

BROWNSVILLE, MINNESOTA

CODE OF ORDINANCES

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TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

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

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

§ 10.02 RULES OF INTERPRETATION.

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

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

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

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

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

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

CITY. The City of Brownsville, Minnesota.

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

COUNTY. Houston County, Minnesota.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

by the person and administered by an individual authorized by state law.

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

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

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

SHALL. The act referred to is mandatory.

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

STATE. The State of Minnesota.

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

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

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 SEVERABILITY.

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

§ 10.07 REFERENCE TO OTHER SECTIONS.

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

§ 10.08 REFERENCE TO OFFICES.

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

§ 10.09 ERRORS AND OMISSIONS.

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

§ 10.10 OFFICIAL TIME.

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

§ 10.11 REASONABLE TIME.

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

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

§ 10.12 ORDINANCES REPEALED.

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

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code

shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

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

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

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

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

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

(A) All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code.

(B) The liabilities, proceedings, and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment, or vacation of any highway, and the election of corporate officers shall remain valid in all respects as if this code had not been enacted.

§ 10.18 COPIES OF CODE.

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

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

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

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

§ 10.20 ENFORCEMENT.

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

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

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

(D) If the licensee, owner, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the Clerk, peace officer, or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result

of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

(E) (1) Every licensee, owner, resident, or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the Clerk or any other authorized city officer or employee only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses, or city service to the property.

(2) Mailed notice shall be given to the licensee, owner, resident, or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident, or other person in control of the property shall be given an opportunity to appear before the Clerk to object to the termination before it occurs, subject to appeal of the Clerk's decision to the Council at a regularly scheduled or special meeting.

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

§ 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.

(A) In addition to the administrative penalties established in this code and the enforcement powers granted in §10.20, the Council is authorized to create by resolution, adopted by a majority of the members of the Council, supplemental administrative penalties. This resolution may not proscribe administrative penalties for traffic offenses designated by M.S. § 169.999.

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

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

(D) (1) In the discretion of the peace officer, Clerk, or other person giving notice of an alleged violation of a provision of this code, in a written notice of an alleged violation, sent by first class mail to the person who is alleged to have violated the code, the person giving notice may request the payment of a voluntary administrative penalty for the violation directly to the City Treasurer within 14 days of the notice of the violation. A sample notice is contained in the appendix to this chapter.

(2) In the sole discretion of the person giving the notice of the alleged violation, the time for payment may be extended an additional 14 days, whether or not requested by the person to whom the notice has been given. In addition to the administrative penalty, the person giving notice may request in the notice to the alleged violator to adopt a compliance plan to correct the situation resulting in the alleged violation and may provide that if the alleged violator corrects the situation resulting in the alleged violation within the time specified in the notice, the payment of the administrative penalty will be waived.

(E) 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 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.

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

§ 10.99 GENERAL PENALTY AND ENFORCEMENT.

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

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

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

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

officer or employee to the penalty imposed for a violation.

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

APPENDIX A: NOTICE OF CODE VIOLATION

To: (Name and address of person who is alleged to have violated the code)

From: (Name and title of city official giving the notice)

Re: Alleged violation of section of the code, relating to (give title of section)

Date: (Date of notice)

I hereby allege that on (date of violation) you violated §__ of the code relating to_____.

The City Council has by resolution established an administrative penalty in the amount of \$__ for this violation.

Payment of this administrative penalty is voluntary, but if you do not pay it, the city may initiate criminal proceedings for this alleged violation.

Payment is due within 14 days of the date of this notice. Before the due date, you may request an additional 14-day extension of the time to pay the administrative penalty.

As an alternative to the payment of this administrative penalty, if the situation that gave rise to this alleged violation is corrected by _____(establish date), then the payment of the administrative penalty will be waived.

Even if the administrative penalty is paid, the city reserves the right to institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

Before the due date, you may request to appear before the 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.

If you pay the administrative penalty, the city will not initiate criminal proceedings for this alleged violation. However, the Council, or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

Payment of the administrative penalty may be made by check, cash, or money order to the City Treasurer.

Signed: _____

(Name and Title of Person Giving Notice)

TITLE III: ADMINISTRATION

Chapter

30. ADMINISTRATORS AND OFFICIALS

31. ORGANIZATIONS

CHAPTER 30: ADMINISTRATORS AND OFFICIALS

Section

30.01 Elections

30.02 Terms of administrators

30.03 Officials

§ 30.01 ELECTIONS.

(A) *Australian ballot system.* All elections held in the city for the purpose of electing officers shall henceforth be held and conducted under the Australian ballot system until otherwise determined by law.

(Prior Code Ch. 16, § 1)

(B) *Applicability.* This section shall relate to no preliminaries of any election except filing of candidates and the

preparation of ballots as hereafter provided.

(Prior Code Ch. 16, § 2)

(C) *Filing.* Any person desiring to be a candidate for office at the annual election to be held in the city shall file with the Clerk an application to be placed on the ballot for the office.

(Prior Code Ch. 16, § 3)

(D) *No primary.* Application shall be filed with the Clerk during the filing period determined by state law and shall be accompanied by the requisite fee. There shall be no primary election, but the filing of an application shall be a prerequisite to having the name of the candidate placed on the official ballot for the election.

(Prior Code Ch. 16, § 4)

(E) *Ballots.*

(1) The Clerk shall prepare and have printed at the expense of the city the necessary tally sheets and ballots for election. The ballots shall be printed by the County Auditor but without the facsimile of the signature of the County Auditor.

(2) The ballots shall contain no party designation of any candidates and the names of the candidates for each office shall be arranged on the ballot alphabetically according to the surnames of the candidates. The ballot shall be corrected, tallied, and preserved as in general elections, except that the Clerk shall be the final custodian of the ballots.

(Prior Code Ch. 16, § 5)

(F) *Sample ballots.* A sample ballot shall be posted at the place of election at least two days before the election by the Clerk.

(Prior Code Ch. 16, § 6)

§ 30.02 TERMS OF ADMINISTRATORS.

(A) *Biennial system adopted.* The purpose for this section is to establish uniformly the election of Council members in the city for four-year periods, two elected in even years every two years, and providing for the election of the mayor every two years in even-numbered years, pursuant to M.S. §§ 412.015 et seq., as they may be amended from time to time.

(B) *Transition period.*

(1) The term of office of the Mayor of the city which presently encompasses the years 1974 and 1975 is hereby extended an additional one year to include the calendar year 1976.

(2) The term of office of the Council members whose present term encompasses the calendar years 1973, 1974, and 1975 is hereby extended an additional one year to include the calendar year 1976.

(3) Of the candidates for the terms of the three Council members whose terms expire in the year 1976, including the term referred to in division (B)(2) above, the two receiving the highest vote shall be deemed elected for terms of four years each, and the person receiving the third highest number of votes shall be deemed to have been elected for a term of two years.

(C) *Terms of Council members and Mayor.* Hereafter, pursuant to the Laws of Minnesota, 1973, Chapter 123, and except during the aforesaid transition period, the duration of the term of office of all Council members shall be the period of four years, the duration of the term of office of the Mayor shall continue to be two years, and the Mayor and Council members shall be elected in even-numbered years.

(D) *Appointment of Council members.* In the event of a vacancy by death, resignation, non-residency, or another reason in the office of Council member or Mayor, vacancy or vacancies shall be filled by appointment(s) made by the remaining Council members and the appointee(s) shall serve for the remaining term of the position filled, all in accordance with the laws of the state appertaining.

(Prior Code Ch. 16, § 7)

§ 30.03 OFFICIALS.

The Worker's Compensation Act coverage pursuant to M.S. § 176.011, subd. 9, clause 5, as it may be amended from time to time, shall be provided by the city to elected officials of the city and officers appointed for a regular term of office.

(Ord. 66, passed 7-1-1992)

CHAPTER 31: ORGANIZATIONS

Section

Parks and Recreation Advisory Board

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- 31.02 Membership appointments
- 31.03 Terms of appointment
- 31.04 Meetings
- 31.05 Officers
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Cross-reference:

Fire Control, see Ch. 92

Officials, see § 30.03

Planning and Development, see Ch. 151

PARKS AND RECREATION ADVISORY BOARD

§ 31.01 PURPOSE.

There is hereby created the Parks and Recreation Advisory Board pursuant to the authority given by the Minnesota Statutes and shall have the membership, responsibilities, and authority as set forth below.

(Ord. #71, passed 10-4-2000)

§ 31.02 MEMBERSHIP APPOINTMENTS.

(A) The Board shall be composed of five members, with members being appointed by the City Council. Vacancies shall be filled for the unexpired portion of a departing member's term by action of the Council.

(B) Members of the Board shall exclude themselves from taking any action when personal business relationships are acted upon by this Board. Members will be appointed according to Council policy regarding residency requirements.

(Ord. #71, passed 10-4-2000)

§ 31.03 TERMS OF APPOINTMENT.

The term of each Board member shall be three years. Members shall serve until their successor is appointed and qualified. No member shall serve more than two successive terms. The City Council reserves the right to waive this rule. Initial appointments will include members from the existing Park and Recreation Advisory Board.

(Ord. #71, passed 10-4-2000)

§ 31.04 MEETINGS.

(A) All meetings of the Board shall be held in compliance with the state's Open Meeting Law, being M.S. §§ 13D.01 et seq., as they may be amended from time to time. The Board shall hold regular bi- monthly meetings at a time and place to

be set up by the Board and special meetings may be called as deemed necessary by the Board Chairperson or Secretary.

(B) The Board shall keep and preserve accurate minutes of each meeting of the Board or any committee thereof and a copy of those minutes shall be kept on file in the Clerk's office.

(C) The Board shall adopt rules of conduct for its meetings and the transactions of its business. The majority shall constitute a quorum for taking action.

(D) Each member shall have one vote.

(Ord. #71, passed 10-4-2000)

§ 31.05 OFFICERS.

The Parks and Recreation Advisory Board shall annually elect a Chairperson, Vice Chairperson, and Secretary from among its appointed members. They shall have the duties as implied by their titles.

(Ord. #71, passed 10-4-2000)

§ 31.06 GENERAL POWERS AND RESPONSIBILITIES.

(A) (1) The Board shall have the responsibility to advise the Council and staff on matters pertaining to programs regarding the city's park and recreation concerns. The Advisory Board shall be responsible for advising and supporting sound cooperation and coordination with other governmental agencies and civic or community groups in the advancement of sound recreation and park programming.

(2) The programs directly offered by the Park and Recreation Department may make use of public property assigned to or private property leased or otherwise made available for public recreation use.

(B) The City Council shall determine what land is to be acquired for recreational and park purposes, what land it shall be permitted to use in carrying on its recreational and park programs, and what buildings or other permanent structures are to be constructed upon the lands.

(C) The Park and Recreation Department shall remain an administrative function of the city, as indicated in current organizational structure the city.

(D) The Board shall have the responsibility to:

(1) Promote year-round utilization of the parks and recreation facilities within the city;

(2) Oversee orderly efficient cost-effective operations of facilities so as to generate a positive economic impact for the city;

(3) Preserve maintain and improve the physical assets of parks and recreation facilities within the city; and

(4) Be dedicated to capital improvement.

(E) The Advisory Board should seek flexible and/or innovative solutions to current and long-range challenges and provide services within the parks and recreation complex to meet the community's current and changing needs, situations, and population.

(Ord. #71, passed 10-4-2000)

§ 31.07 SPECIFIC POWERS AND RESPONSIBILITIES.

The Parks and Recreation Advisory Board shall have the responsibility to:

(A) Adopt rules for its meetings and transaction of its business;

(B) Recommend policies governing the use of the parks, recreation programs, and other recreation facilities;

(C) Act in an advisory capacity to the Council and other governmental agencies, contracting with the city under this subchapter in matters pertaining to parks, recreational programs, and other recreational facilities;

(D) Recommend to the Council employment of all full-time and part-time recreational employees;

(E) Recommend policies and procedures pertaining to such department matters as: annual budgets, preparation of reports; public awareness; fees and charges; and program policies;

(F) Serve without compensation; but the Board members may, within budgetary limitations, incur expenses that are deemed necessary;

(G) Recommend to the Council acceptance of gifts for public recreational, park, and civic center purposes and request and receive grants upon authorization of the Council to do so;

(H) Recommend contracts for purchase of materials, supplies, equipment and services, and provisions of recreation services by the city to other entities and for cooperative recreation services between the city and other entities. The Board shall comply with purchasing and personnel policies of the city;

(I) Consistent with the annual budget approved by the Council, establish user fees and charges for the parks, recreational programs, and recreation facilities, ensure the proper collection of fees, and properly deposit of those fees with the Clerk's office;

(J) Oversee the proper ongoing security, upkeep, maintenance, and improvement of parks and related recreational facilities;

(K) Develop and review with the Council short- and long-term plans and goals and appropriate strategies to accomplish these goals as they relate to the Parks and Recreation Department; and

(L) Report to the Council on the activities of the Department with such frequency as the Board deems appropriate and also upon request of the Council.

(Ord. #71, passed 10-4-2000)

§ 31.08 PREPARATION OF PROGRAM AND BUDGET.

(A) The Parks and Recreation Advisory Board shall, each year, prior to the date of August 1, recommend a suggested comprehensive budget for all activities of the Department.

(B) The Board shall recommend divisions of responsibility between private agencies, other public agencies administering recreation activities directly, and the Board itself. The Board's program shall be described in terms of activities and supportive finances.

(C) There shall be four separate major budget categories within the Board's responsibility for recommendation:

- (1) Administration;
- (2) Recreation category for the operation recreational activities and programs;
- (3) Park category for the development of the city's park facilities; and
- (4) Operation, maintenance, and capital improvement.

(D) All divisions will include the following categories: personnel, supplies; other services and charges; and capital improvements. The capital improvements category will be established by short- and long-range plan.

(E) The Board shall participate in the budget process and make recommendation for expenditures based on staff input.

(F) The budget is to be submitted no later than August 1 of each year to the City Clerk. The budget, as recommended by the Board and approved by the Council, shall control the year's expenditures.

(Ord. #71, passed 10-4-2000)

§ 31.09 FINANCES OF THE BOARD.

(A) For the purpose of financing the operation authorized by this subchapter, there shall be established in the city accounts and treasure a special fund called the Parks and Recreation Fund. Into this fund shall be placed all revenues and from it shall be paid claims for all expenditures. All receipts belonging to the Department shall be deposited in this fund.

(B) No disbursement shall be made from this designated fund except by check or unless a purchase order for services and commodities actually rendered or delivered has first been submitted to and approved for payment by the Council.

(C) The accounting of the fund and custody of the cash and checking account shall be in the hands of the Clerk. The Clerk shall make fund balance and expenditure reports to the Board on a monthly basis. An audit of the fund shall be made annually in conjunction with the audit of all other funds of the city.

(Ord. #71, passed 10-4-2000)

FIRE DEPARTMENT

§ 31.20 ESTABLISHMENT AND ELECTION.

(A) There is hereby established in this city a Volunteer Fire and Rescue Department consisting of a Chief, an Assistant Chief, and not less than 10 nor more than 30 personnel.

(B) The Chief of the Fire Department shall be elected annually by the members of the Department subject to confirmation by the City Council. The Fire Chief shall hold office for one year and until his or her successor has been duly elected, except that he or she may be removed by the Council for cause and after public hearing.

(C) Firefighters and probationary firefighters shall be elected by the members of the Department. Firefighters shall continue as members of the Department during good behavior and may be removed by the Fire Chief in accordance with the Standard Operating Guidelines of the Fire Department.

(Prior Code Ch. 20, § 4) (Ord. passed - -)

§ 31.21 DUTIES OF CHIEF.

(A) The Chief shall have control of the firefighting apparatus and shall be responsible for its care and condition. She or he shall make a report, semi-annually, to the Council at its June and December meetings concerning the condition of the equipment and needs of the Fire Department.

(B) She or he may submit additional reports and recommendations at any meeting of the Council and she or he shall report each suspension or expulsion by her or him ordered of a member of the Fire Department at the first meeting of the Council following suspension or expulsion.

(C) She or he shall be responsible for the proper training and discipline of the members of the Fire Department and may suspend or expel any member in accordance with the Standard Operating Guidelines of the Fire Department.

(Prior Code Ch. 20, § 4) (Ord. passed - -)

§ 31.22 RECORDS.

The Chief shall keep in convenient form a record of all fires. The record shall include the time of the alarm, location of fire, cause of fire if known, type of building, name of owner or tenant, the use to which the property is devoted, value of building and contents, members of the Department responding to the alarm, and other information as he or she may deem advisable or as may be required from time to time by the Council or state of other appropriate authority or agency.

(Prior Code Ch. 20, § 4)

§ 31.23 PRACTICE DRILLS.

It shall be the duty of the Chief to hold 2 two-hour firefighter drills per month to train personnel, practice skills (firefighting, EMS, auto extrication, hazmat operations, etc.), and maintain equipment.

(Prior Code Ch. 20, § 4) (Ord. passed - -)

§ 31.24 ASSISTANT CHIEF.

In the absence or disability of the Chief, the Assistant Chief shall perform all the functions and exercise all of the authority of the Chief.

(Prior Code Ch. 20, § 4)

§ 31.25 FIREFIGHTERS.

(A) The Chief, Assistant Chief, and firefighters shall not be less than 18 years of age and shall be capable of performing the duties of firefighting and EMS. They shall become members of the Fire Department only following the successful completion of a one-year probationary period and after a majority vote of the Fire Department membership.

(B) The Council may from time to time establish minimal qualifications for Fire Department membership.

(Prior Code Ch. 20, § 4) (Ord. passed - -)

§ 31.26 LOSS OF MEMBERSHIP.

The Council may discipline the Chief, including suspension from the Department, but removal from the Department shall not be accomplished without prior public hearing conducted by the Council.

(Prior Code Ch. 20, § 4) (Ord. passed - -)

§ 31.27 COMPENSATION.

The members and officers of the Fire Department shall receive compensation as Council may from time to time fix.

(Prior Code Ch. 20, § 4)

§ 31.28 INTERFERENCE WITH DEPARTMENT.

It shall be unlawful for any person to give or make, or cause to be given or made, an alarm of fire without probable cause, to neglect or refuse to obey any reasonable order of the Incident Commander at an emergency scene, or to interfere with the Fire Department in the discharge of its duties; and any person convicted of violating this subchapter shall be deemed guilty of a misdemeanor and shall be punished as provided by law together with the costs of prosecution.

(Prior Code Ch. 20, § 4) (Ord. passed - -) Penalty, see §10.99

§ 31.29 COOPERATION WITH OTHER FIREFIGHTING UNITS.

The Volunteer Fire Department is authorized to enter into cooperative firefighting arrangements with other fire departments in the locality for the mutual assistance and benefit of all contracting firefighting units. All contractual relationships for these arrangements shall be approved by the Council as a prerequisite to the effectiveness thereof.

(Prior Code Ch. 20, § 4) (Ord. passed - -)

§ 31.30 STANDARD OPERATING GUIDELINES.

The Fire Department shall maintain Standard Operating Guidelines which shall be effective upon approval thereof by the Council.

(Prior Code Ch. 20, § 4) (Ord. passed - -)

TITLE V: PUBLIC WORKS

Chapter

50. SANITARY SEWER REGULATIONS

51. GARBAGE

CHAPTER 50: SANITARY SEWER REGULATIONS

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GENERAL PROVISIONS

§ 50.001 PURPOSE.

The purpose of these provisions is to establish uniform specifications adequate and reasonable for private hookup to the city's municipal sanitary sewer system intended as minimum standards for landowners, plumbers, and others making installations.

(Prior Code Ch. 50, § 1)

§ 50.002 DEFINITIONS.

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

APPROVING AUTHORITY. The City Clerk or his or her duly authorized representatives.

BOD (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter in five days at 20°C, expressed as milligrams per liter (mg/l). Quantitative determination of **BOD** shall be made in accordance with procedures set forth in the definition for *Standard Methods* below.

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer.

BUILDING SEWER. A sanitary sewer which begins immediately outside of the foundation wall of any building or structure being served and ends at its connection to the public sewer.

CATEGORY A. Sanitary sewer users who discharge normal domestic strength wastewater with concentrations of BOD no greater than 210 mg/l and suspended solids no greater than 245 mg/l.

CATEGORY B. Sanitary sewer users who discharge wastewater with concentrations in excess of 210 mg/l of BOD and 245 mg/l of suspended solids. Users whose wastewater exceeds the concentrations for any one of these parameters shall be in **CATEGORY B**.

CHLORINE REQUIREMENT. The amount of chlorine, in mg/l, which must be added to sewage to produce a residual chlorine as specified in the National Pollutant Discharge Elimination System (NPDES) permit.

CITY. The City of Brownsville.

COMBINED SEWER. A sewer intended to receive both wastewater and storm or surface water.

COMMERCIAL USER. Any place of business which discharges sanitary waste as distinct from industrial wastewater.

COMPATIBLE POLLUTANTS. BOD, suspended solids, nitrogen, pH, or fecal coliform bacteria, plus additional pollutants identified in the city's NPDES permit for its wastewater treatment facility, provided that the facility is designed to treat additional pollutants, and, in fact, does remove the pollutants to a substantial degree.

DEBT SERVICE CHARGE. The portion of the sewer service charge relating to the cost of retiring outstanding bond issues or other long term obligations of the wastewater collection and treatment facilities.

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

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

GOVERNMENTAL USER. Units, agencies, or instrumentalities of federal, state, or local government discharging normal domestic strength wastewater.

GROUND GARBAGE. The residue from the preparation, cooking, dispensing, handling, storage, and sale of food products and produce that has been shredded to such a degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch in any dimension.

INCOMPATIBLE POLLUTANTS. Wastewater with pollutants that will adversely affect the wastewater collection and treatment facilities or disrupt the quality of wastewater treatment if discharged to the wastewater collection and treatment facilities.

INDUSTRIAL USERS or INDUSTRIES.

(1) A user who discharges into publicly owned wastewater treatment works liquid wastes resulting from the processes employed in industrial or manufacturing processes or from the development of any natural resources. These are identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under one of the following divisions:

- (a) Division A: agriculture, forestry, and fishing;
- (b) Division B: mining;
- (c) Division D: manufacturing;
- (d) Division E: transportation, communications, electric, gas, and sanitary sewers; and
- (e) Division I: services.

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

INDUSTRIAL WASTEWATER. The liquid processing wastes from an industrial manufacturing process, trade, or business including but not limited to all Standard Industrial Classification Manual's Divisions A, B, D, E, and I manufacturers as distinct from domestic wastewater.

INSTITUTIONAL USER. A user of the treatment facilities whose establishment is primarily engaged in activities of an educational religious, social, cultural, charitable, or human services nature (e.g., churches, nonprofit organizations).

MAY. The term **MAY** is permissible.

