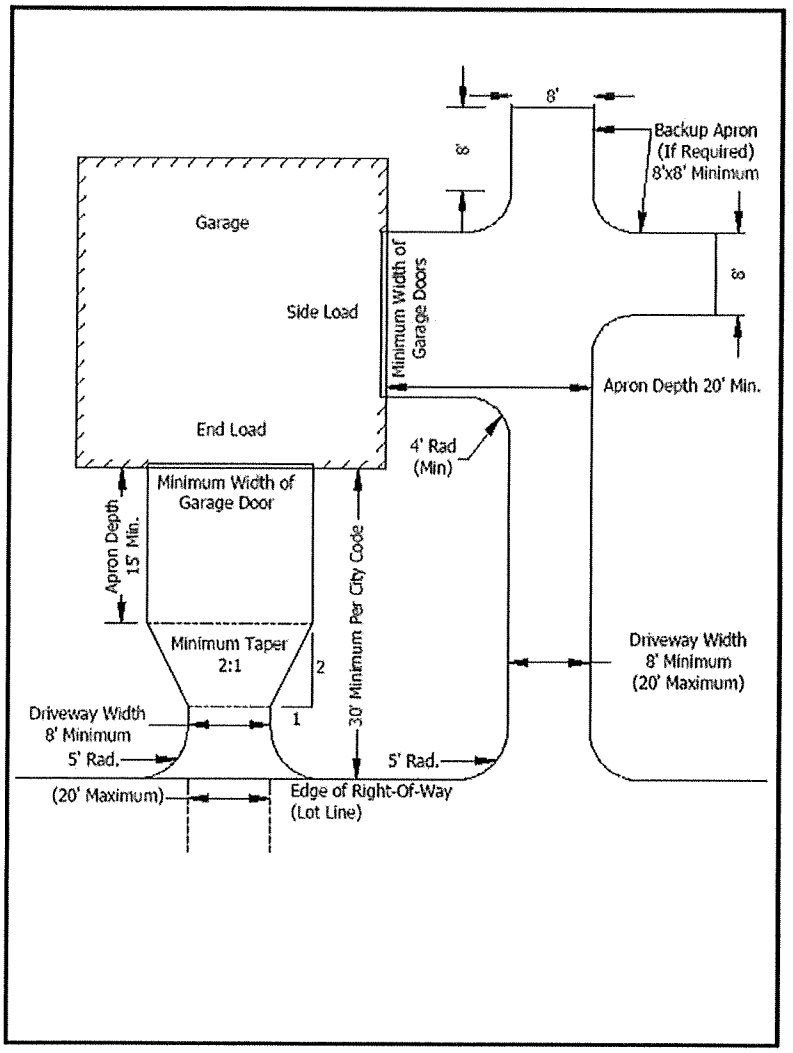
(4) Driveways shall be at least eight feet in width at the street or private road.

(5) A turnaround shall be provided for a driveway with direct access to an arterial or collector roadway, or for a side load garage as determined necessary by the city planner. The minimum dimensions of the turnaround shall be eight feet in width by 12 feet in depth.

(6) "Wheel strip" driveways are allowed, but the entire width of the driveway (from outside to outside of the strips) will be considered hardcover.

(b) Drawing 1 is included for illustrative purposes.

Drawing 1: Minimum Driveway Standards



(Code 2003, § 78-1681; Ord. No. 94(3rd series), § 11, 9-24-2012)

Sec. 6.12.9130. Shared driveways.

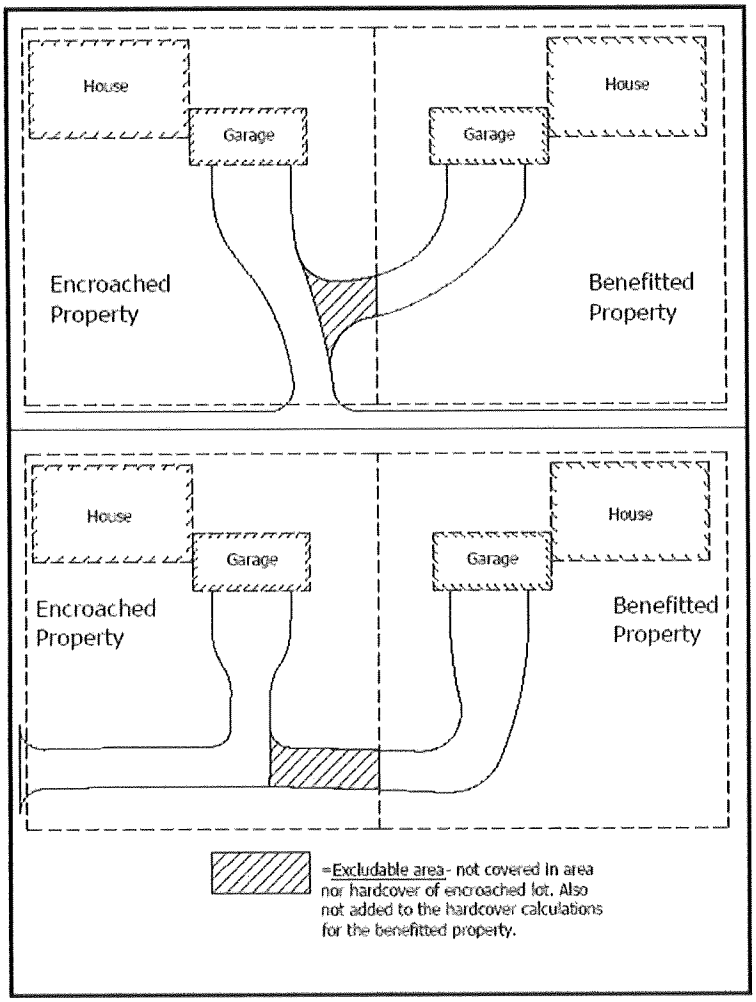
Where one or more properties (referred to as secondary property) gain its driveway access from an adjacent property (a primary property) by virtue of a driveway easement, the following shall apply:

(1) The portion of the shared driveway on the primary property that serves both primary and secondary property shall be considered hardcover for the primary property.

(2) That portion of the driveway on the primary property that serves only secondary property shall not be considered hardcover for either primary or secondary property.

Drawing 2 is included for illustrative purposes.

Drawing 2: Driveway Easements



(Code 2003, § 78-1682; Ord. No. 94(3rd series), § 11, 9-24-2012)

Sec. 6.12.9140. Standard hardcover inclusions.

The following hardcover items shall be included in proposed hardcover calculations regardless of whether the noted features are proposed to be constructed at the time of a building permit application:

(1) Proof of a two-car garage (detached or attached);

(2) A driveway for all garages, a minimum of 12 feet in width, subject to the standards in section 6.12.9120;

(3) A 24-inch wide sidewalk connecting the front door to the driveway;

(4) The minimum stairway or landing at all exterior doors as required by the building code; and

(5) Existing hardcover which encroaches (legally or illegally) onto an adjacent parcel.

a. In such cases of encroachment, the square footage of all encroaching hardcover shall be added to the overall hardcover on the subject lot;

b. No credit shall be given towards the overall lot size of the subject lot.

(Code 2003, § 78-1683; Ord. No. 94(3rd series), § 11, 9-24-2012)

Sec. 6.12.9150. Standard hardcover exclusions.

Landscaping with permeable lining shall not be considered hardcover. Additionally, the following hardcover items shall be excluded from hardcover calculations:

(1) Roads, trails, sidewalks, utilities and other hardcover encroachments intended for the public's benefit;

(2) Hardcover encroachments created by improvements on adjacent property not owned by the subject landowner;

a. In such cases of encroachment, the square footage of all encroaching hardcover shall not be added to the overall hardcover counting against the subject lot;

b. The land area upon which the encroachment rests shall count towards the overall lot area for the subject lot.

(3) Retaining walls;

(4) Handicapped ramps with a pervious surface below; and

(5) The first 100 square feet of pervious paver patios/walkways or the first 100 square feet of deck with a minimum one-fourth-inch spacing between boards and a pervious surface below the decking.

(Code 2003, § 78-1684; Ord. No. 94(3rd series), § 11, 9-24-2012)

Sec. 6.12.9160. Massing standards.

(a) *Non-industrial zoning districts.* Except for parcels zoned industrial, all lots in the stormwater quality overlay district that have a gross acreage of less than two acres shall comply with the following massing standards for structures:

(1) *Maximum total footprints allowed.*

a. On lots equal to or greater than 10,000 square feet in area, the total combined footprints of all principal and accessory structures shall not exceed 20 percent of the gross lot area.

b. On lots of less than 10,000 square feet in area, the total combined footprints of all principal and accessory structures shall not exceed 2,000 square feet.

(2) *Calculation of massing.* The following shall be included in the calculation of the total combined footprints by structures: All roofed structures where the highest point of the roof is more than six feet above existing ground level.

(b) *Industrial zoning district.* For parcels zoned industrial, the following massing standards for structures shall apply.

(1) On lots equal to or less than three acres in area, the total combined footprints of all principal and accessory structures shall not exceed 35 percent of the gross lot area.

(2) On lots greater than three acres in area, the total combined footprints of all principal and accessory structures shall not exceed 45 percent of the gross lot area; except that when the total building floor area on a site is contained within a single building, and when the total area used for loading terminals, docks and berths is completely enclosed within the same single building, a lot coverage of not more than 60 percent of the gross lot area will be permitted.

(Code 2003, § 78-1685; Ord. No. 94(3rd series), § 11, 9-24-2012; Ord. No. 170(3rd series), § 5, 6-13-2016; Ord. No. 187(3rd series), § 2, 3-13-2017)

Sec. 6.12.9170. Variances.

Variances to hardcover, if granted on lots within the stormwater quality overlay district, may be subject to mitigation measures deemed appropriate by the city council to offset the impacts generated by the proposed additional hardcover.
(Code 2003, § 78-1686; Ord. No. 94(3rd series), § 11, 9-24-2012)

Division 3. Regulations Based on Assigned Protection Tier and Underlying Zoning

Sec. 6.12.9210. Specific tier regulations.

Per the official stormwater quality overlay district map, each property in the stormwater quality protection overlay district is assigned to a protection tier based on its relative distance to receiving waters. This protection tier dictates the specific protection measures that must be implemented.

(1) *Tier 1 parcels.* Hardcover shall not exceed 25 percent of the gross lot area.

(2) *Tier 2 parcels.* Hardcover shall not exceed 30 percent of the gross lot area.

(3) *Tier 3 parcels.* Hardcover shall not exceed 35 percent of the gross lot area.

(4) *Tier 4 parcels.* Hardcover shall not exceed 50 percent of the gross lot area.

(5) *Tier 5 parcels.* Hardcover shall not exceed 85 percent of the gross lot area.

(Code 2003, § 78-1700; Ord. No. 94(3rd series), § 11, 9-24-2012)

Sec. 6.12.9220. Tier assignment methodology

(a) The inclusion of parcels into the stormwater quality overlay district is based on the following methodology.

(1) Examine each parcel and determine whether or not it abuts a protected lakeshore or stream.

a. All parcels that abut a protected lakeshore or stream shall be placed into Protection Tier 1.

b. All parcels that do not abut a protected lakeshore or stream shall be examined under the criteria in subsection (2) of this section.

(2) Determine the location of the primary building area on the parcel being examined. The primary building area shall be identified by the location of an existing primary structure (if applicable), or by considering required setbacks and/or the average location of structures on adjacent lots.

a. If the primary building area is wholly within 250 feet of a protected lakeshore or stream, the parcel shall be placed into Protection Tier 1.

b. If the primary building area is wholly not within 250 feet of a protected lakeshore or stream, the parcel shall continue to be examined under the criteria in subsection (3) of this section.

c. If the primary building area is divided by the 250-foot delineation line, the following assessment shall guide the designation:

1. If an adjacent parcel abutting by a side lot line is already assigned to Protection Tier 1, the parcel shall be placed into Protection Tier 1.

2. If all adjacent parcels abutting by a side lot line have not been assigned to a protection tier, the parcel shall continue to be examined under the criteria in subsection (3) of this section.

(3) Using the location of the primary building area as identified in subsection (2) of this section, determine the distance between the primary building area and the nearest protected lake or stream. Distances shall be measured from the required setback nearest the protected water body to the OHWL.

a. If any portion of the primary building area is at a distance of 300 feet

or less from a protected stream or is at all touching the landward extent of floodplain from a stream, the parcel shall be placed into Protection Tier 2.

b. If any portion of the primary building area is at a distance between 250 feet and 500 feet from a protected lakeshore, the parcel shall be placed into Protection Tier 2.

c. If the primary building area is at a distance greater than 500 feet and up to 1,000 feet from a protected lakeshore, the parcel shall be placed into Protection Tier 3.

d. If the primary building area is beyond a distance of 1,000 feet from a protected lakeshore or stream, the parcel shall continue to be examined under the criteria in subsection (4) of this section.

(4) Determine the zoning of the subject parcel.

a. If the property is zoned residential planned unit development (RPUD), the parcel shall be placed into Protection Tier 4.

b. If the property is zoned I Industrial, the parcel shall be placed into Protection Tier 5.

c. If the parcel being examined has not yet been assigned to a protection zone, the parcel shall continue to be examined under the criteria in subsection (5) of this section.

(5) Determine whether the unassigned parcel (or group of unassigned parcels) is within a gap. A gap is an area of 20 acres or less that is largely surrounded by parcels assigned to protection tiers. Roadways, if present, will be used as a dividing line when identifying gap areas.

a. Beginning with parcels on an individual basis, if more than half of the border of a parcel is regulated via one of the protection tiers, the parcel shall be placed into the tier which abuts the parcel by the greatest percentage.

b. Unassigned parcel groupings of 20 acres or less that have more than half of the group's overall border regulated via one of the protection tiers shall be placed into the tier which abuts the group area by the greatest percentage.

c. Parcels still unassigned to a protection tier following review under subsection (a)(5)b of this section shall be exempt from stormwater quality overlay district regulations.

(b) As new parcels are created within the city as a result of subdivision, each new parcel shall be examined under this methodology to determine whether it belongs within a protection tier as part of the overlay district, or be exempt from the regulations of this article.

(Code 2003, § 78-1701; Ord. No. 94(3rd series), § 11, 9-24-2012)

ARTICLE XIV. INTERIM USES

Division 1. Generally (Reserved)

Division 2. Land Alterations

Sec. 6.12.9410. Purpose and intent.

The purpose of this division is to promote the health, safety, and welfare of the community and to establish reasonable uniform limitations, standards, and controls for land alterations, excavating, filling and grading within the city. The regulations will allow the city to better manage stormwater discharge, ensuring drainage does not negatively impact neighboring properties, manage hauling traffic and noise, and prevent erosion issues onto adjacent properties, wetlands, lakes, and roads.

(Code 2003, § 78-1725; Ord. No. 219(3rd series), § 6, 12-10-2018)

Sec. 6.12.9420. Interim use permit required.

(a) An application for an interim use permit shall be accompanied by a certified site plan showing the location of the proposed excavation or storage and shall state the amount of material which is to be removed, excavated or stored, placed, or graded, and such other information as the council may require. Applications shall be filed with the city administrator and shall be accompanied by a deposit to be determined by the city, which will be used to offset the cost of processing the application. Any unused portion will be refunded to the applicant.

(b) Except where otherwise provided in the article, it is unlawful for any person to perform or have performed the following land alteration activities without an interim use permit issued by the council:

(1) Mining. The commercial extraction of sand, gravel or other material from the land and their removal from the site without processing shall be mining. In all districts, the conduct of mining shall be permitted only upon issuance of a interim use permit. Such permit shall include, as a condition, a plan for a finished grade which will not adversely affect the surrounding land or development of the site on which the mining is being conducted, and the route of trucks moving to and from the sites. A bond will be required for restoration.

(2) Soil processing. The operation of processing of sand, gravel or other material mined from the land shall be permitted only by interim use permit. Such permit shall include a site plan where the processing is to be done, showing the location of the plant, disposal of water, route of trucks moving to and from the site in removing processed material from the site, the condition in which the site is intended to be left upon completion, hour of operation; and such permit shall not be granted for a period of longer than 12 months.

(3) Creation of an engineered grade for the basis of building height determination outside of a subdivision.

(4) Unless included as part of a permitted project or as exempted below, the following activities require a separate interim use permit:

	Activity			
Location	*Lake yard or shore setback zone*	*Activity in the shoreland overlay district, but outside the lake yard*	*All other areas, lots 5 acres or less*	*All other areas, lots greater than 5 acres*
Grading	More than 10 cy, or more than 1,000 sf of disturbed area	More than 2,500 cy, or more than 10,000 sf of area	More than 2,500 cy, or more than 10,000 sf of area	More than 5,000 cy, or more than 20,000 sf of area
Import/export	More than 500 cy	More than 500 cy	More than 2,500 cy	More than 5,000 cy
Stockpiling	Stockpiling more than 90 days	Stockpiling more than 180 days	Stockpiling more than 180 days	Stockpiling more than 180 days

(5) Conducting grading or land alterations which result in changes in elevations within five feet of adjacent properties, unless part of a building project.

(6) Emergency repair exception. Slope failures have a direct impact on the health and welfare of city residents, and timely response to such events is important to the protection of natural resources and private property. Therefore, the city engineer may declare grading and/or export/import activities in the Lake yard exceeding the limits above as emergency repair and forward such application to the city council for immediate review. Emergency repair shall be defined for the purposes of this article as the activities necessary to stabilize a

failing slope, or prevent the imminent failure of a slope, in the opinion of the city engineer.

(Code 2003, § 78-1726; Ord. No. 219(3rd series), § 6, 12-10-2018; Ord. No. 243(3rd series), § 4, 4-13-2020)

Division 3. Permit

Sec. 6.12.9510. Definition, purpose and intent.

(a) *Interim use defined.* An interim use is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

(b) *Purpose and intent.* Because of their unusual characteristics, interim uses require consideration so that they may be located and regulated properly with respect to the objectives of this chapter and the comprehensive plan, and with respect to their impacts on surrounding properties. In order to achieve these purposes, the city council is empowered to grant and to deny applications for interim use permits and to impose reasonable conditions upon the granting of these permits. Additionally, the intent of allowing interim uses is:

(1) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.

(2) To allow a use that is presently judged acceptable by the city council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective zoning district.

(3) To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the comprehensive plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

(Code 2003, § 78-1745; Ord. No. 194(3rd series), § 1, 5-8-2017)

Sec. 6.12.9520. Application procedure.

The information required and the procedures to be followed for all interim use permit applications shall be the same as that required for a conditional use permit as provided for in sections 6.12.4050 through 6.12.4100. In addition, the following information shall be provided:

(1) Written documentation that includes a complete description of the use, schedule for commencement and termination of the use, hours and dates of operation and anticipated employment.

(2) Any special studies requested by the city when there is evidence that the proposed use may negatively impact public infrastructure, the environment or adjacent land uses. These studies may examine the impacts on such things as traffic, environment, wetlands and utilities.

(3) Evidence of approval or preliminary approval from all other agencies with jurisdiction over elements of the use.

(Code 2003, § 78-1746; Ord. No. 194(3rd series), § 1, 5-8-2017)

Sec. 6.12.9530. Standards and conditions.

No interim use permit may be granted unless the city council determines that the use will comply with the following:

(1) The use will meet the general performance standards in section 6.12.4090;

(2) The use is allowed as an interim use in the applicable zoning district;

(3) The use will not delay anticipated development or redevelopment of the site;

(4) The use will not be in conflict with any provisions of this Code on an ongoing basis;

(5) The use will not adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the use will be located;

(6) The use will not impose additional unreasonable costs on the public;

(7) The date or event that will terminate the use can be identified with certainty; and

(8) The applicant agrees in writing to any conditions that the city council deems appropriate for the use, including a requirement for a financial security to ensure removal of all evidence of the use upon termination, and restoration of the site to prior or better conditions. The conditions shall be set forth in a development agreement between the property owner and the city, which agreement shall be recorded with the county recorder or registrar of deeds.

(Code 2003, § 78-1747; Ord. No. 194(3rd series), § 1, 5-8-2017)

Sec. 6.12.9540. Effect of permit.

(a) An interim use permit is effective only for the location specified in the approval documentation.

(b) The issuance of an interim use permit does not confer on the property any vested rights.

(c) Interim use permits shall be reviewed as a minimum at least annually by the city council.

(d) An interim use permit expires one year after approval if the proposed use has not been commenced or a building permit for a structure to support the interim use has not been issued.

(e) An interim use permit expires if the interim use ceases operation for a continuous period of at least one year.

(Code 2003, § 78-1748; Ord. No. 194(3rd series), § 1, 5-8-2017)

Sec. 6.12.9550. Termination.

An interim use permit expires and the interim use shall terminate upon the occurrence of any of the following events:

(1) The termination date specified in the interim use permit.

(2) Upon violation of conditions under which the permit was issued.

(3) Upon change in the city's zoning regulations which renders the use nonconforming.

(4) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

(Code 2003, § 78-1749; Ord. No. 194(3rd series), § 1, 5-8-2017)

CHAPTER 6.16. CONSTRUCTION SITE RUNOFF CONTROL

Sec. 6.16.010. Intent.

To promote the health, safety and general welfare of the citizens of the city by requiring stormwater management practices for construction activity.

(Code 2003, § 79-1; Ord. No. 55(3rd series), § 1, 4-13-2009)

Sec. 6.16.020. Statutory authorization.

This chapter is adopted pursuant to Minn. Stats. § 462.351.

(Code 2003, § 79-2; Ord. No. 55(3rd series), § 1, 4-13-2009)

Sec. 6.16.030. Findings.

The city hereby finds that uncontrolled land disturbing or development activities at construction sites are subject to soil erosion and other pollutants that enter into receiving water bodies adversely affecting the public health, safety and general welfare by impacting water quality, creating nuisances, impairing other beneficial uses of environmental resources, entering roads and damaging the pavement, and trespassing on private land.

(Code 2003, § 79-3; Ord. No. 55(3rd series), § 1, 4-13-2009)

Sec. 6.16.040. Purpose.

The purpose of these regulations is to promote, preserve and enhance the natural resources

within the city and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and environmentally sensitive land; by minimizing conflicts and encouraging proper installation and maintenance of best management practices (BMPs) for land disturbing or development activities; and by requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, thereby achieving a balance between development and protection of water quality and natural areas.
(Code 2003, § 79-4; Ord. No. 55(3rd series), § 1, 4-13-2009)

Sec. 6.16.050. Definitions.

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

Best management practices (BMP) means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

City means the administrative staff, or its agent, of the City of Orono.

Detention facility means a permanent natural or man-made structure, including wetlands, for the temporary storage of stormwater which contains a permanent pool of water.

Discharge means the release, conveyance, channeling, runoff, or drainage of stormwater, including snowmelt, from a construction site.

Exposed soil areas means all areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface has been removed, thus rendering the soil more prone to erosion. The term "exposed soil" includes topsoil stockpile areas, borrow areas, and disposal areas within the construction site. The term "exposed soil" does not include stockpiles or surcharge areas of gravel, concrete or bituminous. Once soil is exposed, it is considered exposed soil until it meets the definition of final stabilization.

Final stabilization means that all soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 75 percent for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. Simply sowing grass is not considered final stabilization.

Land disturbing or development activities means any change of the land surface, including removing vegetative cover, excavating, filling, grading and the construction of any structure.

Owner means a person who owns the land on which land disturbing activities are proposed to occur or are occurring.

Person means any individual, firm, corporation, partnership, franchise, association or governmental entity.

Public waters has the meaning given it in Minn. Stats. § 103G.005, subd. 15.

Sediment means solid matter carried by water, sewage, or other liquids.

Stormwater means precipitation runoff, stormwater runoff, snow melt off, and any other surface runoff and drainage.

Stormwater pollution prevention plan (SWPPP) means a joint stormwater and erosion and sediment control plan satisfying the requirements of this chapter.

Structure means anything which is built, constructed or erected, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires a location on, below or above the ground, land or water, or attached to something having a location on the ground, land or water.

Waters of the state has the meaning given it in Minn. Stats. § 115.01, subd. 22.

Wetlands means Type 1, 2, 3, 4, 5, 6, 7, and 8 wetlands, as defined in circular 39, Wetlands of the United States, 1971 edition, United States Department of the Interior.
(Code 2003, § 79-5; Ord. No. 55(3rd series), § 1, 4-13-2009; Ord. No. 69(3rd series), § 1, 4-12-2010)

Sec. 6.16.060. Permit and SWPPP required.

(a) *Applicability.* No owner shall conduct or allow land disturbing activities that meet any of the following criteria without a land disturbance permit and submitting a stormwater pollution prevention plan (SWPPP) pursuant to this chapter:

(1) Land disturbance greater than or equal to one acre or which will be part of a larger common plan or development that will include land disturbing activities greater or equal to one acre.

(2) Grading, excavation, fill, which is greater than or equal to ten cubic yards (cy) within the shore setback zone of any lake.

(3) Grading, excavation, or fill which is greater than or equal to 50 cy or 5,000 square feet.

(b) *Approval.* No building permit, subdivision approval, or other permit that will result in land disturbing activities shall be issued until approval of the stormwater pollution prevention plan or a waiver of the approval requirement has been obtained in conformance with the provisions of this chapter.

(c) *Exemptions.* The provisions of this chapter do not apply to:

(1) A project for which a building permit was issued on or before April 13, 2009; or

(2) Emergency work to protect life, limb or property; or

(3) Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.
(Code 2003, § 79-6; Ord. No. 55(3rd series), § 1, 4-13-2009; Ord. No. 69(3rd series), § 1, 4-12-2010; Ord. No. 220(3rd series), § 1, 12-10-2018)

Sec. 6.16.070. Application procedures.

(a) *Permit application.* To obtain a land disturbance permit, the owner shall first file an application on a form furnished by the city for that purpose. Every such application shall:

(1) Identify and describe the work to be covered by the permit for which application is made.

(2) Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

(3) Indicate the purpose of the proposed work.

(4) Be accompanied by a stormwater pollution prevention plan as required in section 6.16.090(c).

(5) Be signed by the owner or authorized agent.

(6) Give such other data and information as may be required by the city.

(b) *Financial security.*

(1) *Security required.* The owner shall provide the city with financial security to ensure the performance of the owner's obligations pursuant to this chapter. The financial security may be a letter of credit in a form acceptable to the city or cash. The financial security must be provided to the city before issuance of the permit. The city may use the financial security to assure that the work is completed in accordance with the stormwater pollution prevention plan and the provisions of this chapter. The financial security may also be used by the city to eliminate any hazardous conditions associated with the work and to repair any

damage to public property or infrastructure that is caused by the work.

(2) *Amount of security.* The amount of security shall be 125 percent of the estimated cost to accomplish compliance with the approved stormwater pollution prevention plan. This shall be in addition to any other security performance required by any other regulations in this Code except that for a project consisting of one single-family dwelling, an addition to a single-family dwelling, or an accessory structure for a single-family dwelling the security may also be the construction deposit required by section 6.08.040. The estimated cost shall be subject to approval by the city engineer.

(3) *Reduction of financial security.* If requested by the owner, the amount of the financial security may be reduced by the city subsequent to city inspection. Said reduction will be based upon the extent to which the grading and restoration have been completed and shall consider the continued need for erosion control. At no time prior to final stabilization, shall the security be reduced to less than ten percent of the total original security amount.

(4) *Release of security.* Any remaining amount of the financial security deposited with the city for faithful performance of the plans and specifications and any related remedial work will be released after the completion and inspection of all such measures and the establishment of final stabilization, for the permitted site or common plan of development or sale.

(5) *City remedy.* If compliance with the approved land disturbance permit is not accomplished within the allowable time period, the city may bring the project into compliance by use of the security. Costs in excess of the amount of the security may be assessed to the property as special assessments and shall be a perpetual lien against the property until paid.

(6) *Exemptions.* The city shall be exempt from the requirements of this section.

(c) *Stormwater pollution prevention plan.* Each application for a land disturbance permit shall be accompanied by two copies of a stormwater pollution prevention plan consisting of the following dependent upon the type and size of land disturbance activity conducted as described below:

(1) For all individual residential lots or any commercial and industrial land which disturbs less than one acre and includes fill or excavation less than 100 cubic yards:

a. Identification of proposed contour grading on the site at vertical intervals of not more than two feet;

b. Drainage patterns clearly shown using arrows depicting direction of surface water flow;

c. A map showing the stages or limits of grading together with the existing or proposed finished elevations;

d. Identification of proposed building bench elevations;

e. Submission of preliminary plans or program for water supply, sewage disposal, drainage and flood control (if applicable);

f. Soil borings, if required by the city engineer;

g. Locations of any wetlands, lakes, streams, or other critical water resource areas;

h. Appropriate best management practices set forth in this chapter; and

i. Other information as required by the city based on specific project characteristics.

(2) For all other sites unless exempt under section 6.16.060(c) or any site if determined appropriate by the city

engineer due to potential impacts to wetlands, lakes, or sensitive receiving waters.

a. Grading plan. A grading plan shall be provided that clearly indicates the proposed land disturbance activities. Both existing and proposed topography shall be shown and have a maximum contour interval of two feet. Drainage patterns shall be clearly shown using arrows depicting direction of flow. Other information shall be shown as required by the city based on specific project characteristics.

b. Phasing plan. A phasing plan shall be provided that clearly indicates the areas in the order they are to be disturbed and restored. The phasing plan shall consider minimization of area and duration of exposed soil and unstable conditions, minimization of the disturbance of natural soil cover and vegetation, erosion and sediment control measure installation, weather conditions and the schedule for temporary and permanent restoration. The area and duration of each phase shall be indicated on the plan.

c. Pond detail sheet. A pond detail sheet shall be provided for each proposed stormwater pond that shows detailed pond design, including normal water level, high-water level, aquatic bench, maintenance bench, outlet structures, emergency overflow locations and other project specific data required by the city.

d. Standard detail sheet. A standard detail sheet shall be provided that consists of applicable construction details for approved erosion and sediment control measures as developed by the city. Other techniques may be used upon prior approval by the city with details provided by the designer.

e. Specifications. Written specifications for land disturbance activities such as product descriptions, installation and maintenance procedures required by the owner to carry out the project in accordance with this chapter.

f. Stormwater pollution prevention plan as required under the NPDES stormwater permit issued by the MPCA. The stormwater pollution prevention plan shall consist of three components:

1. Temporary erosion and sediment control plan: Indicate the location of perimeter controls, construction fence, temporary sedimentation basins, inlet protection, areas to be seeded, areas to be mulched or blanketed, location of construction waste control (dumpsters, chemical storage, concrete washout, portable restroom facilities, etc.) and all other required temporary erosion and sediment control measures as described in section 6.16.090. This plan shall also indicate staging of temporary erosion control measures.

2. Permanent erosion and sediment control plan: Indicates areas to be seeded and sodded, sediment ponds, storm sewer systems and all other required permanent erosion and sediment control measures. Permanent stormwater pollution controls, including, but not limited to, ponds, vegetated buffers and structural measures shall be designed and constructed in accordance with other chapters of this Code and requirements of other agencies having jurisdiction.

3. Narrative: Describes, at a minimum, the nature of

construction activity, persons responsible for inspection and maintenance of site erosion and sediment control, including contact information, project phasing, schedules, along with the timing, installation and maintenance of erosion and sediment control measures and specifications necessary to carry out the project.

g. NPDES permit documentation: If a national pollution discharge elimination system (NPDES) general stormwater permit from the Minnesota Pollution Control Agency (MPCA) is required the owner shall submit to the city a copy of the MPCA Certificate of Permit Coverage.

(Code 2003, § 79-7; Ord. No. 55(3rd series), § 1, 4-13-2009; Ord. No. 69(3rd series), § 1, 4-12-2010)

Sec. 6.16.080. Stormwater pollution prevention plan review process.

(a) *Process.* For any subdivision, the stormwater pollution prevention plan shall be submitted with the preliminary plat application. For all other applications, the stormwater pollution prevention plan meeting the requirements of section 6.16.070 and minimum BMP requirements of section 6.16.090 must be reviewed by the city engineer or designated representative who may approve, approve with conditions, or deny the stormwater pollution prevention plan prior to any land disturbing activity on the site.

(b) *Duration.* Approval of a stormwater pollution prevention plan submitted under the provisions of this article shall expire one single year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the owner makes a written request to the city for an extension of time to commence construction setting forth the reason for the requested extension, the city engineer may grant one extension of not more than one single year. Receipt of any request for an extension shall be acknowledged by the city within 15 days. The city shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

(c) *Conditions.* A stormwater pollution prevention plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements contained in these regulations are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require replacement of vegetation, establish required monitoring procedures, stage the work over time, or require alteration of the site design to ensure buffering, and require the conveyance to the city or other public entity of certain lands or interests therein.

(d) *Financial security.* The adequacy, conditions and acceptability of any financial security shall be determined by the city.

(Code 2003, § 79-8; Ord. No. 55(3rd series), § 1, 4-13-2009; Ord. No. 69(3rd series), § 1, 4-12-2010)

Sec. 6.16.090. Minimum SWPPP best management practices (BMPs).

(a) *Plan standards required.* No stormwater pollution prevention plan that fails to meet the standards contained in this section shall be approved by the city council or designated representative.

(b) *Site dewatering.*

(1) Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydrocyclones, swirl concentrators or other appropriate controls as appropriate. All water from dewatering must be discharged in a manner that does not cause nuisance conditions, erosion in receiving channels or on downslope properties, or inundation in wetlands causing significant adverse impact to the wetland.

(2) All discharge points must be adequately protected from erosion and scour. The discharge must be dispersed over natural

rock riprap, sand bags, plastic sheeting or other accepted energy dissipation measures. Adequate sedimentation control measures are required for discharge water that contains suspended solids.

(c) *Construction site waste.*

(1) *Waste and material disposal.* All waste, unused building material (including garbage debris, cleaning wastes, wastewater, toxic materials or hazardous materials), collected sediment, asphalt and concrete millings, floating debris, paper, plastic, fabric, construction and demolition debris and other wastes must be properly contained on site and disposed of off site, not allowed to be carried by runoff into receiving channel or storage sewer system.

(2) *Hazardous materials.* Oil, gasoline, paint and any hazardous substances must be properly stored, including secondary containment, to prevent spill, leaks or other discharge. Restricted access to storage areas must be provided to prevent vandalism. Concrete wash must be limited to a defined area of the site and runoff must be contained within the defined area. Storage of hazardous waste must be in compliance with MPCA regulations.

(3) *Liquid waste.* All non-stormwater discharges (concrete truck washout, vehicle washing, maintenance spills, etc.) conducted during the construction activity must comply with the newest version of the state NPDES permit.

(4) *Sanitary facilities.* Adequate on-site sanitary facilities shall be provided in convenient locations for all persons who work on the site.

(d) *Tracking.* Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning before the end of each workday.

(e) *Drain inlet protection.* All storm drain inlets shall be protected during construction with control measures as approved by the city. These devices shall remain in place until final stabilization of the site. A regular inspection and maintenance plan shall be developed and implemented to assure these devices are operational at all times.

(f) *Site erosion control.*

(1) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Diverted runoff shall be conveyed in a manner that will not erode the conveyance at receiving channels. All temporary or permanent drainage channels must be stabilized within 24 hours of being connected to a water of the state. Sediment control is required along channel edges to reduce sediment reaching the channel.

(2) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.

(3) All disturbed ground left inactive for 14 or more days must have temporary or permanent stabilization year round.

(4) For sites with more than ten acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent of the area draining to the basin and at least three feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

(5) Perimeter sediment control measures shall be placed along all down gradient perimeters of the site. If a channel or area of concentrated runoff passes through the site, perimeter sediment control measures shall be placed along the chan-

nel edges to reduce sediment reaching the channel. All down gradient perimeter sediment control measures must include a maintenance and inspection schedule.

(6) Any soil or dirt storage piles containing more than ten cubic yards of material should not be located within 25 feet from a roadway or drainage channel. If remaining for more than 14 days, they shall be stabilized by mulching vegetative cover, tarps or other means and enclosed with down gradient perimeter sediment controls. Piles which will be in existence for less than 14 days shall be enclosed with perimeter sediment controls.

(7) Pipe outlets must have energy dissipation installed within 24 hours of connection to waters of the state.

(g) *Inspections and maintenance.* The owner shall be responsible for conducting inspections and maintenance of all erosion and sediment control BMPs on site.

(1) Inspections, maintenance, and rainfall on site must be documented and readily available for review. Inspections are required as followed:

a. Once every seven days on exposed soil areas.

b. Within 24 hours after a one-half inch or greater rain event over 24 hours.

c. Once every 30 days on stabilized areas.

d. As soon as runoff occurs or prior to resuming construction on frozen ground.

(2) Maintenance is required as follows:

a. When sediment reaches one-third the height of the BMP on perimeter control devices, sediment must be removed within 24 hours of discovery.

b. If the perimeter control device is not functional it must be repaired or replaced within 24 hours of discovery.

c. Temporary sediment basins shall be maintained when sediment reaches half the outlet height or half the basin storage volume. Basins must be drained or sediment removed within 72 hours of discovery.

d. Sediment must be removed from paved surfaces within 24 hours of discovery.

(3) Erosion into streets, wetlands or water bodies. If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, prevention strategies, cleanup and repair must be immediate with the appropriate approvals from the DNR, MPCA, or any other state, federal, or local agencies as necessary. The owner shall provide all traffic control and flagging required to protect the traveling public during cleanup operations.

(4) Erosion off-site. If erosion breaches the perimeter of the site, the owner shall immediately develop a cleanup and restoration plan, obtain right-of-entry from the adjoining property owner and get appropriate approvals from all state, federal, and local agencies as necessary. Then implement the cleanup and restoration plan within 48 hours of obtaining the adjoining property owner's permission and approval from any appropriate state, federal, and local agencies.

(Code 2003, § 79-9; Ord. No. 55(3rd series), § 1, 4-13-2009; Ord. No. 69(3rd series), § 1, 4-12-2010)

Sec. 6.16.100. Completion of work.

Work will be considered complete when all exposed soil areas have undergone final stabilization, as defined in section 6.16.050, is constructed to finish grade, and is in conformance with all permit conditions of approval to the satisfaction of the city. The owner shall notify the city when the land disturbing operations are ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices, and all

erosion control measures, have been completed and final stabilization has occurred in accordance with this chapter.
(Code 2003, § 79-10; Ord. No. 55(3rd series), § 1, 4-13-2009; Ord. No. 69(3rd series), § 1, 4-12-2010)

Sec. 6.16.110. Emergency corrective action.

In the event circumstances exist such that noncompliance poses an immediate danger to the public health, safety and welfare, as determined by the city, the city may take emergency corrective action to prevent any such danger. The city shall make a reasonable effort to contact and direct the owner to take any necessary action. Any costs incurred by the city in connection with any emergency action may be recovered from the owner's financial security.
(Code 2003, § 79-11; Ord. No. 55(3rd series), § 1, 4-13-2009; Ord. No. 69(3rd series), § 1, 4-12-2010)

Sec. 6.16.120. Penalties.

When an owner fails to conform to any provision of this chapter, the city may take the following actions:

(1) Issue a stop work order.

(2) Withhold the scheduling of building inspections.

(3) Withhold the issuance of a certificate of occupancy.

(4) Revoke any permit issued by the city for the site in question.

(5) Direct the correction of the deficiency by city employees or assigns. All costs incurred by the city in correcting erosion and sediment control deficiencies must be reimbursed by the owner.

(6) Action against the financial security. If appropriate actions by the owner have not been completed within seven days after notification by the city, the city may act against the financial security if any of the conditions listed below exist. The city shall use funds from this security to finance any corrective or remedial work undertaken by the city or a contractor under contract to the city and to reimburse the city for all direct cost incurred in the process of remedial work, including, but not limited to, staff time, consultant's time, and attorney's fees.

a. The owner ceases land disturbing activities and/or filling and abandons the work site prior to completion of the city approved grading plan.

b. The owner fails to conform to any city approved grading plan and/or stormwater pollution prevention plan as approved by the city, or related supplementary instructions.

c. The techniques utilized under the stormwater pollution prevention plan fail within one year of installation.

d. The owner fails to reimburse the city for corrective action taken under subsection (5) of this section.

e. Emergency action as described in section 6.16.110.

(7) An owner failing to comply with or violating any of these regulations, shall be deemed guilty of a misdemeanor and subject to a fine or imprisonment or both. If more than one person is an owner, each person is responsible for compliance with these regulations. Each day that a separate violation exists constitute a separate offense.

(Code 2003, § 79-12; Ord. No. 55(3rd series), § 1, 4-13-2009; Ord. No. 69(3rd series), § 1, 4-12-2010)

Sec. 6.16.130. Other controls.

In the event of any conflict between other ordinances adopted by the city council, the more restrictive standard prevails.
(Code 2003, § 79-13; Ord. No. 55(3rd series), § 1, 4-13-2009)

Sec. 6.16.140. Severability.

The provisions of this chapter are severable. If any provision of this article or the application

thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application.
(Code 2003, § 79-14; Ord. No. 55(3rd series), § 1, 4-13-2009)

CHAPTER 6.20. SUBDIVISION REGULATIONS*

ARTICLE I. IN GENERAL

Sec. 6.20.010. Rules.

(a) For the purpose of this chapter, certain numbers, abbreviations, terms and words used shall be used, interpreted, and defined as set forth in this article.

(b) The word "used" or "occupied" as applied to any land or building shall be construed to include the word "intended," "arranged," or "designed to be used or occupied."
(Code 2003, § 82-1; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.020. Definitions.

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

Applicant means any subdivider or their agent.

Block means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, rights-of-way, exterior boundaries of the subdivision, shorelines of waterways, outlots or boundary lines of municipalities.

Bond means any form of security, including surety bond, warranty bond, penalty bond, collateral, property, or instrument of credit acceptable to the city.

Building means any structure having a roof which may provide shelter or enclosure of persons, animals or chattel; and when the structure is divided by party walls without opening, each portion of such building so separated shall be deemed a separate building.

Building site line means a line on the preliminary plat which delineates the dry buildable land of any lot upon which a structure may be constructed, which land meets all of the setback requirements of chapter 6.12.

Capital improvement program means an itemized program setting forth the schedule and details of specific contemplated public improvements by fiscal year, including public improvements in or related to air space and subsurface areas necessary for mined underground development pursuant to Minn. Stats. §§ 469.135 through 469.141, together with their estimated cost, the justification for each improvement, the impact that such improvements will have on the current operating expense of the city, and such other information on capital improvements as may be pertinent.

Community facilities plan means a compilation of policy statements, goals, standards, maps and action programs for guiding the future development of the public or semipublic facilities of the city, such as recreational, educational and cultural facilities.

Community management plan means a compilation of policy statements, goals and standards, and maps and recommendations for their execution, prepared and adopted by the city for guiding the physical, social and economic development, both private and public, of the city and its environs and to protect the public health, safety and welfare, and may include, but is not limited to, statements of policies, goals and standards, a land use plan, a transportation plan, a community facilities plan, a capital improvement program, an official map, a surface water management plan and a comprehensive sewer plan. The community management plan is the city's comprehensive municipal plan.