MUNICIPALITY. The City of Brownsville.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. A document issued by the Minnesota Pollution Control Agency which establishes effluent limitations and monitoring requirements for the municipal wastewater treatment facility. NPDES Permit No. 0053562 as issued and modifications thereof pertain to the municipal wastewater treatment facility.

NATURAL OUTLET. Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or another body of surface water or groundwaters.

NORMAL DOMESTIC STRENGTH WASTEWATER. Wastewater with concentrations of BOD no greater than 210 mg/l and suspended solids no greater than 245 mg/l.

OPERATION AND MAINTENANCE COSTS. All costs associated with the operation and maintenance of the wastewater collection and treatment facilities, including administration and replacement costs, all as determined from time to time by the city.

PERSON. Any and all persons, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency, or other entity.

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

PUBLIC SEWER. Any publicly owned sewer, storm drain, sanitary sewer, or combined sewer.

REPLACEMENT COSTS. Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the wastewater treatment facility to maintain the capacity and performance for which the facilities were designed and constructed. **REPLACEMENT COSTS** are distinct from operation and maintenance costs but are included in the city's user charges.

RESIDENTIAL USER. A user of the treatment facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached and semi-detached housing, apartments, and mobile homes, and which discharges primarily normal domestic strength sanitary wastes.

SANITARY SEWAGE. A combination of liquid and water-carried wastes discharged from toilets and/or sanitary plumbing facilities.

SANITARY SEWER. A sewer that carries sewage or wastewater.

SEWAGE. The spent water of a person or community. The preferred term is **WASTEWATER**.

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

SEWER SERVICE CHARGE. A charge levied on users of the wastewater collection and treatment facilities for payment of operation, maintenance, and replacement expenses, debt service costs, and other expenses or obligation of the facilities.

SHALL. The term **SHALL** is mandatory.

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

STANDARD METHODS. The examination and analytical procedures set forth in the most recent edition of *Standard Methods for the Examination of Water and Wastewater* published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

STORM SEWER OR DRAIN. A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

SUSPENDED SOLIDS. Total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in *Standard Methods* and referred to as nonfilterable residue.

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

USER CHARGE. A charge levied on users of the wastewater collection and treatment facilities for payment of operation, maintenance, and replacement expenses of those facilities.

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

WASTEWATER COLLECTION FACILITIES (or WASTEWATER COLLECTION SYSTEM). The structures and equipment required to collect and carry wastewater.

WASTEWATER TREATMENT FACILITY. An arrangement of devices and structures for treatment wastewater and sludge. Also referred to as **WASTEWATER TREATMENT PLANT.**

(Prior Code Ch. 50, § 16)

§ 50.003 INDIVIDUAL SEWAGE DISPOSAL SYSTEMS.

(A) *Requirements.* Individual sewage disposal systems approved by the city must comply with state statutes/county regulations.

(B) *Operation and maintenance.* The operation and maintenance of individual sewage disposal systems shall at all times be by the owners of the facilities and at no expense to the city.

(C) *Abandonment.* Pursuant to § 50.041(D), owners of individual sewage disposal systems as hereinbefore provided shall connect to the city's wastewater collection system when it becomes available. Further, it is the responsibility of the property owners to dismantle existing individual disposal system in compliance with Minn. Rules Ch. 7080 and with any other rules which may be adopted by county or city and as provided in the code.

(Prior Code Ch. 50, § 16)

§ 50.004 TYPE AND QUALITY OF MATERIALS.

All pipe and connections shall be P.V.C. number D3033 or D3034. Building drains, waste, and vents may be P.V.C. number D2664 or D2949.

(Prior Code Ch. 50, § 2)

§ 50.005 CONNECTIONS; PERMIT FEES.

No connection shall be made to the city's municipal sanitary sewer system without securing a permit as may be prescribed by the Council together with the payment of fees therefor in the amount established by Council resolutions and no connection shall be made except by or under the direct supervision of a licensed plumber.

(Prior Code Ch. 50, § 3)

§ 50.006 INSPECTION.

No connection to the municipal sewer or other installation affecting the municipal system shall be made without inspection thereof by an inspector duly appointed by the Council. Arrangements for effective inspection shall be made at the time application for hookup or other installation is made.

(Prior Code Ch. 50, § 4)

§ 50.007 GREASE INTERCEPTOR REQUIREMENTS.

All properties which operate and maintain facilities which contain, utilize, or generate fat-type wastes including but not limited to deep fat fryers for commercial purposes or equipment and usages of a commercial size shall install grease interceptors and installations shall be in accordance with the regulations specified in the Minnesota Plumbing Code.

(Prior Code Ch. 50, § 7)

§ 50.008 PRIVATE SEPTIC SYSTEMS PHASED OUT.

Within six months following the date of hookup to the municipal sewer system of the city, all private septic systems, septic tanks, and dry wells shall be pumped in a manner consistent with the rules and regulations of the state's Pollution Control Agency and any other applicable regulations, and shall then be removed, the locations from hence removed backfilled and compacted, or, following pumping, shall be filled with sand or other suitable, earthen, granular material.

(Prior Code Ch. 50, § 6)

§ 50.009 PROHIBITIONS FOR DISCHARGE INTO SEWER SYSTEM.

It shall be unlawful and it is specifically prohibited to discharge, or allow to be discharged, into the municipal sewer system any toxic substances such as paints, solvents, petroleum products, dairy products, and cloth-fiber materials.

(Prior Code Ch. 50, § 8) Penalty, see §50.999

§ 50.010 RELEVY OF ABATED ASSESSMENTS.

(A) Some of the resident property owners of the city who met certain prescribed guidelines were eligible for abatement of special assessments.

(B) In the event any of the following incidents should occur within 15 years of the date the original assessment roll was adopted, September 16, 1986, the assessments abated will be relevied on the property from where they were abated and must be paid either in cash at the time of the happening of the incident or, at the option of the then property owners, be spread on the tax rolls to be paid over a 15-year period, the first installment to be paid with real property taxes the year following reassessment, bearing interest at the maximum rate chargeable under and pursuant to Chapter 429 of the laws of the state:

(1) A sale of the property on a contract for deed arrangement;

(2) An outright transfer (with or without consideration) of the land;

(3) The death of the property owner(s) who owned the property at the time the abatement was granted (if abated for joint tenants, upon the decease of the final surviving joint tenant);

(4) As to assessments abated where the eligible property owner was a life tenant, upon expiration of the life tenancy (death of the life tenant); and

(5) Foreclosure of a mortgage on property which was the subject matter of abated assessments where there is no redemption (by the owner(s) who received the abatement) from the foreclosure within the equity of redemption period.

(Prior Code Ch. 50, § 10)

§ 50.011 CONNECTIONS TO SEWER SYSTEM MANDATED.

(A) *Improved parcel at initial construction of sanitary sewer system.* Each property improved and having sanitary facilities which is located so as to be served by the municipal sewer system shall be connected thereto within 12 months of the date the wastewater treatment plant of the city commences operation.

(B) *Parcels or lots subsequently improved.* Parcels or lots subsequently improved shall, if sewer services are available thereat, be connected to the municipal sewer system as a precondition to issuance of certificate of occupancy thereto.

(Prior Code Ch. 50, § 11)

§ 50.012 DEFERRED ASSESSMENTS.

(A) *Partially prepaid.* The balance of \$1,800 special assessments which were partially prepaid shall be payable upon connection to the municipal sanitary sewer at the option of the property owner either:

(1) In cash at the time of and with hookup charges as a precondition to issuance of certificate of occupancy; or

(2) Over a 15-year period drawing interest at maximum rate chargeable under and pursuant to Chapter 429 of the laws of the state, as amended, the first installment payable with real property taxes payable in the next succeeding year following connection.

(B) *Developed parcels not previously assessed.* The full per developable unit cost of \$3,600 shall be payable at the option of the landowner under either of the arrangements set forth in division (A) above as to parcels where there was no part of the assessments prepaid.

(Prior Code Ch. 50, § 13)

HOOKUPS

§ 50.025 REQUIREMENT.

Within 12 months following the date the wastewater treatment plant of the city commences operations, all properties, business, residential, and other, which by their use generate sewage, shall be connected to the municipal sanitary sewer system.

(Prior Code Ch. 50, § 5)

§ 50.026 EXPENSES.

(A) *Private.*

(1) It shall be the obligation of each property owner to arrange for and to pay all expenses involved in connection to the municipal sewer system, including but not limited to the expense of the construction and installation of sewer laterals and the connection to the municipal main.

(2) It shall, moreover, be the individual property owner's obligation to assume and pay all expenses in connection with openings made in the public street necessitated by connections to the municipal mains.

(B) *Public.* The city may, as it incurs additional expenses in the maintenance and improvement of the municipal sewer

system, establish hookup charges payable as a precondition to the issuance of a certificate of occupancy. These hookup charges, if any, are in addition to special assessments, a part of which, as initially established, may have been deferred.

(C) *Excavation expenses.* In all instances where excavations are required to be made in the public street in order to make an installation, maintenance personnel of the city shall make the excavation and backfill, compact, and restore the surface to the condition thereof prior to excavation and the total cost thereof shall be billed to and paid by the property owner.

(Prior Code Ch. 50, § 12)

§ 50.027 SPECIFICATIONS.

Hookups shall be accomplished consistent with the provisions of §§50.001, 50.004 through 50.009 above, and § 50.999(A) below, with these provisions being regarded as minimum requirements.

(Prior Code Ch. 50, § 14)

PUBLIC SEWERS

§ 50.040 REGULATIONS.

This subchapter includes regulations for the use of public and private sewers and drains, the installation and connection of building sewers, the discharge of waters and wastes into the public sewer system, and providing penalties for violations thereof and levying and collection of sewer service charges in the city, county, and state.

(Prior Code Ch. 50, § 16)

§ 50.041 REQUIREMENT.

(A) *Waste disposal.* It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectional waste excepting that of livestock, pets, or kennels approved by Chapter 150.

(B) *Disposal to natural outlets.* It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city, any sewage or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this code and the National Pollution Discharge Elimination Systems (NPDES) permit.

(C) *Private sewage disposal.* It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage without approval of the city.

(D) *Sewer connection required.* The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes abutting on any street, alley, or right-of-way in which there is now located or is proposed to be located any public sanitary sewer of the city is hereby required at his or her expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this code, within 12 months of the date the wastewater treatment plant is substantially completed and use thereof permitted.

(Prior Code Ch. 50, § 16) Penalty, see §50.999

§ 50.042 SANITARY SEWERS.

(A) No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, groundwater, roof runoff, subsurface drainage, or cooling water to any sanitary sewer.

(B) No person shall cause or permit a discharge into the sanitary sewers that would cause a violation of the city's NPDES permit and any modifications thereof.

(Prior Code Ch. 50, § 16) Penalty, see §50.999

§ 50.043 STORM SEWERS.

Storm water and all other unpolluted water shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Approving Authority and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Approving Authority and other regulatory agencies, to a storm sewer, combined sewer, or natural outlet.

(Prior Code Ch. 50, § 16)

§ 50.044 PROHIBITIONS AND LIMITATIONS.

(A) Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;
- (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by

interaction with other wastes, that could injure or interfere with any waste treatment or sludge disposal process, constitute a hazard to humans or animals, or create a public nuisance in the receiving waters of the wastewater treatment facility. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to § 307(a) of the Federal Clean Water Act, being 33 U.S.C. § 1317(a);

(3) Any waters or wastes having a pH lower than five or in excess of nine, or having any corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater collection and treatment facilities; or

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

(B) The following described substances, materials, waters, or waste shall be limited in discharges to sanitary sewer systems to concentrations or quantities which will not harm either the sanitary sewers, wastewater treatment process, or equipment; will not have an adverse effect on the receiving stream and/or soil, vegetation, and groundwater; or will not otherwise endanger lives, limbs, public property, or constitute a nuisance. The Approving Authority may set limitations more stringent than those established below if more stringent limitations are necessary to meet the above objectives. The Approving Authority will give consideration to the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sanitary sewers, the wastewater treatment facility, and other pertinent factors.

(C) Wastes or wastewaters discharged to the sanitary sewers shall not exceed the following limitations:

(1) Wastewater having a temperature higher than 150°F (65°C);

(2) Wastewater containing more than 100 mg/l of petroleum oil, nonbiodegradable cutting oils, or products of mineral oil origin;

(3) Wastewater from industrial plants containing floatable oils, fat, or grease;

(4) Any unground garbage. Garbage grinders may be connected to sanitary sewers from homes, motels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers;

(5) Any waters or wastes containing iron, chromium, copper, zinc, and other toxic and nonconventional pollutants to such degree that the concentration exceeds levels specified by federal, state, and local authorities;

(6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Approving Authority or limits established by any federal or state statute, rule, or regulation;

(7) Any radioactive wastes or isotopes of the half-life or concentration as may exceed limits established by the Approving Authority in compliance with applicable state or federal regulations;

(8) Any waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment facility effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters;

(9) Any water or wastes which, by interaction with other water or wastes in the sanitary sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes;

(10) Materials which exert or cause:

(a) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment facility;

(b) Unusual volume of flow or concentration of wastes constituting **SLUGS** as defined in §50.002;

(c) Unusual concentrations of inert suspended solids (such as but not limited to fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as but not limited to sodium sulfate); and

(d) Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solution).

(11) Incompatible pollutants in excess of the allowed limits as determined by city, state and federal laws and regulations in reference to pretreatment standards developed by the Environmental Protection Agency, as contained in 40 C.F.R. part 403, as amended from time to time.

(Prior Code Ch. 50, § 16) Penalty, see §50.999

§ 50.045 SPECIAL ARRANGEMENTS.

No statement contained in this code shall be construed as prohibiting any special agreement between the Approving Authority and any person whereby a waste of unusual strength or character may be admitted to the wastewater collection and treatment facilities, either before or after pretreatment, provided that there is no impairment of the functioning of the wastewater collection and treatment facilities by reason of the admission of these wastes, and no extra costs are incurred by

the city without recompense by the person, and further provided that all rates and provisions set forth in this code are recognized and adhered to and provided that National Categorical Pretreatment Standards and the city's NPDES permit limitations are not violated.

(Prior Code Ch. 50)

INDUSTRIAL WASTE

§ 50.060 SUBMISSION OF BASIC DATA.

(A) The Approving Authority may require each person who discharges or seeks to discharge industrial wastes to a public sewer to prepare and file with the Approving Authority, at such times as she or he determines, a report that shall include pertinent data relating to the quantity and characteristics of the wastes discharged to the wastewater collection and treatment facilities.

(B) In the case of a new connection, the Approving Authority may require that this report be prepared prior to making the connection to the public sewers.

(Prior Code Ch. 50, § 16)

§ 50.061 INDUSTRIAL DISCHARGES.

If any waters or wastes are discharged or are proposed to be discharged to the public sewers which waters or wastes contain substances or possess the characteristics enumerated in § 50.041, and which in the judgement of the Approving Authority have a deleterious effect upon the wastewater collection and treatment facilities, processes, equipment, or receiving waters and/or soil, vegetation, and groundwater, or which otherwise create a hazard to life, health, or constitute a public nuisance, the Approving Authority may:

(A) Reject the wastes;

(B) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to § 307(b) of the Clean Water Act, being 33 U.S.C. § 307(b) and its amendments;

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

(D) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this code.

(Prior Code Ch. 50, § 16)

§ 50.062 CONTROL MANHOLES.

(A) Each person discharging industrial wastes into a public sewer shall, at the discretion of the Approving Authority, construct and maintain one or more control manholes or access points to facilitate observation, measurement, and sampling of wastes, including sanitary sewage.

(B) Control manholes or access facilities shall be located and built in a manner acceptable to the Approving Authority. If measuring and/or sampling devices are to be permanently installed, they shall be of a type acceptable to the Approving Authority.

(C) Control manholes, access facilities, and related equipment shall be installed by the person discharging the waste, at the person's expense, and shall be maintained by the person so as to be in safe condition, accessible, and in proper operating condition at all times.

(D) Plans for installation of the control manholes or access facilities and related equipment shall be approved by the Approving Authority prior to the beginning of construction.

(Prior Code Ch. 50, § 16)

§ 50.063 MEASUREMENT OF FLOW.

The volume of flow used for computing sewer service charges shall be the metered water consumption of the user discharging industrial wastewater, except as noted in § 50.065.

(Prior Code Ch. 50, § 16)

§ 50.064 METERING OF WASTE.

Devices for measuring the volume of waste discharged may be required by the Approving Authority if this volume cannot otherwise be determined. Metering devices for determining the volume of waste shall be installed, owned, and maintained by the person discharging the wastewater. Following approval and installation, meters may not be removed without the consent of the Approving Authority.

(Prior Code Ch. 50, § 16)

§ 50.065 WASTE SAMPLING.

(A) Industrial wastes discharged into the public sewers shall be subject to periodic inspection and a determination of character and concentration of the wastes. The determination shall be made by the industry as often as may be deemed necessary by the Approving Authority.

(B) Samples shall be collected in such a manner as to be representative of the composition of the wastes. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the Approving Authority.

(C) (1) Installation, operation, and maintenance of the sampling facilities shall be the responsibility of the person discharging the waste and shall be subject to the approval of the Approving Authority. Access to sampling locations shall be granted to the Approving Authority or his or her duly authorized representative at all times.

(2) Every case shall be exercised in the collection of samples to ensure its preservation in a state comparable to that at the time the sample was taken.

(Prior Code Ch. 50, § 16)

§ 50.066 PRETREATMENT.

(A) (1) Persons discharging industrial wastes into any public sewer may be required to pretreat wastes, if the Approving Authority determines pretreatment is necessary to protect the wastewater collection and treatment facilities or prevent the discharge of incompatible pollutants.

(2) In that event, a person shall provide at her or his expense the pretreatment or processing facilities as may be determined necessary to render wastes acceptable for admission to the sanitary sewers.

(B) No user shall increase the process water or in any manner or attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with limitations contained in § 50.041 or contained in the National Categorical Pretreatment Standards or any state requirements.

(Prior Code Ch. 50, § 16) Penalty, see §50.999

§ 50.067 GREASE, OIL, AND SAND INTERCEPTORS.

(A) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Approving Authority, they are necessary for the proper handling of liquid wastes containing floatable grease in amounts in excess of those specified in this code, or any flammable wastes, sand, or other harmful ingredients, except that these interceptors shall not be required for private living quarters or dwelling units.

(B) (1) All interceptors shall be of a type and capacity approved by the Approving Authority and shall be located as to be readily and easily accessible for cleaning and inspection.

(2) In maintaining these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Approving Authority.

(3) Disposal of the collected materials performed by the personnel or currently licensed waste disposal firms of the owner(s) must be in accordance with currently acceptable local, county, and state rules and regulations.

(Prior Code Ch. 50, § 16) Penalty, see §50.999

§ 50.068 ANALYSES.

(A) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this code shall be determined in accordance with the latest edition of *Standard Methods* and with the Federal Regulation 40 C.F.R. part 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants," as amended from time to time.

(B) Sampling methods, location, time, durations, and frequencies are to be determined on an individual basis subject to approval by the Approving Authority.

(Prior Code Ch. 50, § 16)

§ 50.069 SUBMISSION OF INFORMATION.

(A) Plans, specifications, and any other pertinent information relating to proposed flow equalization, pretreatment, or grease and/or sand interceptor facilities shall be submitted for review and approval of the Approving Authority prior to the start of their construction if the effluent from these facilities is to be discharged into the public sewers.

(B) No construction of facilities shall commence until approval has been granted by the Approving Authority.

(Prior Code Ch. 50, § 16) Penalty, see §50.999

USER CHARGES

§ 50.080 USER CLASSES AND CATEGORIES.

(A) Users of the city's wastewater collection and treatment facilities shall be considered to belong to the one of five

classes:

- (1) Residential;
- (2) Commercial;
- (3) Institutional;
- (4) Governmental; and
- (5) Industrial.

(B) The allocation of users to these classes for the purpose of assessing sewer service charges shall be the responsibility of the Council. Allocation of all users to user classes shall be based on the substantive intent of the definitions contained in this code.

(Prior Code Ch. 50, § 16)

§ 50.081 REGULATIONS.

(A) Each user shall be assessed and pay user charges in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment works, with a minimum rate for pollutant loadings being the rate established for domestic-strength waste.

(B) The charges assessed users discharging domestic strength waste shall be established proportionately on the basis of equivalent residential units (ERU). Equivalent residential units will be assigned to service connections according to Tables 1 and 2 of Appendix A attached to the ordinance codified herein.

(Prior Code Ch. 50, § 16)

§ 50.082 ASSIGNMENT OF ERUS.

(A) Determination of the number of ERUs assigned to a particular connection, in accordance with Tables 1 and 2 of Appendix A attached to the ordinance codified herein, shall be the responsibility of the Council or its authorized representative.

(B) Users may appeal the number of ERUs assigned to a particular service connection by installing and maintaining, at their own expense, water meters of a type approved by the city. Meters shall be equipped with remote registering records located at an accessible site on the owner's property.

(C) The city may, at its discretion, require nonresidential users to install water meters for the purpose of determining wastewater volume. When so required, meters shall be of a type approved by the city, equipped with remote registering recorders and located at an accessible site on the owner's property.

(Prior Code Ch. 50, § 16)

§ 50.083 BILLING AND PAYMENT.

(A) *Sewer service charge billing period.* Sewer service charges shall be billed by the city to the sewer users on a monthly basis. Once a wastewater treatment plant is operational, preexisting residences, commercial, and other properties shall pay, in addition to all other charges duly imposed, a sewer user hookup charge. New construction shall pay a sewer user hookup fee as a pre-condition to receiving certificate of occupancy. Except for new construction, all connections after the 12-month period referred to in § 50.041(D) shall require a hookup fee. All sewer rates, fees, and costs shall be determined and set by the Council annually, or as may be mandated by Council action duly taken.

(B) *Payment of sewer service charges.* Persons billed by the city for sewer service charges shall pay charges within 30 days after the billing date at the City Hall.

(Prior Code Ch. 50, § 16) (Ord. passed - -)

SEWER SERVICE CHARGE AND FUND

§ 50.095 COSTS.

The unit costs for the user charge shall be published annually by the Approving Authority in accordance with §50.138.

(Prior Code Ch. 50, § 16)

§ 50.096 DETERMINATION OF CHARGES.

(A) User charges shall consist of an ERU charge. These charges shall be developed in accordance with the approved sewer service charge system and computed in accordance with the formula presented below:

$$UC = UERU \times ERUN$$

Where: UC = User charge.

UERU = ERU charge (\$/billing period) for OM&R costs.

ERUN = Number of ERUs assigned to service connection.

(B) User charges shall be computed according to the rates and formula presented in this code. Sewer service charges shall be the sum of the user charges and any debt service charges which the city may establish from time to time.

(Prior Code Ch. 50, § 16)

§ 50.097 EXTRA-STRENGTH WASTES.

(A) The sewer service charges established in this code shall not prevent the assessment of additional charges to users who discharge extra strength waste or wastes of unusual character, or contractual agreements with users, as long as the following conditions are met.

(1) The user pays OM&R costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment works and no user is charged at a rate less than that of domestic strength waste.

(2) The measurement of wastes are conducted according to the latest edition of *Standard Methods for the Examination of Water and Wastewater* in a manner acceptable to the city as provided for in this code.

(B) A study of unit costs of collection and treatment processes attributable to fixed service, flow BOD5, TSS, and other significant loadings shall be developed for determining the proportionate allocating of costs to fixed service, flows, and loadings for users discharging extra-strength wastes or wastes of unusual character.

(Prior Code Ch. 50, § 16)

§ 50.098 SEWER SERVICE FUND.

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

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

- (1) Operation and Maintenance Account; and
- (2) Equipment Replacement Account.

(C) All revenue generated by the sewer service charge system and all other income pertinent to the treatment works shall be held by the Clerk separate and apart from all other funds of the District. Funds received by the Sewer Service Fund shall be transferred to the Operation and Maintenance Account and the Equipment Replacement Account in accordance with the state and federal regulations and the provisions of this chapter.

(Prior Code Ch. 50, § 16)

§ 50.099 EQUIPMENT REPLACEMENT FUND.

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

(Prior Code Ch. 50, § 16)

§ 50.100 OPERATION AND MAINTENANCE ACCOUNT.

Revenue generated by the sewer service charge system sufficient for operation and maintenance shall be held separate and apart in the Operation and Maintenance Account. Interest income generated by the Operation and Maintenance Account shall remain in the Operation and Maintenance Account.

(Prior Code Ch. 50, § 16)

§ 50.101 CHARGE FOR TOXIC POLLUTANTS.

Any person discharging toxic pollutants which cause an increase in the cost of managing the effluent or sludge from the city's wastewater treatment plant facility shall pay for increased costs, as may be determined by the Approving Authority.

(Prior Code Ch. 50, § 16) Penalty, see §50.999

SEWER CONSTRUCTION AND CONNECTIONS

§ 50.115 NEW CONNECTIONS.

New connections to the city's sanitary sewer system will be allowed only if there is available capacity in all of the downstream wastewater collection and treatment facilities.

(Prior Code Ch. 50, § 16)

§ 50.116 WORK AUTHORIZED.

No unauthorized person shall uncover or make any connection with or opening into, use, alter, or disturb the public sewers or appurtenances thereof without first obtaining a written permit from the Approving Authority. All connections shall be made consistent with and as prescribed by this chapter.

(Prior Code Ch. 50, § 16) Penalty, see §50.999

§ 50.117 COST OF SEWER CONNECTION.

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the person making the connection.

(Prior Code Ch. 50, § 16)

§ 50.118 USE OF OLD BUILDING SEWERS.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Approving Authority, to meet all requirements for this chapter.

(Prior Code Ch. 50, § 16)

§ 50.119 MATERIALS AND METHODS OF CONSTRUCTION.

(A) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall conform to the requirements of the city's building and plumbing code and other applicable rules and regulations of the city.

(B) In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

(Prior Code Ch. 50, § 16)

§ 50.120 BUILDING SEWER GRADE.

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

(Prior Code Ch. 50, § 16)

§ 50.121 STORM AND GROUNDWATER DRAINS.

No persons shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources or surface runoff or groundwater to a building sewer or building drain which is connected directly or indirectly to a sanitary sewer. All existing downspouts, groundwater drains, or the like, connected directly or indirectly to a sanitary sewer, must be disconnected within 60 days of the date of an official written notice from the Approving Authority.

(Prior Code Ch. 50, § 16) Penalty, see §50.999

§ 50.122 CONFORMANCE TO PLUMBING CODES.

The connection of the building sewer into the sanitary sewer shall conform to the requirements of the building and plumbing code, or other applicable rules and regulations of the city or the procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9. All connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials must be approved by the Approving Authority before installation.

(Prior Code Ch. 50, § 16)

§ 50.123 INSPECTION OF CONNECTION.

The person making a connection to a public sewer shall notify the Approving Authority when the building sewer is ready for inspection and connection to the public sewer. The connection shall be inspected and approved by the Approving Authority.

(Prior Code Ch. 50, § 16)

§ 50.124 BARRICADES; RESTORATION.

All excavations for the building sewer installation shall be adequately guarded with barricades and lights so as to protect

the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Approving Authority.

(Prior Code Ch. 50, § 16)

ENFORCEMENT

§ 50.135 AUTHORITY RIGHT OF ENTRY.

(A) *Right of entry.* The Approving Authority or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, or testing, all in accordance with the provisions of this chapter.

(B) *Safety.* While performing the necessary work on private premises, the duly authorized city employees shall observe all safety rules applicable to the premises established by the person.

(C) *Identification; right to enter easements.* The Approving Authority or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds an easement for the purpose of but not limited to inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement, all subject to the terms, if any, of the easement.

(Prior Code Ch. 50, § 16)

§ 50.136 PROCEDURES.

(A) Any user, permit applicant, or permit holder affected by any decision, action, or determination, including cease and desist orders, made by the Approving Authority interpreting or implementing the provision of this chapter or in any permit issued herein may file with the Approving Authority a written request for reconsideration within ten days of the date of the decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

(B) (1) The Approving Authority shall render a decision on the request for reconsideration to the user, permit applicant, or permit holder in writing within 15 days of receipt of request.

(2) If the ruling on the request for reconsideration made by the Approving Authority is unsatisfactory, the person requesting reconsideration may, within ten days after notification of the action, file a written appeal with the Council.

(C) A fee in the amount as may be established by Council resolution shall accompany any appeal to the Council for their ruling. This fee may be refunded if the appeal is sustained in favor of the appellant.

(D) The written appeal shall be heard by the Council within 30 days from the date of filing. The Council shall make a final ruling on the appeal within ten days from the date of hearing.

(Prior Code Ch. 50, § 16)

§ 50.137 AMENDMENT.

The city, through its duly authorized officers, reserves the right to amend this code in part or in whole whenever it may deem necessary.

(Prior Code Ch. 50, § 16)

§ 50.138 AUDIT, NOTIFICATION, RECORDS.

(A) *Annual audit.* The city shall annually review the wastewater contribution of its sewer users, the operation and maintenance expenses of the wastewater collection and treatment facilities, and the user charge system in accordance with those procedures established by the State Auditor's office and federal statutes (40 C.F.R. § 35.2140(d)). Based on this review, the city shall revise the user charge system, if necessary, to accomplish the following:

(1) Maintain a proportionate distribution of operation and maintenance expenses among sewer users based on the wastewater volume and pollutant loadings discharged by the users;

(2) Generate sufficient revenues to pay the operation and maintenance expenses of the wastewater collection and treatment facilities; and

(3) Apply excess revenues collected from a class of users to the operation and maintenance expenses attributable to that class of users for the next year and adjust the user charge rates accordingly.

(B) *Annual notification.* The city shall notify its sewer users annually about the sewer service charge rates. Notification shall separately indicate what portion of the rates are attributable to the user charge, as defined by this chapter. The notification shall occur in conjunction with a regular bill.

(C) *Records.* The city shall maintain records regarding wastewater flows and loadings, costs of the wastewater collection and treatment facilities, sampling programs, and other information which is necessary to document compliance with 40 C.F.R. part 35, subpart E of the Clean Water Act.

(Prior Code Ch. 50, § 16)

§ 50.999 PENALTY.

(A) Violations of this chapter are hereby declared to be public nuisances misdemeanors punishable upon conviction as provided by state law. The city may maintain actions in equity to abate nuisances or enforcement may be accomplished by criminal prosecution, or both.

(B) Violation of any provision of this chapter shall be deemed public nuisances, misdemeanors, and, upon conviction thereof, punishable in accordance with state laws thereunto appertaining.

(C) (1) Sewer service charges levied by the city against the sewer users in accordance with this chapter shall be a debt due to the city and shall be a lien upon the property.

(2) If this debt is not paid within 30 days after it shall be due, it shall be deemed delinquent. The city may certify unpaid charges to the County Auditor for collection as special assessments with real property taxes pursuant to M.S. Ch. 444, as it may be amended from time to time.

(3) Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.

(4) Any charges levied pursuant to this chapter and which have been properly sent to the occupant or owner and not paid may be recovered in a civil action by the city in any court of competent jurisdiction.

(D) (1) *Written notice of violations.* Any person found to be violating any provision of this chapter shall be declared a public nuisance and shall be served by the city with a written notice stating the nature of the violation and providing a reasonable time for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(2) *Abatement of nuisance without notice.* If the Approving Authority determines that a public nuisance exists within the city and that there is great and immediate danger to the wastewater collection and treatment facilities or the public health, safety, peace, morals, or decency, the Approving Authority may cause the same to be abated and charge the cost thereof to the owner, occupant, or person causing, permitting, or maintaining the nuisance, as the case may be.

(3) *Accidental discharge.* Any person found to be responsible for accidentally allowing a deleterious discharge into the sewer system which causes damage to the wastewater collection and treatment facility and/or receiving body of water shall in addition to a fine, pay an amount to cover any damages, both values to be established by the Approving Authority.

(4) *Continued violations.* Any person, partnership, or corporation or any officer, agency, or employee thereof who shall continue any violation beyond the aforesaid notice time limit provided shall upon conviction thereof be deemed guilty of a misdemeanor and punished therefor in accordance with state law together with the cost of prosecution. Each day in which any violation is continued beyond the aforesaid notice time limit shall be deemed a separate offense.

(5) *Liability to municipality for losses.* Any person violating any provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned by reason of the violation which the city may suffer as a result thereof.

(Prior Code Ch. 50, § 16)

CHAPTER 51: GARBAGE

Section

- 51.01 Statement of policy
- 51.02 Regulations pertaining to garbage and rubbish
- 51.03 Franchise garbage collection
- 51.04 Burning prohibited
- 51.05 State law incorporated

51.99 Penalty

§ 51.01 STATEMENT OF POLICY.

It is hereby determined and declared by the Council that to promote the general welfare of the city and in order to enable compliance by residents of the city with rules, regulations, and provisions of the state's Pollution Control Agency (MPCA) an efficient solid waste/garbage collection system is not feasible for the city unless all of its residents and commercial establishments participate in the program, either by private subscription of the city residents and business establishments with the franchised solid waste collector contracting with the city or by payment of minimum charges payable for collections, even though the service available is not used, levied upon residents and business establishments, and billed from time to time as determined by the Council in the same manner in which utilities are billed.

(Prior Code Ch. 40, § 1)

§ 51.02 REGULATIONS PERTAINING TO GARBAGE AND RUBBISH.

(A) *Containers required.* No person shall place any garbage or rubbish in any street, sidewalk, alley, or other public place or upon any premises, whether owned by persons or not, within the city limits unless it is in a proper container for collection.

(B) *Garbage and rubbish container specifications.* Garbage and rubbish containers shall be equipped with suitable handles with tight fitting covers and be water-tight and no larger than 30-gallon capacity. Bags manufactured and designed specifically for garbage and rubbish containers shall be considered suitable containers.

(C) *Storage of containers.* Except on days scheduled for collection, or when being removed privately, garbage and rubbish containers shall be stored so as not to be offensive to the public.

(D) *Collection.* Garbage and rubbish shall not be allowed to accumulate for more than one week subject to exemption by the City Council by reason or hardship or other extenuating circumstances.

(Prior Code Ch. 40, § 2) Penalty, see §51.99

§ 51.03 FRANCHISING GARBAGE COLLECTION.

The City Council is hereby authorized to enter into a contract franchising a responsible person, firm, or corporation to collect garbage in the city upon the following terms and conditions.

(A) In the event the franchise in effect is an exclusive franchise, the same shall not have a duration in excess of one year and shall have a termination clause enabling the sooner termination thereof in all cases where the legality of the franchise arrangement is called into question.

(B) All rules, regulations, provisions, conditions, and restrictions of the MPCA, or other agency or agencies having jurisdiction, shall be incorporated in all franchise agreements entered into and granted by the city.

(C) Individual residents of the city as well as individual firms or corporations operating businesses in the city shall be authorized to pick up and dispose of their own garbage and refuse provided their doing so is consistent with MPCA regulations, and all other rules, regulations, and laws and ordinances thereunto appertaining, and provided that the individuals and business establishments remit to the city the minimum monthly charge according to the policy established by the city referred to in § 51.01.

(Prior Code Ch. 40, § 3)

§ 51.04 BURNING PROHIBITED.

No burning shall be permitted within the city limits of garbage and refuse. Leaves, trees, or parts thereof shall be disposed of in accordance with procedures approved by the MPCA. Fires which are a part of a public celebration, for outdoor cooking purposes, or for heating a building or residence in the city shall not be regarded violations of this chapter.

(Prior Code Ch. 40, § 4) Penalty, see §51.99

§ 51.05 STATE LAW INCORPORATED.

The provisions of M.S. § 443.015, as it may be amended from time to time, are hereby incorporated herein by this reference, enabling and authorizing the Council to annually levy assessment equal to the amount of the unpaid charges duly and lawfully made pursuant to this code, unpaid as of September 1 of each year, with these levies being made against each lot or parcel of land from which solid wastes are collected and for which the service charge therefor pursuant to this chapter is not paid. This assessment may include a penalty not to exceed 10% of the amount thereof and shall bear interest at an amount not exceeding 8% per annum as the Council shall determine. These assessments shall be certified to the Auditor of the county and shall be collected and remitted to the city in the same manner as the assessments for local improvements in the city.

(Prior Code Ch. 40, § 5) Penalty, see §51.99

§ 51.99 PENALTY.

Any person or any agent of a firm or corporation violating any provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, may be punished as provided by laws of the state. Each day a violation continues shall constitute a separate offense. In addition to this penalty, the cost of prosecution may be assessed and collected in the same manner as if the same were a part of the fine imposed.

(Prior Code Ch. 40, § 6)

TITLE VII: TRAFFIC CODE

70. DRIVING AND PARKING REGULATIONS

71. VEHICLE REGULATIONS

CHAPTER 70: DRIVING AND PARKING REGULATIONS

Section

70.01 State law incorporated

70.02 Parking restrictions

70.03 Off-street parking

70.04 Alleys as thoroughfares prohibited

70.05 Parking violations and enforcement

70.99 Penalty

§ 70.01 STATE LAW INCORPORATED.

The provisions of M.S. Ch. 169, as amended by state legislature in its regular session for 1969, its regular and extra sessions for 1971, and its regular sessions for 1973 are hereby adopted as a traffic ordinance regulating the use of highways, streets, and public alleys in the city and are hereby incorporated in and made a part of this chapter as if set out hereat in full.

(Prior Code Ch. 60, § 4)

§ 70.02 RESTRICTIONS.

From 7:00 a.m. to 6:00 p.m. other than Sundays and legal holidays and except for locations designated and signed or marked "no parking" areas, parking for no longer than two hours shall be permitted on Main Street from Highway 26 West to 10th Street. Overnight parking, except in areas which the Council may designate therefor, is prohibited. Violators will be, upon conviction, deemed guilty of a petty misdemeanor and punishable according to law.

(Prior Code Ch. 60, § 1) Penalty, see §70.99

§ 70.03 OFF-STREET PARKING.

To enhance orderly maintenance, snow removal, and the flow of motor vehicular traffic, and insofar as practicable, all motor vehicles shall be parked off the public streets, alleys, and thoroughfares of the city. Any motor vehicle which is continuously parked on a public street, alley, or public thoroughfare for a period of seven days or longer shall be deemed a public nuisance.

(Prior Code Ch. 60, § 11) Penalty, see §70.99

§ 70.04 ALLEYS AS THOROUGHFARES PROHIBITED.

No alley in the city shall be used as a regular thoroughfare for the flow of motor vehicle traffic, but shall be limited to use by service vehicles, by contiguous homeowners, and by owners of businesses and establishments lying adjacent to alleys for purposes of gaining access to garages or storage facilities.

(Prior Code Ch. 60, § 4)

§ 70.05 PARKING VIOLATIONS AND ENFORCEMENT.

(A) The City Council is hereby empowered to be resolution duly enacted establish an envelope system of enforcement of parking violations prescribing a form of detachable traffic summons attached to parking violation envelopes and permitting payment of basic fines to the Clerk or other city official designated by the Council, with a schedule of charges, various types of parking violations, and providing for escalating the amount of the fine in cases where the basic fine imposed is not promptly paid.

(B) In instances where motor vehicles are abandoned on any public thoroughfare of the city and are obstructing emergency traffic such as police and fire equipment, or so as to prevent snow removal or maintenance activities by the city, the city, by its police officer(s) or any peace officer having jurisdiction, may cause motor vehicles to be towed. Any vehicle may be released to its rightful owner or custodian entitled thereto upon satisfactory proof of standing to make the claim and upon payment of all towing, storage, and other related charges and the basic fine imposed under this chapter and as may be amended from time to time by Council resolution in pursuance hereof.

(Prior Code Ch. 60, § 12)

§ 70.99 PENALTY.

(A) Persons guilty of violation of §70.05 are deemed to have committed a petty misdemeanor and punishable according to law.

(Prior Code Ch. 60, § 3)

(B) Any violation of the statutes adopted by reference in division (C) below when occurrence is within the city shall be deemed a violation of the provisions of this chapter and, upon conviction thereof, violators shall be punished by the penalty prescribed by these statutes.

(Prior Code Ch. 60, § 5)

(C) Any person or any agent of any firm or corporation violating the provisions of Sections 18 through 23 of this chapter shall be guilty of misdemeanors and, upon conviction thereof, may be punished according to law.

(Prior Code Ch. 60, § 14)

CHAPTER 71: VEHICLE REGULATIONS

Section

General Provisions

- 71.01 Definitions
- 71.02 Motorcycle, motor bikes, and motor scooters
- 71.03 Abandoned vehicle responsibility
- 71.04 Removal of motor vehicles
- 71.05 Excessive or unreasonable acceleration
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All-Terrain Vehicles

- 71.20 Definition
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- 71.35 Purpose
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GENERAL PROVISIONS

§ 71.01 DEFINITIONS.

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

JUNKED OR ABANDONED MOTOR VEHICLES. Motor vehicles which are partially dismantled, inoperative, wrecked, or junked, or which have been unlicensed in both current and preceding year which are maintained at any location within the city for more than 30 days, except if kept in an enclosed accessory building. They are hereby declared a public nuisance.

(Prior Code Ch. 60, § 8)

MOTOR VEHICLE. A motor vehicle as defined in M.S. Ch. 169, as it may be amended from time to time.

(Prior Code Ch. 60, § 9)

§ 71.02 MOTORCYCLE, MOTOR BIKES, AND MOTOR SCOOTERS.

The operation of motorcycles, motor bikes, motor scooters, and three- and four-wheelers on the city streets is limited to the following hours: not later than 10:00 p.m. nor earlier than 7:00 a.m. of each day.

(Prior Code Ch. 60, § 2)

§ 71.03 ABANDONED VEHICLE RESPONSIBILITY.

It shall be a violation of this code for any person, firm, or corporation owning, leasing, or otherwise in control of any real property in the city to permit or allow junked or abandoned motor vehicles as hereinbefore defined at any location in the city. If the responsible person is a corporation, any officer or agent of the corporation shall be subject to prosecution under the terms and provisions of this chapter.

(Prior Code Ch. 60, § 10) Penalty, see §71.99

§ 71.04 REMOVAL OF MOTOR VEHICLES.

Motor vehicles hereinbefore defined to constitute public nuisances may be removed when they are found on public thoroughfares by towing, and if they are found on private property, by proceedings consistent with the laws of the state for the abatement of nuisances, but institution of any action to remove an offending vehicle, whether by towing under this chapter or in abatement proceedings, shall not preclude the imposition of fine and each day shall be considered the basis for an individual complaint.

(Prior Code Ch. 60, § 13)

§ 71.05 EXCESSIVE OR UNREASONABLE ACCELERATION.

It shall be unlawful and prohibited by this chapter to speed, start, or accelerate any motor vehicle in a manner and under circumstances where to do so is unnecessary, whether on any public street or public thoroughfare or upon a private roadway within the corporate limits of the city.

(Prior Code Ch. 60, § 15) Penalty, see §71.99

§ 71.06 EXCESSIVE NOISE.

(A) The squealing or screeching sound emitted by tires or the throwing of sand or gravel by tires of motor vehicles shall be deemed prima facie evidence of the violation of this chapter.

(Prior Code Ch. 60, § 16)

(B) The operation of a motor vehicle, whether on a public street or thoroughfare or on private property within the city, which unreasonably disturbs or annoys the public in any manner, but not necessarily limited to excessive loudness due to defective mufflers or otherwise inappropriately muffled exhausts, shall be deemed public nuisance and violative of the provisions of this code.

(Prior Code Ch. 60, § 17)

Penalty, see § 71.99

ALL-TERRAIN VEHICLES

§ 71.20 DEFINITION.

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

ALL-TERRAIN VEHICLE. A motorized vehicle equipped with flotation tires of not less than three, but not more than six low-pressure tires, limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 600 pounds.

(Ord. 62, passed 5-1-1991)

§ 71.21 STATE LAW INCORPORATED.

The laws of the state with reference to all-terrain vehicles herein regulated, to-wit: M.S. §§ 84.92 through 84.929, as they may be amended from time to time, are hereby incorporated herein by this reference as if set out hereat in full.

(Ord. 62, passed 5-1-1991)

§ 71.22 REGULATION.

No all-terrain vehicle as here defined shall be operated upon any public street or thoroughfare in the city unless the driver thereof is duly licensed as required by the state law; the vehicle is licensed as required by the laws of the state and requisite state law prescribed insurance thereon is in full force and effect.

(Ord. 62, passed 5-1-1991) Penalty, see §71.99

§ 71.23 OPERATION ON PRIVATE PROPERTY.

(A) The operation of all-terrain vehicles on private property, unless owned by the operator or with the prior written permission of the owner or the owner's duly authorized representative, is hereby deemed a trespass and specifically prohibited.

(B) The ordering of the offenders from the private property by the owners of the property shall not be a necessary prerequisite to prosecution. The provisions hereof are deemed to constitute the order of violators to remove themselves from private property.

(Ord. 62, passed 5-1-1991) Penalty, see §71.99

§ 71.24 VIOLATION.

Violations of this subchapter are deemed to be public nuisances and, upon conviction thereof, shall be deemed misdemeanors and be punishable in accordance with the laws of the state appertaining to misdemeanors, together with the cost of prosecution.

(Ord. 62, passed 5-1-1991) Penalty, see §71.99

HAULING ON PUBLIC STREETS AND THOROUGHFARES

§ 71.35 PURPOSE.

The purpose of this subchapter is to regulate the use of streets and public thoroughfares with respect to all manner of hauling activities which, by virtue of weight, tend to adversely affect streets and thoroughfares, especially during the spring breakup season.