Comprehensive sewer plan means a compilation of policy statements, goals, standards, maps and action programs for the preservation and best use of waters and other natural resources of the city, for the prevention, control and abate-

*State law reference—Subdivision regulations, Minn. Stats. § 462.358.

ment of water pollution in the city, and for the efficient and economic collection, treatment and disposal of sewage in the city.

Construction plan means the maps or drawings, accompanying a subdivision, showing the specific location and design of required public or private improvements to be installed as part of the subdivision in accordance with the requirements of the city or this chapter as a condition of the approval of the subdivision.

Cul-de-sac means a local street with only one outlet and having an circular turnaround for the safe and convenient reversal of traffic movement.

Density means the number of building sites per acre.

Design standards means the specifications to the subdivider for preparation of preliminary and final plats, including, but not limited to, the optimum, minimum or maximum dimensions of such items as rights-of-way, blocks, easements and lots, public and private improvements.

Dry buildable land means that portion of the lot not encumbered by the waters of a duly recorded lake or river, wetlands, bluffs, or slopes steeper than 30 percent.

Easement means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of their property.

Escrow means a deposit of cash with the city.

Grade means the slope of a road, street or other public way, site or topography specified in percentage terms.

Improvements means any building, structure, drainage ditch, dam, roadway, parkway, sidewalk, pedestrian way, trees, shrubs, lawn, off-street parking area, sewer and water utilities, or other facility.

Improvements, lot, means any improvement on the lot.

Improvements, private, means any improvement required by this chapter, which improvement the city or subdivider shall construct at the subdivider's expense and for which the city will not assume any responsibility for its maintenance and operation and which shall not be dedicated to the city.

Improvements, public, means any improvement required by this chapter, which improvement the city or subdivider shall construct at the subdivider's expense and for which the city will ultimately assume the responsibility for its maintenance and operation upon issuance of the certificate of satisfactory completion.

Land use plan is a chapter of the community management plan and means a combination of policy statements, goals, standards, maps and action programs for guiding the future development of private and public property. The term "land use plan" includes a plan designating types of uses for the entire city as well as a specialized plan showing specific areas or specific types of land uses, such as residential, commercial, industrial, public or semipublic uses or any combination of such uses. A land use plan may also include the proposed densities for development.

Lot means a tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development. Every platted lot shall be a buildable lot or an outlot.

Lot area means the area of a lot in a horizontal plane bounded by the lot lines, but not including any area occupied by the waters of a duly recorded lake or river or wetland or area which has been dedicated as public right-of-way.

Lot, back, means a lot typically separated from a public or private road by another lot and which gains access to the public or private road via a narrow corridor. Such a separated lot is considered to be a back lot when the corridor is platted as an outlot. A separated lot is considered to be a flag lot when the corridor is platted as part of the lot. When the corridor is merely an easement over another lot, the separated lot is considered to be an easement back lot.

Lot, buildable, means a lot or combination of lots or outlots which meet all of the requirements of chapter 6.12 and this chapter for the intended purpose.

Lot, corner, means a lot situated at the junction of, and abutting on, two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees

Lot, front, means a lot abutting a public or private road across which an outlot has been platted for access to a back lot.

Lot, outlot, means a lot depicted on a final plat which intended for open space preservation, access, future development or other use.

Lot width means the horizontal distance between side lot lines measured at the following locations:

(1) For lots which do not abut a lake or tributary, at the rear of the required front yard, measured parallel to the front lot line.

(2) For lots which abut a lake or tributary, at the shoreline measured in a straight line between the points at which the side lot lines intersect the OHWL, and at the required structure setback from the OHWL, measured in a straight line between the points of intersection of the side lot lines with the structure setback line.

Natural feature means any naturally occurring physical phenomenon, including lakes, streams, flowage areas, marshland, wetlands, floodplains, slopes, unusual soil pockets, and rock outcroppings.

Nonresidential subdivision means a subdivision for which the intended use is other than residential, such as commercial or industrial.

Official controls and *controls* mean all provisions of this Code, ordinances and regulations which control the physical development of a city, county or town or any part or any detail, and implement the general objectives of the comprehensive plan. Official controls may include ordinances establishing zoning and subdivision controls, site plan regulations, sanitary codes, building codes and official maps.

Official map means a map adopted in accordance with Minn. Stats. § 462.359 which may show existing and proposed future streets, roads and highways of the city and county; the area needed for widening of existing streets, roads and highways of the city and county; and existing and future county state aid highways and state trunk highway rights-of-way. An official map may also show the location of existing and future public land and facilities within the city. In counties in the metropolitan area as defined in Minn. Stats. § 473.121, official maps may for a period of up to five years designate the boundaries of areas reserved for purposes of soil conservation, water supply construction, flood control and surface water drainage and removal, including appropriate regulations protecting such areas against encroachment by buildings, other physical structures or facilities.

Off-site premises means any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the subdivider.

On-site septic manager means the person designated to administer and enforce chapter 5.24, article II.

Outlot means the same as *Lot, outlot.*

Owner means any person, partnership, corporation or any other legal entity having legal title to or sufficient proprietary interest in land sought to be subdivided under this chapter.

Park commission means a body appointed by the council to study and consider the continuing needs of the city for parks and recreation areas. The commission shall report direct to the council, may hold joint meetings with the council, and may hold public hearings to determine public sentiment and make recommendations to the council.

Park fund means a special fund established by the city to retain monies contributed by a subdivider in lieu of land in accordance with provisions of this chapter.

Plat means the map or plan of a subdivision showing the property boundaries, layout, dimensions and legal descriptions of all lots, blocks and rights-of-way.

Plat, final, means the plat of the subdivision which includes all information required by statute and this chapter, which plat will be recorded with the office of the county recorder.

Plat, preliminary, means the proposed plat showing all information required by this chapter.

Platting authority means the city council pursuant to Minn. Stats. § 462.358.

Property line means the boundary lines enclosing a lot, parcel or tract of land. Regardless of the legal description, the property line to be used for purposes of compliance with chapter 6.12 and this chapter shall be the ordinary high-water mark of any lakeshore, the edge of the right-of-way, the edge of any public or private roadway, or the edge of an adjacent lot or outlot.

Public hearing means a hearing to be held by the planning commission to allow for public review and input relating to the proposed subdivision pursuant to Minn. Stats. § 462.358 and section 6.12.280.

Registered engineer means an engineer properly licensed and registered in the state.

Registered land surveyor means a land surveyor properly licensed and registered in the state.

Right-of-way means a strip of land occupied or intended to be occupied by an alley, street, crosswalk, railroad, public or private roadway or easement, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use.

Roadway means any street, highway, road, lane, way, trail or any other area used for vehicular traffic.

Roadways classification means one or more of the following:

Collector means a roadway intended to connect neighborhoods within and between subregions.

Dead end means a roadway with only one vehicular-traffic outlet.

Intermediate arterial means a roadway intended to connect two or more subregions, provide secondary connections outstate and complements principal arterials in high-volume corridors.

Local means a roadway intended to connect blocks within neighborhoods and specific activities within homogeneous land use areas.

Minor arterial means a roadway intended to connect adjacent subregions and activity centers within subregions.

Parkway means a roadway intended to provide low-speed and low-volume vehicular or bicycle access to or through recreational areas, parks and lakeshore.

Principal arterial means a roadway intended to connect urban subregions with one another, connect urban and rural service areas with metro centers, or connect outstate cities.

Private means a roadway for which the city or other political subdivision shall not be responsible for its maintenance and operation.

Public means any roadway for which the city or other political subdivision is or expects to be responsible for its maintenance and operation.

Roadway right-of-way width means the distance between property lines measured at right angles to the centerline of the roadway.

Screening means a man-made or natural visual barrier of a type that will form a year-round dense screen.

Setback means the minimum horizontal distance between a structure, system or facility and a natural feature, property line, right-of-way line, ordinary high-water level, structure, system or other facility.

Sewage treatment system, on-site, means a device or series of interconnected components designed, installed and maintained for the purpose

of safely treating and disposing of sewage and domestic waste, whenever such system is not part of a municipal sewerage system.

Collective system means a system serving two or more buildings, typically including individual septic tanks connected to a common soil treatment and absorption area.

Commercial system means a system serving any nonresidential building.

Individual system means a system serving an individual building, typically a single-family residence.

Shade tree means a tree of approved species and size.

Shoreline means a line denoting the ordinary high-water elevation of any lake, stream or other body of water, which ordinary high-water elevation shall be as established by the Minnehaha Creek Watershed District, department of natural resources, or any other agency, whichever elevation is the highest.

Single ownership means ownership by the same person, corporation, firm, entity, partnership or unincorporated association; or ownership by different corporations, firms, partnerships, entities or unincorporated associations, in which a stockholder, partner, or associate, or a member of their family owns an interest in each corporation, firm, partnership, entity or unincorporated association.

Slope means vertical distance in feet per 100 feet of horizontal distance.

Street means the same as roadways.

Structure means anything which is built, constructed or erected, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires a location on, below or above the ground, land or water, or attached to something having a location on the ground, land or water.

Subdivider means any person who:

(1) Has an interest in land, who causes it, directly or indirectly to be divided into a subdivision;

(2) Directly or indirectly sells, leases or develops, or advertises for sale, lease or development, any interest, lot, parcel, site, unit or plot in a subdivision;

(3) Engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel, site, unit or plot in a subdivision; or

(4) Is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing.

Subdivider's agent means any person who represents or acts for or on behalf of a subdivider in selling, leasing or developing, or offering to sell, lease or develop, any interest, lot, parcel, unit, site or plot in a subdivision.

Subdivision means the separation of an area, parcel or tract of land under single ownership into two or more parcels, tracts, lots or long-term leasehold interests, where the creation of the leasehold interest necessitates the creation of streets, roads or alleys, for residential, commercial, industrial or other use or any combination of such uses, except those separations:

(1) In which all the resulting parcels, tracts, lots or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses.

(2) Creating cemetery lots.

(3) Resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary as long as each of the resulting lots meets the requirements of chapter 6.12.

Surface water management plan means a compilation of policy statements, goals, standards, maps and action programs for guiding the future hydrological and hydraulic development of the watersheds and subwatersheds, water storage areas, drainageways, floodways and filtration systems of the city to control surface water runoff, flood hazards, flood damage and general water quality within the city and its environs,

including lakes, streams, wetlands, marshes, natural watercourses and storm sewer systems or facilities.

Temporary improvement means improvements built and maintained by a subdivider during construction of the subdivision.

Tract and *subject tract* mean the parcel of land comprising all the contiguous land owned or controlled by the subdivider and included in whole or in part in the subdivision.

Transportation plan means a compilation of policy statements, goals, standards, maps and action programs for guiding the future development of the various modes of transportation of the city and its environs, such as streets and highways, public transit, railroads, air transportation, trucking and water transportation; and includes a major thoroughfare plan.

Water system, individual, means a water system which may include supply, treatment and distribution which serves only one lot (e.g., private well).

Water system, private community, means a water system which may include supply, treatment and distribution facilities, established by a subdivider to serve two or more lots, which system is independent from the public water system.

Water system, public, means a water system which may include supply, treatment and distribution facilities owned and maintained by the city.

Wetlands means as defined in circular 39, Wetlands of the United States, 1971 edition, United States Department of the Interior, as amended from time to time.
(Code 2003, § 82-2; Ord. No. 248(3rd series), § 1, 9-14-2020; Ord. No. 254(3rd series), § 2, 2-8-2021)

Sec. 6.20.030. Scope.

Subdivision and platting of land in the city shall be regulated by this chapter.
(Code 2003, § 82-3; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.040. Policy.

(a) It is the policy of the city to consider the subdivision of land and the subsequent development of subdivided land as subject to the control of the city pursuant to the official community management plan of the city and this chapter for the orderly, planned, efficient and economical development of the city.

(b) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Land shall not be subdivided until adequate public and private facilities and improvements exist and proper provision has been made for drainage, water, sewerage and capital improvements, such as schools, parks, recreation facilities, transportation facilities and other public improvements.

(c) The existing and proposed public and private improvements shall conform to and be properly related to the proposals shown in the community management plan of the city, and it is intended that this chapter shall supplement and facilitate the enforcement of the provisions and standards contained in the official controls and community management plan of the city.
(Code 2003, § 82-4; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.050. Purposes.

The ordinance from which this chapter is derived is adopted for the following purposes:

(1) To protect and provide for the public health, safety and general welfare of the city and to prevent harm to the public health, safety and general welfare.

(2) To guide the future growth and development of the city in accordance with the community management plan.

(3) To provide for adequate light, air and privacy; to secure safety from fire, flood and other danger; and to prevent overcrowding of the land and undue congestion of population.

(4) To protect the character of the land to be divided as well as the surrounding lands

and the social and economic stability of all parts of the city and to encourage the orderly and beneficial development of all parts of the city.

(5) To protect and conserve the value of land throughout the city and the value of structures and other improvements upon the land, and to minimize the conflicts among the uses of land.

(6) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation and other public requirements and facilities.

(7) To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the city, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.

(8) To establish reasonable standards of design and procedures for subdivisions, in order to further the orderly layout and use of land; and to ensure proper legal descriptions and monumenting of subdivided land.

(9) To ensure that public and private facilities are available and will have a sufficient capacity to serve the proposed subdivision.

(10) To prevent the pollution of air, streams, ponds, wetlands, Lake Minnetonka and other bodies of water; to provide reasonable access to public waters; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the city to prevent their misuse, abuse and overuse and in order to preserve the integrity, stability and beauty of the community and the value of the land.

(Code 2003, § 82-5; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.060. Authority.

Pursuant to the powers and jurisdictions vested through Minn. Stats. chs. 412 and 462 and other applicable laws, statutes, ordinances and regulations of the state, the city exercises the power of authority to review, approve and disapprove subdivisions of land within the corporate limits of the city.

(Code 2003, § 82-6; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.070. Minimum standards.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare and prevention of harm to the public health, safety and general welfare.

(Code 2003, § 82-7; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.080. Conflict with public provisions.

This chapter is not intended to interfere with, abrogate, or annul any other provision of this Code, rule or regulations, statute, or other provision of law. Where any provision of this chapter imposes restrictions different from those imposed by any other provision of this chapter or any other provision of this Code, rule or regulation, statute or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

(Code 2003, § 82-8; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.090. Saving provision.

This chapter shall not be construed as abating any action pending under or by virtue of prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the

liability of any person, or as waiving any right of the city under any section or provision existing at the time of adoption of this chapter, or as vacating or annulling any rights obtained by any person, or as waiving any right of the city under any section or provision existing at the time of adoption of this chapter, or as vacating or annulling any rights obtained by any person, by lawful action of the city except as shall be expressly provided for in this chapter.
(Code 2003, § 82-9; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.100. Amendments of other provisions of this Code and regulations.

(a) Whenever the provisions of this chapter refer to the community management plan, official controls, or other provisions of this Code, codes, regulations or laws, it shall be deemed to refer to those official controls, plans, codes, provisions of this Code, and regulations as amended as of that point in time. In the event of an amendment during the application for a subdivision, that subdivision must meet the requirements of the amendment.

(b) For the purpose of providing for the public health, safety and general welfare, the city may from time to time amend the provisions imposed by this chapter.
(Code 2003, § 82-10; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.110. Jurisdiction.

This chapter shall apply to all subdivisions of land located within the corporate limits of the city.
Code 2003, § 82-11; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.120. Compliance.

(a) The subdivision of any lot or any parcel of land for the purpose of sale, transfer or lease by use of metes and bounds description, deed, contract for deed, purchase agreement, registered land survey or easement shall not be permitted except after full compliance with this chapter.

(b) All subdivisions shall be platted in accordance with the terms and conditions of this chapter.

(c) No building permit or certificate of occupancy shall be issued for any parcel or lot of land which was created by subdivision and not in conformity with the provisions of this chapter, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with this chapter.

(d) No subdivision shall be entitled to be recorded in the county recorder's office or have any validity until the subdivision has been prepared, approved and acknowledged in the manner prescribed by this chapter. The office of the county recorder shall not file or accept for filing any subdivision of land unless it is accompanied by a certified copy of the resolution of the city approving the subdivision.

(e) Every person who violates any provision of this chapter when performing an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions this chapter.

(f) Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of this chapter to prevent unlawful construction, to recover damages, including attorney's fees, to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the penalties describe above and provided in state statutes.
(Code 2003, § 82-12; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.130. Conditions.

Regulation of the subdivision of land and the attachment of reasonable conditions to the subdivision of land is an exercise of valid police power delegated by the state to this city. The subdivider has the duty of compliance with reasonable conditions laid down by the city for design, dedication, improvement and restrictive use of

the land so as to conform to the physical and economical development of the city and the city's community management plan and to the safety and general welfare of the future lot owners in the subdivision and of the community at large.
(Code 2003, § 82-13; Ord. No. 248(3rd series), § 1, 9-14-2020)

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 6.20.210. Enforcement.

It shall be the duty of the city administrator or designee to enforce this chapter and to bring to the attention of the city attorney any violations or lack of compliance with this chapter.
(Code 2003, § 82-46; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.220. Fees for subdivision applications.

(a) The fees to be paid for each application for subdivision shall be in the amount prescribed by the current city fee schedule provisions. Fees shall be payable at the time applications are filed with the zoning administrator. There shall be no fee in the case of applications filed in the public interest by the council or by the planning commission.

(b) No person shall be issued a permit pursuant to this chapter by the city until each applicant shall have paid to the city clerk the fixed and additional costs incurred by the city in reviewing the application as provided in this chapter.

(c) Each applicant shall be charged the fixed fee specifically provided in this chapter or other provisions of this Code, including the current fee schedule adopted by the city council as required to cover the costs incurred by the city in administratively processing and reviewing the subdivision.

(d) Application fees are not refundable unless the application is withdrawn prior to referral to the planning commission. In the case of such timely withdrawal, the amount of refund shall be reduced by the costs incurred by the city prior to withdrawal, including, but not limited to, staff time, notification publication expenses, and consultant costs.

(e) Each applicant shall comply with the provisions of chapter 6.08, reimbursement of development expenses, escrows.
(Code 2003, § 82-47; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.230. Variances.

(a) *Standards.* Where the city finds that unusual hardship may result from strict compliance with the provisions of this chapter, other than the procedural provisions, and the purposes of this chapter may be served to a greater extent by an alternative proposal, the city may approve variances to this chapter so that substantial justice may be done and the public interest secured, provided that such a variance shall not have the effect of nullifying the intent and purpose of this chapter; and further provided the city shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) An unusual hardship on the land exists, including, but not limited to, inadequate access to direct sunlight for solar energy systems;

(2) The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property;

(3) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;

(4) Because of the particular physical surroundings, shape or topographical conditions of the specific land involved, an unusual hardship to the land would result, as distinguished from an inconvenience or hardship to the subdivider, and it is found that the strict enforcement of this chapter would result in an environmentally unsound development of the land;

(5) The variance will not in any manner vary the provisions of the community management plan;

(7) The variances will not in any manner vary the procedural requirements of this chapter.

(b) *Conditions.* In approving the variance, the city may require such conditions as will, in its judgment, secure substantially the objectives of this chapter.

(c) *Procedure.* An application for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed. The application shall state fully the grounds and all of the facts to justify the granting of a variance and will be approved or denied at the time the council reviews the preliminary plat.
(Code 2003, § 82-48; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.240. Issuance of building permits and certificates of occupancy.

(a) When public and/or private improvements are required for a subdivision, building permits and certificates of occupancy may be issued only subject to the development contract.

(b) In no case will a certificate of occupancy be issued to any building on any lot in the subdivision which lot has access only on a new public or private street until a certificate of satisfactory completion has been issued for that public or private street.
(Code 2003, § 82-49; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.250. Appeals.

(a) The zoning board of appeals and adjustments established in section 6.12.410 shall also serve as the subdivision board of appeals and adjustments. The board has the following powers with respect to the subdivision regulations: to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this chapter. An appeal under this section shall be filed no later than ten days following the order, requirement, decision or determination. Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the subdivision regulations. Failure to file an appeal within ten days of the decision shall constitute a waiver of the person's right to a hearing.

(b) The procedures set forth in chapter 6.12, article III apply to determinations of the subdivision board of appeals and adjustments.
(Code 2003, § 82-50; Ord. No. 248(3rd series), § 1, 9-14-2020)

ARTICLE III. PLAT APPROVAL PROCESS

Division 1. Generally

Sec. 6.20.310. Restrictions on development prior to final plat approval.

Once a preliminary plat has been submitted to the city, whether a subdivision is occurring or not, no building permits will be issued by the city for the construction of any building, structure or improvement to the land or to any lot in the proposed subdivision until all requirements of this chapter have been fully completed, including the official recording of the final plat, or until the application is formally withdrawn by the subdivider. When specifically authorized by this chapter and specifically approved by the council, permits may be issued for the construction of certain improvements such as roads, utilities and drainage structures.
(Code 2003, § 82-81; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.320. Coordination of subdivision approval.

(a) *Intent.* It is the intent of this chapter that subdivision review be carried out simultaneously with the review of accessory zoning applications, (variances, zone changes or other similar prerequisites) to the subdivision.

(b) *Fees.* Whenever a proposed subdivision requires accessory zoning applications, the subdivider shall file the separate zoning applications and pay all required fees concurrent with the filing of the preliminary plat application.
(Code 2003, § 82-82; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.330. Official submission dates.

(a) The city shall establish and publish submittal deadlines for land use applications annually. Subdivision applications shall be submitted based on this schedule.

(b) When a division or subdivision to which the regulations of the city do not apply is presented to the city, the city administrator or designee shall within ten days certify that the subdivision regulations of the city do not apply to the particular division.

(c) If the city or the responsible agency of the city fails to preliminarily approve or disapprove an application within the review period, the application shall be deemed preliminarily approved, and, upon demand, the city shall execute a certificate to that effect. Following preliminary approval, the applicant may request final approval by the city; and upon such request, the city shall certify final approval within 60 days if the applicant has complied with all conditions and requirements of applicable regulations and all conditions and requirements upon which the preliminary approval is expressly conditioned either through performance or the execution of appropriate agreements assuring performance. If the city fails to certify final approval as so required, and if the applicant has complied with all conditions and requirements, the application shall be deemed finally approved, and, upon demand, the city shall execute a certificate to that effect. After final approval a subdivision may be filed or recorded.
(Code 2003, § 82-83; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.340. Initial staff review.

Any person proposing subdivision of land within the city shall meet with the city administrator or designee to review briefly the proposed subdivision and receive advice concerning subdivision requirements, required submittals, fees and schedules.
(Code 2003, § 82-84; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.350. Sketch plan.

(a) *Purpose.* The sketch plan is an initial presentation of the subdivider's intention and serves as the basis for conceptual discussion between the city and the subdivider and provides beneficial savings for the subdivider.

(b) *Requirements.* A sketch plan review may be completed for all subdivision applications.

(c) *Sketch plan application; all subdivisions.* The planning commission shall review all sketch plans based upon the subdivider's formal application. Incomplete applications will not be reviewed. Complete applications shall include the following:

(1) Completion of all items on the sketch plan application form;

(2) A location map;

(3) A map in a form acceptable to the city administrator or designee which adequately describes the proposed subdivision in such a way as to show compliance with this chapter;

(4) Any additional information requested by the city administrator or designee; and

(5) Payment of the sketch plan review fee.

(d) *Sketch plan review and recommendations.*

(1) Recommendations to the subdivider. After reviewing and discussing the sketch plan, city administrator or designee will advise in a general manner the subdivider of the changes or additions, if any, which will be required in the layout, and the character and extent of required improvements and dedications which will be required as a prerequisite to the approval of the final plat.

(2) The planning commission shall study the sketch plan, taking into consideration the requirements of this chapter and the

best use of the land being subdivided. Particular attention will be given to the location, arrangement, shape and size of lots, access, parkland dedication, the further development of adjoining lands as yet unsubdivided, and the requirements of chapter 6.12 and the community management plan.

(3) The applicant may request review by the city council. Upon such request, the planning commission's comments shall be forwarded to the city council for study and comment.

(Code 2003, § 82-85; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.360. Vested rights.

No vested rights shall accrue to any subdivision by reason of preliminary or final subdivision approval except as stated in this article. For one year following preliminary approval and for two years following final approval, unless the subdivider and the city agree otherwise, no amendment to a comprehensive plan or official control shall apply to or affect the use, development density, lot size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, pursuant to its regulations, the city may extend the period by agreement with the subdivider and subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application, and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, the city may by resolution or agreement grant the rights referred to in this section for such period of time longer than two years which it determines to be reasonable and appropriate.

(Code 2003, § 82-86; Ord. No. 248(3rd series), § 1, 9-14-2020)

Division 2. Preliminary Plat

Sec. 6.20.410. Purpose and requirements.

(a) *Purposes.* During this stage, the subdivider details their proposal and the city details the subdivision requirements, in the form of a preliminary plat.

(b) *Requirements.* The subdivider is required to furnish detailed surveying, engineering and legal information sufficient to ensure compliance with the city's community management plan and chapter 6.12, and other local, state, federal, watershed or conservation district regulations. A preliminary plat review shall be completed for each subdivision proposed prior to the city's accepting any final plat application.

(Code 2003, § 82-111; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.420. Plat application.

(a) *Plat.* All preliminary plat applications shall provide the following to be deemed complete:

(1) Completion of all items required by the city;

(2) Provision of the utilities map, if applicable;

(3) A soil survey and report (to be requested by the city if the city administrator or designee feels such information is necessary for the subdivision review);

(4) A soil erosion and sedimentation control plan;

(5) A vegetation preservation and protection plan;

(6) Any additional information requested by the city administrator or designee or planning commission;

a. Proposed protective covenants;

b. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units and type of business or industry, so as to reveal the effect of the development on traffic, fire hazards and congestions of population; or

(7) Payment of the preliminary plat review fee.

Certification does not mean all information is correct, just that apparently all issues identified in the plat have been addressed by the subdivider.

(b) *Application deadlines.* The subdivider shall file a complete preliminary plat application with the city administrator or designee at the deadline established by the city annually.
(Code 2003, § 82-112; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.430. Staff and agency review of the preliminary plat.

(a) *General coordination.* On behalf of the city, the city administrator or designee shall coordinate the review of preliminary plats by all appropriate city staff persons and governmental agencies. The subdivider is responsible for filing all applications and obtaining all appropriate approvals from other agencies and to keep the city administrator or designee fully informed of the status of the review by the appropriate agency. The subdivider shall submit to the city copies of all applications filed with other governmental agencies.

(b) *Referral to planning commission.* Upon receipt of a complete preliminary plat application, the city administrator or designee shall place the application on the agenda of the regularly scheduled planning commission meeting for which the public hearing has been scheduled. The planning commission shall then begin reviewing the proposal.

(c) *Public hearing meeting notice.* Notice of the hearing shall be consistent with public hearing requirements in section 6.12.280.

(d) *Referral to park commission.* Where the proposed plat includes provisions for the dedication of land for public park purposes, trails or jointly used recreational facilities, the city administrator or designee shall refer the application to the park commission, which shall review the proposal and provide recommendations to the city council.
(Code 2003, § 82-113; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.440. Planning commission review of the preliminary plat.

(a) *Generally.* The planning commission shall study and review all preliminary plat applications. Particular attention will be given to the location, arrangement and size of lots and blocks; the location, width, length and continuity of streets; the topography and ecology of the land; sewage disposal; traffic; drainage; public services; the further development of adjoining lands as yet unsubdivided; the requirements of chapter 6.12 and community management plan; and the recommendations of the city staff and other governmental agencies.

(b) *Planning commission public hearing.* At the advertised time and place, the planning commission shall hold a public hearing as required by Minn. Stats. § 462.358. The recommendations of city staff and governmental agencies shall be entered in the record. At the discretion of the planning commission, the public hearing may be closed or may be held open for additional information.

(c) *Planning commission recommendations.* After the planning commission has reviewed the preliminary plat and the testimony and exhibits submitted at the public hearing, including citizen comments and the recommendations of the city staff and other governmental agencies, the subdivider shall be advised of any required changes and/or additions. The planning commission shall recommend approval, conditionally approve or deny the preliminary plat. If the planning commission fails to act within the 100-day period, the city administrator or designee shall refer the application to the council for action within 120 days of the date of certification.
(Code 2003, § 82-114; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.450. Council review of the preliminary plat.

(a) *Required.* The council shall review all preliminary plat applications. Particular attention will be given to the record developed by the planning commission's study of the proposal and to the recommendations of the planning commission and the city staff.

(b) *Council action.* The council should approve, conditionally approve or disapprove the preliminary plat within 120 days following the date of certification by the city administrator or

designee of the completed application unless an extension of the review period has been agreed to by the subdivider in writing.

(c) *Recommendations to the subdivider.* The action of the council shall be in the form of a resolution setting forth the conditions of approval, including any changes, additions and/or other requirements to be met by the subdivider prior to final plat approval. In addition to the specific conditions stated, the subdivider must fulfill all other requirements and performance standards of this Code.

(d) *Failure to act by the city.* If the city or the responsible agency of the city fails to preliminarily approve or disapprove an application within the review period, the application shall be deemed preliminarily approved; and upon demand the city shall execute a certificate to that effect. Following preliminary approval the applicant may request final approval by the city, and upon such request the city shall certify final approval within 60 days if the applicant has complied with all conditions and requirements of applicable regulations and all conditions and requirements upon which the preliminary approval is expressly conditioned either through performance or the execution of appropriate agreements assuring performance. If the city fails to certify final approval as so required, and if the applicant has complied with all conditions and requirements, the application shall be deemed finally approved; and upon demand the city shall execute a certificate to that effect. After final approval, a plat may be filed or recorded.

(e) *Grading of site prior to final approval.* Subsequent to preliminary plat approval by the council, the subdivider may apply for a land alteration permit from the city and upon receipt of such permit may commence construction to the grades and elevations required by plans approved by the city.
(Code 2003, § 82-115; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.460. Effective period of preliminary plat review.

Council resolution concerning any preliminary plat shall remain effective for one year. Failure to file a complete final plat application within this time period shall be construed as formal withdrawal of the proposed plat.
(Code 2003, § 82-116; Ord. No. 248(3rd series), § 1, 9-14-2020)

Division 3. Final Plats

Sec. 6.20.510. Purpose; requirements.

(a) *Purpose.* Final plat review is the final stage of the plat review process. The legal documents, including plat drawings, are reviewed for completeness and conformity with the intent and requirements of the preliminary plat approval.

(b) *Requirements.* The applicant is required to furnish completed surveying, engineering, and legal documents suitable for recording in the county recorder's office, incorporating all the information and/or changes required as part of the preliminary plat review and resolution of preliminary plat approval. All documents and requirements shall be completed by the subdivider, reviewed by the city staff and the council, and approved by the council prior to the mayor's and city clerk's certifying approval of the final plat.

(c) *Prerequisite.* A preliminary plat of substantially the same proposal shall have been approved by the council within one year of the filing of any final plat application. The city administrator or designee shall review each final plat application to ensure substantial conformity to the requirements and representations on the preliminary plat.

(d) *Substantial change from preliminary plat.* The council may refuse to approve any final plat application which is substantially different from the approved preliminary plat, or which discloses possible misrepresentations on the preliminary plat. In the case of such denial council may require the applicant to resubmit the proposal for planning commission reconsideration, and may require the applicant to submit or resubmit any and all documents or information required for preliminary plat review. Planning commis-

sion reconsideration may include a new public hearing. The applicant shall pay applicable preliminary plat review fees.
(Code 2003, § 82-141; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.520. Final plat application.

(a) *All plats.* Complete final plat applications shall include one or all of the following to be determined by the zoning administrator:

(1) Completion of all items required by city staff.

(2) All information submitted for the preliminary plat review shall be in the record and shall be considered submitted for final plat review purposes.

(3) One original and two copies signed by the grantor, of any required drainage, utility, road, access, open space, conservation or other easement in the standard form as provided by the city. Any other form or changes to the standard form must be approved by the city attorney prior to filing the final plat application.

(4) One original and two copies, signed by the grantor, of any quitclaim deed or warranty deed dedicating required land to the city or other governmental jurisdiction.

(5) One original and two copies of any private covenant, homeowners' association agreement or other private restriction intended to be filed in the chain of title of the property at the time the final plat is recorded.

(6) A developer's contract, including the complete construction plans, specifications and performance security, shall be submitted by the subdivider for all required public or private improvements which are to be installed and/or completed after final plat approval.

(7) A certificate of satisfactory completion signed by the city engineer shall be submitted by the subdivider for all required public and private improvements which have been or were required to be completed prior to final plat approval.

(8) Any additional information requested by the city administrator or designee or the council.

(9) Payment of applicable fees and payments identified in the development agreement, or preliminary plat resolution.

(10) Confirmation that all county taxes are paid.

(11) Title commitment or acceptable evidence of title, dated no later than 45 days of the anticipated recording date.

(b) *The final plat.*

(1) Record plat drawings shall be prepared by a registered land surveyor in accordance with applicable statute and county regulations and shall be submitted in the form of at least two plastic film reproducible copies, three copies for Torrens property. Original signatures and certifications shall be provided on the mounted and reproducible copies for the owners, those possessing any other property interest, the professional engineer (if applicable), and the registered surveyor. Spaces for certification by the city (signature lines for the mayor and clerk) shall be provided.

(2) One copy of the final plat reduced to a scale of one inch equals 200 feet.

(c) *Application deadlines.* The subdivider shall file a complete final plat application with the city administrator or designee within one year of preliminary plat approval.
(Code 2003, § 82-142; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.530. Staff review of the final plat.

(a) *Coordination.* The city administrator or designee shall coordinate the review of final plat applications.

(b) *Referral to city staff.*

(1) The city administrator or designee shall refer the application to all appropriate city staff personnel for review and certification.

(2) The city administrator or designee shall review the final plat application for conformity with chapter 6.12 and this chapter and with the conditions and requirements of the preliminary plat approval, and shall certify their status to the council.

(3) The city attorney shall review the record plat drawing, metes and bounds descriptions, easements, deeds, covenants, agreements and other documents for proper legal form, proper representation and complete execution by all required parties, all to uphold the interests of the city, and shall certify the approval to the council.

(4) The city engineer shall:

a. Review the record plat drawing, metes and bounds description, easements, deeds, agreements and other documents for proper and complete legal property descriptions;

b. Review and approve all construction plans;

c. Approve all construction estimates for work required to be completed after final plat approval;

d. Issue, when completed, certificates of satisfactory completion for all work required to be completed prior to final plat approval; and

e. Certify the approval and/or status of the above to the council.

(5) The city finance director shall review all final plat applications as to tax status of the property; the original, outstanding and proposed special assessment amounts levied; and the payment and status of all fees or charges imposed on the property; shall prepare all special assessment reapportionments; and shall certify the above to the council.

(6) Additional comments by other city staff personnel shall be submitted in writing to the city administrator or designee for inclusion in the record.

(c) *Requirements of other agencies.* The subdivider shall submit to the city all written confirmation of official action taken by governmental agencies or jurisdictions subsequent to the approval of the preliminary plat. Such confirmation, including all necessary permits or authorizations, shall be submitted at the meeting at which the council will act on the final plat.

(d) *Final plat resolution.* After review and certification of the final plat application, the city administrator or designee, shall prepare a resolution of final plat approval or denial to be presented to the council.
(Code 2003, § 82-143; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.540. Council review of the final plat.

The council is the platting authority pursuant to Minn. Stats. § 462.358 and shall modify, approve or deny all final plat applications.
(Code 2003, § 82-144; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.550. Effective period of final plat approval.

(a) The intent of the plat approval process is that final approval will be granted only upon satisfactory completion of all requirements by the subdivider, in which case plat certification and recording will follow without delay. The final plat shall be recorded within one year of approval date.

(b) Failure of the subdivider to complete any or all requirements within this time period shall constitute a formal withdrawal of the proposed plat.
(Code 2003, § 82-145; Ord. No. 248(3rd series), § 1, 9-14-2020)

Division 4. Subdivision Certification and Recording

Sec. 6.20.610. Documents.

(a) *Required.* The documents provided by the subdivider for final plat certification shall be the same documents certified by the city staff unless changes, alterations or additions are required by the resolution of final plat approval, in which case corrected documents shall be supplied by the subdivider.

(b) *Documents to be certified by the city.* The following documents shall be certified by the city:

(1) Two plastic film reproducible copies (in the case of Torrens property, three copies) of the plat.

(2) Resolution of final plat approval; one copy provided by the city.

(c) *Additional documents.* The following additional documents shall be recorded with the plat:

(1) One original signed by the grantor of any required drainage, utility, road, access, open space, conservation or other easement in the standard form as provided by the city.

(2) One original signed by the grantor of any quitclaim deed or warranty deed dedicating required land to the city or other governmental jurisdiction.

(3) One original copy of any private covenant, homeowners' association agreement or other private restriction intended to be filed in the chain of title of the property at the time the final plat or survey is recorded.

(4) One original copy of any required development contract in the standard form as provided by the city.

(Code 2003, § 82-172; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.620. Staff certification.

The city administrator, zoning administrator, city attorney, city engineer and city finance director or their designees shall each review the final legal documents and status of each plat proposal. Whenever the resolution of final plat approval requires changes, alterations or additions prior to final plat certification, upon receipt of all corrected documents, the city administrator or designee shall refer the revised documents to the affected staff for their review and recertification.

(Code 2003, § 82-173; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.630. Official plat certification.

Upon receipt of the final staff certifications, the city clerk shall determine that there has been final staff approval and shall thereafter present the final plat drawings and resolution of final plat or survey approval for the endorsement of the signature of the mayor, or the acting mayor presiding in the absence of the mayor. Upon endorsement of the mayor, the city clerk shall attest to the mayor's signature and the final city approval of the plat by signature and affixing the seal of the city on the resolution of final plat approval.

(Code 2003, § 82-174; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.640. Final acceptance of improvements.

Final acceptance of all improvements and release of security shall be as and when set forth in the development contract and section 6.20.820. Final acceptance of all public improvements for which the city will thereafter be responsible shall be by separate motion of the city. The approval and certification by the city of a plat and/or the acceptance and recording of any easement or deed shall not be deemed to constitute or imply acceptance by the city of any street, road, easement or parts shown on the plat or identified by easement or deed.

(Code 2003, § 82-175; Ord. No. 248(3rd series), § 1, 9-14-2020)

Division 5. Exceptions

Sec. 6.20.710. Certification procedure and limitations.

(a) Upon request, the city administrator or designee shall, within ten days, certify that the following are excepted from this chapter:

(1) A division of property where all the resulting parcels, tracts, lots or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

(2) Will create cemetery lots;

(3) Is court ordered; or

(4) Is an adjustment of a lot line by the relocation of a common boundary and no new nonconformities are created or an existing nonconformity is increased.

(b) Procedure for exempted subdivisions. The owners of such lots to be certified shall file with the city administrator or designee a certificate of survey of the lots to be divided, and pay the required fee. Such certificate of survey shall show the dimensions of the lots, as measured upon the recorded plan, the area of the lots, all corner elevations, all existing structures, including dimensions to existing and proposed property lines, all visible encroachments, all easements of record, and their proposed division. A written description of the separately described tracts which will result from the proposed division shall be included on the survey. If the proposed certification complies with all of the requirements of this section, it will be approved by the city administrator or designee and forwarded to the county for filing.

(c) Limitations. The city administrator or designee shall not certify an adjustment of the lot line involving the same lot or parcel more than once every 365 days. The adjustment may be platted.

(Code 2003, § 82-200; Ord. No. 248(3rd series), § 1, 9-14-2020)

ARTICLE IV. DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

Division 1. Generally

Sec. 6.20.810. Special requirements for subdivisions involving public or private improvements.

The following provisions apply to subdivisions:

(1) *Improvements.* All public and/or private improvements required by the city to be completed by the subdivider after final plat approval shall be fully set forth in a development contract to be executed prior to final plat approval. All local streets in plats where sewer and water are not available shall be private unless otherwise approved by the city at preliminary plat approval. The city reserves the right to determine whether a road is to be public or private in all areas of the city. All improvements shall meet or exceed the minimum standards as illustrated on the city standard construction details, as amended and adopted by the city council from time to time.

(2) *Public roads.* Public streets and roads will be required to be platted, constructed and dedicated to the city when required by the council consistent with the recommendations of the planning commission and the city staff and the established city practices and design standards. Public roads shall be subject to the conditions of a development contract to be executed prior to final plat approval.

(3) *Private roads.* When the preliminary plat has been approved on the basis of a private access road providing the only access to three or more lots, the private road shall be identified on the final plat as a separate outlot. The private road shall be identified by name if the road serves four or more lots. Whenever a private road outlot is proposed, the subdivider shall be required to provide

for a permanent homeowners' association or road maintenance agreement acceptable to the city in order to ensure ownership and maintenance of the road outlot.

(4) *Road and utilities easements.* The council may require the subdivider to convey to the city certain road and utility easements permitting public ingress, egress and access over private roads as a condition of final plat approval.

a. Whenever a private access road is authorized, the required outlot shall be included on and conveyed in a road and utilities easement in the standard city form.

b. Whenever areas of the plat are to be set aside for public or private utility construction and use, such areas shall be described and dedicated for public use on the plat. This shall include areas shown on record plat drawings as drainage and utilities easements.

c. Whenever a road and utilities easement is required, the easement shall be fully executed prior to final plat approval, using the legal descriptions of the final plat, and shall thereafter be filed in the chain of title of the property concurrent with the filing of the final plat.

(5) *Flowage and conservation easements.* The council may require the subdivider to convey to the city a flowage and conservation easement restricting the use, improvement and development of certain portions of the land to be subdivided. Flowage and conservation easements will be made a condition of final plat approval as follows:

a. Whenever any open water, creek, stream or natural drainageway occurs in any portion of the subject tract, the floodplain or floodway of the lake, pond, stream, creek or drainageway shall be described as a drainage easement subject to a flowage and conservation easement to the city.

b. Whenever any wetlands, marshlands or lowland acting as a stormwater retention area occurs within any portion of the subject tract, that area shall be described consistent with established flood or water retention elevations, soil type characteristics and vegetation characteristics as a drainage easement subject to a flowage and conservation easement to the city.

c. Flowage and conservation easements may be described and conveyed by metes and bounds with the ownership and maintenance responsibilities remaining with the individual parcels.

d. Whenever a flowage and conservation easement is required, the easement shall be fully executed prior to final plat approval, using the legal descriptions of the final plat, and shall thereafter be filed in the chain of title of the property concurrent with the filing of the final plat.

(6) *Homeowners' association agreements.* The council may require the subdivider to create a viable homeowners' association, acceptable to the city, which will be responsible for the ownership and maintenance of, among other things, common facilities, private roads, private sewer and water lines, open space, pathways, drainageways, and drainage ponds, and any improvements which are not to be accepted by the city for public ownership and maintenance.