(Ord. 65, passed 5-1-1991)

§ 71.36 WEIGHT RESTRICTIONS.

During each year from March 15 through May 15, all vehicles except emergency vehicles and vehicles utilized in the pickup and collection of solid wastes having axle weight in excess of five tons are prohibited on the public streets and thoroughfares of the city, except for truck routes which, for purposes of this subchapter, are those portions of County State Aid Highways No. 3 and No. 18 located within the corporate limits of the city.

(Ord. 65, passed 5-1-1991)

§ 71.37 PERMITS REQUIRED.

(A) Except when prohibited anyway by the provisions of §71.36, the hauling of earthen material where the total volume to be transported from a location within the city to another location within the city, from outside the city to a location within the city, or from a location within the city to a location outside the city which exceeds 36 cubic yards per project, a permit shall be obtained from the City Clerk following application made therefor upon forms made available at the Clerk's office and as approved by the Council.

(B) Applications for permits shall be on forms which include:

(1) A confession of judgment subscribed to by the applicant which, in effect, is a confession of judgment by the permittee with respect to all damages caused to public thoroughfares resulting from hauling activities; and

(2) Permit applications shall also specifically designate the routes which vehicles involved in the hauling activities may use.

(Ord. 65, passed 5-1-1991)

§ 71.38 VIOLATIONS.

Violations of this subchapter are deemed to be public nuisances and, upon conviction thereof, shall be deemed misdemeanors and punishable in accordance with the laws of the state appertaining to misdemeanors, together with the cost of prosecution.

(Ord. 65, passed 5-1-1991)

§ 71.99 PENALTY.

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

(B) Any violation of § 71.06(A), when violations occur within the city, shall be deemed a violation of the provisions of this chapter and upon conviction thereof deemed guilty of misdemeanors as violators shall be punished according to law.

(Prior Code Ch. 60, § 7)

(C) Violation of the provisions of Sections 25 through 27 of this chapter shall be deemed petty misdemeanors and, upon conviction, be punishable in accordance with and as petty misdemeanors are punishable under and pursuant to the laws of the state.

(Prior Code Ch. 60, § 18)

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMAL CONTROL

91. NUISANCES

92. FIRE CONTROL

CHAPTER 90: ANIMAL CONTROL

Section

General Provisions

- 90.01 Dogs at large prohibited
- 90.02 Dogs as nuisances
- 90.03 Chickens
- 90.04 Restrictions on number of pets per residence

Licensing

- 90.15 License period
- 90.16 Applications
- 90.17 Violations and fees

- 90.99 Penalty

GENERAL PROVISIONS

§ 90.01 DOGS AT LARGE PROHIBITED.

(A) It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat to run at large. A person who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor.

(B) Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person so as to be effectively restrained by command as by leash shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs or Cats Prohibited."

Penalty, see § 10.99

§ 90.02 DOGS AS NUISANCES.

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

ANIMAL CONTROL OFFICER. The Animal Control Officer shall be appointed by the Council to perform all duties necessary to accomplish the enforcement of this chapter. Until an **ANIMAL CONTROL OFFICER** is designated by the Council, the Clerk and each member of the Council are each deemed to have the authority and responsibility of enforce the provisions of this chapter.

AT LARGE. When running at will beyond the control or call, acting on its own initiative without connection, physical or sympathetic, with its master.

CONFINED. Restriction of an animal at all times by the owner, or her or his agent, to an escape-proof building or other enclosure away from other animals and the public, or on a leash properly anchored and of sufficient strength to prevent the dog leashed from freeing itself.

OWNER. Any person owning, harboring, or keeping a dog or allowing at dog to be on his or her premises.

PUBLIC NUISANCES. The following are hereby declared public nuisances:

- (a) The keeping of dogs disposed to unreasonable barking;
- (b) The keeping of a dog which trespasses upon the private property of others;
- (c) A dog which attacks other animals;
- (d) Soiling, defiling, or defecating by dog(s) on private property not the dog owner's property or public property;
- (e) A dog which molests passersby or passing vehicles;
- (f) The keeping of a dog by an owner, as herein defined, in the city without the dog having the necessary inoculations as subscribed elsewhere in this chapter; and
- (g) The violation of any provision of this chapter.

UNREASONABLE BARKING. The written complaint of five or more persons, residents of the city, alleging that the barking of a dog or dogs is unreasonable shall be deemed prima facie evidence of **UNREASONABLE BARKING**, but a lesser number or a single complaint shall be adequate basis for prosecution.

VICIOUS DOG. A dog constituting a physical threat to human beings or other animals. The fact of a dog's biting any person shall be deemed prima facie evidence of viciousness.

(B) *Innoculations required.* No person shall keep any dog over six months of age within the city limits unless the dog has received the necessary rabies inoculation and is fitted with a collar to which a metal tag is attached and worn at all times by the dog evidencing the fact that the dog has had the necessary rabies inoculation.

(C) *Enforcement.*

(1) In instances where violations of this code are repetitive, the Council may utilize injunctive relief or action in abatement.

(2) In the event a dog is found to be running-at-large, is believed to be vicious, is maintained without having appropriate rabies inoculations or otherwise under circumstances constituting a nuisance as herein defined, or is abandoned, the Animal Control Officer, or other appropriate official as hereinbefore defined, may cause the offending dog to be placed in a pound. The owner, if known, shall be notified and be afforded an opportunity to claim the dog which shall be turned over to the owner, but as a prerequisite thereto, the owner shall pay all reasonable impoundment costs and shall cause the dog to be in compliance or provide reasonable assurance to the satisfaction of the Animal Control Officer or other officer that this has been accomplished prior to releasing the dog to the owner. If the owner feels aggrieved by the action taken, he or she may request hearing before the Council, and if a hearing is not requested within ten days of the date notice is given and if the dog is not released from impoundment in accordance with the terms of this code within the ten-day period, the dog may be destroyed or other disposition thereof made. The city shall have a cause of action for the full amount of all reasonable charges necessarily incurred in the enforcement of this chapter, including circumstances where expenses are incurred in making disposition with regard to abandoned dogs.

(Prior Code Ch. 5, § 2)

§ 90.03 CHICKENS.

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

CHICKEN COOP. A temporary structure for housing chickens. The structure is to be made of wood or other similar materials that provides shelter from the elements.

CHICKEN RUN. An enclosed outside yard for keeping chickens.

PREMISES. Any platted lot or group of contiguous lots, parcels or tracts of land. Must be removed from the property if not housing chickens.

(B) *Chickens limited.* It is unlawful for any person to keep or harbor chickens on any premises without a permit. No permit should be issued for the keeping or harboring of more than six hen chickens on any premises. No permit shall be issued for the keeping of any rooster chicken on any premises.

(C) *Permit.* No person shall maintain a chicken coop and run unless they have been granted a permit. The permit shall be subject to all terms and conditions of this chapter and any additional conditions deemed necessary by the Council to protect the public health, safety and welfare. The necessary permit applications will be available in the City Clerk's office. Included with the completed application must be a scaled diagram that indicates the location of any chicken coop and run, the approximate size and distance from adjoining structures and property lines and approval from 50% of the adjacent property owners. A fee of \$5 per chicken will be charged for each permit which shall expire on May 31 of each year of the permit.

(D) *Confinement.* Every person who owns, controls, keeps, maintains or harbors hen chickens must keep them confined at all times while in the city in a chicken coop or chicken run. Any coop and run shall be screened with a solid fence or landscaped buffer with minimum height of four feet. Any coop and run shall be at least 25 feet from any residential structure

on any other premises and no closer than ten feet from the property line.

(E) *Chicken coops.* All chicken coops and runs must be located at least 25 feet from any dwelling on any other premises and must not exceed six feet in total height. Chicken runs may be enclosed with wood and/or woven wire materials, and allow chickens to contact the ground. Chicken feed must be kept in rodent and raccoon-proof containers.

(F) *Conditions.* No person who owns, keeps or harbors hen chickens shall permit the premises where the hen chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. Any chicken coop and run may be inspected at any reasonable time by a city animal control official or other agent of the city.

(G) *Agriculture zoned.* Agriculture zoned land located in the city is exempt from this section.

(Ord. passed 7-11-2018) Penalty, see §90.99

§ 90.04 RESTRICTIONS ON NUMBER OF PETS PER RESIDENCE.

(A) The keeping of more than two dogs per residence is prohibited in the platted areas of the City of Brownsville (zoned residential and transitional).

(B) The keeping of more than three cats per residence is prohibited in the platted areas of the City of Brownsville (zoned residential and transitional).

(Ord. passed - -) Penalty, see § 90.99

LICENSING

§ 90.15 LICENSE PERIOD.

(A) *License year.* All licenses shall be secured by May 21 of a given year or with regard to dogs newly acquired within 30 days of acquisition. Thereafter, a late charge of \$5 per license shall be imposed where compliance occurs within the next succeeding 21-day period. Non-compliance which continued beyond the 21-day period shall result in the institution of formal legal proceedings under § 90.17(E).

(B) *Time.* All time periods specified in this chapter therein to be "ten days" shall be stricken and in the place thereof inserted the words "five days."

(Prior Code Ch. 5, § 3)

§ 90.16 APPLICATIONS.

(A) No person shall keep any dog or cat over six months of age within the city unless:

(1) The dog or cat has received the necessary rabies shots;

(2) The dog or cat wears a metal tag attached to the collar worn by the dog or cat at all times, indicating the dog or cat has received the necessary rabies inoculation; and

(3) A license for the dog or cat has been secured from the city in accordance with the provisions of this chapter.

(B) Applications for dog or cat licenses shall be made on forms provided by the city, obtainable at the office of the Clerk and among other undertakings subscribed to by license applicants shall be the acknowledgment that dog or cat owner is liable for all actions of her or his dog(s) or cat(s) and that owners and licensees shall hold the city harmless from any claims, liabilities, or responsibilities arising out of the keeping of a dog(s) or cat(s). The Clerk shall maintain a record of all licenses issued.

(C) No license shall be granted for a dog or cat which has not been vaccinated against rabies during the 90-day period preceding the making of an application for a license, except that when a dog or cat is first licensed for an entire year hereafter, the license may be issued if the dog or cat has been vaccinated within a period of six months preceding the application for a license. Vaccination shall be permitted or performed only by a doctor qualified to practice veterinary medicine in the state in which the dog or cat is vaccinated.

(Prior Code Ch. 5, § 4)

§ 90.17 VIOLATIONS AND FEES.

(A) *License period.*

(1) Licenses mandated by Section 7 supra shall be for a period of one year and the license fee for the one-year period shall be \$5. The multiple pet license shall be the sum of \$20 for a five-year period.

(2) This licensing provision, with regard to the initial five-year period, shall be effective retroactively one year. Accordingly, licenses applied for and issued in calendar year 1986, although at the time of issuance were issued for one-year periods, shall be deemed to have been issued effective for the next succeeding five years, calculated from issue date.

(B) *Fees not refundable.* License fees, once paid pursuant to this chapter, shall not be subject to reimbursement at any

time for any reason.

(C) *Shots required.* All owners of dogs and cats are required to maintain rabies and other shots current and all owners shall be required to furnish proof of the current status of required shots upon request by or at the direction of the Council.

(D) *Violation nuisances.* Any violation of this chapter shall be deemed a public nuisance.

(E) *Violations petty misdemeanor/misdemeanors.* Persons violating any provision of this chapter shall, upon due conviction thereof, be deemed guilty of a petty misdemeanor, except violations hereof having to do with required rabies shots which shall be punishable as misdemeanors and punishable in accordance with the laws of the state.

(Prior Code Ch. 5, § 5) Penalty, see §90.99

§ 90.99 PENALTY.

Persons violating any provision of this chapter shall, upon due conviction thereof, be deemed to be guilty of a petty misdemeanor and shall be punishable in accordance with the laws of the state appertaining, \$200 and no jail sentence.

(Prior Code Ch. 5, § 2)

CHAPTER 91: NUISANCES

Section

General Nuisances

- 91.01 Nuisance defined
- 91.02 Responsible party
- 91.03 Unlawful to create or keep a nuisance
- 91.04 Right to a hearing

Wood Piles

- 91.25 Scope
- 91.26 Nuisance
- 91.27 Conditions of storage
- 91.28 Exemptions
- 91.29 Resale
- 91.30 Existing wood piles

- 91.99 Penalty

GENERAL NUISANCES

§ 91.01 NUISANCE DEFINED.

A nuisance shall include any definition of that term as it is set forth in state statutes and Minnesota Case Law. In addition, but not limited to, that definition, ***NUISANCE*** shall also be defined as the storage of inoperable automobiles either on private property or streets and thoroughfares; the storage of machinery of any kind on residential lots or public streets or thoroughfares; a keeping of junk of any kind on private property or public streets or thoroughfares; the keeping of any item, article of any kind on private property or public streets or thoroughfares which would constitute an attractive nuisance to children; the keeping of any article or item that could be a place for vermin to occupy; or the keeping of any item, article or creating any condition that could negatively affect the health and safety of any citizen of the city or other person.

(Ord. 68, passed 1-5-1994)

§ 91.02 RESPONSIBLE PARTY.

The responsible party for complying with this subchapter shall be deemed to be the owner or the lessee of any property on which a nuisance may exist. In addition, it shall also mean the person who created the nuisance or who owns the item or article which is creating the nuisance whether or not it be the owner or lessee of the property on which the nuisance exists.

(Ord. 68, passed 1-5-1994)

§ 91.03 UNLAWFUL TO CREATE OR KEEP A NUISANCE.

It shall be unlawful for any person, corporation or other entity to create or to maintain a nuisance in the city.

(Ord. 68, passed 1-5-1994) Penalty, see §91.99

§ 91.04 RIGHT TO A HEARING.

If a nuisance is deemed to exist, the city through its officers, shall give notice to the offending party of the nuisance. Within two weeks of the date of the notice, that party shall either abate the nuisance or request a hearing before the City Council. If a hearing is requested, the City Council shall hold the hearing within 30 days of the request for hearing. Five-days mailed notice to the interested party shall be given of the date and time of the hearing. After the hearing, the City Council shall then determine the appropriate action to be taken.

(Ord. 68, passed 1-5-1994)

WOOD PILES

§ 91.25 SCOPE.

This subchapter applies to the storage of wood on residential properties within the city. This subchapter shall apply to any wood or wood product usually used or intended to be used as firewood.

(Ord. 64, passed 5-1-1991)

§ 91.26 NUISANCE.

(A) All wood piles within the city which are not erected, stacked, located, or maintained as required by §91.27 are hereby declared to be detrimental to health, safety, and general welfare of the residents of the city and are hereby declared a nuisance.

(B) It shall be unlawful for an owner, lessee, occupant, or representative of any owner, lessee, or occupant of any land described above in the city to allow, permit, or maintain a nuisance as defined herein within the city.

(Ord. 64, passed 5-1-1991) Penalty, see §91.99

§ 91.27 CONDITIONS OF STORAGE.

To protect the public health and safety, wood piles:

- (A) Must be erected, stacked, located, and maintained in a safe and orderly fashion in neat and secure stacks;
- (B) The maximum heights allowed for the wood pile is seven feet;
- (C) No wood shall be stored within five feet of any public thoroughfare or any property line; and
- (D) No wood shall be stored in a front yard or a yard which is commonly considered the front yard.

(Ord. 64, passed 5-1-1991) Penalty, see §91.99

§ 91.28 EXEMPTIONS.

Wood stored or kept in a covered structure impervious to the elements is exempt from the conditions outlined in §1.26.

(Ord. 64, passed 5-1-1991) Penalty, see §91.99

§ 91.29 RESALE.

No wood held for resale or any commercial use shall be stored on any residential property in the city. This provision shall not prohibit the occasional sale of wood not a commercial venture such as a disposition made of wood where a resident discontinues the use of wood as a fuel and offers the remaining supply for sale to make disposition thereof.

(Ord. 64, passed 5-1-1991) Penalty, see §91.99

§ 91.30 EXISTING WOOD PILES.

Any wood pile in existence as of the date of the passage of this subchapter which does not comply with the provisions of this subchapter must be removed or placed in compliance within 30 days after written notice to comply has been given to the occupant of the residence by the City Clerk or any other city employee designated by the Council to give written notice. This notice shall be in writing and shall be served upon the property owner either in person or by mail.

(Ord. 64, passed 5-1-1991)

§ 91.99 PENALTY.

(A) Violation of any provision of this chapter, including maintaining a nuisance after being notified in writing by first class mail of a violation of any provision of this chapter, shall be a misdemeanor and punished as provided in § 10.99.

(B) Any person who shall violate any provision of §§91.25 through 91.30 shall be guilty of a petty misdemeanor and,

upon conviction thereof, shall be punished as provided by the laws of the state together with the costs of prosecution. Each day on which any violation continues shall constitute a separate offense.

(Ord. 64, passed 5-1-1991; Ord. 68, passed 1-5-1994)

CHAPTER 92: FIRE CONTROL

Section

92.01 Building regulations

92.99 Penalty

§ 92.01 BUILDING REGULATIONS.

(A) For the purpose of providing against danger from accident by fire, it shall be unlawful for any person, persons, company, or corporation to erect, construct, build, upon any lot or part of lot or upon any grounds situated along or fronting on Main and Front Streets of the city, any stable, shed, barn, or other building without first obtaining the consent and approval of the President and Trustees of the Council and that the plans therefor be first submitted to the Council and be approved by the Council. The material used in the construction of any of the buildings hereafter built must be approved by the President and Trustees of the city.

(Prior Code Ch. 20, § 1)

(B) The city may additionally institute action to compel the removal of any building or buildings or addition to any building or buildings erected contrary to the provisions of this code.

(Prior Code Ch. 20, § 3)

Penalty § 92.99

§ 92.99 PENALTY.

Any person, persons, company, or corporation who shall be convicted of a violation of any of the provisions of this chapter shall be guilty of a misdemeanor and punished according to law.

(Prior Code Ch. 20, § 2)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. LIQUOR CONTROL

111. ITINERANT MERCHANTS

CHAPTER 110: LIQUOR CONTROL

Section

General Provisions

110.01 Requirements

110.02 Sales to minors prohibited

110.03 Hours for sale

110.04 Premises open to inspection

110.05 Loitering on premises prohibited

110.06 Conduct of business

110.07 State law adopted

110.08 Consumption in public places

Licensing

- 110.20 General requirements
 - 110.21 Conditions
 - 110.22 Applications
 - 110.23 Fees
 - 110.24 Issuance and qualifications
 - 110.25 Bond
 - 110.26 Ineligible persons and places
 - 110.27 Suspension and revocation
-
- 110.99 General penalty

GENERAL PROVISIONS

§ 110.01 REQUIREMENTS.

(A) *Licenses required.* No person or persons shall at any time within the corporate limits of the city sell, barter, deal in, or in any manner dispose of any intoxicating spirituous vinous fermented or malt liquors without first having obtained a license to do so from the city.

(Prior Code Ch. 1, § 1)

(B) *Bond required.* Before any license shall be issued, the applicant shall make and file with the Clerk a corporate bond in the sum of \$500 conditioned in accordance with Section 2 of Chapter 16 of the revised general statutes of the state 1866 as amended and approved March 4, 1872 and in addition to filing the bond shall pay to the Treasurer of the city the sum of \$50 for one year's license or \$25 for six months' license, but no license shall be issued for a time less than six months nor to any person under the age of 21 years and every license mentioned in this section shall be granted by the city, issued and signed by the Mayor, countersigned by the Clerk, and sealed with the corporate seal of the city.

(Prior Code Ch. 1, § 2)

Penalty, see § 110.99

§ 110.02 SALES TO MINORS PROHIBITED.

(A) It shall be unlawful for any person within the city to sell, give, barter, furnish, or dispose of in any manner, either directly or indirectly, any spirituous vinous, fermented, or malt liquors in any quantity whatever to any minor person, pupil, or student in any public school, seminary, academy, or other institution of learning or to any intemperate person or habitual drunkard.

(Prior Code Ch. 1, § 4)

(B) It shall be unlawful for any person, his or her agents, servants, or employees to sell or deliver 3.2% malt liquors to any person under the age of 21 years.

(Prior Code Ch. 1, § 5)

Penalty, see § 110.99

§ 110.03 HOURS FOR SALE.

It shall be unlawful to sell or deliver 3.2% malt liquor under the on sale license between the hours of 12:00 a.m. midnight and 6:00 a.m.

(Prior Code Ch. 1, § 5) Penalty, see §110.99

§ 110.04 PREMISES OPEN TO INSPECTION.

No premises on which an on sale license has been issued and is in force shall at any time have the view thereof from the street obstructed by screens or curtains, or in any other manner, and the premises shall be open to inspection by the health and police officers of the city at any time.

(Prior Code Ch. 1, § 5) Penalty, see §110.99

§ 110.05 LOITERING ON PREMISES PROHIBITED.

It shall be unlawful for any person under the age of 21 years to loiter on the premises in which the sale of 3.2% malt liquor for consumption on the premises is being conducted unless accompanied by his or her parents or guardian. It shall be

unlawful for any person holding an on sale license, his or her servants, agents, or employees to permit loitering of any minor person on the premises.

(Prior Code Ch. 1, § 5) Penalty, see § 110.99

§ 110.06 CONDUCT OF BUSINESS.

It shall be the duty of any person holding an on sale license to conduct her or his business thereunder in a quiet, peaceable manner so as not to disturb the peace, to prevent all noisy and boisterous conduct on the premises, and to prevent loitering of intoxicated persons therein.

(Prior Code Ch. 1, § 5)

§ 110.07 STATE LAW ADOPTED.

The provisions of M.S. Ch. 340A, as it may be amended from time to time, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this section as if set out hereat in full.

(Prior Code Ch. 1, § 6)

§ 110.08 CONSUMPTION IN PUBLIC PLACES.

No person shall consume liquor on a public highway or other public place in the city except when officially sanctioned activities are being conducted. Consumption may be permitted in public places, in connection with officially sanctioned event(s).

(Prior Code Ch. 1, § 14) (Ord. passed - -) Penalty, see § 110.99

LICENSING

§ 110.20 GENERAL REQUIREMENTS.

(A) It shall be unlawful to sell or deliver 3.2% malt liquor in the city except when licenses as hereinafter provided. The expression **3.2% MALT LIQUOR** when used herein shall mean any potable malt beverage with an alcoholic content or more than 0.5% by volume and not more than 3.2% by weight. There shall be two types of licenses issued for the sale of liquors classified as follows:

(1) On sale licenses shall permit the licensee to sell 3.2% malt liquors for consumption on the premises, and this class of license shall be granted only to restaurants, hotels, drug stores, and bona fide clubs. A bona fide club under this subchapter is an organization for social or business purposes, for intellectual improvement, or for the promotion of sports where the serving of 3.2% malt liquor is incidental and not the major purpose of the club.

(2) Off sale licenses shall permit the licensee to sell 3.2% malt liquors in original packages for consumption off the premises only.