(7) *Development contracts.* The council may require the subdivider to execute a development contract prior to final plat approval. The development contract shall set forth in the standard city form those improvements required to be completed as a condition of plat approval, the party responsible for the installation and

maintenance of the improvements, and the method of payment of the installation and maintenance costs.

(Code 2003, § 82-212; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.820. Assurance for completion and maintenance of required public or private improvements.

The following provisions apply to subdivisions:

(1) *Completion of required public or private improvements.* Before the mayor and city clerk sign a final plat, the subdivider shall complete or agree to complete at their cost all of the required public or private improvements as required in this chapter and as specified in the resolution approving the final plat and in the development contract, and in the case of public improvements, to dedicate them to the city, free and clear of all liens and encumbrances on the property and public improvements thus dedicated.

(2) *Performance security.*

a. The city may require the developer furnish security, in the amount of 125 percent of the cost of the improvements, to guarantee their completion.

b. Such performance security shall comply with all statutory requirements and be satisfactory to the city attorney as to form and manner of execution. The period within which the required public and private improvements must be completed shall be specified by the city in the resolution approving the final plat or in the development contract and shall not exceed two years from date of final plat approval.

(3) *Temporary improvement.* The subdivider shall build and pay for all costs of temporary improvements required by the city and shall maintain them for the period specified by the city. Prior to construction of any temporary facility or improvement, the subdivider shall file with the city a separate suitable performance security for temporary facilities, which security shall ensure that the temporary facilities will be properly constructed, maintained and removed.

(4) *Cost of improvements.* All required public and private improvements shall be made by the subdivider, at their expense, without reimbursement by the city.

(5) *Governmental units.* Governmental units to which these security and contract provisions apply may file in lieu of a contract or bond a certified resolution or ordinance of that governmental unit's agreeing to comply with the provisions of this chapter.

(6) *Failure to complete required improvements.* For plats for which no performance security has been posted, if the improvements are not completed within the period specified by the city in the resolution approving the final plat, the approval shall be deemed to have expired. In those cases where a performance security has been posted and required improvements have not been installed within the term of such performance security and resolution approving the final plat, the city may thereupon declare the security in default and require that all improvements be installed regardless of the extent of the building development at the time the security is declared to be in default. Moreover, the city may withhold building permits and certificates of occupancy for lots in the plat until the required improvements have been installed. If the city undertakes the installation of the required private improvements, the city, by doing so, will not undertake the subsequent maintenance of those private improvements.

(Code 2003, § 82-213; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.830. Inspection of required public and private improvements.

(a) *General procedure and fees.* The city may inspect required public and private improvements during construction. The applicant shall pay to the city an inspection fee based on the city engineers estimate enumerated in the development contract. If the city finds upon inspection that any of the required improvements have not been constructed in accordance with the city's construction standards and specifications, the subdivider shall be responsible for completing the improvements; and no building permits or certificates of occupancy shall be issued until the required improvements have been completed by the subdivider.

(b) *Release or reduction of performance security.*

(1) *Certificate of satisfactory completion.* The city will not accept dedication of required improvements, nor release nor reduce security, until the city engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until the subdivider's engineer or surveyor has certified to the city engineer, through submission of a detailed as-built construction drawing and survey plat of the subdivision, indicating location, dimensions, materials and other information required by the city, that the layout of the line and grade of all required improvements is in accordance with construction plans for the subdivision. The city may require that a title insurance policy be furnished to and approved by the city attorney, indicating that the required public improvements are free and clear of any and all liens and encumbrances. Upon such approval and recommendations, the city may thereafter accept the public improvements for dedication in accordance with the established procedure.

(2) *Reduction of security.* Security may be reduced upon actual dedication of public improvements or upon satisfactory completion of the private improvement and then only to the ratio that the improvement bears to the total required improvements for the plat. In no event shall security be reduced below ten percent of the principal amount until satisfactory completion of all required improvements.

(Code 2003, § 82-214; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.840. Maintenance of required public and private improvements.

(a) The subdivider shall be required to maintain all private improvements and provide for snow removal on streets and sidewalks until acceptance of such private improvements by a subsequent lot owner or homeowners' association. The subdivider shall be required to maintain all public improvements and provide for snow removal on streets and sidewalks until acceptance of such public improvements by resolution of the city.

(b) The subdivider shall be required to file a warranty bond with the city, prior to the issuance of the certificate of satisfactory completion, in an amount considered adequate by the city engineer and in a form satisfactory to the city attorney in order to ensure the satisfactory condition of the required public and/or private improvements, on the individual subdivided lots for a period of one year after the date of the issuance of the certificate of satisfactory completion.

(Code 2003, § 82-215; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.850. Deferral of required public or private improvements.

(a) The city may defer at the time of the approval of the final plat, subject to appropriate conditions, the installation of any or all such public or private improvements as, in its judgment, are not requisite in the interest of the public health, safety and general welfare, or which are inappropriate because of the inadequacy or lack of connecting public or private improvements.

(b) Whenever it is deemed necessary by the city to defer the construction of any public or private improvements required in this section because of incompatible grades, future planning, inadequate or lack of connecting public or private improvements, or for other reasons, the subdivider shall pay their estimated share of the cost of the future improvements to the city prior to the signing of the final plat; or the subdivider may post a security insuring completion of such improvements upon demand of the city.
(Code 2003, § 82-216; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.860. Subdivisions straddling municipal and school district boundaries.

Lot lines shall be laid out so as not to cross municipal and school district boundary lines.
(Code 2003, § 82-217; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.870. Monuments.

The applicant shall place permanent reference monuments in the plat as required by statute.
(Code 2003, § 82-218; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.880. Character of the land.

Land which the council finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, soil conditions, rock formations, adverse earth formations or topography, utility easements, or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the plat and/or its surrounding areas shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the council, upon recommendation of the city engineer, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.
(Code 2003, § 82-219; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.890. Plat name.

The proposed name of the plat shall not duplicate, or too closely approximate phonetically, the name of any other plat in the city covered by this chapter. The council shall have final authority to designate the name of the plat, which shall be determined at preliminary plat approval.
(Code 2003, § 82-220; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.900. Drainage and storm sewers.

(a) *General requirements.* The city shall not approve any plat which does not make adequate provision for stormwater or floodwater runoff. Surface water drainage patterns shall be shown for each lot and block. The stormwater drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by the method as approved by the city, and a copy of design computations shall be submitted along with plans. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in the gutter in urban areas. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point; and basins shall be used to intercept flow at that point.

(b) *Nature of stormwater facilities.*

(1) *Location.* The subdivision shall be required by the city to carry away by pipe or open ditch any spring or surface water that may exist either previously to or as a result of the plat. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the city's construction standards and specifications.

(2) *Accessibility to public storm sewers.*

a. Where a public storm sewer is accessible, the subdivider shall install storm sewer facilities; or, if no outlets are within a reasonable distance,

adequate provision shall be made for the disposal of stormwaters, subject to the specifications of the city.

b. If a connection to a public storm sewer will be provided eventually, as determined by the city, the subdivider shall make arrangements for future stormwater disposal by a public utility system at the time the subdivision receives final approval. Provision for such connection shall be incorporated by inclusion in the performance bond required for the final subdivision.

(3) *Accommodation of upstream drainage areas.* A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The city shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by chapter 6.12 and the community management plan.

(4) *Effect on downstream drainage areas.* The city shall also study the effect of each plat on existing downstream drainage facilities outside the area of the plat. City drainage studies, together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the plat will overload an existing downstream drainage facility, the city may withhold approval of the plat until provision has been made for the improvement of the potential condition at the subdivider's expense and in such sum as the city shall determine. No plat shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

(5) *Floodplain areas.* The city may, when it deems it necessary for the health, safety or welfare of the population of the area and necessary to the conservation of water, drainage and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the floodplain of any stream, lake or drainage course. These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading or dumping of earth, waste material or stumps by the appropriate conservation easement.

(c) *Dedication of drainage easements.*

(1) *General requirements.* Where a plat is traversed by a wetlands, swamp, watercourse, drainageway, channel or stream, there shall be provided a stormwater easement, conservation and flowage easement, or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

(2) *Drainage easements.*

a. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements of an appropriate width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to a public roadway. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

b. When a proposed drainage system will carry water across private land

outside the plat, appropriate drainage rights must be secured and indicated.

c. The subdivider shall dedicate, by drainage or conservation easement of land on both sides of existing watercourses, to a distance to be determined by the city.

(Code 2003, § 82-221; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.910. Water facilities.

(a) *Public water systems.*

(1) Where a public water main is accessible, the subdivider shall install adequate water facilities, including fire hydrants, subject to the specifications of the state or city.

(2) Water main extensions shall be approved by the city.

(3) To facilitate the provisions of subsections (a)(1) and (2) of this section, the location of all fire hydrants and all water supply improvements and all improvements proposed to be served shall be shown on the preliminary plat, and the cost of installing such improvements shall be included in the performance bond to be furnished by the subdivider.

(b) *Individual wells.*

(1) In the discretion of the city, if a public water system is not available, individual wells may be used. Water samples shall be submitted to the state health department for its approval.

(2) If the city requires that a connection to a public water main be eventually provided as a condition to approval of an individual well, the subdivider shall make arrangements for future water service at the time the plat receives final approval.

(Code 2003, § 82-222; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.920. Sewerage facilities.

(a) *General requirements.* Where public sanitary sewer is available, the subdivider shall install sanitary sewer facilities in a manner prescribed by the city's construction standards, specifications and provisions of this Code. All plans shall be designed in accordance with the rules, regulations and standards of the city, state health department, and other appropriate agencies.

(b) *Connection.* Where a public sanitary sewerage system is reasonably accessible, the applicant shall connect the system and provide sewers accessible to each lot in the plat.

(c) *Central system.* In the Metropolitan Urban Service Area (MUSA), where public sanitary sewerage systems are not reasonably accessible but will become available within a reasonable time (not to exceed 15 years), the applicant may choose a central sewerage system. The maintenance cost shall be assessed against each property benefited. Where plans for future public sanitary sewerage systems exist, the applicant shall install the sewer lines, laterals and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains.

(d) *Septic system.* In the MUSA, and where sanitary sewerage systems are not reasonably accessible and will not become available for a period in excess of 15 years, the applicant may install a sewerage system in accordance with chapter 5.24, article II.

(e) *Design criteria for sanitary sewers.*

(1) *Generally.* These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances where considered justified by the city.

(2) *Design factors.* Sanitary sewerage systems should be designed for the ultimate tributary population. Due consideration should be given to the community management plan. Sewer capacities should be adequate to handle the anticipated maximum hourly quantity of sewage and industrial waste together with an

adequate allowance for infiltration and other extraneous flow. Sewers shall be designed in accordance with standards and specifications approved by the city.

(Code 2003, § 82-223; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.930. Utilities.

(a) *Location.* All utility facilities, including, but not limited to, gas, electric power, telephone and CATV cables, shall be located underground throughout a plat. Wherever existing utility facilities are located above ground, except where existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the plat shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the city, the requirements for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

(b) *Easements.* Easements centered on rear and side lot lines shall be provided for utilities (private and municipal), and such easement shall be at least ten feet wide and have satisfactory access to the publicly dedicated and opened road. Easements shall be indicated on the plat. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.

(Code 2003, § 82-224; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.940. Preservation of natural features and amenities.

(a) *Generally.*

(1) Existing features which would add value to residential development or to the city as a whole, such as trees, watercourses and falls, beaches, historic spots, and similar irreplaceable assets, shall be preserved in the design of the plat.

(2) No trees shall be removed from any plat nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required shall be welled and protected against change of grade. The vegetation map shall show the number and location of existing trees, as required by this chapter, and shall further indicate all those marked for retention, and the location of all proposed shade trees required along the street side of each lot as required by this chapter.

(b) *Deciduous trees planted by subdivider.*

(1) As a requirement of subdivision approval, the city may require that the subdivider plant deciduous trees on the property of the subdivision. Such trees are to be planted within five feet of the right-of-way of the roads within and abutting the subdivision, or, at the discretion of the city, within the right-of-way of such roads. One tree shall be planted for every 40 feet of frontage along each road unless the council, upon recommendation of city staff, shall grant a waiver.

(2) New trees to be provided pursuant to this chapter shall be approved by the city and shall be planted in accordance with the specifications of the city. Such trees shall have a minimum trunk diameter, measured 12 inches above ground level, of not less than two inches. Only oak, honey locust, hard maples, or other long-lived shade trees acceptable to the city shall be planted. Alternatively, the city may accept trees recommended for street use by University of Minnesota Extension—Forestry, Northwest and Central regions and appropriate for the soil conditions.

(Code 2003, § 82-225; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.950. Parks and playgrounds.

(a) *Lands for public use.*

(1) The city finds that when land is developed, including a planned residential develop-

ment or a planned unit development, the resulting additional housing units or commercial/industrial buildings have an impact on the city's park system. Therefore, pursuant to Minn. Stats. § 462.358, subd. 2b, the city requires all persons, corporations or other legal entities that develop land within the city, as a prerequisite to approval of a lot division, final plat, planned residential development or planned unit development, to convey to the city or dedicate to the public, for use as parks, playgrounds, trails or open space, a proportionate share of the land being developed as specified in this section, such portions to be approved by the city. Further, the city finds that the density of a proposed project impacts the park system, higher density projects, with less private area for recreation, have greater needs for and impacts on the public park system than larger lots with ample private green space.

(2) Any increase in density of subdivisions shall be reviewed for reconsideration of park land and/or cash contribution requirements.

(b) *Dedicated land requirements.* Any land to be dedicated as a requirement of this section shall be reasonably adaptable for the public purposes listed in subsection (a) of this section. Factors used in evaluating the adequacy of proposed dedicated areas shall include size, shape, topography, drainage, geology, tree cover, access and location.

(1) When a proposed park, playground, recreation area, trail or other public ground has been indicated in the city's official map or comprehensive plan and is located in whole or in part within a proposed subdivision, it shall be designated as such on the plat and shall be conveyed to the city. If the developer elects not to dedicate an area in excess of the land required hereunder for such proposed public site, the city may consider acquiring the site through purchase or condemnation.

(2) Land area conveyed or dedicated to the city shall not be used in calculating density requirements of this chapter and shall be in addition to and not in lieu of open space requirements as may be required.

(3) The city, upon consideration of the particular type of development, may require lesser parcels of land to be conveyed to the city if the city determines that present or future residents would require lesser land for park and playground purposes.

(c) *Land dedication minimum area.* The developer shall be required to dedicate to the city for parks, playgrounds, trails, open spaces and other public purposes as a minimum that percentage of gross land area, or other such amount as may be determined by the city council, as set forth below:

(1) In residential/agricultural/multiple residential zoned land, dedication requirement of 0.10 acres per additional residential household being developed. The dedication required shall be roughly proportional to the projected impact of the proposed development on the city's park system.

(2) In commercial/industrial zoned land, dedication requirement of 0.1 acres for every acre of land being developed, or for every 14 expected employees, whichever is greater. The dedication required shall be roughly proportional to the projected impact of the proposed development on the city's park system. The city finds that the employees of commercial/industrial developments in the city make use of the city's park system, particularly trails and natural areas. Because the city's park system is focused on trails and natural areas versus active community parks and ballfields, commercial/industrial employees use the city's park system in ways similar to city residents. Therefore, the commercial/industrial dedication requirement will be tied to the residential dedication requirement

by determining the number of employees that is equivalent to a residential dwelling unit in terms of impact on the city's park system.

(3) The form of contribution (cash, land, or any combination) shall be determined at the discretion of the city council.

(d) *Cash contribution in lieu of lands.* In those instances where a cash contribution is to be made by the developer, in lieu of a conveyance or dedication of land, the cash contribution to be contributed shall be equivalent to the fair market value of the land to be dedicated. The city shall account for such funds in a special fund named park dedication funds. These funds are to be used only for the acquisition, development and improvement of public parks, playgrounds, trails, wetlands or open spaces, and debt retirement in connection with the foregoing.

(e) *Cash contribution maximum.* In those instances where the anticipated park needs are greater than the number of acres to be developed, the city may establish a park dedication maximum:

(1) Residential density of three units per acre or less: maximum four percent of the predeveloped value.

(2) Residential density of 3.1 to eight units per acre: maximum eight percent of the predeveloped value.

(3) Residential density of 8.1 to 15 units per acre: maximum 12 percent of the predeveloped value.

(4) Residential density of 15.1 units per acre or more: maximum 20 percent of the predeveloped value.

(f) *Fair market value of lands.* Fair market value for purposes of this section shall be the land predevelopment value to be determined by the city council as of the time of preliminary plat application in accordance with the following:

(1) Recommendation of the county assessor.

(2) The developer and the city agree on the predevelopment value of the land.

(3) If agreement is not reached, the fair market value shall be determined in accordance with the following:

a. Fair market value as determined by the city council based upon a current appraisal submitted to the city by the developer, at their expense. The appraisal shall be made by appraisers who are approved members of SREA or MAI, or equivalent real estate societies.

b. If the city disputes such appraisal amounts, it may obtain an appraisal of the property by a qualified real estate appraiser which the city council selects and which appraisal may be accepted by the city as being an accurate appraisal at fair market value. The cost of the appraisal shall be paid by the developer.

(4) The determination of fair market value of the undeveloped land by the city assessor, city council or designated appraisers shall be determined at the time of final approval.

(g) *Future subdivision.* Any land which is further subdivided, divided or applied for such subdivision, division subsequent to May 1, 1990, shall be subject to the requirements of the ordinance then in effect concerning dedication of land for public purposes; and credit shall be given for any charges previously imposed upon that land if the developer can prove that fees were previously paid. In no event shall the city be liable for any payment which may be due because of a subsequent reduction in the application percentage of land or equivalent market value in cash to be dedicated.

(h) *Request for deviation.* The dedication requirements based on the development's proportional share of the city park system are presumptively appropriate. A developer may request a deviation from the presumptive requirements based upon the anticipated impact of that particular subdivision. The request must be made to the council as part of an application for final plat approval.

(Code 2003, § 82-226; Ord. No. 248(3rd series), § 1, 9-14-2020; Ord. No. 268(3rd series), § 1, 2-14-2022)

Division 2. Lots

Sec. 6.20.1010. Security to include lot improvement.

The security required shall include an amount to guarantee completion of all requirements contained in this division, including, but not limited to, erosion control, soil preservation, final grading, lot drainage, land stabilization, removal of debris and waste, fencing, and all other lot improvements required by the city.
(Code 2003, § 82-251; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.1020. Lot arrangement.

The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with chapter 6.12 and in providing driveway access to buildings on such lots from an approved street.
(Code 2003, § 82-252; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.1030. Lot dimensions.

Lot dimensions shall comply with the minimum standards of chapter 6.12. Where lots are more than double the minimum required area for the zoning district, the city may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with chapter 6.12. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in chapter 6.12. Notwithstanding the required width of each lot, each lot shall maintain a minimum frontage of 18 feet on a public or private street, or access outlot.
(Code 2003, § 82-253; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.1040. Lot area, minimum.

(a) In areas not served by sanitary sewer, each lot must contain a minimum of two acres of contiguous dry buildable land exclusive of public rights-of-way, vehicular easements, or areas at or below the floodplain elevation for a specific property.

(b) In areas served by sanitary sewer, each lot must contain contiguous dry buildable land equal to the minimum areas as prescribed in chapter 6.12 or half-acre, whichever is less (exclusive of public rights-of-way, vehicular easements, or areas at or below the floodplain elevation for a specific property), and have legal access to the building site without encroachment of a wetland or floodplain area.

(c) Outlots. Outlots are not intended for development except for the purpose in which they are created, which may include streets, stormwater management, monument signs, etc. Outlots intended for future development shall not be subject to development fees until they are platted as buildable lots.
(Code 2003, § 82-254; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.1050. Lakeshore lots.

(a) The granting of easements which purport to grant access to the lake to any person for any uses, including, but not limited to, docking, mooring, swimming and launching of boats, is prohibited and shall be deemed a violation of this chapter and subject to all of the penalties and proceedings as set forth in this chapter.

(b) Exception. An owner of a riparian lot within the RS Seasonal Recreational District may grant an easement over their riparian, RS zoned property to benefit a non-riparian, RS zoned property for lake access purposes.
(Code 2003, § 82-255; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.1060. Double-frontage lots, access to lots, and front/back lot divisions.

(a) *Double-frontage lots.* Double-frontage and reversed-frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.

(b) *Access from any arterial roadway.* Lots shall not, in general, derive access exclusively from an arterial roadway. Where driveway access from any arterial roadway may be necessary for several adjoining lots, the council may require that such lots be served by a combined access drive in order to limit possible traffic hazard on such roadway. Where possible, driveways shall be designed and arranged so as to avoid requiring vehicles to back into traffic on any arterial roadway.

(c) *Front/back lot subdivisions.* Flag lots shall not be created. For the purposes of this chapter, a flag lot shall be defined as a lot so shaped such that the main building site is set back from the street on which it fronts and includes an access strip connecting the main building site with the fronting street. Front/back lot divisions shall be allowed only in conjunction with the creation of a separate outlot to provide access from the back lot to the public or private road. Such outlot shall not be allowed as creditable lot area for either the back or front lots. Front/back lot subdivisions shall adhere to the following standards:

(1) *Applicability.*

a. Front/back lot divisions may be used when existing property dimensions are narrow and deep, such that lot width does not allow for a side-by-side lot split, but acreage is adequate to provide a front lot and a back lot without requiring an area variance when the area of the outlot access corridor is excluded.

b. Front/back lot divisions may be used for individual lot splits but may not be used when subdividing a large parcel into numerous lots if creation of a back lot is merely a convenience to the developer rather than supported by unique site factors.

c. A front/back lot division shall not be allowed when any existing residence on a neighboring property abutting the proposed access outlot is located nearer its affected side lot line than a distance equivalent to the zoning district required front yard depth.

(2) *Dimensional standards.* Dimensional standards for back lots shall be as follows:

a. Lot area shall be 150 percent of the zoning district requirement. Wetlands may be allowed as area credit for meeting the 150 percent back lot area requirement, as long as the back lot contains sufficient contiguous dry buildable land to satisfy the minimum acreage requirement of the underlying zoning district.

b. Lot width measured parallel to the front or street lot line at the street yard setback line of a lakeshore back lot, or at the rear of the front yard setback line of a non-lakeshore back lot, shall meet the zoning district width requirement. The street yard or front yard for any back lot will be a yard starting where the narrow access outlot corridor ends and the lot begins. Lakeshore back lots shall meet the lot width standard at the shoreline, at the lakeshore setback line and at the street yard setback line.

c. The depth of the required street yard or front yard shall be 150 percent of the zoning district front yard requirement.

d. The required side yard and rear yard depths for back lots shall be 150 percent of the zoning district yard requirements. The required

lakeshore yard of a lakeshore back lot shall meet the zoning district lakeshore yard requirements.

(3) *Dimensional standards for front lots.* A front lot created as part of a front/back lot division shall meet all zoning district area, width and setback standards; except that the required side yard of the front lot adjacent to the access outlot shall be equivalent to the side street yard requirement for that zoning district.

(4) *Access requirements.*

a. Access outlots shall be wide enough to accommodate drainage, snow removal and screening without encroaching on neighboring properties. In no case shall an outlot be narrower than 30 feet in width.

b. In approving front/back lot divisions, the city may require that both front lot and back lot share a driveway access within the access outlot if the council determines that creating an additional access to the existing street will be a potential safety hazard.

c. Driveways within a back lot shall be located at least ten feet from the side or rear lot lines of adjacent lots.

d. No more than two residences may be served by a driveway located within an access outlot.

e. No access outlot may be platted abutting an adjacent outlot except when the intent is to combine the two access outlots for creation of a public or private road meeting city standards.

(5) *Screening requirements and accessory structure standards.* Front/back lot subdivisions shall be designed in a manner such that the screening requirements and accessory structure standards can be met.

(6) *Effective date.* The requirements and standards of this section shall apply only to those front/back lot divisions which received preliminary plat approval after January 1, 1994.

(Code 2003, § 82-256; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.1070. Soil preservation, grading and seeding.

(a) *Soil preservation and final grading.* No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved final subdivision and the lot precovered with soil with an average depth of at least six inches, which shall contain no particles over two inches in diameter over the entire area of the lot, except that portion covered by buildings or included in streets, or where the grade has not been changed. Topsoil shall not be removed from residential lots or used as spoil but shall be redistributed so as to provide at least three inches of cover on the lots and boulevards.

(b) *Lawn grass seed and sod.* All disturbed areas shall be stabilized with a vegetative mix approved by the city engineer. No certificate of occupancy shall be issued until the disturbed areas meet the standard of final stabilization, as defined in section 6.16.050; except that during the period of the year when seed cannot be sown, the property owner and/or developer shall submit an agreement in writing to assure that respreading of soil and seeding of lawn will be done during the immediate following planting season, and shall leave a security in a form acceptable to the city for performance in such an amount as shall be determined by the city. The developer may choose to include final lot grading and required lawn grass seeding improvements in a development contract and shall leave a security in a form acceptable to the city for performance in such an amount as shall be determined by the city. Sod may be used to comply with any requirements of seeding set forth in this section.

(c) *Lot drainage.* Lots shall be graded so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage

pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.
(Code 2003, § 82-257; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.1080. Debris and waste.

No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy on a subdivision, nor shall any be left or deposited in any area of the subdivision at the time of expiration of the performance security or dedication of public improvements, whichever is sooner.
(Code 2003, § 82-248; Ord. No. 248(3rd series), § 1, 9-14-2020)

Division 3. Roads and Public Ways

Sec. 6.20.1110. Design standards.

(a) *Generally.* In order to provide for roads of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, snow removal, sanitation and road maintenance equipment, and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for roads are required:

(1) *Road surfacing and improvements.* After the sewer and water utilities have been installed by the subdivider, the subdivider shall construct all road pavement, shoulders, drainage improvements and structures, curbs, culs-de-sac, and sidewalks in conformance with all construction standards and specifications adopted by the city and shall be incorporated into the construction plans required to be submitted to the subdivider for final subdivision approval.

(2) *Rights-of-way.* Rights-of-way shall be in accordance with the following performance standard:

a. Minimum right-of-way widths.

Principal arterial, intermediate arterial	As recommended by the state department of transportation
Minor arterial	80 feet
Collector	70 feet
Local	50 feet
Parkway	100 feet
Cul-de-sac	50 feet radius

b. Rights-of-way are needed for future roadways in the opinion of the city.

c. Right-of-way widths or additional widths in existing rights-of-way in excess of the standards designated in this chapter when, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of 3:1.

(b) *Railroads and limited-access roadways.* Railroad rights-of-way and limited-access roadways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

(1) In residential districts, a buffer strip at least 25 feet in depth shall be provided adjacent to the railroad right-of-way or limited-access roadway.

(2) In districts zoned for business, commercial or industrial uses, the nearest street extending parallel or approximately parallel to the railroad shall be at a sufficient distance to ensure suitable depth for commercial or industrial sites.

(3) Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

(4) Roadways crossing the railroads shall be avoided.

(c) *Intersections.*

(1) Roadways shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle or less than 75 degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet from the intersection. Not more than two streets shall intersect at any one point unless specifically approved by the city.

(2) Proposed new intersections along one side of an existing street shall coincide with any existing intersections on the opposite side of such street. Intersection jogs with centerline offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect collectors or arterials, their alignment shall be continuous. Intersections of arterial roadways shall be at least 800 feet apart.

(3) Minimum curb radius at the intersection of two local streets shall be at least 15 feet, and minimum curb radius at an intersection involving a collector street or local streets in a commercial or industrial area shall be at least 25 feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

(4) Intersections shall be designed with a flat stopping area of at least 30 feet in a residential area and 60 feet in a commercial or industrial area. The stopping area shall be designed to provide a maximum grade of two percent.

(5) Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the subdivider shall cut such ground and/or vegetation (including trees) in connection with the grading of the right-of-way to the extent deemed necessary by the city to provide an adequate sight distance.

(6) The crown of all streets, including intersections, shall be three percent or less.

(d) *Typical section.* Typical sections shall be as prescribed in the city's standard construction details, as amended from time to time. Soil borings may be required to be determined by the city.

(1) Private street, residential:

Units	*ROW[1] (feet)*	*MPW[2] (feet)*
3—6	50	24
Over 6	50	28
Cul-de-sac	50 radii	45 radii

(2) Public street, residential:

Units	*ROW[1] (feet)*	*MPW[2] (feet)*
3—10	50	28
Over 10	50	32
Cul-de-sac	50	45 radii

Maximum cul-de-sac length = 1,000 feet.

Maximum number of units on cul-de-sac = ten.

(3) Public street, commercial or industrial:

Units	*ROW[1] (feet)*	*MPW[2] (feet)*
1+	70	32
Cul-de-sac	50	45

[1]Right-of-way width.

[2]Minimum paved width.

(e) *Horizontal and vertical control.* Horizontal and vertical control shall be as follows:

Functional Class	*Design Speed (mph)*	*Vertical Control Maximum Gradient (percent)*	*Horizontal Control Minimum Radius (feet)*
Private street (residential)	30	12	275
Public street (residential)	30	10	275
Public street (commercial and industrial)	40	8	400

(Code 2003, § 82-281; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.1120. Off-site premises; roadways.

(a) *Access to improved public or private roadways.* No subdivision shall be approved unless the area to be subdivided shall have adequate access from an existing publicly dedicated and opened roadway or on a private roadway open to travel or vehicular use pursuant to an easement between persons or between persons and the city. Such roadway must be suitably improved as required by the city, the state or the county. If the public roadway, including, but not limited to, existing bridges, drainage structures, lighting, shoulders, base, pavement, alignment or sight distance, is not suitable to handle the proposed additional vehicular traffic from the subdivision, the subdivider at their expense will be responsible for first improving the public roadway to a standard acceptable to the city, to ensure that the health, safety and welfare of the citizens presently using the roadway and in the future will be protected and will not be adversely affected by the increased use of the roadway caused by the subdivision. This improvement shall be accomplished prior to final subdivision approval unless the city agrees and the subdivider provides a suitable performance bond to complete the improvements in the development contract.

(b) *Access to improved public roadways over existing private roadways.* Wherever the area to be subdivided is to utilize an existing private roadway in order to gain access to the public roadway, such private roadway shall be suitably improved as provided in this section for public roadways.

(Code 2003, § 82-282; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.1130. On-site roadways.

(a) *Grading and improvement plan.* Roadways shall be graded and improved to conform to the city's construction standards and specifications and shall be approved as to design and specifications by the city engineer, in accordance with the construction plans required to be submitted prior to final subdivision approval.

(b) *Topography and arrangement.*

(1) Roadways shall be related appropriately to the topography. Roadways shall be curved wherever possible to avoid conformity of lot appearance. All roadways shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the street. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided.

(2) All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established in the community management plan.

(3) All thoroughfares shall be properly related to specific traffic generators, such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

(4) Roadways shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of roadways necessary to provide convenient and safe access to property.

(5) The gridiron roadway pattern need not necessarily be adhered to, and the use of curvilinear roadways or U-shaped roadways shall be encouraged where such use will result in a more desirable layout.

(6) Culs-de-sac shall be discouraged; proposed roadways shall be extended to the boundary lines of the tract to be subdivided unless prevented by topography or other physical conditions or unless in the opinion of the city such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

(7) In business and industrial developments, the roadways and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provisions of alleys,

truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

(c) *Blocks.*

(1) Blocks should have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to arterial roadways, railroads or waterways.

(2) In all blocks, the city shall require the reservation of an easement through the block to accommodate utilities, drainage facilities or pedestrian traffic. Pedestrian ways or crosswalks, not less than ten feet wide, may be required by the city through the center of blocks more than 800 feet long where deemed essential to provide circulation of access to schools, playgrounds, shopping centers, transportation or other community facilities. Blocks designed for industrial uses shall be of such length and width as may be determined suitable by the city for prospective use.

(d) *Access to primary arterials.* Where a subdivision borders on or contains an existing or proposed arterial, the city may require that access to such roadways be limited by one of the following means:

(1) The subdivision of lots so as to back onto the arterials and front onto a parallel local or collector roadway; no access shall be provided from the arterial, and screening shall be provided in a strip of land along the rear property line of such lots.

(2) A series of culs-de-sac, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial.

(3) A marginal-access or service road separated from the arterial by a planting or grass strip and having access to the arterial at suitable points.

(e) *Road names and street addresses.* The city shall name all roads at the time of preliminary subdivision approval and assign street addresses. Names shall be sufficiently different in sound and in spelling from other road names in the area so as not to cause confusion. A road which is or is planned as a continuation of an existing road shall bear the same name.

(f) *Road regulatory signs.* All road signs shall be installed prior to issuance of building permits for any residence on the streets approved. The city shall place all signs at the developer's expense at all intersections within or abutting the subdivision, the type and location of which shall be approved by the city.

(g) *Reserve strips.* The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to such street.

(h) *Construction of roads and dead-end roads.*

(1) *Construction of roads.* The arrangement of streets shall provide for the continuation of streets between adjacent properties when such continuation is necessary for access, convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where such continuation is in accordance with the city community management plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line and a temporary cul-de-sac provided. The city may limit the length of temporary dead-end streets in accordance with this chapter.

(2) *Dead-end roads (permanent).* Where a road does not extend to the boundary of the subdivision and its continuation is not required by the city for access to adjoining property, its terminus shall not be nearer to such boundary than 50 feet. However, the city may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A cul-de-sac shall be provided at the end of a permanent dead-

end street in accordance with the city's construction standards and specifications.

(Code 2003, § 82-283; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.1140. Road dedication and reservations.

(a) *New perimeter streets.* Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The city may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his own subdivision boundaries.

(b) *Widening and realignment of existing roads.* Where a subdivision borders an existing narrow road or when the community management plan or some other agency indicates plans for realignment or widening a road that would require use of some of the land in the subdivision, the subdivider shall be required to improve and dedicate at their expense such areas for widening or realignment of such roads. Such frontage roads and streets shall be improved and dedicated by the subdivider at their own expense to the full width as required by this chapter.

(c) *Use of reserved land.* Land reserved for any road purposes may not be counted in satisfying yard or area requirements of chapter 6.12, whether the land is to be dedicated to the city in fee simple or an easement is granted to the city.

(Code 2003, § 82-284; Ord. No. 248(3rd series), § 1, 9-14-2020)

Sec. 6.20.1150. Pedestrian access.

The council may require sidewalks or other pedestrian trails in order to facilitate pedestrian access from the roads to schools, parks, playgrounds or other nearby roads. Sidewalks shall be five feet in width and trails no more than eight feet in width.

(Code 2003, § 82-285; Ord. No. 248(3rd series), § 1, 9-14-2020)

Division 4. Conservation Design

Sec. 6.20.1200. Conservation design required.

The following residential subdivisions shall be subject to the provisions of chapter 6.12, article XII.

(1) All proposed residential subdivisions greater than five acres in total area and proposing Urban medium or higher densities (greater than three units per acre)

(2) All proposed residential subdivisions greater than seven acres and proposing two acre minimum lot size or smaller.

(3) The city council may waive this requirement due to the nature of the proposed subdivision.

(Code 2003, § 82-300; Ord. No. 248(3rd series), § 1, 9-14-2020)

CHAPTER 6.24. BUILDINGS AND BUILDING REGULATIONS*

ARTICLE I. IN GENERAL

Sec. 6.24.010. Permits and special requirements for moving buildings.

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

Street means all streets and highways in the city which are not state trunk highways, county state-aid highways, or county roads.

(b) *Moving permit required and application.*

(1) It is unlawful for any person to move a building on any street without a moving permit from the city.

(2) The application for a moving permit shall state the approximate size and weight of the structure or building proposed to be

*State law reference—Authority to regulate building construction, Minn. Stats. § 412.221, subd. 28.

moved, together with the places from and to which it is proposed to move the structure or building, and proposed route to be followed, proposed dates and times of moving and parking, and the name and address of the proposed mover. Such application shall also state any municipal utility, street and public property repairs or alterations that will be required by reason of such movement.

(c) *Permit and fee.* The moving permit shall state the date of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the state. Fees to be charged shall be separate for each of the following:

(1) A moving permit fee to cover use of streets and route approval; and

(2) A fee equal to the anticipated amount required to compensate the city for any municipal utility and public property (other than streets) repairs or alterations occasioned by such movement, which shall be paid in advance.

(d) *Building permit and code compliance.* Before any building is moved from one location to another within the city, or from a point of origin without the city to a destination within the city, regardless of the route of movement, it shall be inspected and a building permit shall have been issued for at least the work necessary to bring it into full compliance with the state building code, including site, utility, and foundation work.

(e) *Proof of tax payment.* It is unlawful to move any building (including a manufactured home) if the point of origin or destination (or both) is within the city, and regardless of the route of movement, without having paid in full all real and personal property taxes and special assessments due on the building, and filing written proof of such payment with the city.
(Code 1984, § 12.06; Code 2003, § 86-1; Ord. No. 255(3rd series), § 1, 4-12-2021)

State law reference—Moving of buildings, Minn. Stats. § 221.81.

Sec. 6.24.020. Permit to use public property.

It is unlawful for any person to improve or maintain improvements on public property for a private use without first obtaining a permit from the city. In all instances, the improvement shall be temporary and subject to the city's right to require removal or restoration, or both; and upon the failure of the permittee to take such action, the city may remove and restore and hold the permittee responsible for the cost.
(Code 1984, § 12.07; Code 2003, § 86-2)

Sec. 6.24.030. Clean fill.

(a) Clean fill shall be all native soils as described in the Unified Soils Classification System. Organic, manmade and reprocessed materials, topsoil and rocks larger than 0.25 cubic yard (2.9 feet dim.) shall not be considered clean fill.

(b) Land alterations involving filling and grading activities, whether requiring permits or not, shall be performed with clean fill only, as described in subsection (a) of this section.
(Code 1984, § 12.09; Code 2003, § 86-3)

Sec. 6.24.040. Vacant buildings.

It is unlawful for the owner of any property to keep or allow to exist any vacant building which is open to trespass or is not secured against unauthorized entry. When an unsecured building is found, the building official shall post the premises and shall issue orders in person or by mail to the last known owner of record requiring that the building be secured within 48 hours. Failure to secure the building upon issuance of such orders shall be cause for the city to properly secure the building, to cause the costs to be charged against the property as provided by Minn. Stats. § 463.251, and to commence hazardous building proceedings pursuant to Minn. Stats. §§ 463.15 through 463.261.
(Code 1984, § 9.56(1); Code 2003, § 86-4)

Sec. 6.24.050. Damaged buildings.

It shall be the duty of the owner of any building damaged by fire, flood, explosion, storm,

earthquake, riot or act of God to such extent that the building is not immediately habitable to secure such building or premises against trespass or other unauthorized entry within 48 hours of such occurrence, and to provide guard over the premises until the time such building is secured. Further, such damaged building shall be repaired or demolished and all debris removed from the property within six months of such occurrence. Failure to comply with the provisions of this section shall be cause for the city to commence hazardous building proceedings pursuant to Minn. Stats. §§ 463.15 through 463.261.
(Code 1984, § 9.56(2); Code 2003, § 86-5)

ARTICLE II. BUILDING CODE*

Division 1. Generally

Sec. 6.24.110. Correction of violations required.

The owner and/or occupant of any property upon which any work has been done in violation of any building code or zoning requirement shall be responsible for obtaining a permit and/or for correcting, removing or abating such violation within 30 days after notice from the city that such violation exists.
(Code 1984, § 12.02; Code 2003, § 86-36)

Sec. 6.24.120. Unlawful acts.

It is unlawful for any person to:

(1) Do any work without first obtaining a required permit from the city authorizing such work.

(2) Do any work beyond or outside the scope of a permit issued by the city.

(3) Do any work prior to obtaining a required inspection and approval from the city, including failure to request any required inspection. Additionally, no work shall be done beyond the point indicated in each successive inspection.

(4) Fail to comply with the terms or conditions of a permit issued by the city, including failure to comply with all building or zoning requirements.

(5) Fail to comply with any correction orders lawfully issued by the city when any work done is found to be in violation of or noncompliance with permit requirements.

(6) Fail to stop or suspend work on any project or portion of a project in accordance with a lawfully issued stop work order.

(7) Fail to pay any permit fee, inspection fee or reinspection fee.

(8) Fail to comply with the terms and conditions of any building or zoning occupancy certificate.

(Code 1984, § 12.08; Code 2003, § 86-37; Ord. No. 300(3rd series), § 1, 3-11-2024)

Sec. 6.24.130. Codes adopted by reference.

The state building code, as adopted by the commissioner of administration pursuant to Minn. Stats. §§ 326B.101 through 326B.16, including all of the amendments, rules and regulations established, adopted and published from time to time by the state commissioner of administration, through the building codes and standards division is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance. The state building code is hereby incorporated in this section as if fully set out herein.
(Code 1984, § 12.01(1); Code 2003, § 86-38; Ord. No. 134(2nd series), 4-10-1995; Ord. No. 188(2nd series), § 4, 6-5-1999; Ord. No. 24(3rd series), § 1, 3-28-2005; Ord. No. 255(3rd series), § 2, 4-12-2021)

Sec. 6.24.140. Application, administration and enforcement.

(a) The application, administration, and enforcement of this code shall be in accordance with the state building code, Minn. Stats. § 326B.121, as amended from time to time.

*State law reference—State building code, Minn. Stats. § 326B.101-.16 et seq.

(b) The code enforcement agency of this municipality is called the community development department.

(c) This code shall be enforced by the state-certified building official designated by the city to administer the code (Minn. Stats. § 326B.133, subd. 1).

(d) Prior to installation of a system of plumbing other than for a single-family dwelling with independent plumbing service, complete plumbing plans and specifications, together with any additional information that the building official may require, shall be submitted and approved by the building official, subject to applicable state law. No construction shall proceed except in accordance with the approved plans. Any alteration or extension of any existing plumbing system shall be subject to these same requirements.

(e) Upon receipt of an application, the city shall forward to the state for review all plumbing plans and specifications for the following types of projects within the city:

(1) State-licensed facilities as defined in Minn. Stats. § 326B.103, subd. 13;

(2) Public buildings as defined in Minn. Stats. § 326B.103, subd. 11; and

(3) Projects of a special nature for which department review is requested by either the city or the state.

(Code 1984, § 12.01(2); Code 2003, § 86-39; Ord. No. 134(2nd series), 4-10-1995; Ord. No. 188(2nd series), § 1, 6-5-1999; Ord. No. 24(3rd series), § 2, 3-28-2005; Ord. No. 255(3rd series), § 2, 4-12-2021)

Sec. 6.24.150. Permits and fees.

(a) The issuance of permits and the collection of fees shall be as authorized in Minn. R. ch. 1300.

(b) Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the municipality in Ordinance No. 22, 3rd series. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minn. Stats. § 326B.148.