(Prior Code Ch. 1, § 5)

(B) (1) *General requirement.* No person, except a wholesales or manufacturer, to the extent authorized under state statute, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this chapter. Liquor licenses shall be of three kinds: on sale; on sale wine; and off sale.

(2) *On sale licenses.* On sale licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores and shall permit on sale of liquor only.

(3) *On sale wine licenses.* On sale wine licenses shall be issued only to restaurants meeting the qualifications of M.S. § 340A.404, as it may be amended from time to time, and shall permit only the sale of wine not exceeding 14% alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.

(4) *Off sale licenses.* Off sale licenses may be issued to drug stores, exclusive liquor stores, and otherwise as authorized by law, but shall permit off sale of liquor only.

(Prior Code Ch. 1, § 7)

Penalty, see § 110.99

§ 110.21 CONDITIONS.

(A) *Generally.* Every license is subject to the conditions in the following subdivisions and all other provisions of this chapter and of any other applicable ordinance, state law, or regulation.

(B) *Insurance.* Compliance with financial responsibility requirements of state law and of this code is a continuing condition of any license granted pursuant to this chapter.

(C) *Licensee's responsibility.* Every licensee is responsible for the conduct of his or her place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there if deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and

the law equally with the employee.

(D) *Inspections.* Every licensee shall allow any peace officer, health officer, or property designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

(E) *Display during prohibited hours.* No on sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited. A consumption and display permit may, however, be issued pursuant to state law and shall not be regarded as licenses under § 110.20(B).

(F) *Federal stamps.* No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

(Prior Code Ch. 1, § 13)

§ 110.22 APPLICATIONS.

(A) All applications for license to sell 3.2% malt liquors shall be made on forms to be supplied by the city, shall be verified, and shall set forth the name, age, and citizenship of the applicant and representations as to her or his character, with references as may be required, the location where business is to be carried on, whether the application is for on sale or off sale licenses, the business in connection with which the proposed license will operate, whether applicant is owner and operator of the business, the time at which the applicant has been in that business at that place, and other information as the government body may require from time to time. It shall be unlawful to make any false statement in the application.

(Prior Code Ch. 1, § 5)

(B) No premises on which an on sale license has been issued and is in force shall at any time have the view thereof from the street obstructed by screens or curtains, or in any other manner, and the premises shall be open to inspection by the health and police officers of the city at any time.

(Prior Code Ch. 1, § 8)

Penalty, see § 110.99

§ 110.23 FEES.

(A) The annual fee for an on sale license and the annual fee for an off sale license shall be fixed by the Council on an annual basis, which fee must be paid to the Clerk before any license is issued. The license year shall commence on May 7 of each year and shall extend to the following May 6 at 12:00 p.m. No license shall be issued to extend beyond the expiration of the current license year as herein fixed. The license fees herein provided shall be pro-rated in case the license is issued to take effect at any time after May 7 of any year.

(Prior Code Ch. 1 § 5)

(B) (1) *Fees.* The annual fee for the following licenses shall be set and determined annually by the Council:

- (a) On sale license;
- (b) On sale wine license;
- (c) Off sale license;

- (d) On sale liquor Sunday license;
- (e) Non-intoxicating on sale license; and
- (f) Non-intoxicating off sale license.

(2) *Payment.*

(a) Each application for a license shall be accompanied by a receipt from the Treasurer for payment in full of a license fee and the fixed investigation fee required under § 110.24(C). All fees shall be paid into the General Fund.

(b) If an application for a license is rejected, the Treasurer shall refund the amount paid as the license fee.

(3) *Term; pro-rated fee.* Each license shall be issued for a period of one year, except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro-rated fee with any unexpired fraction of a month being counted as one month. Every license shall expire at 12:00 a.m. on May 6 of any given year.

(4) *Refunds.* No refund of any fee shall be made except as authorized by statute.

(Prior Code Ch. 1, § 9) (Ord. passed - -)

§ 110.24 ISSUANCE AND QUALIFICATIONS.

(A) (1) All licenses granted under this chapter shall be issued to the applicant only for the premises described in the application. The license shall not be transferred to another nor shall a business be removed to another premises without the approval of the Council. Removal of the business or transfer of the same to another without the approval of the Council shall automatically revoke the license.

(2) No license shall be issued to any person who is not a citizen of the United States of America and a person of good moral character not less than 18 years of age and no on sale license shall be issued to any drug store, restaurant, hotel, or club which has not been in operation for at least 60 days immediately preceding the time of filing the application.

(3) It shall be unlawful for any person under the age of 21 years to loiter on the premises in which the sale of 3.2% malt liquor for consumption on the premises is being conducted unless accompanied by his or her parents or guardian. It shall be unlawful for any person holding an on sale license, his or her servants, agents, or employees to permit loitering of any minor person on the premises.

(Prior Code Ch. 1, § 5)

(B) (1) *Preliminary investigation.*

(a) On an initial application for an on sale license, the Council may require the applicant to pay with his or her application an investigation fee of not to exceed \$500 and the city shall conduct a preliminary background and financial investigation of the applicant. The application in this case shall be made on a form prescribed by the state's Bureau of Criminal Apprehension and with any additional information the Council may require.

(b) If the Council deems it in the best interest, the Council may by resolution duly enacted order to have an investigation on a particular application for renewal of an on sale license. In any case, if the Council determines that the comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Investigation for the investigation. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the Council that issuance would not be in the public interest.

(2) *Hearing and issuance.* The Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to division (B)(1) above. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall, in its discretions, grant or refuse the application. No on sale wine license or off sale license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

(3) *Person and premises licensed; transfer.* Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without Council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of the stock without prior Council approval is a ground for revocation of the license.

(Prior Code Ch. 1, § 10)

Penalty, see § 110.99

§ 110.25 BOND.

Before any license shall be issued hereunder, the applicant shall give bond to the city in the penal sum of \$50 for an on sale license and \$50 for an off sale license, conditioned that the licensee or her or his agent, servants, and employees will comply with all of the ordinances of this city relating to the sale or delivery of 3.2% malt liquor and pay all fines or other penalties that may be imposed or assessed against any of them for violation of the ordinances, which bond and the sureties thereon shall be approved by the President of the Council.

(Prior Code Ch. 1, § 5)

§ 110.26 INELIGIBLE PERSONS AND PLACES.

(A) *Persons ineligible for license.*

- (1) No license shall be granted to any person made ineligible for a license by state law.
- (2) No more than one intoxicating liquor license shall be directly or indirectly issued with the city to any one person.

(Prior Code Ch. 1, § 11)

(B) *Places ineligible for license.*

- (1) *General prohibition.* No license shall be issued for any place or any business ineligible for a license under state law.
- (2) *Delinquent taxes and charges.* No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

(Prior Code Ch. 1, § 12) (Ord. passed - -)

§ 110.27 SUSPENSION AND REVOCATION.

(A) Any license granted hereunder may be revoked by the Council after due notice and hearing for failure of the licensee, his or her servants, agents, or employees to comply with the terms of this chapter and the Council may suspend the license pending the hearing. No portion of the license fee paid into the Treasury shall be returned.

(Prior Code Ch. 1, § 5)

(B) (1) The Council may either suspend for a period not to exceed 60 days or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. Except in cases of failure of financial responsibility no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 through 14.69, as it may be amended from time to time.

(2) Lapse of required dram shop insurance or bond or withdrawal or a required deposit of cash or securities shall effect an immediate suspension of any license issued pursuant to this code without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy or bond or withdrawal of deposited cash or securities 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 bond or withdrawal of a required deposit or of suspension or revocation of a license may request a hearing thereon and if a request is made in writing to the Clerk, a hearing shall be granted within ten days or a longer period as may be requested. Any suspension under this division (C) shall continue until the Council determines that the financial responsibility requirements of this code have again been met.

(Prior Code Ch. 1, § 15)

§ 110.99 GENERAL PENALTY.

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

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

(C) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

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

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

(Ord. passed - -)

CHAPTER 111: ITINERANT MERCHANTS

Section

111.01 Definitions

111.02 Exceptions to definitions

- 111.03 Licensing; exemptions
- 111.04 License ineligibility
- 111.05 License suspension and revocation
- 111.06 License transferability
- 111.07 Registration
- 111.08 Prohibited activities
- 111.09 Exclusion by placard
- 111.10 Effectiveness

§ 111.01 DEFINITIONS.

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

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to- street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. The term **PEDDLER** shall mean the same as the term **HAWKER**.

PERSON. Any natural individual, group, organization, corporation, partnership, or association. As applied to groups, organizations, corporations, partnerships, and associations, the term shall include each member, officer, partner, associate, agent, or employee.

REGULAR BUSINESS DAY. Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business, street-to- street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term **CANVASSER**.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise, or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

§ 111.02 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 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. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(C) Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under § 111.07. The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political, and other ideas.

§ 111.03 LICENSING; EXEMPTIONS.

(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 as required by M.S. Ch. 329, as it may be amended from time to time, if the county issues a license for the activity.

(B) *City license required.* Pursuant to M.S. § 437.02, as it may be amended from time to time, except as otherwise

provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to § 111.07.

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business operations in the city. Application for a license shall be made on a form approved by the Council and available from the office of the Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) The applicant's full legal name;
- (2) All other names under which the applicant conducts business or to which applicant officially answers;
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);
- (4) Full address of the applicant's permanent residence;
- (5) Telephone number of the applicant's permanent residence;
- (6) Full legal name of any and all business operations owned, managed, or operated by the applicant or for which the applicant is an employee or agent;
- (7) Full address of the applicant's regular place of business (if any);
- (8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines;
- (9) The type of business for which the applicant is applying for a license;
- (10) Whether the applicant is applying for an annual or daily license;
- (11) The dates during which the applicant intends to conduct business and if the applicant is applying for a daily license and the number of days he or she will be conducting business in the city, with a maximum 14 consecutive days;
- (12) 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;
- (13) 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;
- (14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant;
- (15) Proof of any required county license;
- (16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;
- (17) A general description of the items to be sold or services to be provided;
- (18) All additional information deemed necessary by the Council;
- (19) The applicant's driver's license number or other acceptable form of identification; and
- (20) The license plate number, registration information, vehicle identification number for any vehicle to be used in conjunction with the licensed business, and a physical description of the vehicle.

(D) *Fee.* All applications for a license under this chapter shall be as set by the city.

(E) *Procedure.*

(1) 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.

(2) If the Clerk determines that the application is incomplete, the Clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the Clerk must order any investigation, including background checks, necessary to verify the information provided with the application.

(3) Within ten regular business days of receiving a complete application, the Clerk must issue the license unless there exist grounds for denying the license under § 111.04, in which case the Clerk must deny the license application. If the Clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the Council.

(4) The Council shall hear the appeal within 20 days of the date of the request for a public hearing. The decision of the Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(F) *Duration.* An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All

other licenses granted to peddlers and transient merchants under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions.*

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place movement 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.

Penalty, see § 10.99

§ 111.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a license under this chapter:

(A) The failure of the applicant to obtain and show proof of having obtained any required county license;

(B) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, the failure to sign the application, or the failure to pay the required fee at the time of application;

(C) (1) The conviction of the applicant within the past five years from the date of 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;

(2) Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

(D) 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; or

(E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include but not be limited to the existence of more than three complaints against the applicant with the Better Business Bureau, the office of the Minnesota Attorney General, or another state attorney general's office, or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.

§ 111.05 LICENSE SUSPENSION AND REVOCATION.

(A) *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the Council for violation of any of the following:

(1) Subsequent knowledge by the city of fraud, misrepresentation, or incorrect statements provided by the applicant on the application form;

(2) Fraud, misrepresentation, or false statements made during the course of the licensed activity;

(3) Subsequent conviction of any offense for which granting of a license could have been denied under §111.04;

(4) Engaging in prohibited activity as provided under §111.08; or

(5) Violation of any other provision of this chapter.

(B) *Multiple persons under one license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

(C) *Notice.* Prior to revoking or suspending any license issued under this chapter, the city shall provide 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.

(D) *Public hearing.*

(1) Upon receiving the notice provided in division (C) above, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the Clerk within ten regular business days following the service of the notice, the city may proceed with the suspension or revocation.

(2) 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 time frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the Council shall notify the licensee of its decision.

(E) *Emergency.* If, in the discretion of the Council, imminent harm to the health or safety of the public may occur because

of the actions of a peddler or transient merchant licensed under this chapter, the Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) above.

(F) *Appeals*. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

Penalty, see § 10.99

§ 111.06 LICENSE TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

Penalty, see § 10.99

§ 111.07 REGISTRATION.

All solicitors and any person exempt from the licensing requirements of this chapter under §111.03 shall be required to register with the city. Persons engaging in door-to-door advocacy shall not be required to register. The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political, and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the Clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable.

Penalty, see § 10.99

§ 111.08 PROHIBITED ACTIVITIES.

No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

(A) 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;

(B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way;

(C) Conducting business in a way as to create a threat to the health, safety, and welfare of any individual or the general public;

(D) Conducting business before 7:00 a.m. or after 9:00 p.m.;

(E) Failing to provide proof of license or registration and identification when requested or using the license or registration of another person;

(F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person; and

(G) Remaining on the property of another when requested to leave or otherwise conducting business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

Penalty, see § 10.99

§ 111.09 EXCLUSION BY PLACARD.

No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors, or Transient Merchants," "Peddlers, Solicitors, and Transient Merchants Prohibited," or another 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.

Penalty, see § 10.99

§ 111.10 EFFECTIVENESS.

The provisions of §§ 111.01, 111.02, 111.08, and 111.09 shall automatically apply upon adoption of this chapter. Sections 111.03, 111.04, 111.05, 111.06, and 111.07 shall not be effective until the adoption of a Council resolution or ordinance authorizing the licensing of persons covered by those sections.

TITLE XIII: GENERAL OFFENSES

- 130. GAMBLING
- 131. CURFEW
- 132. PUBLIC ORDER

CHAPTER 130: GAMBLING

Section

General Provisions

- 130.01 Gambling prohibited
- 130.02 Dealers; gambling paraphernalia
- 130.03 Wagering
- 130.04 Maintenance of gaming materials
- 130.05 Bingo regulations and licensing thereof
- 130.06 Licensing
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- 130.09 Reports
- 130.10 Inspection and investigation

Gambling Devices

- 130.25 Bingo and gambling devices
- 130.26 Operation of devices
- 130.27 Operation of leased premises
- 130.28 Use of bingo receipts
- 130.29 Use of gambling device profits

- 130.99 Penalty

GENERAL PROVISIONS

§ 130.01 GAMBLING PROHIBITED.

Gambling with cards, dice, gaming tables, or any other gambling device whatsoever is prohibited within the corporate limits of the city, except as specifically allowed with license and as regulated by federal and state law.

(Prior Code Ch. 35, § 1) (Ord. passed - -) Penalty, see § 130.99

§ 130.02 DEALERS; GAMBLING PARAPHERNALIA.

Whoever within the corporate limits of the city deals with cards at the game called Laro or Forty-Eight, whether the same is dealt with 52 or any other number of cards, and whoever keeps any gambling device whatsoever designed to be used in gambling shall be punished in accordance with the laws of the state appertaining.

(Prior Code Ch. 35, § 2) Penalty, see § 130.99

§ 130.03 WAGERING.

Whoever bets any money or other property or any valuable thing at or upon any gaming table within the corporate limits of the city or upon any game or device shall be punished in accordance with the laws of the state appertaining.

(Prior Code Ch. 35, § 3) Penalty, see § 130.99

§ 130.04 MAINTENANCE OF GAMING MATERIALS.

Whoever suffers any gaming table, Monte Bank, or gambling device to be set up or used for the purpose of gambling in any house, building, lot, yard, or garden belonging to or occupied by her or him, or of which she or he has the control within the corporate limits of the city, shall be punished according to the laws of the state appertaining.

(Prior Code Ch. 35, § 4) Penalty, see § 130.99

§ 130.05 BINGO REGULATIONS AND LICENSING THEREOF.

(A) The regulations dealing with the conduct of bingo shall be as prescribed in Chapter 261 of the laws of the state, 1976, being M.S. §§ 349.11 et seq., as they may be amended from time to time.

(B) The eligible organizations for the conduct of bingo are the same as those eligible for licensing the use of gambling devices under this code and the license issued pursuant to this code and the fees payable therefor shall authorize not only the conduct of bingo but the gambling activities consistent with and as authorized by this chapter.

(Prior Code Ch. 35, § 6)

§ 130.06 LICENSING.

(A) *General provisions.*

(1) *Requirement.* No operation of gambling devices nor the conduct of bingo shall be permitted except by an eligible organization which has secured a license for that purpose as provided in this chapter.

(2) *License period.* A license shall be valid for one to four days as stated at time of issuance.

(3) *License fee.* The annual license fee shall be \$0 for initial license application, and thereafter for renewals \$0 per annum. The Council may, by resolution and in order to have the license year coordinated with other municipal license, pro-rate license fees.

(4) *Lead time on application.* A license application shall be acted upon by the Council as soon as the Council deems itself adequately informed with respect to the application but no earlier than 30 days after application is filed, nor later than 180 days after date of application

(5) *Nontransferability.* Gambling device licenses issued are non-transferable as to licensee and location without prior approval by the Council.

(Prior Code Ch. 35, § 7)

(B) *Applications.* Every application for a gambling device license shall be made through the Clerk's office on forms supplied by the city and containing any information the Council may require.

(Prior Code Ch. 35, § 8)

(C) *Suspension or revocation.* The Council may suspend, for a period not exceeding 60 days, or revoke any bingo license for violation of any provision of M.S. Ch. 349 or any violation of this chapter. The licensee shall be granted a hearing upon at least ten days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee.

(Prior Code Ch. 35, § 9)

Penalty, see § 130.99

§ 130.07 PRIZES.

Total prizes from the operation of paddlewheels and tipboards awarded in any single day in which they are operated shall not exceed \$1,000. Total prizes resulting from any single spin of a paddlewheel or from any single tipboard shall not exceed \$150. Merchandise prizes shall be valued at fair market retail value.

(Prior Code Ch. 35, § 12)

§ 130.08 RECORDS.

(A) *Record's detail.*

(1) Each licensed organization shall keep records of its gross receipts and profits for each operation of a gambling device. All deductions from gross receipts derived from a gambling device shall be documented with receipts or other records. The distribution of profits shall be itemized as to payee, amount, and date of payment.

(2) Records required by this chapter shall be preserved for three years and organizations shall make available their records relating to operation of gambling devices and the conduct of raffles for public inspection at reasonable times and places.

(B) *Account's reconciliation.*

(1) Gross receipts shall be compared to the gambling manager's records for the gambling devices by person who did not participate in the operation of the gambling device.

(2) If a discrepancy exceeding \$20 is found between the amount of gross receipts as determined by the gambling manager's records and the amount of the gross receipts as determined by totaling the cash receipts, the discrepancy shall be reported to and investigated by the Council.

(C) *Segregation of funds.* Gambling devices gross receipts shall be segregated from other revenues of an organization and placed in a separate account. Each organization shall maintain separate records of its gambling device operations. The person who accounts for gambling device gross receipts and profits shall not be the same person who accounts for other revenues of the licensed organization.

(Prior Code Ch. 35, § 13)

§ 130.09 REPORTS.

(A) *Monthly reports.* Each licensed organization shall report monthly to its membership its gross receipts from gambling devices, its profits therefrom, and the distribution of its profits itemized as required by § 130.08(A).

(B) *Filing detail required.* At the time of making its first license application under this code, and on any annual basis thereafter, each licensed organization shall file with the Council copies of the following:

(1) The most recently filed Department of Treasury, Internal Revenue Service, "Return of the Organization Exempt from Income Tax," Form 990, or a comparable form if the organization is required to file the form with the Department of Treasury;

(2) The most recently filed Department of Treasury, Internal Revenue Service, "Exempt Organization Business Income Tax," Form 990-T, or a comparable form if the organization is required to file the form with the Department of Treasury;

(3) The most recently filed annual report required by charitable organizations pursuant to state law, provided that an organization which is licensed to operate gambling devices, but is exempt from submitting this report to the state's Department of Commerce under state law, shall nevertheless submit a report under this section; and

(4) All lease agreements required by this act, executed by the organization in regard to premises leased for the operation of a gambling device.

(Prior Code Ch. 35, § 14)

§ 130.10 INSPECTION AND INVESTIGATION.

Members of the Council, any city official or employee having a duty to perform with reference to a gambling device license, and any police officer having jurisdiction in the city may inspect and examine the gambling device recorded of any licensed organization.

(Prior Code Ch. 35, § 15)

GAMBLING DEVICES

§ 130.25 BINGO AND GAMBLING DEVICES.

(A) *Purpose.* The purpose of this subchapter is to regulate and control the use of the gambling devices and bingo and to prohibit commercialization thereof assuring compliance with M.S. §§ 349.31, 609.75, as they may be amended from time to time, and Chapter 261 of the laws of the state, 1976, which are incorporated herein by this reference.

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

ACTIVE MEMBER. A member of the organization requesting a license whose dues are paid for the current membership period and who has been a member for at least six months.

ELIGIBLE ORGANIZATION. Any fraternal, religious, veteran, or other nonprofit organization which has been in existence for at least three years and has at least 15 active members.

GAMBLING DEVICES. Gambling devices known as paddlewheels or tipboards, or apparatus materials used in conducting raffles.

PADDLEWHEEL. A wheel marked off into sections containing one or more numbers and which, after being turned or spun, uses a pointer or marker to indicate the winner.

PROFIT. The gross receipts from the operation of gambling devices and the conduct of raffles, less reasonable sums expended for prized, local licensing fees, taxes, and cost of maintenance of the devices.

TIPBOARD. A board, place card, or other device marked off in a grid or similar pattern in which each section contains a hidden number or numbers or other symbol which determines the winning chances.

(Prior Code Ch. 35, § 5)

§ 130.26 OPERATION OF DEVICES.

(A) *Gambling manager.*

(1) Each licensed organization shall appoint a single gambling manager to supervise the operation of gambling devices conducted by it. The gambling manager must be a member of the licensed organization, with dues paid for the current

membership period, and must have been a member of the organization for at least two years. The gambling manager, unless the Council by action unanimously taken makes specific waiver, shall give a fidelity bond in the sum of \$10,000 in favor of the organization conditioned upon faithful performance.

(2) Terms of the bond shall provide that notice shall be given in writing to the Council not less than 30 days prior to its cancellation. Each operation of a gambling device shall be conducted under the direct supervision of the gambling manager who shall be responsible for the conduct of the operation of the gambling device in compliance with all applicable laws and ordinances.

(3) No person shall act as gambling manager for more than one organization. No person under the age of 16 years shall be permitted to participate in using gambling devices unless full admission is paid and the person is in the company of a parent or guardian. A person may act as both gambling manager and bingo manager for a single organization.