(Code 1984, § 12.01(4); Code 2003, § 86-40; Ord. No. 134(2nd series), 4-10-1995; Ord. No. 188(2nd series), § 2, 6-5-1999; Ord. No. 24(3rd series), § 3, 3-28-2005; Ord. No. 255(3rd series), § 2, 4-12-2021)

Sec. 6.24.160. Violations and penalties.

A violation of this article is a misdemeanor (Minn. Stats. § 326B.082).

(Code 2003, § 86-42; Ord. No. 24(3rd series), § 4, 3-28-2005)

Sec. 6.24.170. Building code optional chapters.

(a) The state building code, established pursuant to Minn. Stats. §§ 326B.101 through 326B.16 allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the state building code.

(b) The following optional provisions identified in the most current edition of the state building code in Minn. R. ch. 1306, Special Fire Protection Systems, are hereby adopted and incorporated as part of the building code for the city: Minn. R. 1306.0020, subp. 2.

(Code 2003, § 86-43; Ord. No. 24(3rd series), § 5, 3-28-2005; Ord. No. 255(3rd series), § 2, 4-12-2021)

Division 2. Construction Permit

Sec. 6.24.210. Required.

(a) *Generally.* It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, or any part or portion, including, but not limited to, the general construction, plumbing, on-site sewage treatment system, wood stoves and fireplaces, ventilating, heating or air conditioning systems, or cause such work to be done, without first obtaining a separate building, sign, or general permit for each such building, structure or separate component from the city.

Exception: Seasonal docks, except for joint use facilities are exempt from this section. For the purposes of this section, seasonal docks are docks so designed and constructed that they may be removed from the lake on a seasonal basis. All components such as supports, decking, and footings must be capable of removal by manual means without use of power equipment, machines, or tools other than handheld power tools.

(b) *Zoning permit for land alteration.* A land alteration and hardcover plan shall be submitted with the site plan or certified site plan and incorporated as part of the building permit approval, including the name of the individual performing the work. If no building permit is necessary, a separate zoning permit application for hardcover and/or land alteration shall be submitted by the individual performing the work prior to conducting any land alteration or hardcover installations on a property, including grading, patios and retaining walls. The zoning permit shall be reviewed and approved by the city prior to issuance.
(Code 1984, § 12.02; Code 2003, § 86-66; Ord. No. 146(3rd series), § 1, 5-11-2015; Ord. No. 189(3rd series), § 1, 4-10-2017; Ord. No. 240(3rd series), § 1, 3-9-2020)

Sec. 6.24.220. Limitations.

The issuance of a permit for any single component shall not imply authority for construction or inclusion of other components.
(Code 1984, § 12.02; Code 2003, § 86-67)

Sec. 6.24.230. Permit application; information required.

(a) The application for a construction permit or land alteration permit shall include such information as may be required by the city, which may vary between types of construction projects.

(b) Site plans required:

(1) *Certified site plan.* A certified site plan shall be required for all new principal buildings, building additions to principal buildings, and grading or filling activities requiring permits shall be accompanied by a certificate of survey or site plan drawn to scale prepared by a person registered by the state board of architecture, engineering, land surveying, landscape architecture, and interior design, unless exempted by the city engineer. A certified site plan shall conform to the requirements of the city.

(2) *Site plan.*

a. A site plan shall accompany all required permits for building, structure, and land disturbance activities. The site plan shall include information as required by the city, and must provide information necessary to ensure the project conforms to city codes and ordinances, including hardcover, grading, and landscaping requirements.

b. The city administrator may require a certified site plan where the project scope, location, or potential impact warrant.

(c) Foundation survey required. A foundation survey shall be submitted to the city for review and approval, unless exempted by the building official, upon completion of the foundation work for all principal buildings and all additions to principal buildings. The foundation survey, prepared by a state-registered land surveyor, shall certify the lot dimensions; front, side, rear, lakeshore, and wetland setbacks; and foundation elevation. A foundation survey must be submitted before proceeding with framing or further construction. In lieu of a survey a letter prepared by a state-registered land surveyor containing the same information as a foundation survey may be submitted.

(d) As-built survey required. An as-built survey, prepared by a state-registered land surveyor, shall be submitted to the city for review and approval upon the completion of all principal buildings and all additions to principal buildings, unless exempted by the building official. The as-built survey shall certify the final topography of the site; verify drainage patterns; and provide hardcover calculations for lots in the

shoreland overlay district. An as-built survey must be approved before the issuance of a certificate of occupancy.
(Code 1984, § 12.02; Code 2003, § 86-68; Ord. No. 49(3rd series), § 1, 9-8-2008; Ord. No. 146(3rd series), § 2, 5-11-2015; Ord. No. 152(3rd series), § 1, 7-27-2015; Ord. No. 189(3rd series), § 2, 4-10-2017; Ord. No. 190(3rd series), § 2, 4-10-2017)

Sec. 6.24.240. Contractor licensing requirements.

The permit for any construction work requiring a license under statute or this Code shall be issued only to the licensee upon proof of holding a current license and bonding and insurance as required by statute or this Code.
(Code 1984, § 12.03; Code 2003, § 86-69)

Sec. 6.24.250. Permit expiration.

(a) Any building permit issued by the city abandoned, withdrawn, or expired shall be null and void and shall require issuance of a new permit and payment of applicable fees prior to completion of the work.

(b) Every permit issued expires unless the work authorized by the permit is commenced within 180 days after its issuance. Extensions may be granted by the building official. Permits become invalid if work is suspended or abandoned for more than 180 days. The 180 days commences the first day the work was suspended or abandoned. In addition, no land shall remain disturbed and exposed without established grass or other ground cover according to the approved grading and landscaping plans.

(c) Failure to complete such exterior construction shall result in the expiration of the existing permit. This does not release the permittee from making appropriate life safety corrections nor negate other building code requirements.
(Code 1984, § 12.05; Code 2003, § 86-70; Ord. No. 151(3rd series), § 2, 7-27-2015; Ord. No. 300(3rd series), § 2, 3-11-2024)

CHAPTER 6.28. WATERWAYS*

ARTICLE I. IN GENERAL

Sec. 6.28.010. Prohibited flotation blocks.

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

Nonencased molded polystyrene expanded-bead foam means any brand of expanded polystyrene beads molded into a block, sheet, billet, or other shape which is not completely encased in a permanent casing, coating, or container capable of withstanding action by ice or other elements, animals, and normal activity by users so that disintegration of the molded shapes into smaller chunks or individual beads is prevented.

(b) *Findings.* The city determines that:

(1) Disintegration of nonencased molded polystyrene expanded-bead foam flotation blocks used in docks, swimming platforms, buoys, and other floating structures in the city has led to the disintegrating particles' washing up onto shoreland in the city in substantial and unsightly quantities endangering the comfort and enjoyment of the affected property owners and causing environmental and aesthetic damage, and generally unsightly and undesirable public conditions;

(2) Such disintegration is a natural characteristic of the molded polystyrene expanded-bead foam described when used for flotation purposes in the city limits;

(3) Such disintegration is accelerated by the actions of aquatic animals and waterfowl and, in turn, constitutes a hazard to their well-being;

*State law references—Water safety, Minn. Stats. ch. 86B; local regulation of surface waters, Minn. Stats. §§ 86B.201, 86B.205, 459.20.

(4) Additional health and safety concerns can occur if such material is subject to heat, gasoline or other petroleum products; and

(5) The use of nonencased molded polystyrene expanded-bead foam for the purposes mentioned in this subsection is a public nuisance.

(c) *Use prohibited.* It is a misdemeanor for any person to use nonencased molded polystyrene expanded-bead foam blocks, sheets, billets or other shapes for dock construction or flotation, swimming platforms, buoys or other floating or similar structures in lakes or streams in the city, whether such uses are permanent or seasonal in nature.

(Code 2003, § 94-1; Ord. No. 104(2nd series), § 1, 7-27-1992; Ord. No. 110(2nd series), § 1, 11-9-1992)

ARTICLE II. JOINT USE OF LAKE FACILITIES

Sec. 6.28.110. Definitions.

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

Boat slip, land, means a structure, space or other thing designed or used for storing a boat temporarily or permanently on land adjacent to a lake, whether it is located on or off the licensed premises.

Boat slip, permanent, means a boat slip on land or water used for the storing of a given boat on a long-term or yearly basis.

Boat slip, transient, means a boat slip on land or water used for the temporary storage of many different boats for short periods of time.

Boat slip, water, means a structure, space, dock or other thing designed or used for the docking, mooring or storing of a boat temporarily or permanently in or on water, including mooring posts, buoys or other devices.

Joint use means more than two adjacent riparian landowners joining for the purpose of using lakeshore property for swimming, bathing, fishing, docking or mooring boats, or for any other purpose. Joint use includes the following activities:

(1) More than two adjacent riparian landowners sharing in the use of a single dock.

(2) An association of riparian and/or nonriparian landowners within a subdivision adjacent to the lake sharing a dock or dock system providing permanent boat slips for the members.

(3) In the RS zoning district only, a not-for-profit organization or association providing transient boat slips for stakeholders or a property used for day use recreation or overnight camping purposes.

(Code 1984, § 5.42(1); Code 2003, § 94-36; Ord. No. 117(2nd series), § 1, 6-28-1993; Ord. No. 240(3rd series), § 2, 3-9-2020)

Sec. 6.28.120. Joint use standards.

Joint uses shall adhere to the following standards:

(1) Any association of riparian and/or nonriparian landowners within a subdivision adjacent to the lake which initiates a new joint use shall adhere to Lake Minnetonka Conservation District regulations, and no such use shall have more than one boat slip per 50 feet of shoreline as measured by a straight line between the points at which the side lot lines meet the ordinary high-water line. Further, all such use shall adhere to the shoreland management regulations of chapter 6.12, article IX.

(2) Any joint use in the RS zoning district by a not-for-profit organization or association providing transient boat slips for stakeholders of a property used for day-use recreation or overnight camping purposes shall be allowed only in conjunction with a valid conditional use permit for such use issued by the council.

(3) No joint use shall be approved which necessitates provision of parking stalls or which creates the need for parking on any street right-of-way.

(Code 2003, § 94-38; Ord. No. 117(2nd series), § 1(5.42(5)), 6-28-1993; Ord. No. 240(3rd series), § 2, 3-9-2020)

ARTICLE III. MARINAS

Sec. 6.28.210. Definitions.

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

Boat slip, water; boat slip, land; boat slip, permanent; and *boat slip, transient,* shall have the meanings given them in section 6.28.110.

Business of docking, mooring or storing boats means renting or otherwise providing space, including boat buoys, for docking, mooring or storing one or more boats belonging to persons other than the owner or occupant of the property, except when permitted as a joint use.

Business use means engaging in either a marina business or the business of docking, mooring or storing boats.

Marina business means engaging in one or more of the permitted, accessory or conditional uses allowed within the B-2 zoning district.

(Code 2003, § 94-71; Ord. No. 117(2nd series), § 2(5.43(1)), 6-28-1993; Ord. No. 240(3rd series), § 3, 3-9-2020)

Sec. 6.28.220. Zoning standards.

Businesses operating under this article shall be subject to the requirements and performance standards of the B-2 zoning district.

(Code 2003, § 94-72; Ord. No. 117(2nd series), § 2(5.43(5)), 6-28-1993; Ord. No. 240(3rd series), § 3, 3-9-2020)

Sec. 6.28.230. Designation of primary operator.

The primary business operator on the property shall be responsible for notifying the city of any and all businesses subleased on the premises. Such secondary businesses shall be allowed only when in conformance with the provisions of the B-2 zoning district standards.

(Code 2003, § 94-73; Ord. No. 117(2nd series), § 2(5.43(5)(B)), 6-28-1993; Ord. No. 240(3rd series), § 3, 3-9-2020)

Sec. 6.28.240. Operation standards.

Each business licensee shall adhere to the following minimum operation standards:

(1) Parking facilities on the site shall be managed so as to eliminate traffic or parking congestion, eliminate illegal on-street parking, and avoid pedestrian traffic through neighboring property.

(2) Boat engine testing and charging shall be limited to the hours 8:00 a.m. to 6:00 p.m.

(3) Retail sales and service shall be limited to the hours 7:00 a.m. to 10:00 p.m. except as necessary to accommodate normal fishing activity or private use of premises-stored boats.

(4) The site shall be kept neat and orderly, and free of garbage.

(5) On-land storage of boats shall be managed so as to eliminate any view obstructions for traffic entering and leaving the site.

(6) Parking and on-land storage of boats, trailers, materials and equipment shall be limited to those locations shown on an approved site operation plan. Such site operation plan shall also indicate seasonally variable uses.

(7) Lights shall be shielded from the road, the lake and adjacent properties.

(Code 2003, § 94-74; Ord. No. 117(2nd series), § 2(5.43(5)(C)), 6-28-1993; Ord. No. 240(3rd series), § 3, 3-9-2020)

ARTICLE IV. REGULATION OF WATERCRAFT ON LONG LAKE

Sec. 6.28.310. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings

ascribed to them in this section, except where the context clearly indicates a different meaning:

Lake means the lake known as Long Lake located in the cities of Orono and Long Lake, and designated as Lake Number 27016000 by the state department of natural resources.

Operate means to navigate or otherwise use a watercraft.

Personal watercraft means a motorboat that is powered by an inboard motor powering a water jet pump or by an outdoor or propeller-drive motor, and is designed to be operated by a person sitting, standing, or kneeling on the craft, rather than in the conventional manner of sitting or standing inside a motorboat.

Slow-no wake means the operation of a watercraft at the slowest possible speed necessary to maintain steerage, but in no case greater than five miles per hour.

Watercraft means any and all kinds or types of flotation vessels designed for use on the water, whether or not motorized, including, but not limited to, boats, canoes, kayaks, rowing shells, sculls, jet skis, ski-doos, pedal craft, pontoon boats, inflatable crafts, tubes, or wind-propelled surf boards.
(Code 2003, § 94-136; Ord. No. 201(3rd series), § 2, 11-13-2017; Ord. No. 304(3rd series), § 1(94-136), 4-8-2024)

Sec. 6.28.320. Purpose, intent, application.

The provisions of Minn. Stats. ch. 86B, Minn. R. 6110.0100 through 6110.2300, boat and safety rules, are hereby incorporated herein and made a part of this article.
(Code 2003, § 94-137; Ord. No. 201(3rd series), § 2, 11-13-2017)

Sec. 6.28.330. Exempt personnel.

All authorized resource management, emergency and enforcement personnel, while acting in the performance of their assigned duties, are exempt from restrictions of this article.
(Code 2003, § 94-138; Ord. No. 201(3rd series), § 2, 11-13-2017)

Sec. 6.28.340. Enforcement.

The enforcement of this article shall be the primary responsibility of the peace officers of the county sheriff's department or the city police department. Other licensed peace officers, including conservation officers of the state department of natural resources and volunteer members of the county water patrol, are also authorized to enforce this article.
(Code 2003, § 94-139; Ord. No. 201(3rd series), § 2, 11-13-2017)

Sec. 6.28.350. Penalties.

Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor.
(Code 2003, § 94-140; Ord. No. 201(3rd series), § 2, 11-13-2017)

Sec. 6.28.360. Long Lake; special provisions.

(a) *Intent and purpose.* It is the purpose of this section to regulate the operation and speed of watercraft on Long Lake.

(b) *Regulation.* No person shall operate a watercraft at greater than slow-no wake speed on Long Lake whenever the water level exceeds 945.25 feet. The slow-no wake restriction shall remain in place until the lake level drops to 945.25 feet or below.

(c) *Exemptions.* Authorized resource management, emergency and enforcement personnel, when acting in the performance of their duties, shall be exempt from the provisions of this section.

(d) *Marking and posting of signs.* The city staff of Long Lake and Orono shall be responsible for informing the public, posting notification at all public accesses, and marking or buoying areas affected by this ordinance as necessary to give reasonable notice of the speed restriction of this section.

(e) *Enforcement.* Primary responsibility for the enforcement of this section shall rest with the county sheriff's department, including both

licensed and special deputies; this, however, shall not preclude its enforcement by other licensed peace officers.

(f) *Violation and penalty.* Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.
(Ord. No. 304(3rd series), § 1(94-141), 4-8-2024)

ARTICLE V. MOONEY LAKE RULES AND REGULATIONS

Sec. 6.28.410. Definitions.

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

Lake means that certain portion of a body of water located within the city, the entirety of which is commonly and officially referred to by the name of Mooney Lake.

Motorboat means any watercraft propelled by machinery, including watercraft temporarily equipped with detachable motors.
(Code 1984, § 9.32(1); Code 2003, § 94-181; Ord. No. 98(2nd series), § 1, 11-12-1991)

Sec. 6.28.420. Horsepower limitation.

It is unlawful for any person to operate, maintain or place, moor or keep in or upon the lake a motorboat with an engine in excess of five horsepower.
(Code 1984, § 9.32(2); Code 2003, § 94-182)

Sec. 6.28.430. Hours of operation.

It is unlawful for any person to operate a motorboat on the lake between the hours of 8:00 p.m. and 8:00 a.m. on the day following.
(Code 1984, § 9.32(3); Code 2003, § 94-183)

Sec. 6.28.440. State law adopted.

The provisions of Minn. Stats. ch. 86B and Boat and Water Safety Rules 6110.0100 through 6110.2300, are adopted by reference, incorporated in this section and made a part of this section as though set forth verbatim in this section. A violation of the statute or any rule adopted in this section is a violation of this article.
(Code 1984, § 9.32(4); Code 2003, § 94-184; Ord. No. 98(2nd series), § 1, 11-12-1991)

Sec. 6.28.450. Exemption.

Enforcement, emergency, resource management and other governmental personnel or authorized contractors are exempted from this section when performing official duties or authorized work.
(Code 2003, § 94-185; Ord. No. 98(2nd series), § 2, 11-12-1991)

CODE COMPARATIVE TABLE

1984 CODE

The following table gives the location within the Code of sections of the 1984 Code.

1984 Code Section	Code Section	1984 Code Section	Code Section
1.02	1.04.020	2.61(4)	1.08.030
1.03	1.04.020	—	1.08.620
1.06	1.04.080	2.62	1.16.020
1.08	1.04.090	3.01	2.04.010
1.11	1.04.010	3.02(1)	2.04.410
2.02	1.08.120	3.03	2.04.120
2.03(1)	1.12.010	3.04	2.04.020
2.03(2)	1.08.110	3.05(1)	2.04.450
2.04	1.08.140	3.05(2)	2.04.240
2.05	1.08.150	3.05(3)	2.04.250
2.06(1)	1.08.310	3.05(4)	2.04.210
2.06(2)	1.08.320	3.05(5)	2.04.230
2.06(3)	1.08.330	3.05(6)	2.04.320
2.06(4)	1.08.350	3.05(7)(B)	2.04.270
2.06(6)	1.08.340	3.05(7)(C)	2.04.280
2.06(7)	1.08.360	3.05(8)	2.04.450
2.07	1.08.160	3.05(9)	2.04.260
2.08	1.08.010	3.05(10)	2.04.220
2.10	1.08.210	3.05(11)	2.04.300
2.11	1.08.370	3.06	2.04.290
2.16	1.08.220	3.10(1)	2.04.510
2.17	1.08.130	3.10(2)	2.04.580
2.30(1)	1.08.420	3.10(3)	2.04.610
2.30(5)	1.08.420	3.10(4)	2.04.540
2.34	1.08.430	3.10(5)	2.04.550
2.35	1.08.440	3.10(6)	2.04.570
2.38	1.08.020	3.10(7)	2.04.590
2.50	1.08.710	3.10(8)	2.04.600
2.51(1)	6.04.010	3.10(9)	2.04.420
—	6.04.020	3.10(10)	2.04.310
2.51(2)	6.04.030	3.10(11)	2.04.530
2.52(1)	3.08.110	3.10(12)	2.04.520
—	3.08.120	3.10(14)	2.04.560
2.52(2)	3.08.130	3.20(1)	2.04.710
2.54(1)	6.12.410	3.20(2)	2.04.720
2.54(2)	6.12.410	3.20(3)	2.04.430
2.54(3)	6.12.430	3.20(4)	2.04.810
2.56(2)(B)	6.12.530	3.20(5)	2.04.820
2.60(1)	3.04.210	3.20(6)	2.04.830
2.60(2)	3.04.220	3.20(7)	2.04.440
2.60(3)	3.04.230	5.01	4.04.110
2.60(4)	3.04.240	5.02	4.04.120
2.60(5)	3.04.250	5.03	4.04.130
2.61(1)	5.24.040	5.04	4.04.150
2.61(2)	1.08.030	5.05	4.04.160
2.61(3)	1.08.620	5.06	4.04.170

1984 Code Section	Code Section	1984 Code Section	Code Section
5.07	4.04.180	6.09(4)	3.04.730
5.08	4.04.190	6.09(5)	3.04.730
5.09	4.04.200	6.12	3.04.070
5.10	4.04.210	6.13	5.32.220
5.11	4.04.220	6.14	5.32.040
5.20(1)	4.20.210	6.16	3.04.080
5.20(2)	4.20.220	7.01	5.32.030
5.20(3)	4.20.230	7.10	5.32.060
5.22	4.20.110	7.11	5.32.120
5.23	4.20.110	7.12	5.32.070
5.25	4.20.410	7.13	5.32.050
5.25(2)	4.20.420	7.20(1)	5.32.410
5.25(3)	4.20.320	7.20(2)(A)	5.32.420
5.25(4)	4.20.330	7.20(4)(C)	5.32.430
5.25(5)	4.20.430	7.30(1)	5.32.510
5.25(6)	4.20.340	7.30(2)	5.32.530
5.25(7)	4.20.310	7.30(3)	5.32.520
5.25(8)	4.20.350	7.30(4)	5.32.540
5.35(1)	5.20.210	7.30(5)	5.32.550
5.35(2)	5.20.310	8.01	5.32.210
5.35(3)	5.20.220	8.02	5.32.230
5.35(4)	5.20.320	8.05	5.32.240
5.36(1)	5.28.610	8.20	5.32.250
5.36(2)	5.28.710	8.21	5.32.260
5.36(3)	5.28.750	8.22	5.32.270
5.36(4)	5.28.720	8.23	5.32.280
5.36(5)	5.28.730	8.24	5.32.290
5.36(6)	5.28.740	8.25	5.32.300
5.40	4.04.310	8.26	5.32.310
5.42(1)	6.28.110	8.27	5.32.320
6.01	3.04.010	8.40	5.32.330
6.02	5.32.020	8.41	5.32.140
6.03(1)	5.32.010	8.42	5.32.340
6.04(1)	5.32.110	8.43	5.32.130
6.05(1)	3.04.310	9.01(1)	5.20.110
6.05(8)	3.04.320	9.01(2)	5.20.120
6.05(9)	3.04.330	9.01(3)	5.20.130
6.05(10)	3.04.340	9.01(4)	5.20.140
6.05(11)	3.04.350	9.04	5.24.020
6.05(12)	3.04.360	9.10(1)(A)	5.36.350
6.06(1)	3.04.310	9.10(1)(B)	5.36.360
6.06(8)	3.04.320	9.10(1)(D)	5.36.370
6.06(9)	3.04.330	9.10(1)(E)	5.36.380
6.06(10)	3.04.340	9.10(1)(G)	5.36.390
6.06(11)	3.04.350	9.10(2)	5.36.320
6.06(12)	3.04.360	9.10(3)	5.36.310
6.07(1)	3.04.020	9.10(4)(A)	5.36.510
6.07(2)	3.04.040	9.10(4)(B)	5.36.520
6.07(4)	3.04.050	9.10(4)(C)	5.36.530
6.07(5)	3.04.060	9.10(4)(D)	5.36.540
6.09(1)	3.04.710	9.10(5)	5.36.400
6.09(2)	3.04.720	9.10(6)	5.36.550
6.09(3)	3.04.730	9.10(6)(A)	5.36.560

1984 Code Section	Code Section	1984 Code Section	Code Section
9.10(7)	5.36.580	9.31(3)(I)	3.08.310
9.10(8)	5.36.570	9.31(3)(J)	3.08.320
9.10(8)(G)	5.36.600	9.31(3)(K)	3.08.330
9.10(8)(H)	5.36.610	9.31(3)(L)	3.08.340
9.10(8)(I)	5.36.620	9.31(3)(M)	3.08.280
9.10(8)(J)	5.36.590	9.31(3)(N)	3.08.290
9.10(9)	5.36.330	9.31(3)(O)	3.08.250
9.10(10)	5.36.340	9.31(3)(P)	3.08.260
9.10(11)	5.36.220	9.31(3)(Q)	3.08.350
9.11	5.36.210	9.32(1)	6.28.410
9.13(1)	5.28.010	9.32(2)	6.28.420
9.13(2)	5.28.030	9.32(3)	6.28.430
9.13(3)	5.28.040	9.32(4)	6.28.440
9.13(5)	5.28.050	9.33	3.08.360
9.13(6)	5.28.060	9.34(1)	5.08.210
9.13(9)	5.28.810	9.34(2)	5.08.220
—	5.28.830	9.34(3)	5.08.110
9.13(10)	5.28.840	9.34(4)	5.08.120
9.13(11)	5.28.850	9.34(5)	5.08.130
9.13(12)	5.28.820	9.34(6)	5.08.230
9.13(13)	5.28.070	9.34(7)	5.08.310
9.13(14)	5.28.080	9.34(8)	5.08.320
9.14	5.36.1120	9.34(9)	5.08.330
9.14(1)	5.36.1140	9.34(10)	5.08.340
9.14(2)	5.36.1140	9.34(11)	5.08.350
9.14(3)	5.36.1140	9.34(12)	5.08.140
9.14(4)	5.36.1140	9.35(1)	5.04.220
9.14(5)	5.36.1150	9.35(2)	5.04.210
9.14(6)	5.36.1130	9.35(3)	5.04.230
9.20(1)	5.36.720	9.35(4)	5.04.240
9.20(2)	5.36.710	9.35(5)	5.04.250
9.20(3)	5.36.730	9.35(6)	5.04.260
9.20(4)	5.36.810	9.36(1)	5.04.120
9.20(5)	5.36.020	9.36(2)	5.04.110
9.20(6)	5.36.820	9.36(3)	5.04.130
9.20(9)	5.36.740	9.36(7)	5.04.170
9.20(10)	5.36.130	9.36(8)	5.04.180
9.20(11)	5.36.030	9.37	5.04.140
9.20(12)	5.36.120	9.37(2)	5.04.190
9.20(13)	5.36.110	9.39	5.04.160
9.21	5.36.040	9.50	5.24.030
9.22	5.36.040	9.51	5.24.040
9.31(1)	3.08.220	9.55	5.24.010
9.31(2)	3.08.210	9.56(1)	6.24.040
9.31(3)	3.08.230	9.56(2)	6.24.050
9.31(3)(A)	3.08.240	9.57(1)	5.36.920
9.31(3)(B)	3.08.240	9.57(2)	5.36.950
9.31(3)(C)	3.08.270	9.57(3)	5.36.910
9.31(3)(D)	3.08.270	9.57(4)	5.36.940
9.31(3)(E)	3.08.300	9.57(5)	5.36.960
9.31(3)(F)	3.08.300	9.57(6)	5.36.930
9.31(3)(G)	3.08.300	9.57(7)	5.36.970
9.31(3)(H)	3.08.300	9.57(8)	5.36.980

1984 Code Section	Code Section	1984 Code Section	Code Section
10.01(1)	6.12.050	10.09(2)	6.12.4050
10.01(2)	6.12.050	10.09(3)	6.12.4060
10.01(3)(B)	6.12.020	10.09(4)	6.12.4070
10.02	6.12.010	10.09(5)	6.12.4080
10.03(1)	6.12.060	10.09(6)	6.12.4090
10.03(2)	6.12.070	10.09(7)	6.12.4100
10.03(3)	6.12.240	10.09(8)	6.12.4110
10.03(4)	6.12.080	10.09(9)	6.12.4120
10.03(6)(A)	6.12.320	10.09(10)	6.12.4130
10.03(6)(B)	6.12.6720	10.09(11)	6.12.4140
10.03(6)(C)	6.12.330	10.09(12)	6.12.4150
10.03(7)	6.12.6730	10.10	6.12.230
10.03(8)	6.12.6740	10.11	6.12.220
10.03(9)(A)	6.12.7020	10.12	6.12.090
10.03(9)(C)	6.12.7040	10.13	6.12.040
10.03(9)(D)	6.12.7050	10.16(1)	6.12.810
10.03(10)	6.12.7010	10.16(2)	6.12.820
10.03(11)	6.12.6770	10.16(3)	6.12.830
10.03(12)	6.12.7070	10.16(4)	6.12.840
10.03(14)(A)	6.12.6910	10.16(5)	6.12.850
10.03(14)(B)	6.12.6920	10.16(6)	6.12.860
10.03(14)(C)	6.12.6930	10.20(1)	6.12.1010
10.03(15)	6.12.6940	10.20(2)	6.12.1020
10.03(16)	6.12.6760	—	6.12.1120
10.03(17)	6.12.4180	—	6.12.1320
10.03(18)	6.12.340	—	6.12.1420
10.06(1)	6.12.210	—	6.12.1520
10.06(1)(B)(1)(b)	6.12.530	—	6.12.1610
10.06(1)(B)(1)(c)	6.12.530	—	6.12.1720
10.06(2)	6.12.210	—	6.12.1820
10.06(3)	6.12.410	—	6.12.3130
10.06(3)(B)(3)	6.12.450	10.20(3)	6.12.1030
10.06(3)(C)	6.12.430	—	6.12.1130
10.06(3)(D)	6.12.440	—	6.12.1330
10.06(3)(F)	6.12.420	—	6.12.1430
10.07(1)	6.12.260	—	6.12.1530
10.07(2)	6.12.260	—	6.12.1620
10.07(3)	6.12.260	—	6.12.1730
10.07(4)	6.12.260	—	6.12.1830
10.07(5)	6.12.260	—	6.12.1950
10.07(6)	6.12.250	10.20(3)(M)	6.12.1740
10.08(1)	6.12.510	—	6.12.1840
10.08(2)(A)	6.12.520	10.20(3)(N)	6.12.1740
10.08(2)(B)	6.12.430	—	6.12.1840
10.08(2)(C)	6.12.410	10.20(4)	6.12.1040
10.08(3)	6.12.530	—	6.12.1140
10.08(4)	6.12.540	—	6.12.1340
10.08(5)	6.12.550	—	6.12.1440
10.08(6)	6.12.560	—	6.12.1540
10.08(7)	6.12.570	—	6.12.1630
10.08(8)	6.12.580	—	6.12.1740
10.08(9)	6.12.590	—	6.12.1840
10.09(1)	6.12.4040	—	6.12.1960

1984 Code Section	Code Section	1984 Code Section	Code Section
—	6.12.3150	10.31(13)	6.12.2050
10.20(5)	6.12.1050	10.31(14)	6.12.2060
10.21(1)	6.12.1110	10.31(15)	6.12.2070
10.21(2)	6.12.1120	10.31(16)	6.12.1930
10.21(3)	6.12.1130	10.31(17)	6.12.1930
10.21(4)	6.12.1140	10.31(18)	6.12.1930
10.21(5)	6.12.1150	10.31(19)	6.12.1920
10.23(1)	6.12.1310	10.32(1)	6.12.3010
10.23(3)	6.12.1320	10.32(2)	6.12.3020
10.23(4)	6.12.1330	10.32(3)	6.12.3030
10.23(5)	6.12.1340	10.32(4)	6.12.3040
10.23(6)	6.12.1350	10.32(5)	6.12.3050
10.24(1)	6.12.1410	10.32(6)	6.12.3060
10.24(2)	6.12.1420	10.32(7)	6.12.3070
10.24(3)	6.12.1430	10.32(8)	6.12.3080
10.24(4)	6.12.1440	10.32(9)	6.12.3090
10.24(5)	6.12.1450	10.40(1)	6.12.3210
10.25(1)	6.12.1510	10.40(2)	6.12.3220
10.25(3)	6.12.1520	10.40(3)	6.12.3230
—	6.12.1610	—	6.12.3540
10.25(4)	6.12.1530	10.40(4)	6.12.3240
—	6.12.1620	—	6.12.3550
10.25(5)	6.12.1540	10.40(5)	6.12.3250
—	6.12.1630	—	6.12.3560
10.25(6)	6.12.1550	—	6.12.3650
—	6.12.1650	—	6.12.3860
10.26(2)	6.12.1610	10.40(6)	6.12.3260
—	6.12.1620	10.41(1)	6.12.3320
—	6.12.1630	10.41(2)	6.12.3310
10.26(3)	6.12.1640	10.41(4)	6.12.3330
10.26(4)	6.12.1650	10.41(5)	6.12.3340
10.27	6.12.1730	10.41(6)	6.12.3360
10.27(1)	6.12.1710	10.41(7)	6.12.3350
10.27(2)	6.12.1720	10.41(8)	6.12.3370
10.27(4)	6.12.1740	10.41(9)	6.12.3380
10.27(5)	6.12.1750	10.41(10)	6.12.3390
10.28(1)	6.12.1810	10.41(11)	6.12.3400
10.28(2)	6.12.1820	10.41(12)	6.12.3410
10.28(3)	6.12.1830	10.41(13)	6.12.3420
10.28(4)	6.12.1840	10.41(14)	6.12.3430
10.28(5)	6.12.1850	10.41(15)	6.12.3440
10.31(1)	6.12.1910	10.41(16)	6.12.3450
10.31(2)	6.12.1940	10.42(1)	6.12.3510
10.31(3)	6.12.1950	10.42(2)	6.12.3520
10.31(4)	6.12.1960	—	6.12.3530
10.31(5)	6.12.1970	10.42(4)	6.12.3540
10.31(6)	6.12.1980	10.42(5)	6.12.3550
10.31(7)	6.12.1990	10.42(6)	6.12.3560
10.31(8)	6.12.2000	10.42(7)	6.12.3570
10.31(9)	6.12.2010	10.43(1)	6.12.3610
10.31(10)	6.12.2020	10.43(2)	6.12.3620
10.31(11)	6.12.2030	10.43(3)	6.12.3630
10.31(12)	6.12.2040	10.43(4)	6.12.3640

1984 Code Section	Code Section
10.43(5)	6.12.3650
10.43(6)	6.12.3660
10.44(1)	6.12.3710
10.44(2)	6.12.3720
10.44(3)	6.12.3730
10.44(4)	6.12.3740
10.44(5)	6.12.3750
10.44(6)	6.12.3760
10.45(1)	6.12.3810
10.45(2)	6.12.3820
10.45(3)	6.12.3830
10.45(4)	6.12.3840
10.45(5)	6.12.3860
10.45(6)	6.12.3870
10.52(1)	6.12.4410
10.52(2)	6.12.4420
10.52(3)	6.12.4430
10.52(4)	6.12.4440
10.52(5)	6.12.4450
10.52(6)	6.12.4460
10.52(7)	6.12.4470
10.53(1)	6.12.4210
10.53(2)	6.12.4220
10.53(3)	6.12.4230
10.53(4)	6.12.4240
10.53(5)	6.12.4250
10.53(6)	6.12.4260
10.53(7)	6.12.4270
10.53(8)	6.12.4280
10.60(1)	6.12.7710
10.60(2)	6.12.7720
10.60(3)	6.12.7730
10.60(4)	6.12.7740
10.60(5)	6.12.7750
10.60(6)	6.12.7760
10.60(7)	6.12.7770
10.60(8)	6.12.7780
10.60(9)	6.12.7790
10.60(10)	6.12.7800
10.60(11)	6.12.7800
10.60(12)	6.12.7810
10.60(13)	6.12.7820
10.60(14)	6.12.7830
10.60(15)	6.12.7840
10.60(16)	6.12.7850
10.60(17)	6.12.7860
10.61(4)	6.12.7410
10.61(5)	6.12.7510
10.61(6)	6.12.7520
10.61(7)	6.12.7530
10.61(8)	6.12.7540
10.61(9)	6.12.7550
10.61(10)	6.12.7560
10.61(11)	6.12.7610
10.61(12)	6.12.7620
10.61(13)	6.12.7630
10.61(14)	6.12.7640
10.61(15)	6.12.7650
10.61(16)	6.12.7660
10.61(17)	6.12.7670
10.61(18)	6.12.6780
10.61(19)	6.12.6790
10.70	6.12.6800
10.75(1)	6.12.6710
10.75(2)	6.12.6710
10.75(3)	6.12.6710
10.75(4)	6.12.6950
10.99	6.12.030
12.01(1)	6.24.130
12.01(2)	6.24.140
12.01(4)	6.24.150
12.02	6.24.110
—	6.24.210
—	6.24.220
—	6.24.230
12.03	6.24.240
12.05	6.24.250
12.06	6.24.010
12.07	6.24.020
12.08	6.24.120
12.09	6.24.030
12.40	2.04.110

CODE COMPARATIVE TABLE

2003 CODE

The following table gives the location within the Code of sections of the 2003 Code, as supplemented through November 14, 2022.