(B) *Records.* The gambling manager shall record the gross receipts, profits, and expenses and record the prizes awarded. The gambling manager shall certify all figures recorded as accurate and correct on forms prescribed by the Clerk.

(C) *Persons who may assist.* Additional persons may be engaged for other duties in connection with the operation of gambling devices as needed, but no person shall assist in the operation of gambling devices who is not an active member of the licensed organization or the spouse of an active member of the licensed organization unless the assistance of other persons is regularized by the membership of the sponsoring organization's approving resolution recorded in the official minutes of the organization.

(D) *No compensation.* No person shall receive compensation for any duties in connection with any operation of a gambling device.

(E) *Number of incidents limited.*

(1) No organization shall conduct more than 104 operations or a gambling device each year, nor two operations of a gambling device per week.

(2) The limitation on the number of bingo occasions and the maximum prizes awarded in connection therewith are as specified in M.S. § 349.17.

(F) *Duration of incident.* Operation of the gambling devices shall not continue for more than 12 consecutive hours.

(Prior Code Ch. 35, § 10) Penalty, see § 130.99

§ 130.27 OPERATION OF LEASED PREMISES.

(A) *Number of incidents limited on premises.* Any person, corporation, or eligible organization which leases any premises owned to two or more eligible organization for purposes including the operation of gambling devices shall allow not more than four operations of gambling devices to be conducted on the premises in any calendar week.

(B) *Disbursement of gambling proceeds.* Any eligible organization which leases any premises to one or more other eligible organization for purposes including the operation of a gambling device shall use the proceeds of the rental, less reasonable sums for maintenance, furnishings, and other necessary expenses, only for the uses for which gambling profits may be used, as set out in § 130.08. Not less than once each year, the lessor organization shall report to the Council the disposition of all receipts which it has received during the reporting period from the rental of its facilities to other organizations for purposes including the operation of gambling devices.

(C) *Written leave required.*

(1) No eligible organization shall operate a gambling device on any leased premises without a written lease for a term at least equal to the remainder of the term of the license of the lessee organization.

(2) Lease payments shall be at a fixed monthly rate or rate per operation of gambling devices, not subject to change during the terms of the lease. No lease shall provide that rental payments be based on a percentage of receipts or profits from operation of gambling devices.

(3) Tickets for raffles conducted in accordance with this code may be sold off the premises.

(Prior Code Ch. 35, § 11) Penalty, see § 130.99

§ 130.28 USE OF BINGO RECEIPTS.

No expense shall be incurred or amounts paid in connection with the operation of a gambling device except license fees and those expenses reasonably incurred for gambling device supplies and equipment, prizes, rent, or utilities used during the operation of a gambling device.

(Prior Code Ch. 35, § 16)

§ 130.29 USE OF GAMBLING DEVICE PROFITS.

(A) Profits from any operation of a gambling device shall be expended only as authorized by resolution recorded in the official minutes at a regular meeting of the licensed organization and only for one or more of the following purposes:

(1) Benefitting persons by enhancing their opportunity for religious or education advancement; by relieving or protecting them from disease, suffering, or distress; by contributing to their physical well-being; by assisting them in establishing themselves in life as worthy and useful citizens; or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

(2) Initiating, performing, or fostering public works or enabling or furthering the erection or maintenance of public structures;

(3) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people; and

(4) The improving, expanding, maintaining, or repairing of real property owned or leased by the licensed organization.

(B) Profits from the operation of a gambling device shall not be expended for the erection or acquisition of any real property unless the Council specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in this section.

(C) Ten percent of the net profits of any gambling activities conducted in the city limits shall be paid to the city.

(D) The city hereby establishes a separate fund for receipt of proceeds from gambling activities. The Council shall establish procedures for administering the fund and for determining the usage of the proceeds. All administration and disbursement of funds shall be in accordance with the Minnesota Statutes and all regulations relating thereto.

(Prior Code Ch. 35, § 17) (Ord. 67, passed 7-7-1993)

§ 130.99 PENALTY.

Violation of any provisions of this chapter shall be a misdemeanor. A person convicted or violating any provision of this chapter shall be punishable as provided by the laws of the state together with costs of prosecution.

(Prior Code Ch. 35, § 18)

CHAPTER 131: CURFEW

Section

- 131.01 Purpose
- 131.02 Definitions
- 131.03 Hours
- 131.04 Effect on control by adult responsible for minor
- 131.05 Exceptions
- 131.06 Duties of person legally responsible for minor
- 131.07 Duties of other persons
- 131.08 Defense

- 131.99 Penalty

§ 131.01 PURPOSE.

The curfew for minors established by this chapter is maintained for four primary reasons:

- (A) To protect the public from illegal acts of minors committed during the curfew hours;
- (B) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;
- (C) To protect minors from criminal activity that occurs during the curfew hours; and
- (D) To help parents control their minor children.

§ 131.02 DEFINITIONS.

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

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include but shall not be limited to seeking urgent medical treatment, seeking urgent assistance from law enforcement or Fire Department personnel, and seeking shelter from the elements or

urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT, OR REFRESHMENT. Places which include but are not limited to movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or **PRIMARY CUSTODY.** The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing **PRIMARY CARE** or **CUSTODY** to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

§ 131.03 HOURS.

(A) *Minors under the age of 16 years.* No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 10:30 p.m. and 5:00 a.m. the following day, official city time.

(B) *Minors ages 16 years to 18 years.* No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 12:00 a.m. and 5:00 a.m. the following day, official city time.

Penalty, see § 131.99

§ 131.04 EFFECT ON CONTROL BY ADULT RESPONSIBLE FOR MINOR.

Nothing in this chapter shall be construed to give a minor the right to stay out until the curfew hours designated in this chapter if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this chapter be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

§ 131.05 EXCEPTIONS.

The provisions of this chapter shall not apply in the following situations:

(A) To a minor accompanied by his or her parent or guardian or other adult person having the primary care and custody of the minor;

(B) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(C) To a minor who is in any of the places described in this chapter if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession, or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work;

(D) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor;

(E) To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

(F) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion;

(G) To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city's designated law enforcement provider about the minor's presence; and

(H) To a minor who is married or has been married or is otherwise legally emancipated.

§ 131.06 DUTIES OF PERSON LEGALLY RESPONSIBLE FOR MINOR.

No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this chapter by the minor.

Penalty, see § 131.99

§ 131.07 DUTIES OF OTHER PERSONS.

No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to

enter or remain in his or her place of business during the hours prohibited by this chapter unless the minor is accompanied by his or her parent, guardian, or other adult person having primary care or custody of the minor or unless one of the exceptions to this chapter applies.

§ 131.08 DEFENSE.

It shall be a defense to prosecution under this chapter that the owner, operator, or employee of an establishment promptly notified the city’s designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

§ 131.99 PENALTY.

(A) *Minors.* Any minor found to be in violation of this chapter may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. § 260B.198, as it may be amended from time to time.

(B) *Adults.* Any adult person found to be in violation of this chapter shall be guilty of a misdemeanor.

CHAPTER 132: PUBLIC ORDER

Section

132.01 State statutes adopted

132.02 Sledding

132.03 Fireworks and firearms

132.99 Penalty

§ 132.01 STATE STATUTES ADOPTED.

The provisions of certain state statutes relating to matters hereinafter indicated are hereby adopted by this reference and made a part of this code as if set out hereat in full and shall be in full force and effect in the city insofar as consistent with applicable general statutes of the state. The statutes incorporated are as follows:

<i>Statute</i>	<i>Subject</i>
<i>Statute</i>	<i>Subject</i>
260B.007, subd. 3	Definition - child
325F.692	Fraudulent long distance telephone calls
325J.11	Misconduct of pawnbroker
609.05	Liability for crimes of another
609.085	Sending written communication
609.17	Attempted arson
609.175	Conspiracy
609.221 et seq.	Assault
609.27	Coercion
609.375	Non-support of wife or child
609.40	Flags; acts prohibited
609.475	Impersonating an officer
609.485	Escape from custody
609.50	Obstructing legal process or arrest
609.505	Falsely reporting a crime
609.51	Simulating legal process
609.52	Certain thefts
609.52, subd. 2(10),(11)	Alteration or removal of identification number
609.525	Bringing stolen goods into state
609.53	Receiving stolen property
609.535	Issuance of worthless check

609.545	Misusing credit card to secure services
609.5632	Certain acts - simple arson
609.576	Negligent fires
609.595	Certain damage to property
609.605	Trespass to property - definition; Trespass and other acts
609.6055	Certain dangerous trespasses and other acts
609.615	Certain acts constituting defeating security on realty
609.65	Certain acts constituting false certification by notary public
609.675	Exposure of unused refrigerator or container to children
609.68	Unlawful deposit of garbage, litter of the like
609.685	Use of tobacco by children
609.715	Presence of unlawful assembly
609.72	Disorderly conduct; attempted suicide
609.735	Concealing identity
609.74	Public nuisance
609.745	Permitting public nuisance
609.75	Gambling; definitions
609.755	Acts of or relating to gambling
609.775	Divulging telephone or telegraph message; non-delivery
609.78	Emergency telephone calls
609.79	Making anonymous telephone calls
609.795	Opening sealed letter, telegram, or package
609.807	Ticket scalping
609.815	Misconduct of junk or secondhand dealer
609.82	Fraud in obtain credit

(Prior Code Ch. 55, § 2)

§ 132.02 SLEDDING.

(A) All coasting with a sled by any person and all sleigh riding or use of a toboggan, skis, skates, or other riding devices equipped with runners is hereby prohibited on the public streets and the sidewalks adjacent in the city.

(B) This code shall not be construed to affect and does not affect the use of streets for lawful vehicle travel thereon and is designed only to prevent accidents from the use of streets and adjacent sidewalks by children during the winter season for sleigh riding and winter sports because of the heavy traffic.

(Prior Code Ch. 55, § 4) Penalty, see §132.99

§ 132.03 FIREWORKS AND FIREARMS.

(A) It shall be unlawful for any person(s) to set off at any time any firecrackers or sky rockets or to discharge or fire off any firearms within the limits of the city.

(B) No person shall fire or discharge any cannon, gun, firing piece, pistol, airgun, CO₂ gun, or slingshot.

(C) The provisions above notwithstanding, upon issuance of a license therefor and the payment of the fee of \$3 or another fee established by Council resolution duly enacted, resident gunsmiths who conduct their gunsmith business in the city may discharge firearms during normal business hours set forth on the license as necessary in the reasonable pursuit and execution of the duties of the occupation.

(Prior Code Ch. 25, § 2) Penalty, see §132.99

§ 132.99 PENALTY.

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

(B) Any person or persons who shall be guilty of violating any of the provisions of §132.03(A) shall be guilty of a petty misdemeanor unless complainant charges hazardous circumstances in which case the offense shall be deemed a misdemeanor and punishable according to law.

(Prior Code Ch. 25, § 1)

(C) Violations of § 132.03 shall be deemed a petty misdemeanor unless charge indicates hazardous circumstances in which case offense shall be a misdemeanor punishable according to law.

(Prior Code Ch. 25, § 3)

(C) Every person who shall violate any of the provisions of the statutes incorporated in §§132.01 and 132.02 shall upon conviction be deemed guilty of a misdemeanor and punished according to law.

(Prior Code Ch. 55, § 3)

(D) Anyone violating §§ 132.01 through 132.02 shall be upon conviction deemed guilty of a petty misdemeanor and be punished according to law or in the case of juvenile by appropriate proceedings instituted in juvenile court.

(Prior Code Ch. 55, § 4)

TITLE XV: LAND USAGE

Chapter

150. ZONING REGULATIONS

151. PLANNING AND DEVELOPMENT

CHAPTER 150: ZONING REGULATIONS

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- 150.002 Non-conforming uses
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GENERAL PROVISIONS

§ 150.001 PURPOSE AND SCOPE.

(A) *Enabling authority.* This chapter is enacted as authorized by and pursuant to M.S. Ch. 462, as it may be amended from time to time.

(B) *Purpose.* It is the purpose of this chapter to promote the health, safety, convenience, morals, and general welfare of the residents of the city by the orderly planned improvement of real property, public and private, so as to assure the safety, value, and aesthetic qualities thereof.

(C) *Scope.*

(1) All references herein to **LANDS** shall relate to the lands lying and being within the corporate limits of the city, and **STRUCTURES** shall include any building, whether permanently affixed to lands or merely placed thereon, having a usable area of 60 square feet or more, whether erected above ground or subterranean. An addition to the exterior perimeter or the height of any existing building, by reason of any addition thereto, regardless of area, or the renovation or rebuilding of the interior of an existing building where the inherent structural aspects of the building are changed, shall be construed a **STRUCTURE**, as shall the moving of existing buildings upon lands within the city, whether originating outside of or from another location in the city.

(2) **STRUCTURE** for purposes of this chapter shall include land alterations of any kind where ten cubic yards of material or more are moved, or, regardless of the volume of material moved, where the land alteration affects existing drainage, lateral, or subjacent support. Lands newly annexed to the city shall, unless thereafter reclassified by amendment hereto, have the zoning district classification which the lands had prior to annexation. If the annexed lands are not classified, they shall be annexed with the Residential (R) District designation.

(Ord. 52, passed 11-6-1985, § 1)

§ 150.002 NON-CONFORMING USES.

(A) A non-conforming use is a structure or a use existing on lands within the city as of the effective date of this chapter which, in the particular district wherein located, is not a permitted or special use therein as specified in this chapter.

(B) Non-conforming uses may be continued for the period which is the remaining useful life of the structures provided that no use shall be expanded.

(C) In instances where a non-conforming structure is no more than 50% destroyed, the owner thereof may restore the structure, but not expand it. All non-conforming structures more than 50% destroyed shall not be rebuilt.

(D) Any non-conforming use discontinued for a continuous period of 12 months or longer shall be deemed abandoned and the resumption of the non-conforming use thereafter prohibited.

(E) Property whereon non-conforming uses are maintained may be sold and may descend and any transfer shall not be construed as an abandonment of the non-conforming use.

(F) The provisions of this chapter enabling the continuance of non-conforming uses notwithstanding, in instances where the continued maintenance of a use constitutes a nuisance, public or private, or where existing structures are subject to

removal under the regulation of the state such as prescribed by the state's Fire Marshal may be removed and nuisances abated under the general laws of the state.

(Ord. 52, passed 11-6-1985, § 4)

§ 150.003 VARIANCES.

(A) *Technical requirements.* No variance shall be granted, the granting of which would in effect allow a use of any lands which is inconsistent with the provisions of this chapter. Variances may only be granted with respect to technical requirements.

(B) *Criteria for granting variances.* A variance from the technical provisions of this chapter may be issued by the zoning authority to provide relief to the landowner in those cases where the chapter imposes undue hardship or practical difficulties to the property owner in the use of his or her land.

(C) *Conditions.* A variance may be granted only in the event the following circumstances exist.

(1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography, or other circumstances over which the owner(s) of property since enactment of this chapter has/have no control.

(2) The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(3) The special conditions or circumstances do not result from the actions of or omissions of the applicant.

(4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to owners of other lands, structures, or buildings in the same district.

(5) The variance requested is the minimum variance which would alleviate the hardship. Economic conditions alone shall not be considered a hardship.

(6) The variance would not be materially detrimental to the purposes of this chapter or to other property in the same district.

(7) The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

(8) The Planning Commission may recommend to the Council and the Council may adopt or itself impose restrictions and conditions upon the premises concerning which a variance is granted as may be necessary to comply with the standards established by this chapter, or to reduce or minimize the effect of the variance upon other properties in the neighborhood, and to better carry out the intent of the variance.

(9) No variance shall be granted, the effect of which would be to impair visibility so as to produce circumstances hazardous to general public.

(Ord. 52, passed 11-6-1985, § 5)

ZONING DISTRICTS

§ 150.015 USES, PERMITTED AND SPECIAL.

(A) To fairly, effectively, and conveniently accomplish implementation, administration, and enforcement of the provisions of this chapter, the lands regulated hereby shall be classified by district and as so classified shown on the official map(s) incorporated herein by this reference as: Residential (R), Transition (R/C), Commercial (C), Agricultural (A), Industrial (I), Conservancy District (CD), Floodplain District (FP), hereinafter respectively called: R, R/C, C, A, I, CD, and FP District(s). See Appendix A attached to the ordinance adopted herein.

(B) Where references to this chapter are made to the relative restrictiveness of districts, these considerations shall relate to R, R/C, C, A, and I Districts and of the five districts less restrictive in the order here set forth.

(C) The land uses permitted in a given district as hereinafter specified are such which group or cluster like uses typically best suited therein and shall be allowed as set forth in §§ 150.016 through 150.022, provided further that any and all structures as defined herein shall conform to all applicable technical standards hereinafter set forth.

(D) Special uses are hereby expressly permitted by and as listed as to each respective district, but only with the prior authorization of the Zoning Authority following public hearing, fact findings, and subject to any conditions which may be imposed in connection with the issuance of permits therefor.

(Ord. 52, passed 11-6-1985, § 2)

§ 150.016 RESIDENTIAL DISTRICTS (R).

(A) *Permitted uses.* The following uses are permitted:

- (1) One-family dwellings including manufactured homes as defined in §151.40;
- (2) Duplexes;
- (3) Professional residence (offices);
- (4) Public recreation including parks and playgrounds;
- (5) Historic sites;
- (6) Essential services which are individual service connections or “drops” for telephone, telegraph, electric, and other utilities and necessary appurtenant equipment and structures; and
- (7) Any incidental structure or buildings necessary to the conduct of a permitted use, including private garages, carports, screen houses, and swimming pools convenient to the use of occupants of the principal structures.

(B) *Special uses.* The following uses are permitted:

- (1) The buildings of religious organizations, including churches;
- (2) Schools;
- (3) Public recreational facilities, indoor and outdoor;
- (4) Multi-family structures with no more than six dwelling units per structure;
- (5) Cemeteries and funeral homes;
- (6) Home occupations;
- (7) Nursing homes, hospitals, and sanatoria;
- (8) Manufactured home parks; and
- (9) Essential services including power transmission lines except those essential services included in division (A)(6) above.

(Ord. 52, passed 11-6-1985, § 2)

§ 150.017 TRANSITION DISTRICTS (R/C).

(A) *Permitted uses.* The following uses are permitted:

- (1) All uses permitted in R Districts subject to division (C) below;
- (2) Multi-family structures containing six dwelling units or less; and
- (3) Uses permitted in C Districts subject to division (C) below.

(B) *Special uses.* The following uses are permitted:

- (1) Uses special in R Districts;
- (2) Uses special in C Districts;
- (3) Multi-family structures containing more than six dwelling units; and
- (4) Manufactured home parks.

(C) *Exceptions.* Where at least one adjoining property is already devoted to a use (either commercial or residential) of the same classification as the use sought to be made by zoning permit applicant, the applicant need not make application for a special use permit where the owners of record of all lands within 300 feet of the parcel sought to be improved execute a writing consenting thereto. **ADJOINING** shall include properties across streets or other public thoroughfares. In instances where two or more adjoining properties are already devoted to the use sought to be implemented by a zoning permit applicant, the zoning permit shall be granted in the same fashion as with regard to permitted uses. In all other instances, zoning permits are available only through the special use permit issuing process.

(Ord. 52, passed 11-6-1985, § 2)

§ 150.018 COMMERCIAL DISTRICTS (C).

(A) *Permitted uses.* The following uses are permitted:

- (1) The Community Center and Municipal Building, including police and fire stations;
- (2) Private clubs;
- (3) Banks;
- (4) Business office;

- (5) Retail establishments such as groceries, bakery, department stores, hardware, drug, clothing stores, furniture stores, and flower shops;
- (6) Personal services such as laundry, barber, shoe repair shop, and photography studio;
- (7) Establishments where alcohol containing and other beverages are served, including restaurants, cafés, and supper clubs;
- (8) Professional services such as medical and dental clinics, or architects' and attorneys' offices;
- (9) Repair services such as jewelry, radio, and television repair shops;
- (10) Finance, insurance, and real estate services;
- (11) Entertainment and amusement services such as motion picture theaters, bowling alleys, and art galleries;
- (12) Lodging services such as hotel and motel;
- (13) Public and semi-public buildings such as post office, city hall, and fire and police stations;
- (14) Hospitals and medical centers;
- (15) Automobile parking lots, parking garages, bus stations; and
- (16) Uses incidental to the principal uses such as off-street parking and loading and unloading areas, storage of merchandise.

(B) *Special uses.* Other general business uses upon the finding by the Zoning Authority that the uses are of the same general character as those permitted and which will not be detrimental to other uses or unfavorably impact land values within the district, especially those of adjoining districts. No uses shall be permitted in this district, however, which are described as permitted uses or special uses in industrial districts as enumerated infra.

(Ord. 52, passed 11-6-1985, § 2)

§ 150.019 INDUSTRIAL DISTRICTS (I).

(A) *Permitted uses.* The following uses are permitted:

- (1) Wholesale business establishments;
- (2) Warehouse; packing and crating establishment, truck yard, or terminal;
- (3) Contractor's shops, roofing, electrical, paperhanging, ventilating, welding, fencing, and building;
- (4) Storage yards for building material, coal, wood, and ice;
- (5) Laboratories for research and quality control;
- (6) Public and public utility uses;
- (7) The manufacture, compounding, processing, packing, and treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products except the rendering of fats and oils;
- (8) The manufacture of pottery and figurines and other similar ceramic products, using only previously pulverized clay, and kilns fired by electricity or gas only;
- (9) The manufacture of boats, cameras, electrical appliances, radio and television receivers, musical instruments, medical appliances, and photographic equipment except film;
- (10) The manufacture of sporting and athletic equipment, small tools, toys, children's vehicles, caskets, and burial vaults;
- (11) Trade schools;
- (12) Offices of firms implementing uses permitted in this district;
- (13) Animal clinics;
- (14) Storage garages, buildings, and loading facilities as regulated in this chapter;
- (15) Buildings temporarily located for purposes of construction;
- (16) Essential public service facilities except power transmission lines; and
- (17) Essential security and safety facilities as approved by the Council.

(B) *Special uses.* The following uses are permitted:

- (1) Dwellings for watchmen or custodians of industrially used property only;
- (2) Outdoor storage of materials or open sales lots except sales lots not exceeding 7,200 square feet in area. Sales lots

having a lesser area are permitted uses in this district;

- (3) Restaurants, lunch counters, confectioneries to serve the employees of the district;
- (4) Mining and extraction of minerals including sand, earthen pits, and rock quarries;
- (5) Manufacturing, refining, and processing of chemicals;
- (6) Salvage or recycling business; and

(7) Power transmission lines and related facilities not including individual service drops, the latter being permitted uses in this district.

(Ord. 52, passed 11-6-1985, § 2)

§ 150.020 AGRICULTURAL DISTRICTS (A).

(A) *Permitted uses.* The following uses are permitted:

- (1) Non-commercial types of agriculture and horticulture businesses;
- (2) Farm buildings and structures;
- (3) Single-family residential structures including manufactured homes as defined in §151.40;
- (4) Farm irrigation systems;
- (5) Roadside stands for the sale of agricultural products;
- (6) Historic sites;
- (7) Public recreation;
- (8) Essential services such as telephone, telegraph, power lines, and necessary appurtenant equipment and structures except power transmission lines;
- (9) Signs, subject to provisions of § 150.044;
- (10) Churches, schools;
- (11) Municipal buildings, including police and fire stations;
- (12) Any incidental machinery, structure, or buildings necessary to the conduct of non-commercial agricultural, single-family residential, and other permitted uses; and
- (13) Private garages, carports, screen houses, swimming pools, and storage buildings convenient to the use of occupants of the principal structure.

(B) *Special uses.* The following uses are permitted:

- (1) Commercial agriculture and horticultural businesses including feedlots, provided that no feedlot shall be located within 500 feet of a residential district;
- (2) Cemeteries;
- (3) Agricultural products and livestock processing plants;
- (4) Manufactured home parks;
- (5) Resort campgrounds;
- (6) Nursery and garden supplies;
- (7) Mining, sand, gravel, and quarry operations as described in §150.019(B)(4);
- (8) Nursing homes, hospitals, and sanatoria;
- (9) Essential services including power transmission lines not included division (A)(8) above; and
- (10) Drainage systems.

(Ord. 52, passed 11-6-1985, § 2)

§ 150.021 CONSERVANCY DISTRICTS (CD).

(A) This district designation is intended to assure the preservation of natural features, especially where terrain presents substantial slope tending to create lateral support and surface water drainage problems and where the providing of public utilities, police and fire protection, and ambulance services are difficult or impracticable. The Conservancy District designation is also assigned to the areas located in the floodplain and other areas prone to erosion, intending by this designation to preserve these areas from development, the relocation of which would be costly in the event flood protection structures are required to be expanded, rebuilt, or the location thereof modified. Because its natural aesthetics are one of

the most valuable resources of the city, the preservation of unobstructed view is an objective of the highest priority to the residents of the city. For this reason, all lands adjacent to the Mississippi River and lying easterly of Minnesota State Trunk Highway No. 26 are likewise designated Conservancy District. Conservancy districts prescribe additional regulation to those other districts upon which the Conservancy District designation is superimposed. The regulation of both district designations apply, but in instances where conflict in regulation occurs, Conservancy District regulation, being the more restrictive, shall control.

(B) (1) In addition to all areas in the floodplain, all other areas within the city where 50% or more of the area of a given developable parcel has a slope of 15 degrees or greater shall be designated a conservancy district. The official map(s) is intended to generally delineate lands which have an apparent 15% or greater pitch.

(2) The official map(s) notwithstanding, where reliable technical data furnished with zoning permit application demonstrates to the satisfaction of the Zoning Authority that a given area is not appropriately included in the Conservancy District and thereafter be regulation by the provisions relative to the underlying zoning district. The Zoning Authority may likewise impose conservancy regulations where technical data provided from any reliable source demonstrate that a given parcel not shown by official map(s) to be in the Conservancy District does possess characteristics which determine conservancy classification to be applicable.

(C) All uses are permitted in the districts superimposed by the Conservancy District except structures and land alterations of any kind.

(D) All other uses are permitted in the district superimposed by the Conservancy District not included in division (C) above, but subject to additional technical standards which may be specifically provided for in Conservancy Districts, infra, and which may be required as condition(s) with regard to issuance of a given special use permit.

(Ord. 52, passed 11-6-1985, § 2)

§ 150.022 FLOODPLAIN DISTRICT (FP).

The provisions of the city's floodplain ordinance can be found in §§151.55 et seq.

TECHNICAL STANDARDS

§ 150.035 MINIMUM LOT AREA.

Minimum lot area, lot width, front yard setback from right-of-way, side yard and rear yard setbacks, and maximum height specifications and off-street parking requirements are set forth in Appendix B attached to the ordinance codified herein.

(Ord. 52, passed 11-6-1985, § 3)

§ 150.036 PRIVATE RESTRICTIVE COVENANTS.

The provisions of this chapter are to be construed minimum requirements and standards, and shall be in no sense in derogation of private restrictive covenants. In the event a private restrictive covenant deals with the same specific subject matter as a provision or regulation of this chapter, and private regulations are deemed by the Zoning Authority to be less restrictive than the provisions of this chapter, the provisions of this chapter shall control. In any event, the enforcement of private restrictive covenants is a private matter, hence privately, not municipally, enforceable.

(Ord. 52, passed 11-6-1985, § 3)

§ 150.037 STATE LAWS; AGENCY REGULATIONS.

Nothing herein shall be construed to supercede or take precedence over any statute of the state or agency regulation thereof or other governmental regulation unless the regulation(s) herein is more restrictive.

(Ord. 52, passed 11-6-1985, § 3)

§ 150.038 FAIR HOUSING POLICY.

The Fair Housing Policy of the city is that part of Title VIII of the Federal Civil Rights Act of 1968, being 42 U.S.C. §§ 3601 et seq., which addresses housing marketing practices, which portions hereof are incorporated herein as if set out hereat in full.

(Ord. 52, passed 11-6-1985, § 3)

§ 150.039 ZONING AUTHORITY.

ZONING AUTHORITY shall mean the administrative officer(s) of the city to the extent that the various levels of authority are involved or become operative pursuant to this chapter and is described as follows:

(A) The first level of authority being that of the duly appointed, qualified, and acting Zoning Administrator of the city who shall issue zoning permits for all permitted uses for which sufficient application has been made, provided that all technical requirements are satisfied;

(B) The second level of authority being with respect to the issuing of special use permits and variances where **ZONING**

AUTHORITY shall mean combined involvement of Zoning Administrator and the Planning Commission which shall make findings and recommendations in the case of special use permits and variance applications to be thereupon certified to the Council for final determination, which determination shall be by resolution incorporating written findings of fact; and

(C) The third level of authority being with respect to questions of interpretation which shall consist of a certification by the Zoning Administrator of question(s) of interpretation to the Board of Appeals which shall issue its findings and recommendations to the Council as to interpretation and the Council which shall, by resolution with written findings thereon, make final determination of all questions.

(Ord. 52, passed 11-6-1985, § 3)

§ 150.040 ACCESSORY BUILDINGS.

An **ACCESSORY BUILDING** is a building which complements, is consistent with, and furthers or facilitates the primary use and as such shall not be permitted prior to the completion of the primary structure unless constructed simultaneous therewith. No accessory building shall be utilized for home occupations, shall not in any manner change the character of the land use at this location, and shall conform to all technical standards.

(Ord. 52, passed 11-6-1985, § 3)

§ 150.041 HOME OCCUPATIONS.

Home occupations shall be permitted in the districts indicated only if conducted entirely within the principal structure, but shall not occupy more than 25% of the usable floor space thereof. No storage or other aspects of a home occupation shall be evident on the exterior of the principal structure and no sign except a single sign no larger than one square foot in area be permitted on the exterior of or observable from the exterior of the principal structure. If the conduct of a home occupation will noticeably increase traffic or unfavorably impact existing parking, it shall not be permitted or, even if initially permitted, may be subject to abatement.

(Ord. 52, passed 11-6-1985, § 3)

§ 150.042 DWELLING UNITS.

(A) A **DWELLING UNIT** consists of one or more rooms, including a bathroom and complete kitchen facilities, which are arranged, designed, or used as living quarters for one family or household.

(B) A **SINGLE-FAMILY DWELLING** is a building designed and/or used exclusively for residential purposes for one family only and containing not more than one dwelling unit.

(C) A **FAMILY** is:

(1) An individual or two or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit; or

(2) A group of not more than six persons who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit.

(Ord. 52, passed 11-6-1985, § 3)

§ 150.043 SCREENING AND INTER-DISTRICT SETBACKS.

(A) The Zoning Authority as to all special uses and with regard to permitted uses on lands adjacent to a district boundary where the adjoining district is a more restrictive one may require as a condition to issuance of a special use permit or may impose a technical requirement as to permitted uses that applicant screen the intended use with natural plantings, fencing, or in other such manner as may be reasonable prescribed.

(B) In all instances where agricultural districts are adjacent to any other district, no agricultural structure where animals are kept shall be permitted nearer to the common district boundary than 200 feet.

(Ord. 52, passed 11-6-1985, § 3) Penalty, see §150.999

§ 150.044 SIGNS.

No signs or billboards shall be permitted in any district except as specifically permitted herein as follows.

(A) *Signs in residential districts.* The following uses apply:

(1) Customary professional and home occupation signs not larger than one square foot and "For Rent" and "For Sale" signs not exceeding four square feet in area; and

(2) Signs necessary for the identification, operation, or protection of a public utility installation or necessary to the public welfare.

(B) *Signs in commercial, agricultural, and industrial districts.* The following uses apply:

(1) All signs permitted in residential districts;

(2) One identifying sign not larger than one square foot for each one linear foot of frontage occupied by the establishment, advertising a business or activity conducted on the premises; and

(3) A directory sign provided that it announces only services offered within the building located on the premises whereon the sign is located, not exceeding ten square feet in area.

(Ord. 52, passed 11-16-1985, § 3) Penalty, see § 150.999

§ 150.045 STANDARDS AND CONSIDERATIONS; CONSERVANCY DISTRICTS.

In order to effectively implement the Conservancy District regulations, no zoning permit to authorize a structure in a conservancy district shall be granted without consideration of and the making of findings with regard to:

(A) Lateral and subjacent support to safeguard adjoining properties from silting and other hazards presented by development activities in this District;

(B) Accessibility for:

(1) Public utilities;

(2) Fire, police, ambulance, and other emergency services; and

(3) Municipal maintenance;

(C) Elevations of proposed structure to enable the Zoning Authority to make a determination concerning the impact of the proposed structure on visibility. In this regard, the maximum height of structures as provided for in Appendix B attached to the ordinance codified herein shall not apply in conservancy districts, but the relative acceptability of the height of a proposed structure shall be determined on a parcel-by-parcel, permit-by-permit basis;

(D) The impact on land values of adjacent properties. For purposes of this District **ADJACENT** includes all properties which command a view, which view, if the structure is constructed as planned, could be unreasonably constructed; and

(E) The Zoning Authority may require additional relevant data in the same manner as with respect to variance and special use permit applications.

(Ord. 52, passed 11-16-1985, § 3)

§ 150.046 FENCES, WALLS, AND HEDGES.

(A) *Location.* The required front yard of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth which may cause danger to traffic on the street or public road by obscuring the view.

(B) *Residential fences.* The following fences, walls, and hedges may be constructed in any residential district.

(1) A wall, fence, or hedge up to 42 inches high may occupy any part of a residential lot.

(2) On all residential lots except corner lots, a wall, fence, or hedge up to six feet high may be erected on any portion of the lot except the front yard. On corner lots, a wall, fence, or hedge up to six feet high may be erected on any portion of the lot except a front yard on which the primary entrance of the principal structure on the lot is located.

(3) A wall, fence, or hedge more than six feet high may be erected on the portion of the lot described in this division (B) (2) above after first obtaining a special use permit if the fence would not be detrimental to the neighborhood and would not endanger the public health, safety, or general welfare.

(C) *Non-residential fences.* In non-residential zoning districts, a wall, fence, or hedge not exceeding eight feet in height may be erected without a special use permit on any part of the lot. A wall, fence, or hedge exceeding eight feet in height or a security arm may be erected after first obtaining a special use permit if a wall, fence, hedge, or security arm would not be detrimental to the neighborhood and would not endanger the public health, safety, or general welfare.

(D) *Swimming pools.* All private, permanently installed swimming pools shall be completely and securely enclosed by a chain link or similar fence.

(E) *Maintenance.* Every property owner shall maintain all walls, fences, and hedges located on that person's property on both sides, so that the walls, fences, and hedges do not constitute a nuisance to neighboring property owners or a danger to public health, safety, or welfare.

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

HEIGHT. The height of a wall, fence, or hedge shall be determined by measuring the distance from the ground at the base of the wall, fence, or hedge to the top most point of the wall, fence, or hedge.

SECURITY ARM. A portion of a fence extending above the main portion of the fence and consisting of strands of barbed wire or other similar materials.

(G) *Permits.* A building permit shall be obtained from the Clerk for any fence installed for any purpose prior to installation of same. A site plan showing the location of the fence shall be submitted with the permit application.

(H) *Notice to neighbors.* Any application for a building permit to construct a fence shall, at least five days prior to submitting the application for building permit for constructing of the fence, be given to all surrounding property owners by the applicant.

(I) *Location.* All fences shall be located entirely upon the property of the fence owner unless the owner of the adjoining property agrees in writing that the fence may be erected on the property line of the respective parties. This agreement shall be submitted at the time of the building permit application. If the adjoining property owner does not agree to the erection of the fence, the fence shall be set back two feet from all lot lines.

(J) *Non-conforming fences.* Any property owner with a current non-conforming fence shall have a period of two years from and after the passage of this chapter to bring the fence into conformity with this chapter.

(K) *Construction of fence.* All fences shall be constructed and maintained in a substantial, workmanlike manner and of material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be constructed so that the side containing the framing supports and cross pieces face the interior of the fence owner's lot. Any fence which does not comply with the provisions of this chapter or which endangers the public safety, health, or welfare shall be considered a public nuisance.

(L) *Electric and barbed wire fence.* Electric fences may not be used and such material as hog wire fencing and barbed wire fencing will not be allowed.

(Ord. #69, passed 11-5-1997) Penalty, see §150.999

ENFORCEMENT

§ 150.060 ZONING PERMITS REQUIRED.

(A) No structure as herein defined shall be made or erected without the prior issuance of a zoning permit by the Zoning Authority.

(B) Where the use contemplated is permitted and the application together with fees imposed therefor satisfies all technical requirements, the permit shall be summarily granted by the Zoning Administrator unless the contemplated use and intended structure, even though permitted in the district where sought to be implemented is on land adjacent to a district having more restrictive regulations, in which case the permit application shall be referred to the Planning Commission for review with respect to screening requirements.

(C) In all other instances, the permit application shall be referred to the Zoning Administrator to be further processed as follows:

(1) To the Board of Appeals, if the sole issue is the interpretation of any provision of the chapter, which Board shall transmit its findings and recommendation to the Council which shall, at its next regular or at a special meeting duly convened, make final determination of any other interpretations; and

(2) If special use permit or variance, the Zoning Administrator shall refer the application to the Planning Commission for public hearing. The Planning Commission shall thereafter make written findings of fact and recommendations which shall be transmitted to the Council for action by it at its next regular or at a special meeting duly convened.

(D) All final action resulting in the granting of a variance or special use permit shall be evidenced by the issuance by the Clerk of a certificate reciting the precise substance of the variance or subject matter of the special use permit with a precis of the findings upon which it is based and all conditions to which it is subject, containing a legal description of the premises describing the premises to which it relates which certificate shall be duly recorded in the office of the County Recorder.

(E) All permit applications requiring action of the Zoning Administrator only shall be promptly processed by the Zoning Administrator. Applications or subject matter requiring the action of the Board of Appeals shall be acted upon by the Board of Appeals within the time hereinbefore specified. Failure of the Board or the Planning Commission (as the case may be) to act within the time specified, unless the time period for good cause shown is extended by the Council, shall vest the Council with authority to proceed without the action of the Board or Commission, or the recommendations thereof. Final determination in these instances or in instances where findings and recommendations are received from the Board or Commission by the Council shall be forthcoming from the Council within 30 days thereafter.

(F) The time sequence with respect to the processing of special use permits and variances shall be the same with regard to actions taken by the Planning Commission as by the Board of Appeals with respect to matters within the Board's jurisdiction, and final Council action shall be taken within 30 days of date the matters are filed with the Clerk for further action by the Council.

(Ord. 52, passed 11-16-1985, § 6)

§ 150.061 REQUIRED INFORMATION.

Applications for zoning permits shall contain minimally the following:

(A) With respect to zoning permits for uses which are permitted, a statement of standing to make application therefor, either as owner of the fee title, equitable owner as under contract for deed, or optionee with a bonafide enforceable option;

(B) A precise legal description of the lands to which the application relates; and

(C) A plot plan or diagram showing minimally the dimensions of the land on which the use is contemplated to be implemented, showing the location of any structures to be erected or made thereon, indicating setbacks, side yards, and rear yards, proposed screening where lands are adjacent to the boundary with a more restrictive district, elevations to show height, and a designation of what is deemed to be the front of the intended improvement.

(Ord. 52, passed 11-16-1985, § 6)

§ 150.062 SUPPORTING DATA.

All of the data required with respect to the basic zoning permit application specified above is required together with a concise statement addressing:

- (A) Off-street parking provision;
- (B) Surface water drainage;
- (C) Design;
- (D) Noise, dust, and odor or other environmental considerations;
- (E) Traffic flow;
- (F) Availability of solar energy; and
- (G) Such other detail or engineering or architectural data as may be reasonably prescribed by the Zoning Authority at any level thereof.

(Ord. 52, passed 11-16-1985, § 6)

§ 150.063 QUESTIONS OF INTERPRETATION.

No question with respect to interpretation shall be cognizable by the Zoning Authority unless arising out of a bona fide application for a zoning permit or variance except that the Council on its own motion may certify to the Board of Appeals any question with reference to interpretation which may arise in the administration of this chapter. Matters for interpretation shall also encompass the detail set forth on the official map(s).

(Ord. 52, passed 11-16-1985, § 6)

§ 150.064 NOTICES.

(A) All hearings and proceedings before the Board of Appeals and Planning Commission shall, except in the case of mandated public hearings, be held after reasonable notice to applicants and the signed waiver of notice by interested/affected parties shall be deemed reasonable notice.

(B) (1) Notice where public hearings are mandated shall be by one publication in the official newspaper of the city no later than ten days before the appointed time of hearing and by mailed notice to all persons owning lands within 350 feet of the property to which the variance or special use relates, posted with first class postage prepaid at least ten days before the appointed time of hearing.

(2) Notice mailed and addressed according to the official tax list maintained in the office of the County Treasurer shall be deemed properly made. The omission of a mailed notice, where a bona fide attempt to comply with the provision of this chapter with respect to notice has been made, shall not invalidate the proceedings or any action taken thereat.

(C) Notice with regard to hearings required for application to amend this chapter shall be by publication in the official newspaper of the city ten days prior to the appointed hearing date, except that in instances where changes in zoning districts or rezoning is sought and the lands affected thereby are five acres or less in area, there shall be additionally mailed notice to owners of all lands affected and to the owners of land situated within 350 feet of the boundaries of the affected area and the identity and addresses of the owners as disclosed by records maintained in the office of County Treasurer shall be deemed appropriate for notice purposes.

(Ord. 52, passed 11-16-1985, § 6)

§ 150.065 EXPIRATION OF PERMITS, VARIANCES, NONASSIGNABILITY.

(A) (1) (a) The issuance of variances, special use permits, and zoning permits contemplates the completion within a reasonable period of time of the structure the construction, installation, or erection of which necessitated issuance of variance or permit.

(b) Except for good cause shown by written application to the Council for extension, which application is made prior to the expiration thereof, a variance or permit not utilized to completion by the applicant within one year of the day of the date of the issuance thereof shall expire.

(2) (a) An expired permit or variance requires reapplication before construction, installation, or erection of the structure may be recommenced. The fee for extension shall be as may be established by the Council.

(b) No permit or variance shall be assignable except for good cause shown to the Council for which application in

writing shall be made and the consent of the Council to assignment shall not be unreasonably withheld where it appears in the discretion of the Council that the request for assignment was not predicated upon motives, the object of which is to circumvent the letter and spirit of this chapter.

(B) (1) All applications for permits, variances, and amendments, except when in the proper circumstances, made by the Planning Commission or the Council on its own motion, shall be made by the landowner(s).

(2) Where the application is by a landowner, **OWNER** shall mean that the applicant is either fee owner of the property to which the application relates, is equitable owner as a contract vendee, or holds a bona fide, legally enforceable option to acquire the land and the availability of the relief applied for is the purpose for which the option was utilized.

(Ord. 52, passed 11-16-1985, § 6)

AMENDMENT PROCEDURE

§ 150.075 GENERAL PROVISIONS.

(A) The Council may enact amendments to the language of this chapter or assign or reassign zoning district designation or change district boundary lines and thus amend the official districts map(s) as provided in this section.

(B) Initiation of the amendment process may be by the Council on its own motion, by recommendation of the Planning Commission transmitted to the Council, or by application of the property owner(s) whose lands are affected by the sought change.

(C) Among other provisions prescribed by the laws of the state, the enactment of any amendment to this chapter shall be preceded by public hearing after notice prescribed by § 150.002(F) which will set forth the time, place, and purpose of the hearing.

(Ord. 52, passed 11-16-1985, § 7)

§ 150.076 APPLICATIONS.

(A) Applications for amendment to this chapter, if the amendment applied for concerns a change in language, shall include:

- (1) The reasons for the requested change;
- (2) A statement with reference to the relative compatibility of the proposed change to the Comprehensive Plan;
- (3) The text or an excerpt from the existing chapter sought to be amended;
- (4) The language proposed to be enacted as amendment or the text of the proposed addition to the chapter;
- (5) The names and addresses of the applicants together with a statement of the basis for standing to make the application for amendment; and
- (6) Any additional information which may be requested by the Planning Commission and/or the Council.

(B) (1) The application for amendment in proper form and accompanied by required supporting data shall be submitted, except for petitions which originate with the Planning Commission, to the Planning Commission for review, findings and recommendation which shall be transmitted in writing to the Council. The Council shall then schedule the public hearing in accordance with the requirements prescribed by the laws of the state and this chapter.

(2) Following public hearing, the Council shall make its determination concerning the pending application for amendment and in connection therewith shall make in writing its findings of fact and conclusions.

(3) Applications for amendment which originate with the Planning Commission shall be transmitted to the Council together with written findings and recommendations and processed thereafter in the same fashion as applications originating elsewhere, as provided by this chapter. The time frame for processing applications for amendment shall be consistent with state law and as in the case of special use permit applications.

(C) In instances of changes in zoning districts where the relief sought in the application for amendment is granted, the Council shall cause appropriate language changes to be made in the official copy of this chapter and the official map(s) incorporated herein and shall cause a certificate to be prepared and issued at its order over the signature and seal of the Clerk reciting the substance of the amendment together with a complete legal description of the land affected by the amendment all in form enabling the certificate to be filled for record in the office of the County Recorder.

(Ord. 52, passed 11-16-1985, § 7)

§ 150.077 QUALIFICATIONS TO AMEND DISTRICT BOUNDARIES.