2003 Code Section	Code Section	2003 Code Section	Code Section
1-1	1.04.010	14-72	2.04.220
1-2	1.04.020	14-73	2.04.230
1-3	1.04.030	14-74	2.04.240
1-4	1.04.040	14-75	2.04.250
1-5	1.04.050	14-76	2.04.260
1-6	1.04.060	14-77	2.04.270
1-7	1.04.070	14-78	2.04.280
1-8	1.04.080	14-79	2.04.290
1-9	1.04.090	14-80	2.04.300
1-10	1.04.100	14-81	2.04.310
1-11	1.04.110	14-82	2.04.320
1-12	1.04.120	14-106	2.04.410
2-1	1.08.010	14-107	2.04.420
2-2	1.08.020	14-108	2.04.430
2-3	1.08.030	14-109	2.04.440
2-36	1.08.110	14-110	2.04.450
2-37	1.08.120	14-131	2.04.510
2-38	1.08.130	14-132	2.04.520
2-39	1.08.140	14-133	2.04.530
2-40	1.08.150	14-134	2.04.540
2-41	1.08.160	14-135	2.04.550
2-71	1.08.210	14-136	2.04.560
2-72	1.08.220	14-137	2.04.570
2-73	1.08.230	14-138	2.04.580
2-96	1.08.310	14-139	2.04.590
2-97	1.08.320	14-140	2.04.600
2-98	1.08.330	14-141	2.04.610
2-99	1.08.340	14-166	2.04.710
2-100	1.08.350	14-167	2.04.720
2-101	1.08.360	14-186	2.04.810
2-102	1.08.370	14-187	2.04.820
2-137	1.08.410	14-188	2.04.830
2-138	1.08.430	14-189	2.04.840
2-139	1.08.440	14-190	2.04.850
2-140	1.08.420	14-191	2.04.860
2-171	1.08.610	14-231	2.04.1010
2-172	1.08.620	14-232	2.04.1020
2-206	1.08.710	14-233	2.04.1030
6-1	1.12.010	14-251	2.04.1110
10-1	1.16.010	14-252	2.04.1120
10-2	1.16.020	14-253	2.04.1130
14-1	2.04.010	14-254	2.04.1140
14-2	2.04.020	14-255	2.04.1150
14-36	2.04.110	14-256	2.04.1160
14-37	2.04.120	14-257	2.04.1170
14-71	2.04.210	14-281	2.04.1210

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14-282	2.04.1220	18-190	3.04.600
14-283	2.04.1230	18-191	3.04.610
14-284	2.04.1240	18-192	3.04.620
14-286	2.04.1250	18-193	3.04.630
14-287	2.04.1260	18-194	3.04.640
14-288	2.04.1270	18-236	3.04.710
14-301	2.04.1310	18-237	3.04.720
14-302	2.04.1320	18-238	3.04.730
14-303	2.04.1330	22-02	3.08.370
14-304	2.04.1340	22-31	3.08.110
14-305	2.04.1350	22-32	3.08.120
14-306	2.04.1360	22-33	3.08.130
14-307	2.04.1370	22-86	3.08.210
14-308	2.04.1380	22-87	3.08.220
14-309	2.04.1390	22-88	3.08.230
14-310	2.04.1400	22-89	3.08.240
18-1	3.04.010	22-90	3.08.250
18-2	3.04.020	22-91	3.08.260
18-3	3.04.040	22-92	3.08.270
18-4	3.04.050	22-93	3.08.280
18-5	3.04.060	22-94	3.08.290
18-6	3.04.070	22-95	3.08.300
18-7	3.04.080	22-96	3.08.310
18-41	3.04.210	22-97	3.08.320
18-42	3.04.220	22-98	3.08.330
18-43	3.04.230	22-99	3.08.340
18-44	3.04.240	22-100	3.08.350
18-45	3.04.250	22-101	3.08.360
18-76	3.04.310	22-111	3.08.410
18-81	3.04.320	22-112	3.08.420
18-136	3.04.330	22-113	3.08.430
18-137	3.04.340	22-114	3.08.440
18-138	3.04.350	22-115	3.08.450
18-139	3.04.360	22-116	3.08.460
18-171	3.04.410	26-31	4.04.110
18-172	3.04.420	26-32	4.04.120
18-173	3.04.430	26-33	4.04.130
18-174	3.04.440	26-34	4.04.140
18-175	3.04.450	26-35	4.04.150
18-176	3.04.460	26-36	4.04.160
18-177	3.04.470	26-37	4.04.170
18-178	3.04.480	26-38	4.04.180
18-179	3.04.490	26-39	4.04.190
18-180	3.04.500	26-40	4.04.200
18-181	3.04.510	26-41	4.04.210
18-182	3.04.520	26-42	4.04.220
18-183	3.04.530	26-76	4.04.310
18-184	3.04.540	26-80	4.04.410
18-185	3.04.550	26-81	4.04.420
18-186	3.04.560	26-82	4.04.430
18-187	3.04.570	26-83	4.04.440
18-188	3.04.580	26-84	4.04.450
18-189	3.04.590	26-85	4.04.460

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26-86	4.04.470	34-53	4.16.340
26-87	4.04.480	34-54	4.16.350
26-88	4.04.490	34-55	4.16.360
30-1	4.08.010	38-31	4.20.110
30-2	4.08.020	38-601	4.20.210
30-3	4.08.030	38-602	4.20.220
30-4	4.08.040	38-603	4.20.230
30-5	4.08.050	38-671	4.20.310
30-6	4.08.060	38-672	4.20.320
30-36	4.08.110	38-673	4.20.330
30-37	4.08.120	38-674	4.20.340
30-38	4.08.130	38-675	4.20.350
30-39	4.08.140	38-801	4.20.410
30-40	4.08.150	38-802	4.20.420
30-41	4.08.160	38-803	4.20.430
30-42	4.08.170	38-900	3.04.810
30-43	4.08.180	38-901	3.04.820
30-44	4.08.190	38-902	3.04.830
30-45	4.08.200	38-903	3.04.840
30-46	4.08.210	38-904	3.04.850
31-1	4.12.010	38-905	3.04.860
31-2	4.12.020	38-906	3.04.870
31-11	4.12.110	38-907	3.04.880
31-12	4.12.120	42-31	5.04.110
31-13	4.12.130	42-32	5.04.120
31-14	4.12.140	42-33	5.04.130
31-15	4.12.150	42-34	5.04.140
31-16	4.12.160	42-35	5.04.150
31-17	4.12.170	42-36	5.04.160
31-18	4.12.180	42-37	5.04.170
31-19	4.12.190	42-38	5.04.180
31-20	4.12.200	42-39	5.04.190
31-21	4.12.210	42-166	5.04.210
34-1	4.16.010	42-167	5.04.220
34-2	4.16.020	42-168	5.04.230
34-3	4.16.030	42-169	5.04.240
34-10	4.16.110	42-170	5.04.250
34-11	4.16.120	42-171	5.04.260
34-12	4.16.130	46-31	5.08.110
34-13	4.16.140	46-32	5.08.120
34-14	4.16.150	46-33	5.08.130
34-15	4.16.160	46-34	5.08.140
34-16	4.16.170	46-56	5.08.210
34-17	4.16.180	46-57	5.08.220
34-18	4.16.190	46-58	5.08.230
34-19	4.16.200	46-81	5.08.310
34-20	4.16.210	46-82	5.08.320
34-21	4.16.220	46-83	5.08.330
34-22	4.16.230	46-84	5.08.340
34-23	4.16.240	46-85	5.08.350
34-50	4.16.310	50-31	5.12.110
34-51	4.16.320	50-32	5.12.120
34-52	4.16.330	50-33	5.12.130

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50-34	5.12.140	58-54	5.24.280
50-35	5.12.150	58-55	5.24.290
50-36	5.12.160	58-56	5.24.310
50-37	5.12.170	58-57	5.24.320
50-38	5.12.180	58-58	5.24.340
50-39	5.12.190	58-59	5.24.350
50-40	5.12.200	58-60	5.24.360
50-41	5.12.210	58-61	5.24.370
50-61	5.12.310	58-62	5.24.380
50-62	5.12.320	58-63	5.24.410
50-63	5.12.330	58-64	5.24.420
50-64	5.12.340	58-65	5.24.430
50-65	5.12.350	58-66	5.24.440
50-66	5.12.360	58-67	5.24.510
50-67	5.12.370	58-68	5.24.520
50-68	5.12.380	58-69	5.24.530
50-69	5.12.390	58-70	5.24.540
50-70	5.12.400	58-71	5.24.610
50-71	5.12.410	58-72	5.24.620
50-72	5.12.420	58-73	5.24.630
50-73	5.12.430	58-74	5.24.640
50-74	5.12.440	58-75	5.24.710
51-1	5.16.010	58-76	5.24.720
51-2	5.16.020	58-77	5.24.810
51-3	5.16.030	58-78	5.24.910
51-4	5.16.040	58-116	5.24.1010
51-5	5.16.050	58-117	5.24.1020
54-31	5.20.110	58-118	5.24.1030
54-32	5.20.120	58-119	5.24.1040
54-33	5.20.130	58-120	5.24.1050
54-34	5.20.140	58-121	5.24.1060
54-66	5.20.210	58-122	5.24.1070
54-67	5.20.220	58-156	5.24.1110
54-91	5.20.310	58-157	5.24.1120
54-92	5.20.320	58-158	5.24.1130
54-93	5.20.330	58-159	5.24.1140
58-1	5.24.010	58-160	5.24.1150
58-2	5.24.020	58-161	5.24.1160
58-3	5.24.030	58-162	5.24.1170
58-4	5.24.040	58-186	5.24.1210
58-41	5.24.110	58-187	5.24.1220
58-42	5.24.120	58-188	5.24.1230
58-43	5.24.130	58-189	5.24.1240
58-44	5.24.140	58-190	5.24.1250
58-45	5.24.150	58-191	5.24.1260
58-46	5.24.160	58-192	5.24.1270
58-47	5.24.210	58-193	5.24.1280
58-48	5.24.220	62-1	5.28.010
58-49	5.24.230	62-2	5.28.020
58-50	5.24.240	62-3	5.28.030
58-51	5.24.250	62-4	5.28.040
58-52	5.24.260	62-5	5.28.050
58-53	5.24.270	62-6	5.28.060

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62-7	5.28.070	66-124	5.32.440
62-8	5.28.080	66-156	5.32.510
62-9	5.28.090	66-157	5.32.520
62-10	5.28.100	66-158	5.32.530
62-41	5.28.210	66-159	5.32.540
62-66	5.28.310	66-160	5.32.550
62-67	5.28.320	66-191	5.32.610
62-68	5.28.330	66-192	5.32.620
62-69	5.28.340	66-193	5.32.630
62-101	5.28.410	66-194	5.32.640
62-102	5.28.420	66-195	5.32.650
62-103	5.28.430	66-221	5.32.660
62-104	5.28.440	66-222	5.32.670
62-105	5.28.450	66-223	5.32.680
62-161	5.28.610	66-224	5.32.690
62-181	5.28.710	66-225	5.32.700
62-182	5.28.720	66-226	5.32.710
62-183	5.28.730	66-227	5.32.720
62-184	5.28.740	66-228	5.32.730
62-185	5.28.750	66-229	5.32.740
62-241	5.28.810	66-230	5.32.750
62-242	5.28.820	66-250	5.32.810
62-243	5.28.830	66-251	5.32.820
62-244	5.28.840	66-252	5.32.830
62-245	5.28.850	66-253	5.32.840
66-1	5.32.010	66-254	5.32.850
66-2	5.32.020	66-255	5.32.860
66-3	5.32.030	66-256	5.32.870
66-4	5.32.040	66-257	5.32.910
66-5	5.32.050	66-258	5.32.920
66-6	5.32.060	66-259	5.32.930
66-7	5.32.070	70-1	5.36.010
66-41	5.32.110	70-2	5.36.020
66-42	5.32.120	70-3	5.36.030
66-43	5.32.130	70-4	5.36.040
66-44	5.32.140	70-5	5.36.050
66-76	5.32.210	70-8	5.36.330
66-77	5.32.220	70-36	5.36.110
66-78	5.32.230	70-37	5.36.120
66-79	5.32.240	70-38	5.36.130
66-80	5.32.250	70-71	5.36.210
66-81	5.32.260	70-72	5.36.220
66-82	5.32.270	70-96	5.36.310
66-83	5.32.280	70-97	5.36.320
66-84	5.32.290	70-99	5.36.340
66-85	5.32.300	70-100	5.36.350
66-86	5.32.310	70-101	5.36.360
66-87	5.32.320	70-102	5.36.370
66-88	5.32.330	70-103	5.36.380
66-89	5.32.340	70-104	5.36.390
66-121	5.32.410	70-105	5.36.400
66-122	5.32.420	70-121	5.36.510
66-123	5.32.430	70-122	5.36.520

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70-123	5.36.530	78-4	6.12.040
70-124	5.36.540	78-5	6.12.050
70-125	5.36.550	78-6	6.12.060
70-126	5.36.560	78-7	6.12.070
70-127	5.36.570	78-8	6.12.080
70-128	5.36.580	78-9	6.12.090
70-129	5.36.590	78-41	6.12.210
70-130	5.36.600	78-42	6.12.220
70-131	5.36.610	78-43	6.12.230
70-132	5.36.620	78-44	6.12.240
70-166	5.36.710	78-45	6.12.250
70-167	5.36.720	78-46	6.12.260
70-168	5.36.730	78-47	6.12.270
70-169	5.36.740	78-48	6.12.280
70-201	5.36.810	78-71	6.12.310
70-202	5.36.820	78-72	6.12.320
70-226	5.36.910	78-73	6.12.330
70-227	5.36.920	78-74	6.12.340
70-228	5.36.930	78-96	6.12.410
70-229	5.36.940	78-97	6.12.420
70-230	5.36.950	78-98	6.12.430
70-231	5.36.960	78-99	6.12.440
70-232	5.36.970	78-101	6.12.450
70-233	5.36.980	78-121	6.12.510
70-250	5.36.1010	78-122	6.12.520
70-251	5.36.1020	78-123	6.12.530
70-252	5.36.1030	78-124	6.12.540
70-253	5.36.1040	78-125	6.12.550
70-271	5.36.1110	78-126	6.12.560
70-272	5.36.1120	78-127	6.12.570
70-273	5.36.1130	78-128	6.12.580
70-274	5.36.1140	78-129	6.12.590
70-275	5.36.1150	78-130	6.12.600
70-276	5.36.1160	78-131	6.12.610
70-277	5.36.1210	78-141	6.12.710
70-278	5.36.1220	78-142	6.12.720
70-279	5.36.1230	78-143	6.12.730
74-1	6.04.010	78-144	6.12.740
74-2	6.04.020	78-145	6.12.750
74-3	6.04.030	78-146	6.12.760
75-1	6.08.010	78-148	6.12.770
75-2	6.08.020	78-149	6.12.780
75-3	6.08.030	78-150	6.12.790
75-4	6.08.040	78-161	6.12.810
75-5	6.08.050	78-162	6.12.820
75-6	6.08.060	78-163	6.12.830
75-7	6.08.070	78-164	6.12.840
75-8	6.08.080	78-165	6.12.850
75-9	6.08.090	78-166	6.12.860
75-10	6.08.100	78-201	6.12.910
78-1	6.12.010	78-225	6.12.1150
78-2	6.12.020	78-226	6.12.1010
78-3	6.12.030	78-227	6.12.1020

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78-228	6.12.1030	78-577	6.12.2070
78-229	6.12.1040	78-578	6.12.2080
78-230	6.12.1050	78-579	6.12.2090
78-251	6.12.1110	78-601	6.12.3010
78-252	6.12.1120	78-602	6.12.3020
78-253	6.12.1130	78-603	6.12.3030
78-254	6.12.1140	78-604	6.12.3040
78-301	6.12.1310	78-605	6.12.3050
78-302	6.12.1320	78-606	6.12.3060
78-303	6.12.1330	78-607	6.12.3070
78-304	6.12.1340	78-608	6.12.3080
78-305	6.12.1350	78-609	6.12.3090
78-326	6.12.1410	78-621	6.12.3110
78-327	6.12.1420	78-622	6.12.3120
78-328	6.12.1430	78-623	6.12.3130
78-329	6.12.1440	78-624	6.12.3140
78-330	6.12.1450	78-625	6.12.3150
78-346	6.12.1510	78-626	6.12.3160
78-347	6.12.1520	78-627	6.12.3170
78-348	6.12.1530	78-628	6.12.3180
78-349	6.12.1540	78-629	6.12.3190
78-350	6.12.1550	78-641	6.12.3210
78-366	6.12.1610	78-642	6.12.3220
78-367	6.12.1620	78-643	6.12.3230
78-368	6.12.1630	78-644	6.12.3240
78-369	6.12.1640	78-645	6.12.3250
78-370	6.12.1650	78-646	6.12.3260
78-391	6.12.1710	78-661	6.12.3310
78-392	6.12.1720	78-662	6.12.3320
78-393	6.12.1730	78-664	6.12.3330
78-395	6.12.1750	78-665	6.12.3340
78-416	6.12.1810	78-666	6.12.3350
78-417	6.12.1820	78-667	6.12.3360
78-418	6.12.1830	78-668	6.12.3370
78-419	6.12.1840	78-669	6.12.3380
78-420	6.12.1850	78-670	6.12.3390
78-421	6.12.1860	78-671	6.12.3400
78-561	6.12.1910	78-672	6.12.3410
78-562	6.12.1920	78-673	6.12.3420
78-563	6.12.1930	78-674	6.12.3430
78-564	6.12.1940	78-675	6.12.3440
78-565	6.12.1950	78-676	6.12.3450
78-566	6.12.1960	78-677	6.12.3460
78-567	6.12.1970	78-678	6.12.3470
78-568	6.12.1980	78-701	6.12.3510
78-569	6.12.1990	78-702	6.12.3520
78-570	6.12.2000	78-703	6.12.3530
78-571	6.12.2010	78-704	6.12.3540
78-572	6.12.2020	78-705	6.12.3550
78-573	6.12.2030	78-706	6.12.3560
78-574	6.12.2040	78-707	6.12.3570
78-575	6.12.2050	78-731	6.12.3610
78-576	6.12.2060	78-732	6.12.3620

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78-733	6.12.3630	78-1061	6.12.4410
78-734	6.12.3640	78-1062	6.12.4420
78-735	6.12.3650	78-1063	6.12.4430
78-736	6.12.3660	78-1064	6.12.4440
78-761	6.12.3710	78-1065	6.12.4450
78-762	6.12.3720	78-1066	6.12.4460
78-763	6.12.3730	78-1067	6.12.4470
78-764	6.12.3740	78-1101	6.12.4510
78-765	6.12.3750	78-1102	6.12.4520
78-766	6.12.3760	78-1103	6.12.4610
78-777	6.12.3870	78-1104	6.12.4620
78-791	6.12.3810	78-1105	6.12.4630
78-792	6.12.3820	78-1106	6.12.4640
78-793	6.12.3830	78-1107	6.12.4650
78-794	6.12.3840	78-1108	6.12.4660
78-795	6.12.3850	78-1109	6.12.4670
78-796	6.12.3860	78-1110	6.12.4680
78-821	6.12.3900	78-1111	6.12.4690
78-822	6.12.3910	78-1112	6.12.4700
78-823	6.12.3920	78-1113	6.12.4710
78-824	6.12.3930	78-1114	6.12.4810
78-825	6.12.3940	78-1115	6.12.4820
78-826	6.12.3950	78-1116	6.12.4910
78-827	6.12.3960	78-1117	6.12.4920
78-828	6.12.3970	78-1118	6.12.4930
78-829	6.12.3980	78-1119	6.12.4940
78-830	6.12.3990	78-1124	6.12.5010
78-831	6.12.4000	78-1125	6.12.5020
78-832	6.12.4010	78-1126	6.12.5030
78-911	6.12.4040	78-1127	6.12.5040
78-912	6.12.4050	78-1128	6.12.5110
78-913	6.12.4060	78-1129	6.12.5120
78-914	6.12.4070	78-1130	6.12.5210
78-915	6.12.4080	78-1131	6.12.5220
78-916	6.12.4090	78-1132	6.12.5230
78-917	6.12.4100	78-1140	6.12.5310
78-918	6.12.4110	78-1141	6.12.5320
78-919	6.12.4120	78-1142	6.12.5330
78-920	6.12.4130	78-1143	6.12.5410
78-921	6.12.4140	78-1144	6.12.5420
78-922	6.12.4150	78-1145	6.12.5510
78-946	6.12.4180	78-1146	6.12.5520
78-949	6.12.4190	78-1147	6.12.5530
78-1001	6.12.4210	78-1148	6.12.5540
78-1002	6.12.4220	78-1149	6.12.5610
78-1003	6.12.4230	78-1150	6.12.5710
78-1004	6.12.4240	78-1151	6.12.5720
78-1005	6.12.4250	78-1152	6.12.5730
78-1006	6.12.4260	78-1153	6.12.5810
78-1007	6.12.4270	78-1154	6.12.5820
78-1008	6.12.4280	78-1155	6.12.5830
78-1009	6.12.4290	78-1211	6.12.5910
78-1010	6.12.4300	78-1212	6.12.5920

2003 Code Section	Code Section	2003 Code Section	Code Section
78-1213	6.12.5930	78-1372	6.12.6770
78-1214	6.12.5940	78-1373	6.12.6780
78-1215	6.12.5950	78-1374	6.12.6790
78-1216	6.12.5960	78-1375	6.12.6800
78-1217	6.12.5970	78-1376	6.12.6810
78-1218	6.12.5980	78-1377	6.12.6820
78-1219	6.12.5990	78-1378	6.12.6830
78-1220	6.12.6000	78-1379	6.12.6840
78-1221	6.12.6020	78-1401	6.12.6910
78-1246	6.12.6110	78-1402	6.12.6920
78-1247	6.12.6120	78-1403	6.12.6930
78-1248	6.12.6130	78-1405	6.12.6940
78-1249	6.12.6140	78-1406	6.12.6950
78-1250	6.12.6150	78-1431	6.12.7010
78-1251	6.12.6160	78-1432	6.12.7020
78-1252	6.12.6170	78-1433	6.12.7030
78-1276	6.12.6210	78-1434	6.12.7040
78-1277	6.12.6220	78-1435	6.12.7050
78-1278	6.12.6230	78-1437	6.12.7060
78-1279	6.12.6240	78-1438	6.12.7070
78-1280	6.12.6250	78-1440	6.12.7080
78-1281	6.12.6260	78-1465	6.12.7110
78-1282	6.12.6270	78-1466	6.12.7120
78-1283	6.12.6280	78-1467	6.12.7130
78-1284	6.12.6290	78-1468	6.12.7140
78-1285	6.12.6300	78-1469	6.12.7150
78-1286	6.12.6310	78-1470	6.12.7160
78-1287	6.12.6320	78-1471	6.12.7170
78-1288	6.12.6330	78-1472	6.12.7180
78-1289	6.12.6340	78-1473	6.12.7190
78-1290	6.12.6350	78-1474	6.12.7200
78-1291	6.12.6360	78-1475	6.12.7210
78-1292	6.12.6370	78-1476	6.12.7220
78-1293	6.12.6380	78-1477	6.12.7230
78-1294	6.12.6390	78-1478	6.12.7240
78-1295	6.12.6400	78-1479	6.12.7250
78-1321	6.12.6510	78-1480	6.12.7260
78-1322	6.12.6520	78-1481	6.12.7270
78-1324	6.12.6540	78-1482	6.12.7280
78-1325	6.12.6550	78-1483	6.12.7290
78-1326	6.12.6560	78-1484	6.12.7300
78-1327	6.12.6570	78-1485	6.12.7310
78-1328	6.12.6580	78-1491	6.12.7410
78-1329	6.12.6590	78-1511	6.12.7510
78-1330	6.12.6600	78-1512	6.12.7520
78-1331	6.12.6610	78-1513	6.12.7530
78-1333	6.12.6530	78-1514	6.12.7540
78-1366	6.12.6710	78-1515	6.12.7550
78-1367	6.12.6720	78-1516	6.12.7560
78-1368	6.12.6730	78-1536	6.12.7610
78-1369	6.12.6740	78-1537	6.12.7620
78-1370	6.12.6750	78-1538	6.12.7630
78-1371	6.12.6760	78-1539	6.12.7640

2003 Code Section	Code Section	2003 Code Section	Code Section
78-1540	6.12.7650	78-1683	6.12.9140
78-1541	6.12.7660	78-1684	6.12.9150
78-1542	6.12.7670	78-1685	6.12.9160
78-1566	6.12.7710	78-1686	6.12.9170
78-1567	6.12.7720	78-1700	6.12.9210
78-1568	6.12.7730	78-1701	6.12.9220
78-1569	6.12.7740	78-1725	6.12.9410
78-1570	6.12.7750	78-1726	6.12.9420
78-1571	6.12.7760	78-1745	6.12.9510
78-1572	6.12.7770	78-1746	6.12.9520
78-1573	6.12.7780	78-1747	6.12.9530
78-1574	6.12.7790	78-1748	6.12.9540
78-1575	6.12.7800	78-1749	6.12.9550
78-1576	6.12.7810	78-3394	6.12.1740
78-1577	6.12.7820	79-1	6.16.010
78-1578	6.12.7830	79-2	6.16.020
78-1579	6.12.7840	79-3	6.16.030
78-1580	6.12.7850	79-4	6.16.040
78-1581	6.12.7860	79-5	6.16.050
78-1590	6.12.7900	79-6	6.16.060
78-1591	6.12.7910	79-7	6.16.070
78-1592	6.12.7920	79-8	6.16.080
78-1593	6.12.7930	79-9	6.16.090
78-1594	6.12.7940	79-10	6.16.100
78-1601	6.12.8010	79-11	6.16.110
78-1602	6.12.8110	79-12	6.16.120
78-1603	6.12.8120	79-13	6.16.130
78-1604	6.12.8130	79-14	6.16.140
78-1605	6.12.8210	82-1	6.20.010
78-1606	6.12.8310	82-2	6.20.020
78-1607	6.12.8320	82-3	6.20.030
78-1608	6.12.8410	82-4	6.20.040
78-1609	6.12.8420	82-5	6.20.050
78-1610	6.12.8430	82-6	6.20.060
78-1611	6.12.8440	82-7	6.20.070
78-1613	6.12.8450	82-8	6.20.080
78-1614	6.12.8460	82-9	6.20.090
78-1631	6.12.8510	82-10	6.20.100
78-1632	6.12.8520	82-11	6.20.110
78-1633	6.12.8530	82-12	6.20.120
78-1634	6.12.8610	82-13	6.20.130
78-1635	6.12.8620	82-46	6.20.210
78-1636	6.12.8710	82-47	6.20.220
78-1637	6.12.8720	82-48	6.20.230
78-1638	6.12.8810	82-49	6.20.240
78-1639	6.12.8820	82-50	6.20.250
78-1640	6.12.8910	82-81	6.20.310
78-1670	6.12.9010	82-82	6.20.320
78-1671	6.12.9020	82-83	6.20.330
78-1672	6.12.9030	82-84	6.20.340
78-1680	6.12.9110	82-85	6.20.350
78-1681	6.12.9120	82-86	6.20.360
78-1682	6.12.9130	82-111	6.20.410

2003 Code Section	Code Section	2003 Code Section	Code Section
82-112	6.20.420	86-40	6.24.150
82-113	6.20.430	86-42	6.24.160
82-114	6.20.440	86-43	6.24.170
82-115	6.20.450	86-66	6.24.210
82-116	6.20.460	86-67	6.24.220
82-141	6.20.510	86-68	6.24.230
82-142	6.20.520	86-69	6.24.240
82-143	6.20.530	86-70	6.24.250
82-144	6.20.540	94-1	6.28.010
82-145	6.20.550	94-36	6.28.110
82-172	6.20.610	94-38	6.28.120
82-173	6.20.620	94-71	6.28.210
82-174	6.20.630	94-72	6.28.220
82-175	6.20.640	94-73	6.28.230
82-200	6.20.710	94-74	6.28.240
82-212	6.20.810	94-136	6.28.310
82-213	6.20.820	94-137	6.28.320
82-214	6.20.830	94-138	6.28.330
82-215	6.20.840	94-139	6.28.340
82-216	6.20.850	94-140	6.28.350
82-217	6.20.860	94-181	6.28.410
82-218	6.20.870	94-182	6.28.420
82-219	6.20.880	94-183	6.28.430
82-220	6.20.890	94-184	6.28.440
82-221	6.20.900	94-185	6.28.450
82-222	6.20.910		
82-223	6.20.920		
82-224	6.20.930		
82-225	6.20.940		
82-226	6.20.950		
82-248	6.20.1080		
82-251	6.20.1010		
82-252	6.20.1020		
82-253	6.20.1030		
82-254	6.20.1040		
82-255	6.20.1050		
82-256	6.20.1060		
82-257	6.20.1070		
82-281	6.20.1110		
82-282	6.20.1120		
82-283	6.20.1130		
82-284	6.20.1140		
82-285	6.20.1150		
82-300	6.20.1200		
86-1	6.24.010		
86-2	6.24.020		
86-3	6.24.030		
86-4	6.24.040		
86-5	6.24.050		
86-36	6.24.110		
86-37	6.24.120		
86-38	6.24.130		
86-39	6.24.140		

CODE COMPARATIVE TABLE

LEGISLATION

The following table gives the location of ordinances and other legislation within the Code.

Legislation	Date	Section	Code Section
Ord. No. 77(2nd series)	1-8-1990	1	3.04.010
Ord. No. 94(2nd series)	5-13-1991	1	6.12.010
Ord. No. 97(2nd series)	8-26-1991	1	6.12.010
Ord. No. 98(2nd series)	11-12-1991	1	6.28.410
		—	6.28.440
		2	6.28.450
Ord. No. 101(2nd series)	2-24-1992	1(10.16(17))	6.12.6170
		1(10.56(1))	6.12.5920
		1(10.56(2))	6.12.5930
		1(10.56(3))	6.12.5910
		1(10.56(4))	6.12.5950
		1(10.56(5))	6.12.5960
		1(10.56(6))	6.12.6110
		1(10.56(7))	6.12.5970
		1(10.56(8))	6.12.5980
		1(10.56(9))	6.12.5990
		1(10.56(10))	6.12.6120
		1(10.56(11))	6.12.6130
		1(10.56(12))	6.12.6140
		1(10.56(13))	6.12.6150
		1(10.56(14))	6.12.6160
		1(10.56(15))	6.12.6000
		1(10.56(16))	6.12.6210
		1(10.56(16)(A))	6.12.6220
		1(10.56(16)(B))	6.12.6230
		1(10.56(16)(C))	6.12.6240
		1(10.56(16)(D))	6.12.6250
		1(10.56(16)(E))	6.12.6260
		1(10.56(16)(F))	6.12.6270
		1(10.56(16)(G))	6.12.6280
		1(10.56(16)(H))	6.12.6290
		1(10.56(16)(I))	6.12.6300
		1(10.56(16)(J))	6.12.6310
		1(10.56(16)(K))	6.12.6320
		1(10.56(16)(M))	6.12.6340
		1(10.56(16)(N))	6.12.6350
		1(10.56(16)(O))	6.12.6360
		1(10.56(16)(P))	6.12.6370
		1(10.56(16)(Q))	6.12.6380
		1(10.56(16)(R))	6.12.6390
		1(10.56(16)(S))	6.12.6400
		1(10.56(18))	6.12.6010
		1(10.56(19)(A))	6.12.6510
		1(10.56(19)(B))	6.12.6520
		1(10.56(19)(C))	6.12.6530
		1(10.56(19)(D))	6.12.6540

Legislation	Date	Section	Code Section
		1(10.56(19)(E))	6.12.6550
		1(10.56(19)(F))	6.12.6560
		1(10.56(19)(G))	6.12.6570
		1(10.56(19)(H))	6.12.6580
		1(10.56(19)(I))	6.12.6590
		1(10.56(19)(J))	6.12.6600
		1(10.56(19)(K))	6.12.6610
		1(10.56(20))	6.12.6020
		1(10.56(21))	6.12.5940
		2	6.12.010
Ord. No. 104(2nd series)	7-27-1992	1	6.28.010
Ord. No. 108(2nd series)	8-24-1992	1	5.36.040
Ord. No. 110(2nd series)	11-9-1992	1	6.28.010
Ord. No. 112(2nd series)	1-11-1993	1	3.08.110
		—	3.08.120
Ord. No. 115(2nd series)	5-24-1993	—	1.08.710
		—	6.04.010
		—	6.04.020
		—	6.04.030
Ord. No. 117(2nd series)	6-28-1993	1	6.28.110
		1(5.42(5))	6.28.120
		2(5.43(1))	6.28.210
		2(5.43(5))	6.28.220
		2(5.43(5)(B))	6.28.230
		2(5.43(5)(C))	6.28.240
Ord. No. 121(2nd series)	9-27-1993	3	5.08.220
Ord. No. 122(2nd series)	12-13-1993	1	6.12.010
		2	6.12.6750
Ord. No. 126(2nd series)	4-25-1994	1	6.12.5910
Ord. No. 127(2nd series)	7-11-1994	1	6.12.5930
		2	6.12.5910
		3	6.12.5910
		4	6.12.5910
		5	6.12.5970
		7	6.12.6300
		8	6.12.6310
Ord. No. 27(2nd series)	7-11-1994	6	6.12.5990
Ord. No. 129(2nd series)	10-24-1994	1	2.04.830
		2	2.04.440
		—	2.04.840
Ord. No. 132(2nd series)	1-23-1995	2	6.12.3310
		—	6.12.3320
		—	6.12.3330
		—	6.12.3340
		—	6.12.3350
		—	6.12.3360
		—	6.12.3370
		—	6.12.3380
		—	6.12.3390
		—	6.12.3400
		—	6.12.3410
		—	6.12.3420
		—	6.12.3430

Legislation	Date	Section	Code Section
		—	6.12.3440
		2(10.41(16))	6.12.3450
		2(10.41(17))	6.12.3450
		2(10.41(18))	6.12.3460
		2(10.41(19))	6.12.3470
Ord. No. 134(2nd series)	4-10-1995	—	6.24.130
		—	6.24.140
		—	6.24.150
Ord. No. 137(2nd series)	7-24-1995	9.12(1)	5.28.410
		9.12(2)	5.28.320
		—	5.28.440
		9.12(8)	5.28.330
		9.12(9)	5.28.340
		9.12(11(2))	5.28.420
		9.12(11(3))	5.28.020
		9.12(11(4))	5.28.450
		9.12(11(5))	5.28.450
		9.12(12)	5.28.210
		9.12(13)	5.28.430
		9.12(14)	5.28.100
		9.13(8)	5.28.310
Ord. No. 140(2nd series)	8-28-1995	1	4.04.310
		1(5.35(5))	5.20.330
Ord. No. 145(2nd series)	3-11-1996	1	6.12.1030
		—	6.12.1130
		—	6.12.1330
		—	6.12.1430
		—	6.12.1530
		—	6.12.1620
		—	6.12.1730
		—	6.12.1830
Ord. No. 150(2nd series)	8-26-1996	1	1.08.130
Ord. No. 152(2nd series)	10-28-1996	1	6.12.3230
		—	6.12.3540
		2	6.12.3740
		3	6.12.3830
		4	6.12.3840
		—	6.12.3850
Ord. No. 155(2nd series)	2-10-1997	1	4.20.420
		3	5.32.530
		5	5.32.550
		8(9.24(1))	5.24.1010
		8(9.24(2))	5.24.1040
		8(9.24(3))	5.24.1050
		8(9.24(4))	5.24.1060
		8(9.24(5))	5.24.1070
		8(9.24(6))	5.24.1030
		8(9.24(7))	5.24.1020
Ord. No. 160(2nd series)	5-12-1997	—	1.16.010
Ord. No. 161(2nd series)	6-7-1997	1	6.12.010
		2	6.12.4180
		3	6.12.1030
		—	6.12.1130

Legislation	Date	Section	Code Section
		—	6.12.1330
		—	6.12.1430
		—	6.12.1530
		—	6.12.1620
		—	6.12.1730
		—	6.12.1830
		4	6.12.1030
		—	6.12.1130
		—	6.12.1330
		—	6.12.1430
		—	6.12.1530
		—	6.12.1620
		—	6.12.1730
		—	6.12.1830
		6	6.12.1040
		—	6.12.1140
		—	6.12.1340
		—	6.12.1440
		—	6.12.1540
		—	6.12.1630
		—	6.12.1740
		—	6.12.1840
		—	6.12.3150
		7	6.12.1820
		8	6.12.3240
		—	6.12.3250
		—	6.12.3550
		—	6.12.3560
		—	6.12.3650
		—	6.12.3860
		9	6.12.3640
		10	6.12.3740
		12	6.12.6710
Ord. No. 162(2nd series)	9-22-1997	1	6.12.6170
Ord. No. 163(2nd series)	12-8-1997	3	6.12.6310
Ord. No. 164(2nd series)	12-8-1997	100	5.12.140
		200(11)	5.12.110
		300	5.12.310
		300(1)	5.12.320
		300(2)	5.12.330
		300(3)	5.12.370
		300(4)	5.12.430
		300(5)	5.12.390
		300(6)	5.12.350
		300(7)	5.12.420
		300(8)	5.12.380
		400	5.12.360
		500	5.12.340
		600	5.12.170
		700	5.12.180
		800	5.12.190
		900	5.12.400
		1000	5.12.410

Legislation	Date	Section	Code Section
		1100	5.12.160
		1200	5.12.200
		1300	5.12.120
		1400	5.12.130
		1500	5.12.150
Ord. No. 165(2nd series)	12-8-1997	—	5.04.230
			5.04.240
Ord. No. 178(2nd series)	12-8-1997	1	6.12.1030
		—	6.12.1130
		—	6.12.1330
		—	6.12.1430
		—	6.12.1530
		—	6.12.1620
Ord. No. 167(2nd series)	1-12-1998	2(9.30(1))	5.24.1120
		2(9.30(2))	5.24.1110
		2(9.30(3))	5.24.1160
		2(9.30(4))	5.24.1210
		2(9.30(5))	5.24.1250
		2(9.30(6))	5.24.1220
		2(9.30(7))	5.24.1230
		2(9.30(8))	5.24.1260
		2(9.30(9))	5.24.1170
		2(9.30(10))	5.24.1270
		2(9.30(11))	5.24.1280
		2(9.30(12))	5.24.1240
		2(9.30(13))	5.24.1130
		2(9.30(14))	5.24.1140
		2(9.30(16))	5.24.1150
Ord. No. 170(2nd series)	3-23-1998	1	6.12.3740
Ord. No. 171(2nd series)	4-4-1998	2	6.12.6310
Ord. No. 179(2nd series)	10-12-1998	1	6.12.7060
		2	6.12.1030
		—	6.12.1130
		—	6.12.1330
		—	6.12.1430
		—	6.12.1530
		—	6.12.1620
		—	6.12.1730
		—	6.12.1830
Ord. No. 182(2nd series)	1-25-1999	1(2.06(1))	1.08.310
		1(2.06(2))	1.08.320
		1(2.06(3))	1.08.330
		1(2.06(4))	1.08.350
		1(2.06(6))	1.08.340
		1(2.06(7))	1.08.360
Ord. No. 183(2nd series)	2-22-1999	1	6.12.3240
		—	6.12.3550
		2	6.12.3240
		—	6.12.3550
		3	6.12.3250
		—	6.12.3560
		—	6.12.3650
		—	6.12.3860

Legislation	Date	Section	Code Section
		4	6.12.1520
		—	6.12.1610
Ord. No. 185(2nd series)	2-22-1999	1	5.04.110
		—	5.04.120
		—	5.04.130
		—	5.04.140
		—	5.04.150
		—	5.04.160
		—	5.04.170
		—	5.04.180
		—	5.04.190
Ord. No. 186(2nd series)	4-26-1999	1	5.08.220
Ord. No. 188(2nd series)	6-5-1999	1	6.24.140
		2	6.24.150
		4	6.24.130
Ord. No. 191(2nd series)	6-14-1999	1	5.24.010
Ord. No. 193(2nd series)	11-8-1999	1	6.12.6820
Ord. No. 198(2nd series)	4-24-2000	1	6.12.3740
Ord. No. 201(2nd series)	2-12-2001	1	6.12.3870
Ord. No. 202(2nd series)	2-26-2001	1	6.12.6000
		1(1)	6.12.3110
		1(2)	6.12.3130
		1(3)	6.12.3140
		1(4)	6.12.3150
		1(5)	6.12.3160
		1(6)	6.12.3170
		1(7)	6.12.3180
		1(8)	6.12.3190
		1(9)	6.12.3120
Ord. No. 203(2nd series)	2-26-2001	1	6.12.4410
		2	6.12.4420
		3	6.12.4450
Ord. No. 204(2nd series)	6-25-2001	1	6.12.3640
Ord. No. 206(2nd series)	9-10-2001	1	6.12.7820
Ord. No. 207(2nd series)	10-22-2001	3(10.53(9))	6.12.4290
Ord. No. 208(2nd series)	10-22-2001	1	5.28.610
		2	5.28.710
		3	5.28.720
		4	5.28.730
		6	5.28.410
		7	5.28.210
		8	5.28.090
		—	5.28.100
Ord. No. 209(2nd series)	11-13-2001	1	3.08.300
Ord. No. 211(2nd series)	11-26-2001	1	6.12.6940
		2	6.12.6940
		3	6.12.6940
		4	6.12.6940
		5	6.12.6940
Ord. No. 213(2nd series)	12-10-2001	1(1)	2.04.1110
		1(2)	2.04.1120
		1(3)	2.04.1150
		1(4)	2.04.1140

Legislation	Date	Section	Code Section
		1(5)	2.04.1150
		1(6)	2.04.1170
		1(7)	2.04.1130
		1(8)	2.04.1160
		1(9)	2.04.1160
		1(10(1))	2.04.1010
		1(10(2))	2.04.1020
		1(10(3))	2.04.1030
Ord. No. 214(2nd series)	12-10-2001	1(1)	2.04.1210
		1(2)	2.04.1220
		1(3)	2.04.1230
		1(4)	2.04.1230
		1(5)	2.04.1240
		1(8)	2.04.1260
		1(9)	2.04.1230
		1(10)	2.04.1250
		1(11(1))	2.04.1010
		1(11(2))	2.04.1020
		1(11(3))	2.04.1030
Ord. No. 215(2nd series)	3-11-2002	1	6.12.6930
Ord. No. 217(2nd series)	3-25-2002		2.04.310
Ord. No. 221(2nd series)	9-23-2002	1	4.04.310
		2	6.12.010
		3	6.12.1040
		—	6.12.1140
		—	6.12.1340
		—	6.12.1440
		—	6.12.1540
		—	6.12.1630
		—	6.12.1740
		—	6.12.1840
		—	6.12.1960
		—	6.12.3150
		4	6.12.6810
Ord. No. 222(2nd series)	11-12-2002	1	2.04.1230
Ord. No. 225(2nd series)	5-12-2003	3(10.53(11))	6.12.4300
Ord. No. 226(2nd series)	5-27-2003	1	6.12.1520
		—	6.12.1610
		—	6.12.1820
		2	6.12.1530
		—	6.12.1620
		—	6.12.1730
		—	6.12.1830
Ord. No. 2(3rd series)	11-10-2003	1	5.36.050
Ord. No. 4(3rd series)	11-11-2003	1	6.12.7410
		2	6.12.7820
Ord. No. 9(3rd series)	5-24-2004	1	6.12.320
Ord. No. 11(3rd series)	5-24-2004	1	6.12.6240
Ord. No. 12(3rd series)	5-24-2004	1	6.12.6940
Ord. No. 13(3rd series)	5-24-2004	1	6.12.7020
Ord. No. 15(3rd series)	6-28-2004	1	6.12.7010
Ord. No. 18(3rd series)	9-27-2004	1	6.12.010
		2	6.12.010

Legislation	Date	Section	Code Section
		3	6.12.1050
		—	6.12.1150
		—	6.12.1350
		—	6.12.1450
		—	6.12.1550
		—	6.12.1650
		—	6.12.1750
		—	6.12.1850
		—	6.12.2020
		—	6.12.3260
		—	6.12.3410
		—	6.12.3570
		—	6.12.3660
		—	6.12.3760
		—	6.12.3870
Ord. No. 21(3rd series)	11-8-2004	1	6.12.7820
Ord. No. 24(3rd series)	3-28-2005	1	6.24.130
		2	6.24.140
		3	6.24.150
		4	6.24.160
		5	6.24.170
Ord. No. 25(3rd series)	5-23-2005	1	1.08.230
		—	4.04.120
Ord. No. 28(3rd series)	8-22-2005	1	6.12.8010
		—	6.12.8110
		—	6.12.8120
		—	6.12.8130
		—	6.12.8210
		—	6.12.8310
		—	6.12.8320
		—	6.12.8410
		—	6.12.8420
		—	6.12.8430
		—	6.12.8440
		—	6.12.8450
		—	6.12.8460
		2	6.12.010
		3	6.12.1030
		4	6.12.1130
		5	6.12.1330
		6	6.12.1430
		7	6.12.1530
		8	6.12.1620
		9	6.12.1740
		10	6.12.1840
		12	6.12.1930
		13	6.12.1950
		14	6.12.1980
		15	6.12.2000
		16	6.12.5910
		17	6.12.6310
Ord. No. 29(3rd series)	10-24-2005	1	6.12.7820
		2	6.12.7820

Legislation	Date	Section	Code Section
		3	6.12.7820
Ord. No. 30(3rd series)	11-28-2005	1	6.12.6940
Ord. No. 33(3rd series)	2-27-2006	1	6.12.310
Ord. No. 32(3rd series)	3-27-2006	1	6.12.010
		2	6.12.3900
		—	6.12.3910
		—	6.12.3920
		—	6.12.3930
		—	6.12.3940
		—	6.12.3950
		—	6.12.3960
		—	6.12.3970
		—	6.12.3980
		—	6.12.3990
		—	6.12.4000
		—	6.12.4010
		4	6.12.4460
		6	6.12.7510
		7	6.12.7520
		8	6.12.7560
		9	6.12.7610
Ord. No. 37(3rd series)	2-12-2007	1	6.12.010
		2	6.12.010
Ord. No. 42(3rd series)	2-11-2008	1	6.08.010
		—	6.08.020
		—	6.08.030
		—	6.08.040
		—	6.08.050
		—	6.08.060
		—	6.08.070
		—	6.08.080
		—	6.08.090
		2	6.12.220
Ord. No. 43(3rd series)	2-25-2008	1	6.12.6940
Ord. No. 44(3rd series)	2-25-2008	1	6.12.1020
		—	6.12.1030
		2	6.12.1120
		—	6.12.1130
		3	6.12.1320
		—	6.12.1330
		4	6.12.1420
		—	6.12.1430
		5	6.12.1520
		—	6.12.1530
		6	6.12.1610
		—	6.12.1620
		7	6.12.1720
		—	6.12.1730
		8	6.12.1820
		—	6.12.1830
Ord. No. 45(3rd series)	2-25-2008	1	6.12.1030
		2	6.12.1130
		3	6.12.1330

Legislation	Date	Section	Code Section
		4	6.12.1430
		5	6.12.1530
		6	6.12.1620
		7	6.12.1730
		8	6.12.1830
		11	6.12.7060
Ord. No. 47(3rd series)	7-28-2008	1	6.12.010
		3	6.12.3240
		4	6.12.4190
Ord. No. 49(3rd series)	9-8-2008	1	6.24.230
Ord. No. 50(3rd series)	10-13-2008	1	2.04.840
Ord. No. 52(3rd series)	11-24-2008	1	6.12.010
		2	6.12.7050
		3	6.12.7080
Ord. No. 55(3rd series)	4-13-2009	1	6.16.010
		—	6.16.020
		—	6.16.030
		—	6.16.040
		—	6.16.050
		—	6.16.060
		—	6.16.070
		—	6.16.080
		—	6.16.090
		—	6.16.100
		—	6.16.110
		—	6.16.120
		—	6.16.130
		—	6.16.140
Ord. No. 56(3rd series)	4-13-2009	1	2.04.010
		2	2.04.1310
		—	2.04.1320
		—	2.04.1330
		—	2.04.1340
		—	2.04.1350
		—	2.04.1360
		—	2.04.1370
		—	2.04.1380
		—	2.04.1390
		—	2.04.1400
Ord. No. 58(3rd series)	4-27-2009	1	4.08.010
		—	4.08.020
		—	4.08.030
		—	4.08.040
		—	4.08.050
		—	4.08.060
		—	4.08.110
		—	4.08.120
		—	4.08.130
		—	4.08.140
		—	4.08.150
		—	4.08.160
		—	4.08.170
		—	4.08.180

Legislation	Date	Section	Code Section
		—	4.08.190
		—	4.08.200
		—	4.08.210
Ord. No. 59(3rd series)	5-11-2009	1	6.12.5910
		2	6.12.6270
Ord. No. 63(3rd series)	9-14-2009	1	6.12.6220
Ord. No. 64(3rd series)	9-14-2009	1	6.12.6750
Ord. No. 65(3rd series)	11-23-2009	1	6.08.010
		2	6.08.100
Ord. No. 67(3rd series)	1-11-2010	1	6.12.8510
		—	6.12.8520
		—	6.12.8530
		—	6.12.8610
		—	6.12.8620
		—	6.12.8710
		—	6.12.8720
		—	6.12.8810
		—	6.12.8820
		—	6.12.8910
Ord. No. 68(3rd series)	2-8-2010	1	6.12.220
		2	6.12.250
		3	6.12.010
		4	6.12.3220
		5	6.12.3330
		6	6.12.3520
		7	6.12.3620
		8	6.12.3720
		9	6.12.3820
		10	6.12.3900
		11	6.12.710
		—	6.12.720
		—	6.12.730
		—	6.12.740
		—	6.12.750
		—	6.12.760
		—	6.12.770
		—	6.12.780
		—	6.12.790
Ord. No. 69(3rd series)	4-12-2010	1	6.16.050
		—	6.16.060
		—	6.16.070
		—	6.16.080
		—	6.16.090
		—	6.16.100
		—	6.16.110
		—	6.16.120
Ord. No. 72(3rd series)	6-26-2010	1	6.12.3230
		2	6.12.3540
		3	6.12.3730
Ord. No. 71(3rd series)	6-28-2010	1	4.12.010
		—	4.12.020
		—	4.12.110
		—	4.12.120

Legislation	Date	Section	Code Section
		—	4.12.130
		—	4.12.140
		—	4.12.150
		—	4.12.160
		—	4.12.170
		—	4.12.180
		—	4.12.190
		—	4.12.200
Ord. No. 74(3rd series)	6-28-2010	1	3.08.410
		—	3.08.420
		—	3.08.430
		—	3.08.440
		—	3.08.450
		—	3.08.460
Ord. No. 75(3rd series)	7-12-2010	1	6.12.3140
		2	6.12.010
Ord. No. 76(3rd series)	7-12-2010	1	5.08.220
Ord. No. 77(3rd series)	7-12-2010	1	6.12.4090
Ord. No. 78(3rd series)	8-23-2010	1	5.16.010
		—	5.16.020
		—	5.16.030
		—	5.16.040
		—	5.16.050
Ord. No. 79(3rd series)	11-8-2010	1	6.12.010
		2	6.12.1030
		3	6.12.1130
		4	6.12.1330
		5	6.12.1430
		6	6.12.1530
		7	6.12.1620
		8	6.12.1730
		9	6.12.1830
Ord. No. 80(3rd series)	11-22-2010	1	6.12.580
		2	6.12.590
		3	6.12.600
Ord. No. 82(3rd series)	12-13-2010	1	6.12.010
		2	6.12.1020
		3	6.12.1030
		4	6.12.1040
		5	6.12.1120
		6	6.12.1130
		7	6.12.1140
		8	6.12.1320
		9	6.12.1330
		10	6.12.1340
		11	6.12.1420
		12	6.12.1430
		13	6.12.1440
		14	6.12.1520
		15	6.12.1530
		16	6.12.1540
		17	6.12.1610
		18	6.12.1620

Legislation	Date	Section	Code Section
		19	6.12.1630
		20	6.12.1720
		21	6.12.1730
		22	6.12.1740
		23	6.12.1820
		24	6.12.1830
		25	6.12.1840
Ord. No. 84(3rd series)	1-24-2011	1	6.12.230
Ord. No. 85(3rd series)	2-14-2011	1	6.12.310
Ord. No. 87(3rd series)	4-11-2011	1	4.12.020
		2	4.12.120
		3	4.12.180
		4	4.12.210
Ord. No. 88(3rd series)	6-27-2011	1	6.12.510
		2	6.12.520
		3	6.12.530
Ord. No. 89(3rd series)	11-28-2011	1	6.12.1730
		2	6.12.1830
Ord. No. 90(3rd series)	12-12-2011	1	6.12.010
		2	6.12.1020
		3	6.12.1120
		4	6.12.1320
		—	6.12.1330
		5	6.12.1420
		—	6.12.1430
		6	6.12.1520
		—	6.12.1530
		7	6.12.1610
		—	6.12.1620
		8	6.12.1720
		9	6.12.1820
		11	6.12.1940
Ord. No. 92(3rd series)	3-26-2012	1	6.12.320
		2	6.12.1930
		3	6.12.1980
		4	6.12.1980
		5	6.12.1980
		6	6.12.1980
		7	6.12.1980
		8	6.12.2080
Ord. No. 93(3rd series)	6-25-2012	1	6.12.1340
		2	6.12.1440
		3	6.12.1540
		4	6.12.1630
		5	6.12.1960
Ord. No. 94(3rd series)	9-24-2012	1	6.12.010
		2	6.12.3160
		3	6.12.3870
		4	6.12.3940
		5	6.12.5910
		6	6.12.6330
		7	6.12.6590
		8	6.12.8010

Legislation	Date	Section	Code Section
		9	6.12.8530
		11	6.12.9010
		—	6.12.9020
		—	6.12.9030
		—	6.12.9110
		—	6.12.9120
		—	6.12.9130
		—	6.12.9140
		—	6.12.9150
		—	6.12.9160
		—	6.12.9170
		—	6.12.9210
		—	6.12.9220
Ord. No. 95(3rd series)	10-8-2012	1	6.12.320
Ord. No. 96(3rd series)	11-13-2012	3(3.01)	6.12.1040
		—	6.12.1140
		—	6.12.1340
		—	6.12.1440
		—	6.12.1540
		—	6.12.1630
		—	6.12.1740
		—	6.12.1840
		3(3.02)	6.12.1040
		—	6.12.1140
		—	6.12.1340
		—	6.12.1440
		—	6.12.1540
		—	6.12.1630
		—	6.12.1740
		—	6.12.1840
Ord. No. 99(3rd series)	1-28-2013	1	6.12.6930
Ord. No. 100(3rd series)	2-25-2013	1	6.12.1330
		2	6.12.1430
		3	6.12.1530
		4	6.12.1620
		5	6.12.1740
		6	6.12.1840
		8	6.12.1960
		9	6.12.010
Ord. No. 103(3rd series)	5-28-2013	1	6.12.8010
		2	6.12.8210
		3	6.12.8310
		4	6.12.8320
		5	6.12.8410
		6	6.12.8430
		7	6.12.8440
Ord. No. 105(3rd series)	5-28-2013	1	6.12.2010
Ord. No. 106(3rd series)	6-10-2013	2	6.12.910
		3	6.12.1040
		4	6.12.1140
		5	6.12.1340
		6	6.12.1440
		7	6.12.1540

Legislation	Date	Section	Code Section
		8	6.12.1630
		9	6.12.1740
		10	6.12.1840
		12	6.12.3150
		13	6.12.3250
		14	6.12.3360
		15	6.12.3560
		16	6.12.3650
		17	6.12.3750
		18	6.12.3860
		19	6.12.3930
		20	6.12.6710
		22	6.12.6940
		24	6.12.7040
		25	6.12.7050
		26	6.12.010
		27	6.12.6260
		28	6.12.6240
		29	6.12.6830
Ord. No. 108(3rd series)	7-8-2013	1	6.12.320
Ord. No. 119(3rd series)	12-9-2013	1	6.12.6840
Ord. No. 121(3rd series)	12-9-2013	1	5.32.810
		—	5.32.820
		—	5.32.830
		—	5.32.840
		—	5.32.850
		—	5.32.860
		—	5.32.870
		2	5.32.910
		—	5.32.920
		—	5.32.930
Ord. No. 126(3rd series)	11-10-2014	1	5.12.110
		2	5.12.210
		3	5.12.310
		—	5.12.320
		4	5.12.440
Ord. No. 130(3rd series)	1-26-2015	1	6.12.5910
Ord. No. 132(3rd series)	1-26-2015	1	6.12.4210
Ord. No. 133(3rd series)	1-26-2015	2	6.12.6310
		3	6.12.6310
Ord. No. 137(3rd series)	2-9-2015	1	2.04.540
Ord. No. 139(3rd series)	2-23-2015	1	6.12.6940
		2	6.12.010
Ord. No. 140(3rd series)	3-23-2015	1	6.12.6940
Ord. No. 142(3rd series)	4-13-2015	1	6.12.6840
		2	6.12.6840
Ord. No. 144(3rd series)	4-13-2015	1	1.04.080
Ord. No. 146(3rd series)	5-11-2015	1	6.24.210
		2	6.24.230
Ord. No. 149(3rd series)	5-26-2015	1	2.04.1210
		—	2.04.1220
		—	2.04.1230
		—	2.04.1240

Legislation	Date	Section	Code Section
		—	2.04.1250
		—	2.04.1260
		—	2.04.1270
Ord. No. 150(3rd series)	6-8-2015	1	6.12.010
Ord. No. 151(3rd series)	7-27-2015	2	6.24.250
Ord. No. 152(3rd series)	7-27-2015	1	6.24.230
Ord. No. 153(3rd series)	8-10-2015	2	6.12.580
		3	6.12.780
		4	6.12.4110
Ord. No. 154(3rd series)	8-10-2015	1	6.12.310
Ord. No. 156(3rd series)	8-10-2015	1	6.12.010
		2	6.12.3240
		3	6.12.3540
Ord. No. 157(3rd series)	8-10-2015	1	6.12.6240
Ord. No. 160(3rd series)	11-9-2015	1	6.12.010
		—	6.12.3240
Ord. No. 163(3rd series)	2-22-2016	1	3.08.460
Ord. No. 164(3rd series)	2-22-2016	1	1.08.130
Ord. No. 165(3rd series)	3-14-2016	1	6.12.7070
Ord. No. 166(3rd series)	3-14-2016	1	6.12.430
Ord. No. 167(3rd series)	4-11-2016	1	6.12.010
		2	6.12.1320
Ord. No. 168(3rd series)	5-9-2016	1	6.12.270
Ord. No. 170(3rd series)	6-13-2016	1	6.12.010
		2	6.12.6930
		3	6.12.6940
		4	6.12.6940
		5	6.12.9160
Ord. No. 173(3rd series)	6-27-2016	1	6.12.010
		2	6.12.1050
		3	6.12.1150
		4	6.12.1350
		5	6.12.1450
		6	6.12.1550
		7	6.12.1650
		8	6.12.1750
		9	6.12.1850
		10	6.12.2020
		11	6.12.3260
		12	6.12.3410
		13	6.12.3570
		14	6.12.3660
		15	6.12.3760
		16	6.12.3870
		17	6.12.3940
Ord. No. 175(3rd series)	7-11-2016	1	6.12.6770
Ord. No. 176(3rd series)	8-22-2016	1	3.08.300
		2	3.08.370
		3	5.28.440
Ord. No. 177(3rd series)	9-12-2016	1	6.12.4510
		—	6.12.4520
		—	6.12.4610
		—	6.12.4620

Legislation	Date	Section	Code Section
		—	6.12.4630
		—	6.12.4640
		—	6.12.4650
		—	6.12.4660
		—	6.12.4670
		—	6.12.4680
		—	6.12.4690
		—	6.12.4700
		—	6.12.4710
		—	6.12.4810
		—	6.12.4820
		—	6.12.4910
		—	6.12.4920
		—	6.12.4930
		—	6.12.4940
		—	6.12.5010
		—	6.12.5020
		—	6.12.5030
		—	6.12.5040
		—	6.12.5110
		—	6.12.5120
		—	6.12.5210
		—	6.12.5220
		—	6.12.5230
		—	6.12.5310
		—	6.12.5320
		—	6.12.5330
		—	6.12.5410
		—	6.12.5420
		—	6.12.5510
		—	6.12.5520
		—	6.12.5530
		—	6.12.5540
		—	6.12.5610
		—	6.12.5710
		—	6.12.5720
		—	6.12.5730
		—	6.12.5810
		—	6.12.5830
Ord. No. 178(3rd series)	10-10-2016	1	1.08.160
		3	5.04.230
		4	5.12.120
		6	5.36.050
		7	5.36.590
		8	5.36.610
		9	6.12.410
		10	6.12.440
		12	6.12.730
		13	6.12.5530
		14	6.12.6300
Ord. No. 180(3rd series)	1-9-2017	1	3.08.120
Ord. No. 181(3rd series)	1-9-2017	1	6.12.1330
Ord. No. 182(3rd series)	1-9-2017	1	5.36.1210

Legislation	Date	Section	Code Section
		—	5.36.1220
		—	5.36.1230
Ord. No. 184(3rd series)	1-9-2017	1	5.24.1110
		2	5.24.1230
		3	5.24.1250
		4	5.24.1260
Ord. No. 187(3rd series)	3-13-2017	1	6.12.6930
		2	6.12.9160
Ord. No. 188(3rd series)	3-22-2017	1	6.12.6940
Ord. No. 189(3rd series)	4-10-2017	1	6.24.210
		2	6.24.230
		3	6.12.730
		4	6.12.740
		5	6.12.6940
		6	6.12.3160
Ord. No. 190(3rd series)	4-10-2017	2	6.24.230
		3	6.08.020
		4	6.08.100
Ord. No. 192(3rd series)	4-10-2017	1	6.12.4140
Ord. No. 194(3rd series)	5-8-2017	1	6.12.9510
		—	6.12.9520
		—	6.12.9530
		—	6.12.9540
		—	6.12.9550
Ord. No. 195(3rd series)	5-8-2017	1	6.12.1860
Ord. No. 196(3rd series)	5-22-2017	1	6.12.8120
		2	6.12.8130
		3	6.12.8210
		4	6.12.8410
		5	6.12.8460
Ord. No. 198(3rd series)	6-12-2017	1	6.12.1820
		—	6.12.1830
Ord. No. 199(3rd series)	6-12-2017	1	6.12.6950
		2	6.12.1350
		3	6.12.1450
		4	6.12.1550
		5	6.12.1850
Ord. No. 201(3rd series)	11-13-2017	2	6.28.310
		—	6.28.320
		—	6.28.330
		—	6.28.340
		—	6.28.350
Ord. No. 204(3rd series)	3-27-2018	1	4.04.410
		—	4.04.420
		—	4.04.430
		—	4.04.440
		—	4.04.450
		—	4.04.460
		—	4.04.470
		—	4.04.480
		—	4.04.490
Ord. No. 205(3rd series)	4-9-2018	1	6.12.8210
Ord. No. 206(3rd series)	5-14-2018	1	6.12.010

Legislation	Date	Section	Code Section
Ord. No. 207(3rd series)	5-29-2018	1	3.04.410
		—	3.04.420
		—	3.04.430
		—	3.04.440
		—	3.04.450
		—	3.04.460
		—	3.04.470
		—	3.04.480
		—	3.04.490
		—	3.04.500
		—	3.04.510
		—	3.04.520
		—	3.04.530
		—	3.04.540
		—	3.04.550
		—	3.04.560
		—	3.04.570
		—	3.04.580
		—	3.04.590
		—	3.04.600
		—	3.04.610
		—	3.04.620
		—	3.04.630
		—	3.04.640
Ord. No. 209(3rd series)	6-11-2018	1	6.12.6940
Ord. No. 210(3rd series)	6-25-2018	1	6.12.230
		2	6.12.280
		3	6.12.430
		4	6.12.1020
		5	6.12.1120
		6	6.12.1320
		7	6.12.1420
		8	6.12.1520
		9	6.12.1610
		10	6.12.1720
		11	6.12.1820
		12	6.12.1970
		13	6.12.4060
		14	6.12.4080
		15	6.12.4280
		16	6.12.8430
Ord. No. 212(3rd series)	8-13-2018	1	5.24.110
		—	5.24.120
		—	5.24.130
		—	5.24.140
		—	5.24.150
		—	5.24.160
		—	5.24.210
		—	5.24.220
		—	5.24.230
		—	5.24.240
		—	5.24.250
		—	5.24.260

Legislation	Date	Section	Code Section
		—	5.24.270
		—	5.24.280
		—	5.24.290
		—	5.24.310
		—	5.24.320
		—	5.24.340
		—	5.24.350
		—	5.24.360
		—	5.24.370
		—	5.24.380
		—	5.24.410
		—	5.24.420
		—	5.24.430
		—	5.24.440
		—	5.24.510
		—	5.24.520
		—	5.24.530
		—	5.24.540
		—	5.24.610
		—	5.24.620
		—	5.24.630
		—	5.24.640
		—	5.24.710
		—	5.24.720
		—	5.24.810
		—	5.24.910
Ord. No. 2015(3rd series)	9-10-2018	1	6.12.7110
		—	6.12.7120
		—	6.12.7130
		—	6.12.7140
		—	6.12.7150
		—	6.12.7160
		—	6.12.7170
		—	6.12.7180
		—	6.12.7190
		—	6.12.7200
		—	6.12.7210
		—	6.12.7220
		—	6.12.7230
		—	6.12.7240
		—	6.12.7250
		—	6.12.7260
		—	6.12.7270
		—	6.12.7280
		—	6.12.7290
		—	6.12.7300
		—	6.12.7310
		2	6.12.4010
Ord. No. 218(3rd series)	12-10-2018	1	1.08.110
Ord. No. 219(3rd series)	12-10-2018	4	6.12.6310
		6	6.12.9410
		—	6.12.9420
Ord. No. 220(3rd series)	12-10-2018	1	6.16.060

Legislation	Date	Section	Code Section
Ord. No. 222(3rd series)	12-10-2018	1	6.12.010
		2	6.12.1040
		—	6.12.6930
		3	6.12.1050
		4	6.12.1140
		5	6.12.1150
		6	6.12.1340
		7	6.12.1350
		8	6.12.1440
		9	6.12.1450
		10	6.12.1540
		11	6.12.1550
		12	6.12.1630
		13	6.12.1650
		14	6.12.1740
		15	6.12.1750
		16	6.12.1840
		17	6.12.1850
		18	6.12.2000
		19	6.12.6240
		22	6.12.6940
		23	6.12.6950
		24	6.12.7010
		25	6.12.7020
		27	6.12.7040
		28	6.12.7050
		30	6.12.7060
		32	6.12.7080
Ord. No. 224(3rd series)	6-10-2019	1	6.12.1030
		2	6.12.1130
		3	6.12.1330
		4	6.12.1430
		5	6.12.1530
		6	6.12.1620
		7	6.12.1730
		8	6.12.1830
Ord. No. 226(3rd series)	6-10-2019	1	2.04.310
Ord. No. 230(3rd series)	7-22-2019	1	4.16.010
		—	4.16.020
		—	4.16.030
		—	4.16.110
		—	4.16.120
		—	4.16.130
		—	4.16.140
		—	4.16.150
		—	4.16.160
		—	4.16.170
		—	4.16.180
		—	4.16.190
		—	4.16.200
		—	4.16.210
		—	4.16.220
		—	4.16.230

Legislation	Date	Section	Code Section
		—	4.16.240
		—	4.16.310
		—	4.16.320
		—	4.16.330
		—	4.16.340
		—	4.16.350
		—	4.16.360
		2	5.36.1010
		—	5.36.1020
		—	5.36.1030
		—	5.36.1040
Ord. No. 232(3rd series)	10-14-2019	1	6.12.7040
Ord. No. 233(3rd series)	10-14-2019	1	6.12.1020
		2	6.12.1120
		3	6.12.1320
		4	6.12.1420
		5	6.12.1520
		6	6.12.1610
		7	6.12.1720
		8	6.12.1820
		9	6.12.1940
Ord. No. 234(3rd series)	10-14-2019	1	6.12.6240
Ord. No. 239(3rd series)	3-9-2020	1	3.04.810
		—	3.04.820
		—	3.04.830
		—	3.04.840
		—	3.04.850
		—	3.04.860
		—	3.04.880
Ord. No. 240(3rd series)	3-9-2020	1	6.24.210
		2	6.28.110
		—	6.28.120
		3	6.28.210
		—	6.28.220
		—	6.28.230
		—	6.28.240
Ord. No. 242(3rd series)	4-13-2020	1	6.12.440
Ord. No. 243(3rd series)	4-13-2020	1	6.12.010
		2	6.12.6000
		—	6.12.6120
		—	6.12.6170
		—	6.12.6210
		—	6.12.6220
		—	6.12.6240
		—	6.12.6270
		—	6.12.6280
		—	6.12.6300
		—	6.12.6310
		—	6.12.6340
		—	6.12.6370
		—	6.12.6610
		3	6.12.7900
		—	6.12.7910

Legislation	Date	Section	Code Section
		—	6.12.7920
		—	6.12.7930
		—	6.12.7940
		4	6.12.9420
Ord. No. 244(3rd series)	4-13-2020	1	5.32.610
		—	5.32.620
		—	5.32.630
		—	5.32.640
		—	5.32.650
		—	5.32.660
		—	5.32.670
		—	5.32.680
		—	5.32.690
		—	5.32.700
		—	5.32.710
		—	5.32.720
		—	5.32.730
		—	5.32.740
		—	5.32.750
		2	5.32.810
		—	5.32.820
		—	5.32.830
		—	5.32.840
		—	5.32.850
Ord. No. 247(3rd series)	6-8-2020	1	2.04.710
		2	2.04.840
		3	2.04.850
		4	2.04.860
Ord. No. 246(3rd series)	6-22-2020	1	2.04.450
Ord. No. 248(3rd series)	9-14-2020	1	6.20.010
		—	6.20.020
		—	6.20.030
		—	6.20.040
		—	6.20.050
		—	6.20.060
		—	6.20.070
		—	6.20.080
		—	6.20.090
		—	6.20.100
		—	6.20.110
		—	6.20.120
		—	6.20.130
		—	6.20.210
		—	6.20.220
		—	6.20.230
		—	6.20.240
		—	6.20.250
		—	6.20.310
		—	6.20.320
		—	6.20.330
		—	6.20.340
		—	6.20.350
		—	6.20.360

Legislation	Date	Section	Code Section
		—	6.20.410
		—	6.20.420
		—	6.20.430
		—	6.20.440
		—	6.20.450
		—	6.20.460
		—	6.20.510
		—	6.20.520
		—	6.20.530
		—	6.20.540
		—	6.20.550
		—	6.20.610
		—	6.20.620
		—	6.20.630
		—	6.20.640
		—	6.20.710
		—	6.20.810
		—	6.20.820
		—	6.20.830
		—	6.20.840
		—	6.20.850
		—	6.20.860
		—	6.20.870
		—	6.20.880
		—	6.20.890
		—	6.20.900
		—	6.20.910
		—	6.20.920
		—	6.20.930
		—	6.20.940
		—	6.20.950
		—	6.20.1010
		—	6.20.1020
		—	6.20.1030
		—	6.20.1040
		—	6.20.1050
		—	6.20.1060
		—	6.20.1070
		—	6.20.1080
		—	6.20.1110
		—	6.20.1120
		—	6.20.1130
		—	6.20.1140
		—	6.20.1150
		—	6.20.1200
Ord. No. 250(3rd series)	10-12-2020	1	6.12.610
Ord. No. 253(3rd series)	2-8-2021	1	1.08.160
		2	5.32.840
		3	6.12.410
Ord. No. 254(3rd series)	2-8-2021	1	6.12.010
		2	6.20.020
Ord. No. 255(3rd series)	4-12-2021	1	6.24.010
		2	6.24.130

Legislation	Date	Section	Code Section
		—	6.24.140
		—	6.24.150
		—	6.24.170
Ord. No. 256(3rd series)	5-10-2021	1	6.12.7820
Ord. No. 257(3rd series)	5-10-2021	1	6.12.010
		2	6.12.7060
		3	6.12.1030
		4	6.12.1130
		5	6.12.1330
		6	6.12.1430
		7	6.12.1530
		8	6.12.1620
		9	6.12.1730
		10	6.12.1830
Ord. No. 261(3rd series)	6-14-2021	1	6.12.7150
		2	6.12.7210
		3	6.12.7220
		4	6.12.7230
		5	6.12.7240
		6	6.12.7250
		7	6.12.7270
		8	6.12.7290
		9	6.12.6780
Ord. No. 259(3rd series)	7-26-2021	—	3.04.810
		—	3.04.820
		—	3.04.830
		—	3.04.840
		—	3.04.850
		—	3.04.860
		—	3.04.870
		—	3.04.880
Ord. No. 262(3rd series)	11-8-2021	1	6.12.6840
Ord. No. 264(3rd series)	11-22-2021	1	6.12.010
		2	6.12.1340
		3	6.12.1440
		4	6.12.1540
		5	6.12.1630
		6	6.12.1740
		7	6.12.1840
Ord. No. 265(3rd series)	12-6-2021	1	6.12.320
Ord. No. 268(3rd series)	2-14-2022	1	6.20.950
Ord. No. 272(3rd series)	6-13-2022	1	6.12.6940
Ord. No. 273(3rd series)	6-13-2022	1	6.12.1960
		—	6.12.2090
		2	6.12.1970
Ord. No. 274(3rd series)	6-13-2022	1	6.12.6300
Ord. No. 278(3rd series)	10-10-2022	1	6.12.1750
		2	6.12.1850
		3	6.12.7040
Ord. No. 279(3rd series)	11-14-2022	1	6.12.010
		2	6.12.1020
		3	6.12.1030
		4	6.12.1040

Legislation	Date	Section	Code Section
		5	6.12.1120
		6	6.12.1130
		7	6.12.1140
		8	6.12.1320
		9	6.12.1330
		10	6.12.1340
		11	6.12.1420
		12	6.12.1430
		13	6.12.1440
		14	6.12.1520
		15	6.12.1530
		16	6.12.1540
		17	6.12.1610
		18	6.12.1620
		19	6.12.1630
		20	6.12.1720
		21	6.12.1730
		22	6.12.1740
		23	6.12.1820
		24	6.12.1830
		25	6.12.1840
		26	6.12.7030
Ord. No. 284(3rd series)	11-13-2023	1	6.12.010
		2	6.12.1960
		3	6.12.6240
Ord. No. 286(3rd series)	12-11-2023	1	1.04.020
		2	1.08.010
		3	1.08.020
		4	1.08.030
		5	1.08.120
		6	1.08.130
		7	1.08.140
		8	1.08.150
		9	1.08.160
		10	1.08.350
		11	1.08.360
		13	1.08.410
		14	1.08.420
		15	1.08.430
		16	1.08.440
		17(2-140)	1.08.450
		17(2-141)	1.08.460
		17(2-142)	1.08.470
		17(2-143)	1.08.480
		17(2-144)	1.08.490
		17(2-145)	1.08.500
		17(2-146)	1.08.510
		18	1.16.020
Ord. No. 287(3rd series)	12-11-2023	1	5.08.110
		2	5.08.120
		3	5.08.130
		4	5.08.140
		5	5.08.210

Legislation	Date	Section	Code Section
		6	5.08.220
		7	5.08.230
		8	5.08.310
		9	5.08.320
		10	5.08.330
Ord. No. 289(3rd series)	2-26-2024	1	2.04.250
Ord. No. 290(3rd series)	2-26-2024	1	3.08.210
		2	3.08.340
Ord. No. 291(3rd series)	2-26-2024	1	4.16.340
		2	4.16.360
Ord. No. 292(3rd series)	2-26-2024	1	5.24.320
		2	5.24.410
		3	5.24.610
Ord. No. 293(3rd series)	2-26-2024	1	5.36.1130
Ord. No. 296(3rd series)	2-26-2024	1(18-1)	3.04.010
		1(18-2)	3.04.020
		1(18-3)	3.04.030
		1(18-4)	3.04.040
		1(18-5)	3.04.050
		1(18-6)	3.04.060
		1(18-7)	3.04.070
		1(18-8)	3.04.080
		1(18-9)	3.04.090
		1(18-10)	3.04.100
		2(18-77)	3.04.320
		2(18-136)	3.04.330
		2(18-137)	3.04.340
		2(18-138)	3.04.350
		3	3.04.430
		4(18-236)	3.04.710
		4(18-237)	3.04.720
		4(18-238)	3.04.730
Ord. No. 298(3rd series)	3-11-2024	1	5.24.010
		2	5.24.320
		3	5.24.410
		4(58-71)	5.24.610
		4(58-72)	5.24.620
Ord. No. 299(3rd series)	3-11-2024	1	6.12.050
		2	6.12.1050
		3	6.12.1150
		4	6.12.1350
		5	6.12.1450
		6	6.12.1550
		7	6.12.1650
		8	6.12.1750
		9	6.12.1850
		10	6.12.6940
		11	6.12.7010
		12	6.12.7040
		13(78-1437)	6.12.7060
		13(78-1438)	6.12.7070
		13(78-1439)	6.12.7080
		14	6.12.7510

Legislation	Date	Section	Code Section
Ord. No. 300(3rd series)	3-11-2024	1	6.24.120
		2	6.24.250
Ord. No. 302(3rd series)	4-8-2024	1	5.20.120
Ord. No. 303(3rd series)	4-8-2024	1	6.12.010
		2	6.12.6240
		3	6.12.6300
		4(78-1492)	6.12.7420
		4(78-1493)	6.12.7430
		4(78-1494)	6.12.7440
		5	6.12.7820
Ord. No. 304(3rd series)	4-8-2024	1(94-136)	6.28.310
		1(94-141)	6.28.360
Ord. No. 306(3rd series)	11-12-2024	1	6.12.010
		2	6.12.3230
		3	6.12.3540
		4	6.12.3630
		5	6.12.3730
		6	6.12.3830
		7	6.12.3910
Ord. No. 310(3rd series)	12-9-2024	1	6.12.010
		2	6.12.3920
Ord. No. 311(3rd series)	12-9-2024	1	6.12.6270
		2	6.12.6300
		3	6.12.6310
Ord. No. 307(3rd Series)	2-10-2025	1(6-2)	1.12.020
		1(6-3)	1.12.030

STATE LAW REFERENCE TABLE

The following table shows the location within the Code, either in the text or notes following the text, of references to the Minnesota Statutes (Minn. Stats.).

Minn. Stats. Section	Code Section
ch. 12	5.04.120
—	5.04.180
13D.04	1.08.140
14.57—14.70	4.16.240
18.75 et seq.	5.24.010
ch. 35	Ch. 5.28
35.71	5.28.310
84.787 et seq.	Ch. 5.32, Art. V
84.795, subd. 8	Ch. 5.32, Art. V
84.797 et seq.	Ch. 5.32, Art. V
84.804, subd. 6	Ch. 5.32, Art. V
84.81 et seq.	Ch. 5.32, Art. V
84.87	5.32.550
84.87, subd. 3	Ch. 5.32, Art. V
ch. 86B	Ch. 6.28
—	6.28.320
—	6.28.440
86B.201	Ch. 6.28
86B.205	Ch. 6.28
88.16—88.17	5.24.1140
88.171	Ch. 5.24, Art. IV
—	5.24.1140
93.44—93.51	6.12.5910
97A.041	5.28.820
ch. 103F	6.12.4510
—	6.12.5930
103F.101 et seq.	Ch. 6.12, Art. VIII
103F.121	Ch. 6.12, Art. VIII
103F.201 et seq.	Ch. 6.12, Art. IX
103G.005, subd. 14	6.12.4810
103G.005, subd. 15	6.12.5910
—	6.16.050
103G.005, subd. 16	6.12.5910
103G.245	6.12.4940
—	6.12.5520
—	6.12.7930
ch. 115	5.24.110
115.01, subd. 22	2.04.010
—	6.16.050
115.55	Ch. 5.24, Art. II
—	6.12.320
ch. 115A	Ch. 5.20
115A.93	5.20.210
—	Ch. 5.20, Art. III, Div. 2
115A.941	Ch. 5.20, Art. III
116.07, subd. 2	Ch. 5.24, Art. III
chs. 144—158	Ch. 5.12
144.391	5.12.140
144.417	5.12.440
ch. 145A	5.24.110
145A.05, subd. 9	Ch. 5.36, Art. VI
ch. 152	5.36.920
152.02	5.36.920
—	5.36.980
168.011, subd. 22	5.32.510
ch. 168B	5.24.030
168B.03	5.24.040
ch. 168C	Ch. 5.32, Art. IV
ch. 169	5.24.040
—	Ch. 5.32
—	5.32.030
—	5.32.910
169.02, subd. 1	5.32.010
169.03, subd. 1	5.32.020
169.04	Ch. 5.32
169.04(1)	Ch. 5.32, Art. III
169.04(2)	5.32.110
169.041	5.32.140
169.06(4)	5.32.110
169.13	5.32.070
169.222 et seq.	Ch. 5.32, Art. IV
169.222, subd. 1	5.32.410
169.222, subd. 4(d)	5.32.440
169.32	5.32.230
169.32 et seq.	Ch. 5.32, Art. III
169.33	5.32.140
169.346	5.32.300
169.35	5.32.240
169.36	5.32.330
169.42	Ch. 5.20
—	5.36.030
169.68	5.24.1050
169.87, subd. 1	5.32.060
ch. 171	5.32.030
—	5.32.910
176.011, subd. 9(6)	1.08.220
ch. 200	Ch. 1.12
ch. 201	Ch. 1.12
ch. 202A	Ch. 1.12
ch. 203B	Ch. 1.12
ch. 204B	Ch. 1.12
ch. 204C	Ch. 1.12
ch. 204D	Ch. 1.12
ch. 205	Ch. 1.12
205.07	1.12.030
205.10, subd. 3a	1.12.030
ch. 205A	Ch. 1.12

Minn. Stats. Section	Code Section
ch. 206	Ch. 1.12
ch. 208	Ch. 1.12
ch. 209	Ch. 1.12
ch. 211A	Ch. 1.12
ch. 211B	Ch. 1.12
ch. 211C	Ch. 1.12
216B.097	2.04.250
216C.06, subd. 2	6.12.530
ch. 216D	3.04.450
216D.01—216D.09	3.04.450
—	3.04.570
221.81	6.24.010
237.162	3.04.420
—	3.04.500
237.163	3.04.410
237.163, subd. 6(g)	3.04.450
243.166	5.36.1230
243.167	5.36.1230
244.052	5.36.1220
245.462, subd. 23	6.12.010
ch. 245G	6.12.010
256C.02	3.08.300
260B.235	5.36.1130
ch. 299F	Ch. 5.08, Art. II
299F.011	Ch. 5.08, Art. II, Div. 2
300.04	3.04.230
300.05	3.04.220
307.08	6.12.5910
309.515	4.08.170
309.52	4.08.170
ch. 326	4.08.120
326B.082	6.24.160
326B.101	Ch. 6.24, Art. II
326B.101—326B.16	6.24.130
—	6.24.170
326B.103, subd. 11	6.24.140
326B.103, subd. 13	6.24.140
326B.121	6.24.140
326B.133, subd. 1	6.24.140
326B.148	6.24.150
329.15	4.08.010
ch. 340A	4.16.010
—	4.16.020
340A.409	4.16.190
340A.503, subd. 6	5.12.150
—	5.36.1150
340A.801	4.16.190
ch. 342	6.12.010
343.20 et seq.	Ch. 5.28
344.02, subd. 1(a)	6.12.4690
344.02, subd. 1(b)	6.12.4690
344.02, subd. 1(c)	6.12.4690
344.02, subd. 1(d)	6.12.4690
ch. 347	Ch. 5.28
—	Ch. 5.28, Art. III
347.31 et seq.	Ch. 5.28, Art. III, Div. 2
347.50	3.08.370
—	5.28.010
347.50 et seq.	Ch. 5.28, Art. IV
ch. 349	Ch. 4.20, Art. II
—	4.20.110
349.213	Ch. 4.20, Art. II
351.02	1.12.020
364.01—364.10	1.08.230
364.09	1.08.230
ch. 412	Ch. 1.08
—	6.20.060
412.02	1.08.110
412.02, subd. 2a	1.12.030
412.021	1.08.110
412.023	1.08.110
—	1.12.030
412.111	Ch. 1.08, Art. III
412.191	1.08.120
412.191, subd. 2	1.08.140
—	1.08.150
412.221, subd. 6	Ch. 3.04
412.221, subd. 7	Ch. 3.04
412.221, subd. 17	Ch. 5.08
412.221, subd. 18	Ch. 3.04
412.221, subd. 21	Ch. 5.28
412.221, subd. 22	Ch. 5.12
412.221, subd. 23	5.36.040
412.221, subd. 24	Ch. 5.24, Art. III
412.221, subd. 25	Ch. 4.20
412.221, subd. 26	5.36.020
412.221, subd. 28	Ch. 6.24
412.231	1.04.080
412.491	Ch. 3.08
412.851	3.04.100
—	6.12.090
412.861	6.12.410
412.861, subd. 1	5.32.840
412.925	3.04.730
415.021	1.04.010
415.11	1.08.130
415.191 et seq.	Ch. 1.08, Art. II
chs. 426—435	Ch. 1.08, Art. V
ch. 429	Ch. 1.16
—	1.16.010
—	3.04.550
429.061, subd. 3	1.16.010
435.193	Ch. 1.16
—	1.16.020
435.195	Ch. 1.16
—	1.16.020
ch. 444	Ch. 2.04
444.075	2.04.1110
—	2.04.1210
ch. 452	Ch. 2.04
459.20	Ch. 6.28
461.12	Ch. 5.12, Art. II
461.12, subd. 1	5.12.310
461.12, subd. 2	5.12.120
461.12, subd. 3	5.12.120

Minn. Stats. Section	Code Section
461.12, subd. 5	5.12.410
461.12, subd. 6	5.12.150
461.12, subd. 7	5.12.120
461.18	5.12.190
461.19	Ch. 5.12, Art. II
ch. 462	3.04.550
—	6.12.4510
—	6.12.5910
—	6.12.5930
—	6.12.6140
—	6.20.060
462.351	6.16.020
462.351 et seq.	Ch. 6.04
—	6.04.030
462.354, subd. 1	6.04.010
462.354, subd. 2	6.12.430
462.357	Ch. 6.12
462.357, subd. 1	6.12.810
462.357, subd. 3	6.12.230
462.357, subd. 4	6.12.230
462.357, subd. 6(2)	Ch. 6.12, Art. II, Div. 3, Subd. II
—	6.12.6140
462.357, subd. 7	6.12.1020
—	6.12.1120
—	6.12.1320
—	6.12.1420
—	6.12.1430
—	6.12.1520
—	6.12.1610
—	6.12.1720
—	6.12.1820
—	6.12.3130
462.358	Ch. 6.20
—	6.20.020
—	6.20.440
—	6.20.540
462.358, subd. 2b	6.20.950
462.358, subd. 7	6.12.090
462.359	6.20.020
462.359, subd. 3	6.12.450
462.3593	6.12.6770
462.3595	Ch. 6.12, Art. V, Div. 2
462.3595, subd. 2	6.12.4080
462.3595, subd. 3	6.12.4120
463.15—463.261	6.12.2040
—	6.24.040
—	6.24.050
463.251	6.24.040
469.135—469.141	6.20.020
471.195	1.08.030
471.345	1.08.350
471.633	Ch. 5.36, Art. III, Div. 2
473.121	6.20.020
505.02, subd. 1	6.12.6010
525.6155	5.36.1110
525.6165	5.36.1110
525.619	5.36.1110
609.03	5.36.1130
609.034	1.04.080
609.48	4.04.120
609.556 et seq.	Ch. 5.36, Art. II
—	5.36.130
609.595	3.08.250
609.605	5.36.110
609.66 et seq.	Ch. 5.36, Art. III
609.66, subd. 1(a)(1)	5.36.350
609.66, subd. 1(a)(2)	5.36.360
609.66, subd. 1(a)(4)	5.36.370
609.66, subd. 1(a)(5)	5.36.380
609.66, subd. 1(a)(6)	5.36.390
609.671, subd. 13	Ch. 5.20
—	5.36.030
609.675	5.36.220
609.685	5.12.170
—	5.12.200
609.72, subd. 1(1)	5.36.720
609.72, subd. 1(2)	5.36.710
609.72, subd. 1(3)	5.36.730
609.74	5.36.040
617.23	3.08.340
—	4.20.350
—	5.36.020
—	5.36.810
617.24	4.20.350
—	5.36.810
617.241	6.12.6820
624.20	5.32.610
624.20 et seq.	5.36.340
629.34	1.08.020
ch. 645	1.04.020
645.13— 645.151	1.04.030
645.35	1.04.050
645.36	1.04.050
645.49	1.04.040
ch. 1340	6.12.6270
6120.2500— 6120.3900	6.12.5930
6120.3300	6.12.5970
6120.44	6.12.5120
6120.5000— 6120.6200	6.12.5120

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CONNECTING YOU & YOUR COMMUNITY

LEGAL REVIEW PROPOSAL

Orono, Minnesota

November 22, 2021 - Valid for 90 days

Lafaye Kiely
Legal Account Manager
Office: 800-262-2633 ext. 9760
Direct: 850-692-7118
Email: lkiely@municode.com
PO Box 2235 Tallahassee, FL 32316

LETTER OF INTEREST

municode

P.O. Box 2235 Tallahassee, FL 32316
municode.com • 800.262.2633

November 22, 2021

Ms. Anna Carlson
City Clerk
City of Orono, MN
2750 Kelley Parkway
Orono, MN 55356

via email: acarlson@ci.orono.mn.us

Ms. Carlson:

Thank you for your interest in Municode's Legal Review services! To ensure that your Code remains legally sound and accurate, we recommend a Legal Review or complete recodification of the Code every 5 to 10 years. Because recodification is an expensive and time-consuming process, some of our clients choose a Legal Review as a less expensive and faster way to achieve a similar result.

A Legal Review provides a snapshot of possible conflicts and inconsistencies within the Code. During the Legal Review process, one of our attorneys will conduct a chapter-by-chapter legal analysis of the Code to identify obsolete provisions, eliminate internal conflicts and inconsistencies and ensure conformity with State Law. We will provide a Legal Memorandum outlining the findings of our analysis and schedule a conference to discuss Municode's recommendations to resolve any issues of concern. Our staff includes a large team of in-house experienced codification attorneys who have completed hundreds of codification and recodification projects nationwide.

With over 70 years of experience, Municode is the oldest and most trusted codifier in the nation. We currently provide codification services to over 4,000 municipalities throughout the United States and host over 3,700 municipal codes online via our code hosting platform, MunicodeNEXT. We invite you to visit our corporate website at https://www.municode.com/ to explore our full suite of government services.

In addition to codification services, we provide a "circle of governance" that offers website design, meetings management and document archival tools in one seamless experience. Customers who trust Municode with their online codes, meetings software, and municipal website enjoy a unified search engine and integration of the Meetings, Web, and Code Hosting platforms. From the Meetings platform, agendas and minutes can automatically be uploaded to the website and ordinances can be sent to Municode for codification with permanent links created within the code for the ordinances and the specific meeting from which the legislation was adopted, via our OrdBank service.

Please contact Legal Account Manager Lafaye Kiely (lkiely@municode.com; 850-692-7118) if you have any questions. Thank you for the opportunity to submit this proposal!

Sincerely,

Steffanie W. Rasmussen
Vice President of Client Services
Phone: 800-262-2633 ext. 1148
steff@municode.com

LEGAL REVIEW QUOTATION SHEET

Legal Review Fees

Legal Review of your Code of Ordinances[1]	**$8,400[2]**
❑ Teleconference or web-based conference with a Municode attorney, per hour	**$150**

Payments for Legal Review:

• Upon Execution of Agreement	**$4,200**
• Upon Delivery of Legal Memorandum	**Balance**

This proposal shall be valid for a period of ninety (90) days from the date appearing below unless signed and authorized by Municode and the City of Orono, MN. Municode shall not be responsible for the legal sufficiency or copyright infringement of any material initially or subsequently published.

The City of Orono, MN understands that Municode is a wholly owned subsidiary of CivicPlus, LLC ("Parent Entity"). At any time during the Term of this Agreement, Municode may assign its rights and obligations under this Agreement to the Parent Entity, upon giving written notice to the City. In the event of such assignment by Municode, the Parent Entity shall be the sole performing party under this Agreement to the same extent as Municode prior to making such assignment.

Term of Agreement. This Agreement shall begin upon execution by both parties and end upon completion of the Legal Review process. Should ongoing supplementation and online Code hosting services be provided following the Legal Review, those services shall be automatically renewed from year to year provided that either party may cancel or change this agreement with sixty (60) days written notice.

Submitted by: MUNICIPAL CODE CORPORATION

Municode Officer: SW

Title: Steffanie W. Rasmussen, Vice President of Client Services

Date: November 22, 2021

Accepted by: CITY OF ORONO, MINNESOTA

By: _____

Title: CITY ADMINISTRATOR

Date: 11 JAN 22

[1] Material to be reviewed as published by Municode through Supplement No. 19. Legislation not currently included in the code can be reviewed for an additional fee.

[2] Legislation added to the project must be approved and received prior to the established cutoff date. Proofs not returned within 45 days may be subject to a proof update fee, if applicable.

COMPANY PROFILE

History, Mission, and Team

With over 70 years of experience nationwide, Municode's mission is to strengthen democracy by connecting public sector organizations to their communities. Our solutions promote transparency and efficiency - such as custom website design, meeting and agenda management, the legal codification process, and our robust suite of online legislative search tools.

Municode partners with more than 4,000 government agencies across all fifty states. Municode is a privately-owned and financially sound corporation. Our leadership focuses on improving Municode through investments in its people and its technology.

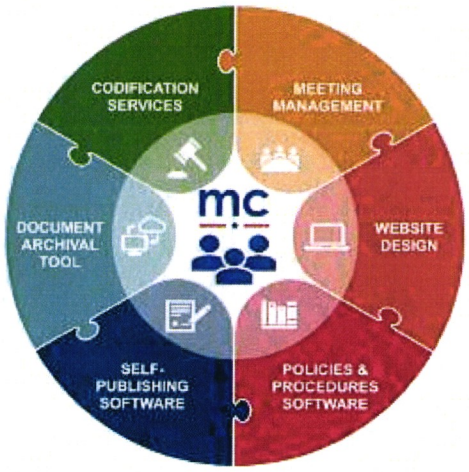
Municode is home to over 160 employees (most of whom enjoy a 10+ year tenure). Our headquarters in Tallahassee, Florida includes four buildings totaling 56,000 square feet. We have regional offices located in Oregon and Utah. Other office locations include Arizona, California, Georgia, Kentucky, Minnesota, New Hampshire, North Carolina, South Carolina, Texas, Virginia, and Washington.

Our Vision: Simple, Seamless Integration

Our vision is to create seamless integration between our service offerings. The goal is to reduce staff workload, while at the same time, increasing the ability for municipalities to connect with their communities.

The following example integration points are either in place today or envisioned in our future strategic roadmap.

- Unified search across all platforms (website, meetings, online codes)
- Auto-publish agendas and minutes from the Meetings platform to the Website
- Ordinance auto-publishing from the Meetings platform to your online code, queued for supplementation, Code of ordinance cross-references to legislative voting history, minutes, and video/audio



LEGAL REVIEW SCOPE OF SERVICES

During the Legal Review process, the attorney assigned to your project will examine every Title, Chapter and Section of the Code to ensure that it is free from conflicts and inconsistencies and conforms to the laws of the State of Illinois. Your Municode attorney will be available to consult with you and your staff at any time during the Legal Review process, which is outlined below.

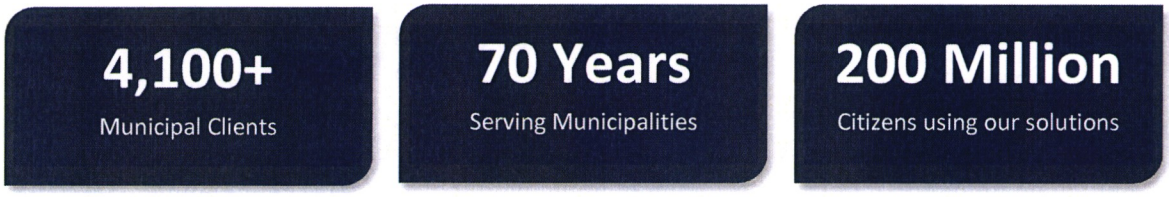
Attorney Analysis and Review of Material. Our legal team will review the most current Code version to ensure conformity with state statutes and to identify any areas of possible legal concern. The review will also-determine if there are any inconsistencies or conflicts within the legislation itself. Ordinances enacted, or added, subsequent to the established cut-off date for the Legal Review, or items not contemplated within the scope of service, may be included later at an agreed upon page rate.

References. We will notate any State Law References within the Code that need to be updated in the memorandum.

Legal Memorandum. We will provide you with a user-friendly Legal Memorandum containing all of our analyses and recommendations. This memorandum will reflect our attorney's Legal Review and will provide you with recommendations to remove conflicts and inconsistencies; conform to State Law, when appropriate; and ensure compliance with your charter (if applicable). This approach facilitates collaboration and dissemination among departments, thus making the process as easy for you as possible. Our goal is to make the Legal Review process simple and smooth for you.

Conference. Within 30 days of your receipt of the Legal Memorandum we will conduct a conference, via telephone or webinar, to review the Legal Memorandum and our recommendations. All interested personnel may be included, but your attorney and clerk are essential. Issues discovered during the legal analysis will be discussed at the conference, with the goal of the conference being to come to agreement on any required changes. Your attorney has the final decision-making authority for resolution of issues brought up at the conference or noted in the Legal Memorandum.

Implementation. Corrections to the Code can be integrated via individual ordinances with Municode issuing a supplement to the existing Code; however, if changes are extensive, republishing the entire Code may be more cost effective. An estimate for republication can be provided once the Legal Review is completed and the extent of changes is known. If the issues are too numerous or complex, a full recodification may be recommended. Should recodification be recommended, the expense incurred in the Legal Review may be credited toward its cost.



SUPPLEMENTATION & WEBITE HOSTING SERVICES (IF APPLICABLE)

Supplementation Services

Municode's supplementation process has been designed for timeliness, efficiency, simplicity and most of all, for our customers' convenience. Supplements can be provided on the schedule of your choice, as there is no additional cost for more (or less) frequent supplementation. In addition to printed supplements, we can deliver the updates in Word, PDF and/or Folio formats.

We pride ourselves on a turnaround time of **30 to 35 days for printed supplements** and can provide "always up to date" **electronic update services within 10 to 15 days** at the same per page rate quoted for printed supplements. With printed supplementation, the online Code is updated within **3 days** after shipping the supplement, and there is no additional fee for this service. A recent analysis of our printed supplement Services indicated an editorial error rate of less than .1%, which is made possible by our attention to detail, ongoing communication with our clients, and strict quality control checks to ensure we continue to produce the best printed and electronic supplements available in our industry. Any errors attributable to Municode during the preparation, printing and maintenance of the Code will be corrected at no cost. The printed supplement process is outlined below.

Supplementation Process:

1. Receipt of new legislation will be acknowledged within 24 hours. Our production support team will record the adoption date, effective date and ordinance number(s) and ensure that all necessary exhibits, tables and graphics are included. You will be advised promptly if any pertinent information is missing from your submission. Your material will then be immediately forwarded to our Supplement team for codification. If our OrdBank service is elected (advance legislation service), the legislation will be posted online within 48 hours as a PDF under "Adopted Legislation not yet Codified" at this time.

2. Editorial Review – Our editorial team will review all ordinances received to determine whether the ordinance should be included in your Code; where the ordinance should be placed; whether the ordinance conflicts with your existing Code format; what material should be removed from your existing Code; whether history notes will be added; what tables will be updated and whether the Table of Contents in the front of the Code and at the Chapter/Title level should be amended. If any significant errors or numbering issues are noted, your editor will contact you for clarification. No substantive changes to your legislation will be made by our editorial team, however minor typographical errors will be corrected as part of the supplement process. Should the editorial, legal and/or proofreading team find discrepancies in your ordinances, we will communicate with you to ensure that the ordinances are correct and consistent with the existing Code.

3. Indexing – If an Index is elected, your supplement will now be sent to our indexing team, where all new legislation is indexed and cross-referenced in all appropriate locations.

GovTech 100 GovTech Top 100 Innovators Annually since 2016!
municode CONNECTING YOU & YOUR COMMUNITY

4. Proofreading – The proofreader assigned to your editorial team will then examine your supplement line by line to ensure editorial accuracy, Code hierarchy and layout and to confirm that your supplement is grammatically correct and free of errors in spelling and capitalization. Your supplement is examined again line by line to ensure that the improvements made by the editorial team were thorough and accurate. During this process, the original ordinance is compared again with the newly added text to further ensure editorial accuracy.

5. Posting the supplement online (MunicodeNEXT) – After your supplement has been completed, your online Code will be updated within 1 to 2 days and any electronic products requested will be provided. You will receive notification that the website has been updated via email. If CodeBank Compare + eNotify service is elected, citizens will be notified each time the online Code is updated. When your Code is updated on MunicodeNEXT, all internal cross-reference links are updated. With our OrdBank feature, each history note will be linked to the ordinance that amended the respective section.

6. Printing and Shipping – We will print, cut, 3 hole-punch, insert divider tabs (if elected) and ship your supplement to you quarterly unless otherwise instructed. You can change your supplement schedule at any time, and there is no additional charge for more frequent supplementation. *Instruction Sheet:* With each printed supplement, we will furnish a page of instructions for removal of the obsolete pages and insertion of the new pages; as well as a *Checklist* of up-to-date pages with each supplement.

Online Code Hosting Services (MunicodeNEXT)

Our code hosting platform, MunicodeNEXT (https://library.municode.com) was created and is continuously enhanced and improved by our in-house team of Internet Technology professionals. MunicodeNEXT includes Standard and Premium features (see ***Attachment A***), all of which are designed to provide a wide variety of additional capabilities for the research and navigation of your code, as well as for preserving its history. Our newest free online feature, *Public Notes*, will enable you to add external links within the contents of your online Code (such as links to Zoning maps, Fee Schedules, Council Meetings, the Clerk's office, etc.) or to post public notes or documents in the online Code to inform your citizens about current issues pertinent to specific sections of your Code.

MunicodeNEXT is extremely user-friendly and requires no special training or login information. A variety of video tutorials are offered, and we can host a personalized training webinar for you and your staff to demonstrate our online features and capabilities before your new Code goes "live" online. Our MuniDocs feature enables you to upload related documents online alongside the Code in fully searchable format. Electronic viewing statistics are available upon request on the schedule of your choice. Our MuniPro feature provides the ability to search over 3,700 online Codes in our library, save frequently used or complex searches, create notes to attach to any publication and draft new ordinances.

Our powerful search engine allows users to enter simple or advanced searches and supports Boolean operators, stemming, wildcards, proximity searches, and a global synonym list. Users can easily search the code using keywords or phrases, and can print, download and/or email any portion of your code. Search terms can be applied to the entire code or narrowed to search only within specific chapters or sections. Our recent website upgrade allows users to sort results by relevance or book order! Our collapsible Table of Contents, continuous next-hit feature and internal and external hyperlinking and cross-referencing features simplify and enhance the navigation of your online code, allowing your staff and citizens the capability of simultaneously searching your code, ordinances, minutes, resolutions, budgets and more.

With MunicodeNEXT advanced features, your staff and citizens need only click the link provided on your municipality's website to access your full Code of Ordinances. They not only have access to your complete and current Code of Ordinances, but to all archived versions of your code, every official copy of your ordinances, the power to compare versions of your code over time, the ability to be notified every time your code is updated, and the ability to translate your code into over 100 languages via ***Google Translate***, which is included at no additional charge.

MunicodeNEXT is designed with accessibility in mind. Our application is fully responsive, ensuring all features are available on appropriately sized desktop, tablet, and smartphone viewports. Designed to provide easy access and an intuitive interface, it is extremely well-suited for use on tablets and mobile devices running iOS or Android. With delivery also available in Word. PDF and Folio format, the Code can also be viewed and researched offline.

The User Interface and all HTML content viewed via our MunicodeNEXT web application is WCAG 2.1 Level AA compliant. While we take several steps to improve the accessibility of PDF documents uploaded to the MunicodeNEXT platform, we cannot guarantee full ADA compliance of PDF documents. If a fully ADA compliant PDF document is uploaded to our MunicodeNEXT platform, it will remain compliant while stored in our system. For each PDF document that is uploaded to our platform, we OCR scanned PDFs; set document title, primary language, and other PDF metadata fields; and automatically create a base level of tags to be used by screen readers.

Our tech stack includes HTML5 & CSS3, Javascript (AngularJS), and a RESTful API written in C# running on .Net Core. All content is rendered in standard HTML and is viewable in all modern browsers including PC: Microsoft Internet Explorer 10 or later, Firefox 3.6 or later, macOS®: Safari™ 5.0 or later, and Chrome 18 or later.

We host MunicodeNEXT in Microsoft's Azure Government secure cloud environment and guarantee an SLA of 99.95% uptime. SSL encryption is used by default to secure access to the site and the entire platform is backed up to multiple geographic locations within the Azure Government cloud ecosystem.

MunicodeNEXT Premium Feature Summary

- **OrdBank** will create one click access to every ordinance via linked history notes. Ordinances are permanently stored online in the OrdBank repository and filed in annual folders.

- **CodeBank** will enable you to have instant access to past versions of your Code after each supplementation.

- **CodeBank Compare + eNotify** provides you with the ability to select a past version of your online Code and compare it to any other version of the Code each time the Code is updated. The differences will be shown via Highlights (added materials) or Strikethrough (deleted material). **eNotify** allows users to enroll to receive an email notification each time your online Code is updated. A "modified," "removed" or "added" badge is shown within the online table of contents to alert users of recently amended sections of your Code.

- **OrdLink** will create highlights within your online Code to help users identify what ordinances have been recently adopted and what Code sections have been amended.

- **MuniDocs** will enable you to self-upload your Minutes, Agendas, Policies, Procedures, etc. alongside your Code for quick and easy access

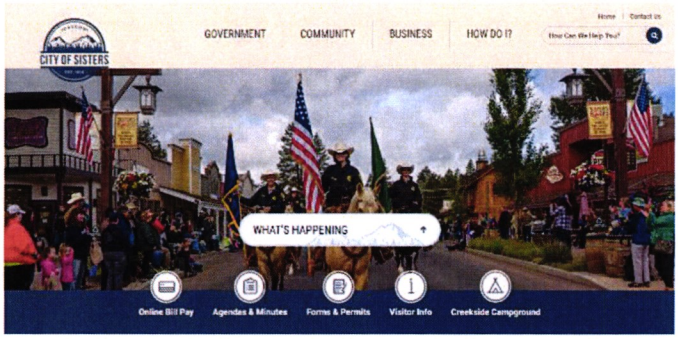
- **MuniPRO** allows you to search over 3,700 Codes in the Municode library, save frequently used or complex searches, create notes to attach to any publication and draft new ordinances.

ADDITIONAL SERVICES AVAILABLE FOR PURCHASE

Municode offers a wide variety of services, all of which have been designed primarily to serve local governments. Please contact us for information and pricing on any of the services listed below, all of which may be purchased under this contract and all of which are competitively priced.

Website Design and Hosting Services

Let our team of web analysts and developers create or redesign a website for your municipality that provides your staff and citizens with a stunningly beautiful website that is simple for staff to use, easy for citizens to access, responsive, interactive, dynamic, and extremely efficient! Using the popular Drupal, open-source framework, we will work with you to understand your history, anticipate your future, define your priorities and achieve the long-term goals of your community.



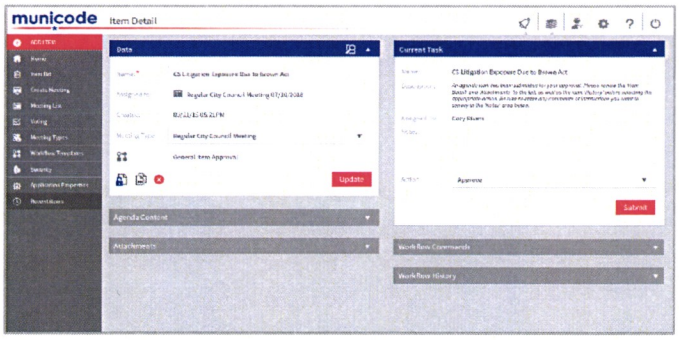
When Municode designs your completely mobile friendly website, our goal is to improve your image and your community profile, increase the self-service capacity of your residents, and empower your staff to create, edit and maintain website content as simply and efficiently as possible. The result will be an unparalleled municipal website solution at a very compelling price.

❑ **Request MunicodeWEB Demo/Proposal**

Meeting and Agenda Management

Municode provides a cloud-based agenda meeting management system that enables our clients to save time and money by streamlining and automating the agenda process. With zero set-up requirements, minimal budget impact, built in automatic upgrades and internal and external IT support issues managed directly by Municode's expert team of web analysts and system developers, your staff will spend significantly less time on agenda management, while still maintaining total administrative control of your agenda packets.

Municode provides the highest level of government transparency to your citizens. We will show you how to live stream your meeting videos at no cost and can provide archived video and audio linking capabilities that will allow your constituents to access the exact point in the meeting video where a specific piece of business is discussed. You can take roll call and record votes live in the meeting – and legislators can also vote directly from their Mac, PC, iPad, or Android device!



Other benefits include agenda process visibility, easy agenda updates, approval workflow, live Council voting & roll call, Email notifications, a Unified Document Search and automated approval routing. When you are ready to publish your Agenda, our "single click publishing" will provide you with automatic agenda and packet creations.

❑ **Request MunicodeMEETINGS Demo/Proposal**

LETTER OF INTEREST

July 12, 2022

Ms. Anna Carlson
City Clerk
2750 Kelley Pkwy
Orono, MN 55356 via email: acarlson@ci.orono.m.us

Ms. Carlson:

Thank you for your interest in our legal review and implementation services. The implementation and republication project will include the findings summarized in the Legal Review Memorandum provided by Municode attorney Alyce Whitson. Corrections to the Code can be integrated via adopting amendatory legislation to be incorporated via the supplement process, or we can implement the changes on your behalf and republish the Code in print and online, with supplementation beginning anew with Supplement No. 1.

This proposal will outline the scope of services and costs for Municode to implement the findings of the Legal Review under your direction and republish the Code. We will schedule a conference to discuss the findings of the Legal Review and our recommendations to resolve all issues of concern. Following the implementation of findings, we will provide an adopting ordinance for the new Code, and ongoing supplementation and online Code hosting services if elected.

Our Supplement team includes 14 teams of Legal Editors and Proofreaders who are dedicated to providing the most accurate and timely supplement service possible. Our code hosting platform, MunicodeNEXT, is the nation's most advanced, accessible and intuitive website for government codes – allowing your staff and citizens to have access to your current code and all archived versions of your code, every official copy of your ordinances, the power to compare versions of your code over time, the ability to be notified every time your code is updated and a powerful search engine capable of simultaneously searching your code, ordinances, minutes, resolutions, budgets and more.

Please contact Legal Account Manager Lafaye Kiely (lkiely@municode.com, 850-692-7118) if you have any questions regarding this proposal! It would be our pleasure to be of service to the City of Orono! Once the quote is approved we will provide the City with a Statement of Work to review and officially sign for the project.

Sincerely,

Steffanie W. Rasmussen
Director of Legal/Services - CivicPlus
Phone: 800-262-2633 ext. 1148
srasmussen@civicplus.com

LEGAL REVIEW IMPLEMENTATION AND REPUBLICATION

Implementation and Republication (includes Title VI – Land Use)

- ★ Implementation of approved recommendations, 800 Double column 10-point font pages **$16,240**[1]
- ★ Inclusion of legislation until mutually agreed upon cutoff date
- ★ Database conversion as necessary
- ★ Removal of supplement numbers
- ★ Updating of preliminary pages (title page, officials' page, and preface)
- ★ New page numbers
- ★ Creation of a consistent style
- ★ Incorporation of Graphics[2] & tabular[3] matter
- ★ 6 printed copies of the new Code with binders and tabs
- ★ Sample adoption ordinance provided
- ★ Inclusion of adopted legislation post-proof delivery, per amended page **$22.00**[4]

Project is based on the font size & pages below – please only select one:

Font Size Double Column: ❑ 10-point (800) ❑ 11-point (974) ❑ 12-Point (1052)

Items not included in base cost

- ★ Pages **over** 800 10-point, double column pages per page (or equivalent) **$24**
- ★ Freight **Actual**
- ★ State sales tax **If applicable**
- ★ Post your code on MunicodeNEXT **See selections on page 5**

Conference Selection and Optional Services:

- ❑ On-site conference, each **Attorney time, travel, lodging and per diem**
- ❑ Teleconference or web-based conference, 3-hour session **No charge**[5]
- ❑ Optional Gender Neutralization of Code **$1,120**

Binder Selections: (choose binder color **AND** stamping color**)**

Binder Color: ❑ Semi-Bright Black ❑ Dark Blue ❑ Green ❑ Burgundy

INK STAMPING COLOR:

- ❑ Gold
- ❑ Silver

Payments for Implementation and Republication project - *Your project can be budgeted over two fiscal years*

- ★ Execution of Agreement **$6,500**
- ★ Submission of Proofs **$5,680**
- ★ Delivery **Balance**

[1] Provided Municode can utilize the Legal Review results within a year of submitting the legal manuscript which was provided June 27, 2022 and can rely upon the version of the Code furnished in an editable, electronic format. If additional legal work is requested additional fees will apply.

[2] Includes printing all copies. Additional fees may apply if graphics are printed color.

[3] Tabular matter is defined as tables, algebraic formulas, or other materials that require special programs or extra editorial time to modify and prepare for inclusion in an update.

[4] Legislation added to the project must be approved and received prior to the established cutoff date. Following the delivery of the final code draft for client proofing, any extensive changes requested in the Code content, and/or any material added to the Code that was not previously contemplated, will be subject to an additional Proof Update fee. Proofs not returned within 45 days may be subject to a proof update fee, if applicable.

[5] For the initial 3-hour session, then $150 per hour thereafter.

SUPPLEMENTATION QUOTATION SHEET[6]

The City is currently enrolled in a monthly electronic supplement schedule with an annual printed supplement in January and thus falls under our Full Service Plus billing model.

Full-Service Schedule Plus: $7,566 ($7,005 + $561) annually invoiced in July 2023.

- Year 1 – 20% discount - $ 6,052 invoiced in July 2022

Schedule can be Annual, Semi-Annual, Tri-Annual, Quarterly, Monthly, on demand or monthly electronic supplementation

- Includes legislation for current Title VI- Land Use

Annual rate includes:

- ★ Annual fee includes the supplementation of legislation permanent and general in nature. Omitted legislation is not included in annual fee.
- ★ Acknowledgement of material
- ★ Editorial work & Proofreading
- ★ Updating the index
- ★ Updating online code upon completion of each supplement
- ★ Printing[7] up to 6 copies per "print" schedule enrolled in
- ★ Freight for supplements
- ★ Images, Graphics & tabular matter.
- ★ WORD DOCX provided each supplement

Annual rate above excludes:

- ★ Additional copies, reprints, binders and tab orders
- ★ Legal work, creation of fee schedules, gender neutral review/implementation, external linking
- ★ Codifying complete replacement of complex subject matter such as, but not limited to, Zoning (or equivalent). This work is subject to a one-time editorial conversion fee and an increase in the annual supplement rate and online hosting fee(s). Quote provided upon receipt of material.
- ★ Codifying a newly adopted full Chapter/Title/Appendix. This may be subject to a one-time additional editorial fee and an increase in the annual supplement rate and online hosting fee(s). Material to be reviewed upon receipt.
- ★ Codifying a newly adopted term change legislation. This may be subject to a one-time additional editorial fee. Material to be reviewed upon receipt.
- ★ The addition of Manuals, Policies, Procedures, Comprehensive Plans, Land Use, Unified Codes, Zoning (or equivalent). Quotation upon request.
- ★ Online Code hosting and online features, see the following pages.

Historical invoicing – Municode Docx included at no charge:

Line Item – Code of Ordinances	2017	2018	2019	2020	2021
Supplement charges ($22.00 per page)	$7,524	$6,270	$7,304	$6,248	$5,368
Images, Graphics, Tabular Matter ($10 ea)	$130	$100	$280	$140	$180
Administrative Support Fee	$275	$275	$275	$275	$275
Freight	$0	$47	$29	$27	$0
Totals	$7,929	$6,692	$7,888	$6,690	$5,823
5 year average	**$ 7,005**				

Line Item – Zoning Reprint	2017	2018	2019	2020	2021
Supplement charges (10 copies)	$605	$1,234	$548	$214	$202
5-year average	**$561**				

Invoices for Supplements will be submitted annually. Additional services added throughout the term will be pro-rated then added to the annual fee. The annual billing month will be established upon signing of the Statement of Work.

[6] All services under this addendum can be increased annually by 5% starting year 3 of service. Sales tax will be applied where applicable.

[7] Color printing and an increase in the desired number of supplement hard copies will result in an increase in the annual fee.

ONLINE CODE HOSTING QUOTATION SHEET (MunicodeNEXT)

Online features can be purchased on an a la carte basis, or through our budget-friendly, feature-rich MyMunicode bundle for the best value. Please visit our online library of nearly 4,000 codes on MunicodeNEXT here. **Please check the appropriate box (es) to indicate your selection:**

STANDARD ONLINE CODE HOSTING – Existing Service

Online Code = *MunicodeNEXT with CodeBank/CodeBank Compare + eNotify,* annually **$950**

Mobile friendly site. Full functionality and optimal screen resolution on all devices. In-line images & scrolling tables & charts. Narrow, Pinpoint & Advanced (including Boolean) Searching. Previous and Hit buttons, Persistent breadcrumb trail. Print or Save as formatted WORD (DOCX). Google Translate supports over 90 languages. Social Media/Email. Share links to sections via email, Facebook, Twitter, etc. Post public notes, external links or documents within the contents of your online Code to keep your citizens informed of current issues pertinent to specific sections of your Code.

OPTIONAL SERVICES

❑ **OrdBank** annually (or per ordinance) **$340**

Permanent online collection of ordinances with hyperlinks from history notes, supplement history table, and code comparative table to ordinances. This service applies to amendatory (included) ordinances only.

❑ **OrdBank + OrdLink** annually (or per ordinance) **$490**

Provides hyperlinks from newly adopted amendatory legislation to sections of the code to be amended. **($60)**

❑ **MuniPRO** Service annually *(sample Ordinance Service)* **$295**

Search nearly 4,000 codes/ordinances in our online library. Attach notes to codes and drafts of new legislation.

❑ **Custom Banner** one-time fee **$250**

Customize MunicodeNEXT to match the look of your website.

My Municode - Value Pricing!

❑ **MyMunicode** annually. **$1,350**[8]

Includes MunicodeNEXT (Online Code), OrdBank, CodeBank, CodeBank Compare + eNotify, MuniPRO, and Custom Banner

❑ **Add OrdLink to the MyMunicode** bundle for only **$150** annually!

[8] Total value if each item were to be purchased a la carte would be approximately $1,585 per year with participation in our OrdBank service.

SCOPE OF SERVICES – IMPLEMENTATION AND REPUBLICATION

Legal Review Implementation

Implementation of Approved Recommendations. Recommendations from the legal review, as approved by you and your staff, will be incorporated into your code by aggregating all changes and republishing the code. Upon completion of the republication, we will provide you with a sample adopting ordinance to formally adopt the new Code.

- **Incorporate Legal Review Findings**. All approved recommendations will be implemented into your code as outlined in the Legal Memorandum.

- **Incorporate Ordinances.** The ordinances that you have enacted subsequent to the latest ordinance included in the existing code will be incorporated as shown on the price quotation sheet. The amended or repealed provisions will be removed and the new provisions inserted.

Conference. Within 30 days of your receipt of the Legal Memorandum, we will conduct a conference, either in person or via telephone or webinar, to review the Legal Memorandum and our recommendations. All interested personnel may be included, but your attorney and clerk are essential. Issues discovered during the legal analysis will be discussed at the conference, with the goal of the conference being to come to agreement on any required changes. Your attorney has the final decision-making authority for resolution of issues brought up at the conference or noted in the Legal Memorandum.

Republication

We will work with you to confirm the desired formatting and style of the Code. We will update the preliminary pages, create an Index (if elected) and Table of Contents; add any uncodified newly adopted legislation at the per page supplement rate quoted; update history notes; provide a comparative table of ordinances and integrate all applicable photographs, maps, diagrams, charts and tables into the Code. Proofs will then be provided for your review. Following the approval of the proofs, the Code will be shipped and posted online in fully robust HTML format.

We will handle 100% of the publishing of your Code. The republication process includes editing, page composition, proofreading, indexing (if elected), and delivering the information as printed and/or electronic copy. When we republish your Code, pages are recomposed to eliminate short pages, pages with blank backs and oddly numbered (point) pages. Following the recomposition, the Code is reprinted, and supplement number designations start over with Supplement No. 1.

The anticipated time frame for the conversion and republication project is **4-6 months following implementation**, excepting any delays in our receipt of materials or your return of proofs. Within 2 weeks of shipping the new Code, it will be published online in fully robust HTML format via MunicodeNEXT. The current Code can be posted online in PDF format during the conversion and republication phase, if desired.

The process includes:

- Conversion to our codification database;
- Inclusion of adopted legislation can be added at the per page supplement rate quoted;
- Removal and replacement of supplement numbers;
- Updating of preliminary pages (title page, officials' page, and preface);
- New page numbers;
- Editing & proofreading;
- 10-point Times New Roman font, single column format, unless otherwise instructed;
- Incorporation of maps, diagrams, charts and tables;
- Preparation of Table of Contents and updating or creation of an Index (if elected);
- Proofs provided for your review;
- Posting your newly republished Code on MunicodeNEXT;
- Providing printed copies and any electronic versions specified in the format of your choice (WORD, PDF, FOLIO), as elected on the quotation sheet.

SUPPLEMENTATION & WEBITE HOSTING SERVICES

Supplementation Services

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MunicodeNEXT is extremely user-friendly and requires no special training or login information. A variety of video tutorials are offered, and we can host a personalized training webinar for you and your staff to demonstrate our online features and capabilities before your new Code goes "live" online. Our MuniDocs feature enables you to upload related documents online alongside the Code in fully searchable format. Electronic viewing statistics are available upon request on the schedule of your choice. Our MuniPro feature provides the ability to search over 3,700 online Codes in our library, save frequently used or complex searches, create notes to attach to any publication and draft new ordinances.

Our powerful search engine allows users to enter simple or advanced searches and supports Boolean operators, stemming, wildcards, proximity searches, and a global synonym list. Users can easily search the code using keywords or phrases, and can print, download and/or email any portion of your code. Search terms can be applied to the entire code or narrowed to search only within specific chapters or sections. Our recent website upgrade allows users to sort results by relevance or book order! Our collapsible Table of Contents, continuous next-hit feature and internal and external hyperlinking and cross-referencing features

simplify and enhance the navigation of your online code, allowing your staff and citizens the capability of simultaneously searching your code, ordinances, minutes, resolutions, budgets and more.

With MunicodeNEXT advanced features, your staff and citizens need only click the link provided on your municipality's website to access your full Code of Ordinances. They not only have access to your complete and current Code of Ordinances, but to all archived versions of your code, every official copy of your ordinances, the power to compare versions of your code over time, the ability to be notified every time your code is updated, and the ability to translate your code into over 100 languages via ***Google Translate***, which is included at no additional charge.

MunicodeNEXT is designed with accessibility in mind. Our application is fully responsive, ensuring all features are available on appropriately sized desktop, tablet, and smartphone viewports. Designed to provide easy access and an intuitive interface, it is extremely well-suited for use on tablets and mobile devices running iOS or Android. With delivery available in Word, PDF or Folio format, the Code can be viewed and researched offline.

The User Interface and all HTML content viewed via our MunicodeNEXT web application is WCAG 2.1 Level AA compliant. While we take several steps to improve the accessibility of PDF documents uploaded to the MunicodeNEXT platform, we cannot guarantee full ADA compliance of PDF documents. If a fully ADA compliant PDF document is uploaded to our MunicodeNEXT platform, it will remain compliant while stored in our

system. For each PDF document that is uploaded to our platform, we OCR scanned PDFs; set document title, primary language, and other PDF metadata fields; and automatically create a base level of tags to be used by screen readers.

Our tech stack includes HTML5 & CSS3, Javascript (AngularJS), and a RESTful API written in C# running on .Net Core. All content is rendered in standard HTML and is viewable in all modern browsers including PC: Microsoft Internet Explorer 10 or later, Firefox 3.6 or later, macOS®: Safari™ 5.0 or later, and Chrome 18 or later. We host MunicodeNEXT in Microsoft's Azure Government secure cloud environment and guarantee an SLA of 99.95% uptime. SSL encryption is used by default to secure access to the site and the entire platform is backed up to multiple geographic locations within the Azure Government cloud ecosystem.

MunicodeNEXT Premium Feature Summary (See Attachment A for screenshots and full details)

We recommend our bundled feature option, MyMunicode for the most transparent and feature rich code possible. MyMunicode includes annual online hosting and maintenance service with CodeBank, CodeBank Compare + eNotify, OrdBank, MuniPro and a custom online code banner to match your website. Our MuniPRO feature allows you to search nearly 4,000 codes in the Municode library for sample ordinances, save frequently used or complex searches, create notes to attach to any publication and draft and edit new ordinances internally. Constituents and staff can search the Code by keywords or phrases, and print or email at the section, article and chapter level of the online Code. Our newest free online feature, *Public Notes*, will enable you to add external links within the contents of your online Code (such as links to Zoning maps, Fee Schedules, Council Meetings, the Clerk's office, etc.) or to post public notes or documents in the online Code to inform your citizens about current issues pertinent to specific sections of your Code. A summary of our Premium features is provided below.

- ★ **CodeBank** will enable you to have instant access to past versions of your code after each supplementation.

- ★ **CodeBank Compare + eNotify** provides you with the ability to select a past version of your online code and compare it to any other version of the code each time the code is updated. The differences will be shown via Highlights (added materials) or Strikethrough (deleted material).

- ★ **eNotify** allows users to enroll to receive an email notification each time your online code is updated. A "modified," "removed" or "added" badge is shown within the online table of contents to alert users of recently amended sections of your code.

- ★ **OrdBank** will create one click access to every ordinance via linked history notes. Ordinances are permanently stored online in the OrdBank repository and filed in annual folders. Applies to included (amendatory) ordinances.

- ★ **OrdLink** will create highlights within your online code to help users identify what amendatory ordinances have been recently adopted and what code sections have been amended.

- ★ **MuniPRO** allows you to search nearly 4,000 codes in the Municode library, save frequently used or complex searches, create notes to attach to any publication and draft new ordinances.

- ★ **MuniDocs** has recently been upgraded to allow clients to upload a wide variety of .rtf, .doc, .docx, and .pdf documents to browse and search alongside the code. Uploading is as simple as dragging and dropping the document from your computer into the upload dialog box on the improved administrator dashboard, where previously uploaded documents can also be managed. When uploaded, users can choose from a wide list of predefined document types, including minutes, agendas, resolutions and more. These documents are immediately converted to PDF and indexed for search, organized in nested folders – allowing the public to browse and search them immediately.

CITY OF ORONO
HENNEPIN COUNTY, MINNESOTA

ORDINANCE NO. 312

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF ORONO, MINNESOTA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE CITY COUNCIL OF ORONO ORDAINS:

Section 1. The Code entitled "Orono, Minnesota, City Code," published by CivicPlus, LLC, consisting of Titles I through VI, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before February 10, 2025, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine up to the maximum amount permitted or required by state law. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the city council may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the city council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after February 10, 2025, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective upon publication the 28 day of July 2025.

Passed and adopted by the Orono City Council this 28 day of July 2025 on a vote of ___ ayes and ___nays by the City Council of Orono, Minnesota.

ATTEST

_____
Christine Lusian, City Clerk

CITY OF ORONO

_____
Bob Tunheim, Mayor

Post: May 01
Council Action: July 28
Publish: August 09

Certificate of Adoption

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the city council held on the 28 day of July 2025.

_____
Christine Lusian, City Clerk

SUMMARY PUBLICATION
ORDINANCE 312
CITY OF ORONO, HENNEPIN COUNTY, MINNESOTA

AN ORDINANCE UPDATING CITY CODE

The City Council of Orono, Minnesota approved a new city code of ordinances on July 28, 2025. These are housekeeping updates to ensure that provisions are comprehensive, lawful and enforceable. The complete text of this ordinance is available at city hall or oronomn.gov.

CITY OF ORONO
/s/Bob Tunheim, Mayor
Attest:
/s/Christine Lusian, City Clerk

AGENDA ITEM

Date: July 28, 2025 **Item:** 9

Title: Upcoming Work Session and Council Training Schedule

Presenter: Adam Edwards, City Administrator / Engineer

Section: Consent Agenda

1. **Purpose:**
The purpose of the action item is to schedule future work session agendas and council training / orientations.

2. **Background:**
a. **Work Sessions**. This is an opportunity for council members to propose and agree to future work session topics. Work session meetings are at 5 pm on the same days as 6 pm regular council meetings. The table below lists upcoming *proposed* subjects and dates.

Date	Subject	Date	Subject
13 Jan		14 Jul	Code Enforcement Average Lakeshore set back (Part 6)
27 Jan	Council Code of Conduct Special Elections Council Goals	28 Jul 4PM Start	General Fund Budget Update
10 Feb	Council Code of Conduct (Part 2)	11 Aug	Communications Plan Update
24 Feb	Interview Commissioner Applicants (Parks/Planning)	25 Aug	Enterprise Budget Update
10 Mar	Fire Service Coverage Discussion	8 Sep	Preliminary Levy / Budget
14 Apr	Joint Meeting With Parks Commission	22 Sep	City Facilities Review
28 Apr	Street Maintenance 2026 Average Lakeshore set back (Part 6)	13 Oct	Draft Capital Improvement Plans
12 May	Request for Proposal (RFP) process summary	27 Oct	Draft Capital Improvement Plans
27 May	City Goals and Vision Discussion - Comp Plan look ahead	10 Nov	Community Management Plan Overview
9 Jun	City Goals and Vision Discussion Part 2	24 Nov	Fee Schedule Update
23 Jun	Preliminary Budget Guidance 2026	8 Dec	None

b. **Council Trainings and Orientations**. This is an opportunity for council members to propose and agree to additional trainings or orientations for council.. Staff will then prepare and execute the trainings. The table below lists upcoming *proposed* subjects and dates.

Date and Time	Subject	Location	Staff Lead

March 7, 8:30-10:00	Salt and Commodities Tours	Wayzata and Medina	DJ
April 4, 10:00-12:00	Orono's Conservation Design Code Orientation	Council Chambers	Laura
May 21st and 22nd	New Council Member Orientation (CM Schwingler)	City Hall	Dept Heads
Date and Time TBD	*Resiliency and the Environment (Exact title TBD)*	*City Hall*	*Adam, Laura, DJ, Joe*

3. **Process:**
The work session dates and times are set by the City's annual Meeting Calendar, which the staff presents and the council approves, in the November time frame, for the following year. Historically the city has scheduled 2 hours per month for work sessions. Some times that has been one 2 hours session per month with more recent schedules having two one hour sessions per month. These regularly scheduled meeting have then been augments by special meeting to cover specific topics that do not fit within the regular schedule, or require additional time to adequately cover a given topic.

4. **Staff Recommendation:**
I recommend the next work session occur as scheduled. If the council would like to adjust the schedule please provide that guidance and we can make the adjustment.

COUNCIL ACTION REQUESTED
Move to approve the draft work session schedule.

AGENDA ITEM

Date: July 28, 2025 **Item:** 10

Title: Acceptance of CenterPoint Energy Community Safety Grant Award - Resolution 7600

Presenter: Joe Ruthenberg, Superintendent - Parks, Facilities

Section: Presentations

1. **Purpose:**
   Accept check from Roger Smith with CenterPoint Energy

2. **Background:**
   The City of Orono was awarded $2,500 through CenterPoint Energy's Community Safety Grant to be used to upgrade AED equipment throughout the city.

3. **Staff Recommendation:**
   Approve acceptance of the awarded Community Safety Grant from CenterPoint Energy.

COUNCIL ACTION REQUESTED
Approve Resolution 7600 - accepting the awarded Community Safety Grant from CenterPoint Energy.

Exhibits
A. Resolution 7600

CITY OF ORONO

RESOLUTION OF THE CITY COUNCIL

NO. 7600

RESOLUTION TO ACCEPT
CENTERPOINT ENERGY
COMMUNITY SAFETY GRANT

WHEREAS, CenterPoint Energy provides public safety grants to communities in their service area through their CenterPoint Energy Community Safety Grant; and

WHEREAS, the City submitted an application to the CenterPoint Energy Community Safety Grant program for the purchase of an Automatic External Defibrillator (AED); and

WHEREAS, the City has been notified that it has been awarded $2,500 from the Grant for the purchase of an AED; and

WHEREAS, the City has the legal authority to apply for and accept the Grant; and

WHEREAS, the City Council has determined that it is in the best interests of the City to accept the funds and proceed with the purchase of an AED subject to the terms and conditions of the grant.

NOW, THEREFORE, BE IT RESOLVED the Orono City Council that the City of Orono accepts a CenterPoint Community Safety Grant in the amount of $2,500 for the purchase of AED equipment.

ADOPTED this 28th day of July, 2025, by the City Council of the City of Orono.

ATTEST:

Christine Lusian, City Clerk

Bob Tunheim, Mayor

AGENDA ITEM

Date: July 28, 2025 **Item:** 11

Title: LA25-000029, City of Orono, Comprehensive Plan Amendment #8, Resolution 7601

Presenter: Laura Oakden, Community Development Director

Section: Community Development Report

1. **Purpose:**
   The City is proposing minor changes to the 2040 Comprehensive Plan.

2. **Background:**
   The Comprehensive Plan Chapter 3B Land Use Plan establishes Land Use classifications for each area of the City. The Wildhurst Forest plat was approved in 2022/2023 (Subdivision File #LA23-000034) and included a sewer extension. The Metropolitan Council reviews all utility extension permits within the City. As part of the Met Council's review of the sewer extension permit, two areas of inconsistency were identified within the Comprehensive Plan. The inconsistencies involve the existing Proposed Future Land Use map (Map 3B-3a) and the Predicted Growth in Sewered Areas Net Density table (Table 3B-4). The correction involves two separate amendments:
   1. Reconciliation of an error on the "Proposed Future Land Use" Map (map 3B-3a) under the Urban Estates Residential Classification,
   2. Amendment of Table 3B-4 "Predicted Growth in Sewered Areas, Net Density" Table.

3. **Planning Commission Vote and Comment:**

   The Planning Commission reviewed the amendment at the July 21, 2025 meeting (Memo, Video) and held a public hearing. No public comments were made. The Planning Commission discussed the item and commented on the administrative nature to reconcile the identified inconsistencies. The Commission voted 4-0 in favor of the amendments.

4. **Public Comment:**
   To date, no comments from the public have been received.

5. **Staff Recommendation:**
   Planning Staff recommends approval of the changes as presented.

COUNCIL ACTION REQUESTED
Motion to recommend approval of the proposed Comp Plan Amendment #8.

Exhibits
A. MAP 3B-3, Planned Land Use Amend #8
B. Table 3B-4, Projected Growth Table Amend #8
C. LA25-000029, Comp Plan Amend #8, PCSR
D. LA25-000029, CPA #8, Resolution 7601

Density Reduced to 8 - 15 units/acre

Inset 1

Inset 2

Legend

City Limits
2040 MUSA
Lakes & Ponds
Rivers & Streams

0 3,500 Feet

Source: Met. Council, City of Orono, Hennepin County, MnDOT

Land Use Classes

- Rural Preserve (1 unit / 5 acres)
- Rural Residential (1 unit / 2 acres)
- Island Residential
- Urban Estate Density Residential (0.5 - 2 units / acre)
- Urban Low Density Residential (3 - 8 units / acre)
- Urban Large Lot Estate (0.125 - 0.5 units/acre)
- Urban Medium Density Residential / Mixed Use 8 - 15 units / acre)
- Urban Medium High Density Residential (15 - 20 units / acre)
- Urban High Density Residential (20 - 25 units / acre)
- Commercial / Office
- Industrial
- Park, Recreational, and Open Space

Map 3B-3a

Map Document: \\arcserver1\bmi_gis\MINNESOTA\ORNO_General\2025\Orono_CompPlanAmendment\Pro\Orono_CompPlanAmendment.aprx | Date Saved: 3/13/2025 11:06 AM

Predicted Growth in Sewered Areas, Net Density Table 3B-4 (Amendments 1-7)								
A	B	C	D	E	F	G	H	I
Name	Land Use Category	Net Residential Acres (NRA)	Lowest Guided Density	Predicted # of units (C x D)	2021-2030 Growth (Households)	2031-2040 Growth (Household	MUSA Part	TAZ Zone
Area A								
Dumas	Urban Medium High/ Mixed Use Residential (8-15 u/a)	25.1	8	200.8		200.8	32	921
Eisinger Flats	Urban High (20-25 u/a)	10	20	200	200		50	921
Eisinger Meadows	Urban Low Density (3-8 u/a)	5	3	15	15		50	921
Area A Total		40.1		415.8	215	200.8		
Area B								
St. Thomas Prop	Urban Medium High/ Mixed Use Residential (8-15 u/a)	3.69	8	29.52	29.52		10	922
2060 Wayzata	Urban Medium High (15-20 u/a)	2.51	15	37.65	37.65		10	923
Area B Total		6.2		67.2	67.17	0		
Area C, North Fire Station Area								
Hwy 12 frontage	Urban low (3-8 u/a)	1.7	3	5.1		5.13	34	929
Garden Prop.	Urban low (3-8 u/a)	3.4	3	10.2		10.23	34	929
Glendale Drive	Urban low (3-8 u/a)	3.8	3	11.5		11.46	34	929
Area C Total		8.9		26.8	0	26.82		
Area D (Sewer extension into large lot areas/ Lake protection) Urban Low Density								
690 Brown Rd	Urban Estate (0.5-2 Units /Acre)	18	0.5	9		9	40	927
740 Brown Rd	Urban Estate (0.5-2 Units /Acre)	3.18	0.5	1.59		1.59	40	927
3400 Fox	Urban Large Lot Estate (0.125-0.5 Units /Acre)	5.26	0.125	1		1	31	954
3295 Fox	Urban Large Lot Estate (0.125-0.5 Units /Acre)	4.23	0.125	1		1	31	931
3345 Fox	Urban Large Lot Estate (0.125-0.5 Units /Acre)	4.69	0.125	1		1	31	931
3350 Fox	Urban Large Lot Estate (0.125-0.5 Units /Acre)	7.12	0.125	1		1	31	954
3320 Fox	Urban Large Lot Estate (0.125-0.5 Units /Acre)	3.06	0.125	1		1	31	954
3300 Fox	Urban Large Lot Estate (0.125-0.5 Units /Acre)	4.55	0.125	1		1	31	954
3280 Fox	Urban Large Lot Estate (0.125-0.5 Units /Acre)	4.95	0.125	1		1	31	954
3250 Fox	Urban Large Lot Estate (0.125-0.5 Units /Acre)	5.31	0.125	1		1	31	954
3200 Fox	Urban Large Lot Estate (0.125-0.5 Units /Acre)	4.12	0.125	1		1	31	954
3175 Fox	Urban Large Lot Estate (0.125-0.5 Units /Acre)	7.49	0.125	1		1	31	954
3125 Fox	Urban Large Lot Estate (0.125-0.5 Units /Acre)	7.44	0.125	1		1	31	954
825 Old Crystal Ba	Urban Estate (0.5-2 Units /Acre)	17.61	0.5	8		8	31	954
1700 Shoreline	Urban Estate (0.5-2 Units /Acre)	20.14	0.5	10		10	37	955
1100 Millston Rd	Urban Estate (0.5-2 Units /Acre)	12.7	0.5	6		6	37	955
1003 Wildhurst	Urban Estate (0.5-2 Units /Acre)	10	0.5	4	4	0	1	953
135 Orono Orchard	Urban Estate (0.5-2 Units /Acre)	13	0.5	6	6		53	928
365 Old Crystal Ba	Urban Estate (0.5-2 Units /Acre)	5.85	0.5	2		2	54	931
Area D Total		158.7		57.59	10	47.59		
Area E Navarre Area								
3880 Shoreline (Hennepin County)	Urban Medium High/ Mixed Use Residential (10-20 u/a)	9.37	8	75.0		74.96	1	958
3890 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.68	8	5.4		5.44	1	958

	3860 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.64	8	5.1		5.12	1	958
	3850 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.78	8	6.2		6.24	1	958
	3800 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.7	8	5.6		5.6	1	958
	3596 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.62	8	5.0		4.96	1	958
	2389 Blaine	Urban Medium High/ Mixed Use Residential (10-20 u/a)	1.11	8	8.9		8.88	1	958
	3574 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.47	8	3.8		3.76	1	958
	3572 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.31	8	2.5		2.48	1	958
	3542 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.46	8	3.7		3.68	1	958
	3502 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.31	8	2.5		2.48	1	958
	3496 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.31	8	2.5		2.48	1	958
	3480 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.15	8	1.2		1.2	1	958
	3472 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.15	8	1.2		1.2	1	958
	3468 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.15	8	1.2		1.2	1	958
	3465 Lyric	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.62	8	5.0		4.96	1	958
	3440 Shoreline	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.15	8	1.2		1.2	1	958
	Forfiet Land	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.15	8	1.2		1.2	1	958
	Forfiet Land	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.1	8	0.8		0.8	1	958
	Parking Lot	Urban Medium High/ Mixed Use Residential (10-20 u/a)	0.86	8	6.9		6.88	1	958
	2520 Shadywood	Urban Medium Density (3-10 u/a)	2.02	3	6.1	6.06		1	956
	3770 Shoreline (Firestation)	Urban Medium High/ Mixed Use Residential (10-20 u/a)	4	8	32.0	32		1	958
Area E Total			24.11		182.78	38.06	144.72		
85% Residential			20.5		155.4				
Planned Totals			**234.4**		**723**	**330**	**420**		

The city must provide **opportunity** to meet its expected demand of housing growth in two	523	340
Surplus (Deficit) of **housing opportunities**		
Calculated Density (number of acres/ number of lots)	**3.1**	
Affordable Housing. The city must provide opportunity for affordable housing. In Orono, this is achieved by guiding acres at densities greater than 8 units per acre. Orono must		
# of acres at 8 units per acre or greater	**63.39**	*Verify that the parcels a
Number of units	**644.69**	

To: Chair Bollis and Planning Commission Members
Adam Edwards, City Administrator

From: Laura Oakden, Community Development Director

Date: July 21, 2025

Subject: LA25-000028, City of Orono, Comprehensive Plan Amendment #8
Public Hearing

Application Summary: The City is proposing minor changes to the 2040 Comprehensive Plan which includes 1. To reconcile an error within Proposed Land Use Map 3B-3a under the *Urban Estates Residential* Classification and 2. Amend Table 3B-4 Predicted Growth Areas
Staff Recommendation: Planning Department Staff recommends approval.

Background

The Comprehensive Plan (Plan) establishes Land Use classes for each area of the city. With each residential land use class, the Plan applies a density range to establish an appropriate level of density based on multiple factors, including surrounding land uses, transportation opportunities, community character, and utility options.

The Metropolitan Council reviews all utility extension permits within the City. The plat of Wildhurst Forest was approved in 2022/2023 (Subdivision File #LA23-000034). To complete the improvements associated with Wildhurst Forest, the developer is extending city sewer to serve the property. As part of the Met Council's review of the sewer extension permit, two areas of inconsistency were identified. The inconsistencies involve the existing **Planned Land Use Map** (Map 3B-3a) and the **Predicted Growth in Sewered Areas** density table (Table 3B-4). The correction involves two separate amendments:

Map Amendment:

Map 3B-3a incorrectly identifies the Wildhurst Forest property as *Rural Residential* (the land use category intended for rural parcels *outside* of the MUSA which are served by private septic systems rather than *Urban Estates Residential.*

The parcel was designated *Urban Estates* in 2018 when the property was added to the MUSA with the 2040 Plan Update. Properties within the *Urban Estates Residential* district are within the sewered areas (or the metropolitan urban service area, the "MUSA"). Since the 2018 Comp Plan highlights this parcel as part of the MUSA and identifies is as Urban Estate within the text and tables of the Plan, this reenforces that the *Rural Residential* classification of the property shown on Map 3B-3a was done in error.

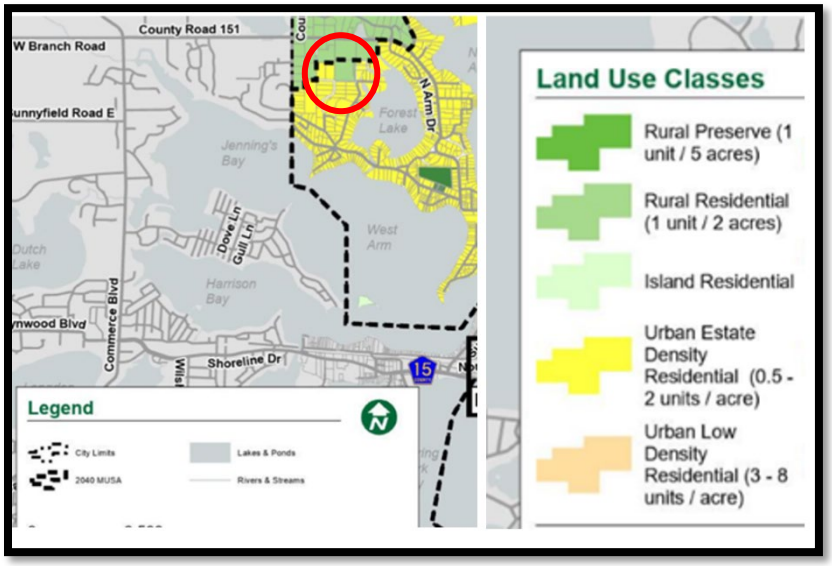

Figure 1: Existing Future Land Use Map

Table Amendment:

Table 3B-4 identifies the Wildhurst Forest property for growth in the years between 2031 to 2040 rather than the 2020-203 period which is when the subdivision was approved. As part of the Comprehensive Plan Update, every 10 years the City identifies specific growth areas. Each growth area/development area is then assigned to a specific decade for when the city anticipates the guided development to occur. The 2040 Comprehensive Plan identified the subject property to be developed in the decade between 2031-2040. With the approval of the development in 2023, the Met Council requests an update to **Table 3B-4 - Predicted Growth in Sewered Areas**, to reflect that the parcel will be served by sewer sooner than previously predicted, within the 2021-2030 decade.

Predicted Growth in Sewered Areas, Net Density Table 3B-4 (Amendments 1-6)

A	B	C	D	E	F	G	H	I
Name	Land Use Category	Net Residential Acres (NRA)	Lowest Guided Density	Predicted # of units (C x D)	2021-2030 Growth (Households)	2031-2040 Growth (Households)	MUSA Part	TAZ Zone
1003 Wildhurst	Urban Estate (0.5-2 Units /Acre)	10	0.5	4		4	1	953

Figure 2: Existing Growth Table 3B-4

The current amendments propose to correct classification of the subject property on the Planned Land Use Map from *Rural Residential* to *Urban Estates Residential* and well as update the development period within the Growth Table.

Analysis

The City is required by a Metropolitan Council mandate to meet certain goals in the areas of affordable housing, growth opportunity, and density. The proposed amendment does not alter or impact the goals of the city. The City's overall density, affordable housing, and growth opportunities are not changing.

Affordable Housing. **The proposed amendment will not impact Orono's current affordable housing requirements.** The City must provide an opportunity for 154 new affordable housing units. The Met Council recognizes that densities of 8 units per acre satisfy the affordable housing goal for the City of Orono. The City meets this goal by guiding the appropriate number of acres at a density greater than 8 units per acre.

Sewered Growth. The City must provide opportunity for sewered growth to meet the expected demand in the time periods from 2020-2030 and 2031-2040. This is accomplished by identifying parcels with the potential to develop with city sewer in the given time periods. While the city cannot *require* development of any parcel, planning ahead for the growth is important for bolstering infrastructure, services, and schools.

The proposed amendment reconciles the approved plan from 2023, to alter the time period from 2031-2040 to the 2020-2030 time period. This does not impact the overall sewered growth plans for the city. The city's plan allows for sewered growth within environmentally sensitive areas, such as lakeshore lots, and provides additional opportunities for housing in the city's commercial corridors, such as Wayzata Boulevard and Shoreline Drive.

Density. The city must develop at an overall density average of 3.0 units per acre in its sewered areas. The city wants to provide sewer access to areas adjacent to the lake to mitigate septic and other environmental impacts around sensitive areas without increasing the density in those areas. This requires higher density areas to be established around our commercial corridors and in other areas around the city. **The proposed amendment does not impact the density numbers within the city.**

Net Area: The subject property is included within Table 3B-4 - Predicted Growth in Sewered Areas and accounted for as part of the overall density calculation for the city. The property is 9 acres in area. There are wetlands and bluff areas located throughout the parcel requiring setbacks and other development protections for these sensitive features. Subtracting these protected areas results in a net area of roughly 7.5 acres. This is estimated from the wetland delineation and bluff analysis of the site. The site will maintain the required density from **Table 3B-4** of the *Urban Estates Residential* guidance of 0.5 - 2 units per acre.

Table 3B-4 and **Map 3B-3a** are attached as well as an amended Proposed Land Use Map. This table identifies parcels eligible for development, their guided land use and density, anticipated growth period, Metropolitan Urban Service Area (MUSA), and Traffic Analysis Zone (TAZ).

Public Comments
To date, no written comments from the public have been received.

Issues for Consideration
1. Does the Planning Commission find the amendments to the Comprehensive Plan appropriate?
2. Are there any other issues or concerns with this application?

Planning Staff Recommendation
Planning Staff recommends approval of the changes as presented.

CITY OF ORONO

RESOLUTION OF THE CITY COUNCIL

No. **7601**

A RESOLUTION
APPROVING AMENDMENT #8
OF THE 2020-2040 COMMUNITY MANAGEMENT PLAN
MODIFYING THE "PROPOSED FUTURE LAND USE" MAP AND THE "PREDICTED GROWTH IN SEWERED AREAS" NET DENSITY TABLE
(FILE NO. LA25-000029)

WHEREAS, on June 10, 2019, the City of Orono (hereinafter "City") adopted the 2020-2040 Community Management Plan (hereinafter the "Plan");

WHEREAS, in the implementation of the Plan, the City desires to amend an error within the Propose Future Land Use Map and reconcile the Predicted Growth Sewered Areas to more appropriately serve the City Council's land use goals;

WHEREAS, on August 14, 2023, the City Council approved a sanitary sewer extension as part of the plat of Wildhurst Forest (hereinafter the "Development") which was added to the Metropolitan Urban Service Area (hereinafter the "MUSA") as part of the 2020-2040 Plan update; and

WHEREAS, as part of the Met Council's permitting review for the sanitary sewer extension, it became necessary for the City to address an administrative error on the Proposed Future Land Use Map (3B-3a) (hereinafter the "Map") to reclassify the Development from *Rural Residential* to *Urban Estate Residential* through a Comprehensive Plan Amendment (hereinafter "Amendment #8"); and

WHEREAS, as part of the Met Council's permitting requirements for the sewer extension, the City is also required to update the Predicted Growth in Sewered Areas Table (3B-4) (hereinafter the "Table") regarding the development timeline for the Development from the currently contemplated decade for development of 2031-2040 to 2021-2030 to follow the 2023 approval of Wildhurst Forest through Amendment #8; and

WHEREAS, on July 21, 2025, after published and mailed notice in accordance with Minnesota Statutes and the City Code, the Planning Commission held a public hearing, at which time all persons desiring to be heard concerning the Comprehensive Plan Amendment were given the opportunity to speak thereon; and

WHEREAS, on July 21, 2025, the Planning Commission recommended approval of Amendment #8 as proposed; and

CITY OF ORONO

RESOLUTION OF THE CITY COUNCIL

No. **7601**

WHEREAS, on July 29, 2025, the City Council reviewed the application and the recommendations of the Planning Commission and City staff; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of Orono, Minnesota hereby approves Amendment #8 based on one or more of the following findings of fact:

FINDINGS OF FACT:

1. This application was reviewed as Zoning File LA25-000029 (Comprehensive Plan Amendment #8). The analysis contained within staff memos and the exhibits attached to the aforesaid memos, all minutes from the above mentioned meetings, and any and all other materials distributed at these meetings are hereby incorporated by reference.

2. With the adoption of the Plan, the City anticipated providing City sewer to the Development as the property is within the MUSA. The timing of the Development's approval in 2023, requires the City to update the Table to reflect the current decade the development. The City must address the administrative error on the Map showing the parcel as guided for *Urban Estates Residential*. The amendment are necessary changes to the Plan.

3. The City proposes to update the Map for to reflect the guidance for the Development from *Rural Residential* to *Urban Estates Residential*. The Plan currently guides the parcel as *Urban Estates Residential*, however the Map that misidentifies the parcel's density guidance. The Amendment #8 will resolve the error.

4. The City proposes to update the Table for the Development to update the development timing decade from 2031-2040 to 2021-2030 so it reflects the approval timing of Wildhurst Forest.

5. Together, the aforementioned changes will address the inconsistencies within the Plan to reflect the future development densities and timing within the city to ensure that sewer can be provided to environmentally sensitive properties around Lake Minnetonka.

6. The proposed changes will not reduce the City's requirement to provide 154 units of affordable housing, based on the number of acres guided for densities of 8 units per acre or greater (Comprehensive Plan Table 3B-4 "Planned Growth in Sewered Areas").

7. The proposed changes maintain 3 units per acre within the sewered areas of the City and will not impact the overall density of the city as designated by the Metropolitan Council (Comprehensive Plan Table 3B-5 "Net Density by Land Use").

8. The proposed changes meet the prescribed housing growth for the periods of 2021-2030 and 2031-2040 (Comprehensive Plan Table 3B-6 "Planned Development in MUSA Areas by Decade").

CONCLUSIONS, ORDER AND CONDITIONS:

Based upon one or more of the above findings, the Orono City Council hereby approves Amendment #8 to the 2020-2040 Comprehensive Plan attached as **Exhibit A** and directs staff to submit the Amendment to the Metropolitan Council for approval.

ADOPTED by the Orono City Council on this 28th day of July, 2025.

ATTEST:

Christine Lusian, City Clerk

CITY OF ORONO:

Bob Tunheim, Mayor

AGENDA ITEM

Date: July 28, 2025 **Item:** 12

Title: 2025 Expenditure Budget Overage

Presenter: Maggie Jin, Finance Director

Section: Finance Report

1. **Purpose:**
   The purpose of this action item is to approve 2025 expenditure budget overages.

2. **Background:**
   Staff presented the latest financial update at the July 14, 2025 council meeting. The comparison to budget was favorable with total expenditures coming in under budget and revenue exceeding budget in the General Fund.

   The City's budgetary control is set at the department level. Budget appropriation among line items within the department only needs staff's oversight. For any departmental total that are over budget, staff needs council approval for the overage.

   In the General Fund, Public Works tree repairs and maintenance is slightly overbudget at this point of the year. With summer only half way through, staff is anticipating more work is needed with within right-of-way, with Emerald Ash Boar (EAB) trees being one of the species. It is anticipated an additional $50,000 would suffice to cover the critical items this year. For this overage, contingency funds will cover part of the increase and remainder of the cost would be covered by any surplus in the General Fund.

   Fleet Services Fund is seeing an overage in vehicle equipment and parts and is anticipating another $40,000 needed for the year. Part of the overage is offset by revenue charged to other governmental entities, such as the City of Long Lake's fire department, for equipment and parts related to their vehicles. Tariffs and mid-year pricing increases are driving up the prices of parts, causing small purchases to add up more quickly. The remainder of the overage is from minor purchases for fire related vehicles that adds up quickly over time. Fleet Services Fund is a relatively new fund that is still being stabilized as true cost of funding fleet services is analyze each year with the budget process.

   IT Services Fund is also a relatively new fund that is still being implemented and stabilized. There are a few line items that costs were transitioned from other departments to track more efficiently within the fund. LOGIS bills were reviewed by Finance department within the last year with approximately $43,000 needed to cover the remaining 3rd and 4th quarter bills. Part of these bills were included within the General Fund police department's budget. Office equipment rental includes the copiers, folder inserter and postage machine leases. Actual amounts for the rentals are coming in over budget ($4,500) along with the addition of 2 small copier machines ($3,500). Software licensing and subscriptions for 2025 is all being tracked within IT Services Fund, with the exception of the Police department specific software and subscriptions. IT is anticipated that another $40,000 will be needed to cover the remaining dues. Future charges to each department serviced will be increased gradually overtime to offset prior and current year expenditures.

A breakdown is shown below:

Fund - Department	Line Item	2025 Budget	Overage
General Fund - PW Streets	Trees - Repairs/Maintenance	$50,000	$50,000
Fleet Services	Vehicle Equipment and Parts	$50,000	$40,000
IT Services	Data Processing Communication	$45,000	$43,000
IT Services	Office Equipment Rental	$20,000	$8,000
IT Services	Software Licensing	$160,000	$40,000
		TOTAL	**$181,000**

If the General Fund has surplus funds available, and meets the fund balance reserve policy, staff will evaluate areas needing additional funding through the audit process. It is then an option for surplus funds to be transferred from the General Fund to the Fleet and IT Services Funds, as these funds support General Fund departments and is used for general government purposes.

Attached is the YTD expenditure of Public Works - Streets department, Fleet Services Fund and IT Services Fund as of 7/20/2025.

3. **Staff Recommendation:**
Staff recommends approval of 2025 expenditure budget overages.

COUNCIL ACTION REQUESTED
Motion to approve 2025 expenditure budget overages.

Exhibits
A. Public Works - Street YTD Expenditure
B. Fleet Services Fund YTD Expenditure
C. IT Services Fund YTD Expenditure

CITY OF ORONO
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 7 MONTHS ENDING JULY 31, 2025

GENERAL FUND

		PERIOD	YTD	BUDGET	UNEXPENDED	PCNT
	PUBLIC WORKS DEPARTMENT					
101-43000-101	FULL-TIME EMPLOYEES REGULAR	108,819.32	108,819.32	213,800.00	104,980.68	50.9
101-43000-102	FULL-TIME EMPLOYEES OVERTIME	5,755.00	5,755.00	11,000.00	5,245.00	52.3
101-43000-104	TEMPORARY/SEASONAL EMPLOYEES	.00	.00	.00	.00	.0
101-43000-121	PERA	8,576.94	8,576.94	15,700.00	7,123.06	54.6
101-43000-122	FICA	8,251.65	8,251.65	17,200.00	8,948.35	48.0
101-43000-135	CITY BENEFIT CONTRIBUTION	16,358.78	16,358.78	37,000.00	20,641.22	44.2
101-43000-142	UNEMPLOYMENT BENEFIT PAYMENTS	.00	.00	.00	.00	.0
101-43000-143	OPEB EXPENSE	.00	.00	.00	.00	.0
101-43000-151	WORKER'S COMP INSURANCE PREM	4,500.00	4,500.00	9,000.00	4,500.00	50.0
101-43000-208	BOOKS & PERIODICALS	.00	.00	.00	.00	.0
101-43000-212	MOTOR FUELS & LUBRICANTS	11,775.01	11,775.01	500.00	(11,275.01)	2355.0
101-43000-221	EQUIPMENT PARTS & ACCESSORIES	275.54	275.54	2,100.00	1,824.46	13.1
101-43000-222	VEHICLE EQUIPMENT & PARTS	27,035.46	27,035.46	.00	(27,035.46)	.0
101-43000-224	STREET MAINT. MATERIALS/SUPPLY	27,651.97	27,651.97	87,550.00	59,898.03	31.6
101-43000-225	TREE MAINT. - MATERIALS/SUPPLY	.00	.00	.00	.00	.0
101-43000-226	CLOTHING & PERSONAL EQUIPMENT	6,065.33	6,065.33	11,350.00	5,284.67	53.4
101-43000-240	SMALL TOOLS AND MINOR EQUIP	1,500.11	1,500.11	5,000.00	3,499.89	30.0
101-43000-304	PW ENGINEERING-CONSULTING	340.00	340.00	1,500.00	1,160.00	22.7
101-43000-305	GIS/MAPPING	1,048.50	1,048.50	1,000.00	(48.50)	104.9
101-43000-313	IT SERVICES	6,413.15	6,413.15	12,500.00	6,086.85	51.3
101-43000-314	FLEET SERVICES	76,000.00	76,000.00	152,000.00	76,000.00	50.0
101-43000-315	FACILITIES SERVICES	.00	.00	.00	.00	.0
101-43000-319	PROFESSIONAL SERVICES	1,014.95	1,014.95	1,100.00	85.05	92.3
101-43000-321	TELEPHONE	3,803.00	3,803.00	4,800.00	997.00	79.2
101-43000-331	TRAVEL EXPENSES	526.40	526.40	.00	(526.40)	.0
101-43000-340	GENERAL ADVERTISING	3,526.83	3,526.83	750.00	(2,776.83)	470.2
101-43000-381	GAS & ELECTRIC	2,060.61	2,060.61	6,500.00	4,439.39	31.7
101-43000-386	STREET LIGHTING	15,978.07	15,978.07	34,000.00	18,021.93	47.0
101-43000-402	REPAIRS/MAINT-AUTO EQUIP	.00	.00	.00	.00	.0
101-43000-403	REPAIRS/MAINT-MISC. EQUIP	.00	.00	10,000.00	10,000.00	.0
101-43000-404	REPAIRS/MAINT-BLDGS/GROUNDS	2,093.97	2,093.97	5,000.00	2,906.03	41.9
101-43000-405	TREE - REPAIRS/MAINT.	56,052.28	56,052.28	50,000.00	(6,052.28)	112.1
101-43000-408	CONTRACTED STREET MAINT.	.00	.00	50,000.00	50,000.00	.0
101-43000-414	EDP/COMMUNICATIONS EQUIP RENT	1,587.30	1,587.30	1,200.00	(387.30)	132.3
101-43000-415	OTHER EQUIPMENT RENTALS	.00	.00	4,000.00	4,000.00	.0
101-43000-416	SOFTWARE LICENSING	.00	.00	.00	.00	.0
101-43000-433	MEMBERSHIPS	258.50	258.50	500.00	241.50	51.7
101-43000-437	TRAINING & DEVELOPMENT	5,118.93	5,118.93	4,000.00	(1,118.93)	128.0
101-43000-441	LICENSES & TAXES	174.28	174.28	50.00	(124.28)	348.6
101-43000-489	OTHER MISCELLANEOUS CHARGES	1,042.44	1,042.44	1,000.00	(42.44)	104.2
101-43000-590	STREET CONSTRUCTION	.00	.00	.00	.00	.0
	TOTAL PUBLIC WORKS DEPARTMENT	403,604.32	403,604.32	750,100.00	346,495.68	53.8
	TOTAL FUND EXPENDITURES	403,604.32	403,604.32	750,100.00	346,495.68	53.8
	NET REVENUE OVER EXPENDITURES	(403,604.32)	(403,604.32)	(750,100.00)	(346,495.68)	(53.8)

CITY OF ORONO
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 7 MONTHS ENDING JULY 31, 2025

FLEET MANAGEMENT FUND

		PERIOD	YTD	BUDGET	UNEXPENDED	PCNT
	FLEET SERVICES					
701-49800-101	FULL-TIME EMPLOYEES REGULAR	93,381.16	93,381.16	180,900.00	87,518.84	51.6
701-49800-102	FULL-TIME EMPLOYEES OVERTIME	63.42	63.42	1,000.00	936.58	6.3
701-49800-103	PART-TIME EMPLOYEES	.00	.00	.00	.00	.0
701-49800-121	PERA	7,008.35	7,008.35	13,650.00	6,641.65	51.3
701-49800-122	FICA	6,590.19	6,590.19	13,950.00	7,359.81	47.2
701-49800-135	CITY BENEFIT CONTRIBUTION	7,702.80	7,702.80	33,650.00	25,947.20	22.9
701-49800-151	WORKER'S COMP INSURANCE PREM	4,550.00	4,550.00	9,100.00	4,550.00	50.0
701-49800-212	MOTOR FUELS	5,626.82	5,626.82	7,500.00	1,873.18	75.0
701-49800-213	LUBRICANTS	7,705.99	7,705.99	10,000.00	2,294.01	77.1
701-49800-215	SHOP SUPPLIES	9,420.87	9,420.87	15,000.00	5,579.13	62.8
701-49800-221	EQUIPMENT PARTS & ACCESSORIES	17,347.48	17,347.48	50,000.00	32,652.52	34.7
701-49800-222	VEHICLE EQUIPMENT & PARTS	60,815.08	60,815.08	50,000.00	(10,815.08)	121.6
701-49800-226	CLOTHING & PERSONAL EQUIPMENT	981.92	981.92	1,500.00	518.08	65.5
701-49800-240	SMALL TOOLS AND MINOR EQUIP	19,094.37	19,094.37	23,000.00	3,905.63	83.0
701-49800-313	IT SERVICES	5,000.00	5,000.00	10,000.00	5,000.00	50.0
701-49800-315	FACILITIES SERVICES	.00	.00	.00	.00	.0
701-49800-319	PROFESSIONAL SERVICES	362.87	362.87	.00	(362.87)	.0
701-49800-321	TELEPHONE	270.27	270.27	.00	(270.27)	.0
701-49800-340	GENERAL ADVERTISING	.00	.00	.00	.00	.0
701-49800-402	REPAIRS/MAINT-AUTO EQUIP	4,355.79	4,355.79	20,000.00	15,644.21	21.8
701-49800-403	REPAIRS/MAINT-MISC. EQUIP	5,222.90	5,222.90	10,000.00	4,777.10	52.2
701-49800-416	SOFTWARE LICENSING	.00	.00	.00	.00	.0
701-49800-433	MEMBERSHIPS	258.50	258.50	.00	(258.50)	.0
701-49800-437	TRAINING & DEVELOPMENT	615.00	615.00	1,200.00	585.00	51.3
701-49800-441	LICENSES & TAXES	162.97	162.97	200.00	37.03	81.5
701-49800-720	OPERATING TRANSFERS	.00	.00	.00	.00	.0
	TOTAL FLEET SERVICES	256,536.75	256,536.75	450,650.00	194,113.25	56.9
	TOTAL FUND EXPENDITURES	256,536.75	256,536.75	450,650.00	194,113.25	56.9
	NET REVENUE OVER EXPENDITURES	(256,536.75)	(256,536.75)	(450,650.00)	(194,113.25)	(56.9)

CITY OF ORONO
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 7 MONTHS ENDING JULY 31, 2025

IT SERVICES

		PERIOD	YTD	BUDGET	UNEXPENDED	PCNT
	IT SERVICES					
710-49970-101	FULL-TIME EMPLOYEES REGULAR	93,286.56	93,286.56	172,150.00	78,863.44	54.2
710-49970-102	FULL-TIME EMPLOYEES OVERTIME	.00	.00	1,000.00	1,000.00	.0
710-49970-121	PERA	6,996.49	6,996.49	13,000.00	6,003.51	53.8
710-49970-122	FICA	7,167.49	7,167.49	13,250.00	6,082.51	54.1
710-49970-135	CITY BENEFIT CONTRIBUTION	18,417.56	18,417.56	31,600.00	13,182.44	58.3
710-49970-151	WORKER'S COMP INSURANCE PREM	350.00	350.00	700.00	350.00	50.0
710-49970-221	EQUIPMENT PARTS & ACCESSORIES	5,963.91	5,963.91	30,000.00	24,036.09	19.9
710-49970-311	DATA PROCESSING COMMUNICATION	42,178.40	42,178.40	45,000.00	2,821.60	93.7
710-49970-315	FACILITIES SERVICES	.00	.00	.00	.00	.0
710-49970-319	PROFESSIONAL SERVICES	201.33	201.33	.00	(201.33)	.0
710-49970-321	TELEPHONE	.00	.00	.00	.00	.0
710-49970-329	INTERNET/OTHER COMMUNICATIONS	6,776.31	6,776.31	15,000.00	8,223.69	45.2
710-49970-331	TRAVEL EXPENSES	.00	.00	1,000.00	1,000.00	.0
710-49970-401	REPAIRS/MAINT-OFFICE EQUIP	18,349.06	18,349.06	30,000.00	11,650.94	61.2
710-49970-413	OFFICE EQUIPMENT RENTAL	15,011.80	15,011.80	20,000.00	4,988.20	75.1
710-49970-416	SOFTWARE LICENSING	177,477.32	177,477.32	160,000.00	(17,477.32)	110.9
710-49970-437	TRAINING & DEVELOPMENT	.00	.00	.00	.00	.0
710-49970-489	OTHER MISCELLANEOUS CHARGES	.00	.00	.00	.00	.0
710-49970-575	IT HARDWARE & APPLICATIONS	22,832.33	22,832.33	20,000.00	(2,832.33)	114.2
	TOTAL IT SERVICES	415,008.56	415,008.56	552,700.00	137,691.44	75.1
	TOTAL FUND EXPENDITURES	415,008.56	415,008.56	552,700.00	137,691.44	75.1
	NET REVENUE OVER EXPENDITURES	(415,008.56)	(415,008.56)	(552,700.00)	(137,691.44)	(75.1)

AGENDA ITEM

Date: July 28, 2025 **Item:** 13

Title: Purchase Park Signs

Presenter: Joe Ruthenberg, Superintendent - Parks, Facilities

Section: Parks Report

1. **Purpose:**
   To approve the purchase of new park signs.

2. **Background:**
   Over the past several years, the Parks Department has been working to systematically upgrade park signage throughout the city. In the 2024 CIP, $25,000 was allocated for the replacement of six park signs. Per Council direction, staff obtained updated quotes for both the six signs originally identified for replacement this year and for an additional five signs that have yet to be upgraded.

3. **Summary:**
   The quote for purchasing the originally planned six park signs is $15,320, including sign posts and delivery. The expanded quote for purchasing all eleven park signs is $27,995, also including sign posts and delivery.

4. **Cost:**
   6 signs, posts and delivery $15,320
   or
   11 signs, posts, and delivery $27,995

5. **Funding:**
   The park signs will be funded through the park fund. The signs were identified in the Capital Improvement Plan (CIP) for $25,000.

6. **Staff Recommendation:**
   Staff recommends that council review the two proposals for purchasing new signs and vote to approve one of the proposals.

COUNCIL ACTION REQUESTED
Motion to approve the purchase of park signs from Vacker Signs for either six signs or eleven signs.

Exhibits
A. Vacker Estimate 6 Signs
B. Vacker Estimate 11 Signs
C. Orono Design Proposal Examples

ESTIMATE

Vacker Inc.
948 Sherren St. W.
Roseville, MN 55113-4420

ckriegler@vackersign.com
+1 (651) 487-3100

VACKERSIGN
SIGNS FOR PARKS AND TRAILS

City of Orono

Bill to
Joe Ruthenberg
Parks & Facilities Superintendent
365 Old Crystal Bay Road North
Orono MN 55356
952-249-4684
jruthenberg@oronomn.gov

Ship to
City of Orono
2750 Kelley Pkwy
Orono, MN
55346

Estimate details
Estimate no.: 7622
Estimate date: 06/23/2025

Sales Rep: Nicholas Kriegler

#	Product or service	Description	Qty	Rate	Amount
1.	**Routed Plastic single-sided >16 sf logo panel insert**	38.75"Hx95.57"W Routed single-sided bi-color HDPE (dark woods green / tan / dark woods green) sign panel with printed TUFF COVER logo insert. Panel length includes 2" mount extensions, if desired.	6	$1,630.00	$9,780.00
2.	**Recycled plastic Posts 66-8'**	Set of two 6"x6"x8' Reinforced recycled plastic lumber posts (cedar) with tapered top and routed slot to accept sign panel extensions.	6	$890.00	$5,340.00
3.	**24RPSShip.Freight.NoSpecialServices**	Shipping by freight to location with off-loading capabilities (forklift or loading dock) and no special services (Ex. appointment, or limited access. Lift gate services typically adds $70).	1	$200.00	$200.00

Total **$15,320.00**

Note to customer

Thank you for the opportunity to provide you with a proposal. Feel free to get back to me with any questions, requested revisions, or if you'd like to proceed with the order. If you'd like to proceed as proposed, PLEASE SIGN OFF AND RETURN as an acknowledgement of the proposed details, including shipping contact and address.
Have a great day,
Vacker Sign

Accepted date **Accepted by**

ESTIMATE

Vacker Inc.
948 Sherren St. W.
Roseville, MN 55113-4420

ckriegler@vackersign.com
+1 (651) 487-3100

VACKERSIGN
SIGNS FOR PARKS AND TRAILS

City of Orono

Bill to
Joe Ruthenberg
Parks & Facilities Superintendent
365 Old Crystal Bay Road North
Orono MN 55356
952-249-4684
jruthenberg@oronomn.gov

Ship to
City of Orono
2750 Kelley Pkwy
Orono, MN
55346

Estimate details
Estimate no.: 7621
Estimate date: 06/23/2025

Sales Rep: Nicholas Kriegler

#	Product or service	Description	Qty	Rate	Amount
1.	**Routed Plastic single-sided >16 sf logo panel insert**	38.75"Hx95.57"W Routed single-sided bi-color HDPE (dark woods green / tan / dark woods green) sign panel with printed TUFF COVER logo insert. Panel length includes 2" mount extensions, if desired.	11	$1,630.00	$17,930.00
2.	**Recycled plastic Posts 66-8'**	Set of two 6"x6"x8' Reinforced recycled plastic lumber posts (cedar) with tapered top and routed slot to accept sign panel extensions.	11	$890.00	$9,790.00
3.	**24RPSShip.Freight.NoSpecialServices**	Shipping by freight to location with off-loading capabilities (forklift or loading dock) and no special services (Ex. appointment, or limited access. Lift gate services typically adds $70).	1	$275.00	$275.00

Total **$27,995.00**

Note to customer

Thank you for the opportunity to provide you with a proposal. Feel free to get back to me with any questions, requested revisions, or if you'd like to proceed with the order. If you'd like to proceed as proposed, PLEASE SIGN OFF AND RETURN as an acknowledgement of the proposed details, including shipping contact and address.
Have a great day,
Vacker Sign

Accepted date	Accepted by

Vackersign.com
nkriegler@vackersign.com

Orono

3/4" Thick Plastic
Flat-Routed

Single-sided
Quantity: 1

Darkwoods Green / Tan / Darkwoods Green*
*Digital representation of color is approximate. Contact us for a material color sample if needed

V-Grooved Park Name and In-Line

EXPANSION AND CONTRACTION | HDPE sign board should be allowed to move freely with expansion and contraction. Any thru holes should be oversized by 1/8"–1/4" and care should be taken to not over-tighten fasteners.

Vackersign.com
nkriegler@vackersign.com

Orono

3/4" Thick Plastic
Flat-Routed

Single-sided
Quantity: 1

Darkwoods Green / Tan / Darkwoods Green*
*Digital representation of color is approximate. Contact us for a material color sample if needed

V-Grooved Park Name and In-Line

EXPANSION AND CONTRACTION | HDPE sign board should be allowed to move freely with expansion and contraction. Any thru holes should be oversized by 1/8"–1/4" and care should be taken to not over-tighten fasteners.

Vackersign.com
nkriegler@vackersign.com

Orono

3/4" Thick Plastic
Flat-Routed

Single-sided
Quantity: 1

Darkwoods Green / Tan / Darkwoods Green*
*Digital representation of color is approximate. Contact us for a material color sample if needed

V-Grooved Park Name and In-Line

EXPANSION AND CONTRACTION | HDPE sign board should be allowed to move freely with expansion and contraction. Any thru holes should be oversized by 1/8"–1/4" and care should be taken to not over-tighten fasteners.

Orono

3/4" Thick Plastic
Flat-Routed

Single-sided
Quantity: 1

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AGENDA ITEM

Date: July 28, 2025 **Item:** 14

Title: Council Committee and Board Reports

Presenter: Adam Edwards, City Administrator / Engineer

Section: Council Committee Reports

1. **Purpose:**
   The purpose of the agenda item is for Orono council members to update one another on recent council committee or board meetings.

2. **Last Meeting:**
   A. The Orono Police Commission met on July 16th.

3. **Members:**
   A. **Orono Police Commission**
   - **Council Members**. Bob Tunheim and Jacqueline Ricks
   - **City Staff Members.** Chief Correy Farniok, Deputy Chief Tony Wittke, Investigative Sgt. Tim Sonnek City Administrator Adam Edwards, Finance Director Maggie Jin
   - **Other Member Entities.** City of Mound, City of Spring Park and City of Minnetonka Beach

COUNCIL ACTION REQUESTED
Discussion item - no formal action required.