With reference to applications to amend district boundaries or land use, the application for amendment shall contain:

(A) The names and addresses of the petitioner or petitioners together with a statement demonstrating their standing as petitioner;

(B) A specific description of the area proposed to be rezoned together with the names and addresses of all owners of

property lying within the affected area and the names and addresses of all owners of property lying within 350 feet of any part of the lands affected in instances where the amendment sought is with reference to the boundaries of a district and the area thereof is five acres or less;

(C) The present district classification of the area in question together with the proposed district classification;

(D) Proposed change in use from that currently permitted or authorized by special use under the chapter in its present form;

(E) The relative compatibility to the Comprehensive Plan of the proposed amendment;

(F) A legal description, unless the description called for in division (B) above contains a legal description of the property or properties to be rezoned or to which the amendment relates;

(G) A map, plot plan, and, if requested by the Planning Commission or the Council, a survey print of the property to be rezoned or amended showing specific location thereof, dimensions, together with the zoning designation of property adjacent thereto; and

(H) Any other information or exhibits as may be requested by the Planning Commission or the Council.

(Ord. 52, passed 11-16-1985, § 7)

§ 150.078 PERMIT FEE.

(A) (1) All applications for zoning permits shall be in form prescribed by the Council and accompanied by such fees as the Council and accompanied by fees as the Council may, from time to time by resolution duly enacted, impose. Fees so established and all other fees prescribed by the Council shall be in a sum which will reasonably defray the mailing expenses, administrative costs, and, where appropriate, recording fees.

(2) Any unexpended fees shall be refunded and additional fees which may be incurred in excess of those paid when application is initially submitted shall be promptly paid by the applicant.

(B) Failure to pay any fees required to be paid in connection with the administration of this chapter shall be deemed to be in violation hereof and be appropriate basis, moreover, for denial of the relief initially sought.

(Ord. 52, passed 11-16-1985, § 8)

§ 150.999 PENALTY.

Violation of any provision of this chapter is deemed a misdemeanor and a public nuisance as well. The Council shall authorize all prosecutions or other legal proceedings instituted in the enforcement of this chapter. Where relief is warranted, in the discretion of the Council, actions at law or equity to abate nuisances or enjoin violations hereof may be instituted.

(Ord. 52, passed 11-16-1985, § 9)

CHAPTER 151: PLANNING AND DEVELOPMENT

Section

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GENERAL PROVISIONS

§ 151.01 WATERFRONT IMPROVEMENTS.

No new structures or repairs upon or along the waterfront of the city shall be undertaken except upon application to the Council and under permit by it and in accordance with the Comprehensive Plan and pursuant to specifications submitted to the Council and approved by it upon application.

(Prior Code Ch. 65, § 4) Penalty, see § 151.99

§ 151.02 WATERCRAFT REGULATIONS.

(A) *Regulations.* All watercrafts operating in water under the jurisdiction of the city shall conform to the following rules.

(1) Every operator or a motor boat shall at all times operate and navigate the same in a careful and prudent manner and at such a rate of speed as not to endanger the lives of property of others.

(2) No owner, operator, or person in command of any power boat shall operate the same, or permit it to be operated, in excess of eight statute miles per hour in any of the following areas:

(a) Within 100 feet of any person in the water;

(b) Within 200 feet of any way, landing float, or boathouse to which boats are made fast or which is used for embarking or discharging passengers; or

(c) At Boathouse Bay of the bay which lies immediately south of Lawrence Lake on the north edge of the city.

(3) No person shall anchor a boat for fishing or other purposes on any body of water under the jurisdiction of the city in such a position as to dangerously obstruct river traffic or access to public landings.

(4) Operators of boats and all types of watercrafts, when mooring them, shall exercise reasonable precautions to make sure that the vessel or craft will not go adrift and that the action of the water will not cause it to injury or endanger the life or property of others.

(Prior Code Ch. 65, § 5)

(B) *Boathouse and float regulations.* All floats and boathouses moored along the waterfront of the city shall be maintained in a neat and orderly condition at all times and securely moored.

(Prior Code Ch. 65, § 7)

(C) *Derelict craft.* The Council may direct the removal and destruction of any sunken, derelict, or abandoned craft, float, or boathouse when, after investigation, it shall be determined that the same constitutes a nuisance. The owner of any craft, float, or boathouse shall remove it when directed to do so by the Council and upon his or her failure to do so shall be guilty of a misdemeanor and punished as hereinafter provided.

(Prior Code Ch. 65, § 8)

Penalty, see § 151.99

§ 151.03 LITTERING PROHIBITED.

Logs, lumber, wood scraps, rope scraps, metal, glass, or paper containers, derelict boats, oil, garbage, sweepings, and similar trash are hereby declared to be nuisance and it shall be unlawful for any person to throw or place, or cause to be thrown or placed, any of the above named articles in, on, or along the waterfront and shores along the city, fronting on and abutting the city in position that articles or substances may be washed upon the shores.

(Prior Code Ch. 65, § 6) Penalty, see § 151.99

§ 151.04 PARKING REGULATIONS.

The Council is hereby authorized and empowered to establish no parking areas in the property under its jurisdiction and when any area shall be established by ordinance and signs have been posted giving notice thereof, it shall thereafter be unlawful for the owner or operator of any motor vehicle or boat trailer to park the same in this area.

(Prior Code Ch. 65, § 9) Penalty, see § 151.99

§ 151.05 MAILBOXES.

No mailboxes shall be installed in front of any property on Main Street without the consent of the property owner affected.

(Prior Code Ch. 65, § 11) Penalty, see § 151.99

§ 151.06 SUBDIVISIONS.

No land shall be subdivided which is held unsuitable by the Council by reason of flooding, inadequate drainage, water supply, or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation.

(Prior Code Ch. 65, § 24) Penalty, see § 151.99

§ 151.07 PUBLIC UTILITIES AND TRANSPORTATION.

(A) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the state's Building Code or elevated to above the regulatory flood protection elevation.

(B) *Public transportation facilities.* Roads, railroads, tracts, and bridges within the floodplain shall be designed to minimize increases in flood elevations.

(1) Bridges, culverts, and approach fills shall comply with provisions of 6 MCAR § 1.5025.

(2) Roads, railroad tracks, and bridges shall be elevated above the regulatory flood protection elevation if failure or interruption of transportation services would endanger the public health or safety.

(C) *Individual sewage treatment systems.* Individual sewage treatment systems shall be designed and located so that they will not be damaged or contaminate surface waters if flooded, as set forth in 6 MCAR § 4.8040.

(Prior Code Ch. 65, § 24)

§ 151.08 CERTIFICATES OF OCCUPANCY.

(A) *Amendments.* All amendments to this section shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the boundaries of the Floodway or Flood Fringe Districts also require prior approval by the office of Federal Insurance and Hazard Mitigation.

(Prior Code Ch. 65, § 24)

(B) *Certificates of occupancy.*

(1) *Police power enactment.* The provisions of this chapter are enacted pursuant to police powers of the Council.

(2) *Certificates of occupancy required.* In each instance where structures are constructed anew, not having been heretofore occupied or inhabited, certificates of occupancy are required before the premises may be inhabited or occupied.

(3) *Administration.* The Clerk or other person who may be designated by the Council by resolution duly enacted shall administer the issuance of certificates of occupancy on form(s) approved by the Council.

(4) *Occupancy: habitation without certificate of occupancy prohibited.* No person shall inhabit or occupy any structure designated or intended for human habitation or occupancy, which entitlement to construct and install was conferred by permit of any kind required by this chapter, until a certificate of occupancy has been issued by the Zoning Administrator, evidencing:

(a) Substantial completion of the structure;

(b) Compliance with all regulations of this and other sections of this code, including but not limited to Title XV; and

(c) The payment of all applicable fees and charges including but not limited to those attending the issuance of any permit for sanitary sewer assessments and hookup charges.

(Prior Code Ch. 65, § 25)

BUILDING REGULATIONS

§ 151.20 INTENT.

The intent and purpose of §§ 151.21, 151.23(C), 151.24 through 151.27, 151.42, and 151.59 is to regulate the location, size, use, nature of buildings, the arrangement of building on lots in the city in order to ensure the orderly development of lots or parcels of land of existing recorded plats and to assure adequate minimum area for the development and improvement of unplatted land in the corporate limits of the city.

(Prior Code Ch. 65, § 12)

§ 151.21 DEFINITIONS.

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

ACCESS WAY. An ingress-egress to a tract of land to be improved or developed, which access cannot be attained over a platted thoroughfare. As a prerequisite to the establishment of a tract of land unplatted so as to render the same suitable for improvement or development, the owner thereof, individually, or with and in conjunction with other owners or developers, shall dedicate to the city the necessary lands for the establishment of an ingress-egress route so that as specified by the City Engineer and approved by the Council, the **ACCESS WAY** shall involve a minimum right-of-way width of 60 feet and the elevation in connection with the grading thereof and the establishment of proper drainage shall be established to the satisfaction of the Engineer with the approval of the Council.

BUILDING LOT. Any lot which is a part of an existing official unvacated plat lying and being within the corporate limits of the city. With regard to unplatted lands, it shall be a tract of land not less than 60 feet lot width and 120 feet lot depth.

COUNCIL. The City Council of the City of Brownsville.

IMPROVEMENT AND DEVELOPMENT. The construction and location in and upon a lot or tract of land of a dwelling house or the construction of any other building or improvement which shall cover more than 100 square feet of lot or tract area and for purposes of this code and shall also include excavations of any kind whether in conjunction with construction of a building or otherwise, except excavations in conjunction with the construction of a fence or the placement of poles for public utilities or any other essential services.

LOT WIDTH. The width of a tract of land otherwise suitable for development or improvement, which lot has a minimum

width of 60 feet on the dimension thereof lying adjacent to a public street or to an access way suitable, in the discretion of the Council, to give ingress-egress to the lot whose minimum width shall continue from the frontage on the access way, away therefrom for a minimum distance of two-thirds of the maximum lot depth.

NON-CONFORMING USES. A use lawfully in existence on the effective date of this code and not conforming to the regulations for the district in which it is situated.

STRUCTURAL ALTERATIONS. A structural alteration is any change in the supporting members of the building such as bearing walls, columns, beams, or girders, or any change in the exterior dimension of an existing structure.

VARIANCE. A modification or variation in the technical provisions of this code as applied to a specific piece of property. Land uses which are not allowable uses within a district under the terms and provisions of this code shall not be the subject matter for **VARIANCE**.

(Prior Code Ch. 65, § 13)

§ 151.22 ADMINISTRATION.

(A) Use permit.

(1) *Use permit required.* A use permit issued by the Council shall be secured prior to the construction, addition, or alteration of any building, structure, or land, prior to the change or extension of a non-conforming use, and prior to the placement of fill or excavation of materials within the floodplain.

(2) *Application for use permit.* Application for a use permit shall be made in duplicate to the Council and shall include plans drawn to scale showing where applicable: the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

(3) *State and federal permits.* Prior to granting a use permit or processing an application for a variance, the Council shall determine that the applicant has obtained all necessary state and federal permits.

(4) *Certification of first floor elevations.* The applicant shall 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 section. The Clerk shall maintain a record of these elevations for all new structures in the floodplain districts.

(B) Board of Adjustment. A Board of Adjustment is hereby established and shall consist of all members of the Council.

(1) *Variations.* The Board may authorize upon appeal variances from the provisions of this section as long as they will not be contrary to the public interest, and if the spirit of this section will be observed. Variations may only be granted where, due to special conditions, literal enforcement of the provisions of this section will result in unnecessary hardship. No variance shall have the effect of allowing in any district uses prohibited in that district or 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. In cases where variance is sought with reference to the vehicular access requirements of § 151.62(C), variances shall be granted upon the minimal conditions that will assure safety of occupants of structure(s) during times of flooding, will afford adequate flood warning, and will enable the city's providing police and fire protection and other public services to the property during times of flood.

(2) *Hearings.* The Board of Adjustment shall fix a reasonable time for a hearing and give notice to all interested parties. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days of action.

(C) Procedures for evaluating proposed uses within the General Floodplain District.

(1) Upon receipt of an application for a use permit or a land subdivision proposal for a use within the General Floodplain District, the applicant shall be required to furnish the following information as is deemed necessary by the Council for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe:

(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; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type; and

(c) 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.

(2) One copy of the above information shall be transmitted 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 and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota R. 6120.5600 and 6120.5700 shall be followed in this expert evaluation. The designated engineer or expert shall:

- (a) Estimate the peak discharge of the regional flood;
- (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas; and
- (c) Compute the floodway necessary to convey the regional flood without increasing flood stages more than one-half foot. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

(3) Based upon the technical evaluation of the designated engineer or expert, the Council shall determine whether the proposed use is in the floodway or flood fringe and determine the regulatory flood protection elevation at the site.

(4) The city shall submit by mail to the Commissioner of Natural Resources a copy of the technical evaluation and all supporting data sufficiently in advance so that the Commissioner will receive at least ten days' notice before final Council action. A copy of all final decisions shall be forwarded by mail to the Commissioner within ten days' notice.

(Prior Code Ch. 65, § 24)

§ 151.23 BUILDING PERMITS.

(A) *Provisions.* No person, partnership, or corporation may erect any structure of any kind or add to the outside dimensions thereof in excess of \$50 valuation, nor relocate any building already constructed or which may hereafter be constructed within the city limits without first making application to and procuring from the Clerk a building permit to do so before work is commenced. The application for the permit shall state the exact site to be occupied showing exact dimensions of the building or buildings, including the kind and nature of materials to be used and a description of the lands upon which the same is to be located with the distances between the outside of the buildings or structures and the street lines, the purpose for which the same is to be occupied, and the probable time when the work will be completed. The application shall show affirmatively that all work will comply with every provision of the code and shall be approved by the Council or, if it appoints one, the building inspector as showing compliance before the permit may be granted by the Clerk. The application for permit shall be accompanied by such fee as may be established by Council resolution.

(Prior Code Ch. 65, § 1)

(B) *Administration of permits.* Upon the filing of an application, the Clerk shall consider the same and if the Council shall determine, by resolution upon its minutes, that the building or other structure described in the application is a safe and suitable building to be erected upon the lands described in the application and that the purpose and use for which the same is to be erected, established, or constructed can be carried on in the locality described in the application without injury or impairment of the public health and safety, and without obstructing the streets and sidewalks of the city or interfering with the traffic thereon, then the Clerk may, by virtue of the resolution, issue a permit upon the application authorizing the applicant to erect, construct, or establish the particular building or other structure in the application described to be located upon lands described in the petition. But if a majority of the Council votes against the resolution or a resolution is adopted denying the application, then no permit shall be issued by the Clerk.

(Prior Code Ch. 65, § 2)

(C) *Permit requirement.* Before the construction or location of any improvement or development in and upon lands lying and being within the corporate limits of the city may be commenced, the owner or her or his duly constituted and authorized agent shall make application at the office of the Clerk for a building permit therefor on forms provided by the Clerk to the applicants, which form shall be in accordance with the proscriptions of the Council, and the fees to be charged and prepaid for building permits shall be in accordance with a fee schedule as may be, by the resolution of the Council, established.

(Prior Code Ch. 65, § 14)

§ 151.24 DISTRICTS.

The lands described in § 151.25 are hereby designated District A. All other lands except those deemed to be flood zone are hereby designated District B. Flood zone areas of the city are hereby designated District 1.

(Prior Code Ch. 65, § 15)

§ 151.25 SUBDIVISION OF EXISTING LOTS PROHIBITED.

(A) No lot or parcel of land as established in accordance with the minimum area requirements as provided for hereinbefore shall after the enactment hereof be subdivided except:

- (1) Existing lots, parcels, or tracts may be subdivided to increase the size of adjacent contiguous transit; or
- (2) To correct boundary line disputes with respect to causes which originated before or predated the enactment of this code.

(B) Nothing in this chapter shall prohibit the conveyance of an easement to enable the installation of public utilities.

(C) The subdivision of lands unplatted on the effective date of these chapter provisions may be subdivided, provided the minimum lot size shall be in accordance with the building lot definitions contained in § 151.21, provided further that all access ways are built to grade with proper drainage established and surfaced in a manner to be proscribed by City Engineer

with the approval of the Council and with the further understanding that the subdivisions shall not be approved by the Council unless the formalities required for platting of lands imposed by the laws of the state are complied with by the owner or owners of the land to be platted or subdivided.

(Prior Code Ch. 65, § 16)

§ 151.26 SETBACK REQUIREMENTS.

(A) No improvement shall be constructed on any parcel of land or lot in the city unless the same shall be set back from the side yard boundary lines shall have a front yard setback and a back yard setback as prescribed by Appendix B attached to the ordinance codified herein except:

(1) In the discretion of the Council, upon application made to it for variance in accordance with the provisions of this code, the front yard requirements may be waived so as to conform the structure contemplated to be erected or the improvement to be constructed to the setback of other improvements or structures on adjacent parcels; or

(2) In cases where the maintenance of the setback, backyard, and side yard requirements as provided for hereinbefore would create undue hardship, they likewise may be waived by implementation of the procedure set forth in this code for the obtaining of variances.

(B) Steps, entry ways, eaves, or other projections from buildings of any kind shall be considered a part of the improvement in determining setbacks.

(Prior Code Ch. 65, § 17)

§ 151.27 VARIANCES.

Persons desiring to obtain a variance shall make application therefor to the Clerk upon the forms or applications which may be prescribed for this purpose by the Council, provided further that no variance shall be granted without four-fifths affirmative vote of the Council at a regular meeting or a special meeting duly called and convened.

(Prior Code Ch. 65, § 18)

§ 151.28 NON-CONFORMING USES.

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

(A) No structural alteration or addition to any non-conforming structure over the life of the structure shall exceed 50% of its market value unless the entire structure is permanently changed to a conforming use or unless the alteration or addition would substantially reduce potential flood damages for the entire structure.

(B) Any alteration or addition to a non-conforming use which would result in substantially increasing the flood damage potential of that use shall be elevated or flood-proofed.

(C) If any non-conforming is destroyed by any means, including floods, to an extent of 50% or more of its market value, it shall not be reconstructed except in conformity with the provisions of this section.

(Prior Code Ch. 65, § 24)

MANUFACTURED HOMES

§ 151.40 GENERAL PROVISIONS AND DEFINITIONS.

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

MANUFACTURED HOME.

(a) A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or when erected on site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and including the plumbing, heating air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all of the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development, or the duly authorized agent or successor thereof, and complies with the standards established in M.S. Ch. 327, as it may be amended from time to time.

(b) This general definition includes structures heretofore commonly known as "mobile homes," as well as "manufactured buildings" built without chassis and designed only for erection on permanent foundation and which possess roof lines such as conventional on the site constructed homes and buildings.

MANUFACTURED HOME PARK.

(a) Any lot, site, field, or tract of land upon which two or more occupied manufactured homes, as hereinbefore defined, are located, either free of charge or for revenue purposes, and which parks are constructed and maintained in a

manner consistent with the laws of the state thereunto appertaining and are duly licensed pursuant thereto.

(b) For purposes of this definition, **MANUFACTURED HOME** is a factory-assembled structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit or units without a permanent foundation.

(c) The phrase “without a permanent foundation” indicates that the support system is constructed with the intent that the manufactured home placed thereon will be moved from time to time at the convenience of the owner.

(B) *Manufactured home regulations.*

(1) The location of manufactured homes is authorized on any lot of appropriate size and otherwise consistent with the provisions of the code of the city appertaining, except as hereinafter provided.

(2) Manufactured homes which do not conform to the following minimum specifications shall be permitted in manufactured home parks only or with conditional use permits at locations only within the corporate limits of the city as specified in this chapter infra:

- (a) Are at least 24 feet wide;
- (b) Have a roof line such as conventional on the site constructed homes;
- (c) Are factory designed for placement on permanent foundations only; and
- (d) Have appearance similar to other on the site constructed homes and buildings.

(C) *Other conditions.* Among other conditions which the Council may consider as the proper basis for a finding that the conditional use permit shall issue are:

- (1) The non-availability of space in a manufactured home park located in the city;
- (2) A finding that the location of a manufactured home shall not adversely affect the value of adjacent and near property; and
- (3) The location of a manufactured home shall discontinue after a specially expressed period of time, in effect authorizing only the temporary location of the manufactured home in those areas in the city.

(Prior Code Ch. 65, § 23)

§ 151.41 REGULATIONS.

(A) New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by § 151.02(C).

(B) Manufactured homes in existing manufactured home parks that are located in floodplain districts are non-conforming uses and may be replaced only if in compliance with the following conditions:

- (1) The manufactured home lies in the Flood Fringe District;
- (2) The manufactured home is anchored with tiedowns that comply with requirements of Minnesota R. 1350; and
- (3) The manufactured home owner or renter is notified that the manufactured home site lies in the floodplain and may be subject to flooding.

(C) Individual manufactured homes not located in manufactured home parks may be permitted if allowed by other applicable ordinances and if they comply with the provisions of Section 25, Subd 6 a.3.

(Prior Code Ch. 65, § 24)

§ 151.42 PRE-EXISTING, NON-CONFORMING USES.

(A) The non-conforming use which the location of a mobile home in District A constitutes shall permit the replacing of a non-conforming mobile home by another or new mobile home, provided the replacement shall be of equal or greater footage than the original and provided that the minimum area shall be 600 feet.

(Prior Code Ch. 65, § 19)

(B) (1) The non-conforming use which the location of a mobile home in District A (§151.25) constitutes shall permit the replacing of a non-conforming mobile home by another or new mobile home, provided the replacement shall be of equal or greater value and provided that in any case the living area shall be a minimum of 600 square feet.

(2) Other structures which are non-conforming may be replaced, improved, or added to, provided any structural changes conform to § 151.27.

(Prior Code Ch. 65, § 22)

FLOODPLAIN REGULATIONS

§ 151.55 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE.

(A) *Statutory authorization.* The legislature of the state has, in M.S. Ch. 103F and 462, as they may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council does ordain the following subchapter.

(B) *Purpose.*

(1) This subchapter 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 subchapter to promote the public health, safety and general welfare by minimizing these losses and disruptions.

(2) *National flood insurance program compliance.* This subchapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 C.F.R. parts 59 - 78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(3) This subchapter 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.

(Ord. 10-18-01, passed - -2018)

§ 151.56 LANDS TO WHICH SUBCHAPTER APPLIES.

This subchapter applies to all lands within the jurisdiction of the city within the boundaries of the Floodway, Flood Fringe and General Floodplain Districts. The boundaries of these districts are determined by scaling distances on the Flood Insurance Rate Map or as modified in accordance with § 151.62(A).

(A) 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 subchapter. In case of a conflict, the more restrictive standards will apply.

(B) Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the flood elevations shall be the governing factor in locating the regulatory floodplain limits.

(C) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the City Council and to submit technical evidence.

(Ord. 10-18-01, passed - -2018)

§ 151.57 INCORPORATION OF MAPS BY REFERENCE.

The maps are hereby adopted by reference and declared to be a part of the official zoning map and this subchapter. The maps include the Flood Insurance Study for Houston County, Minnesota, and incorporated areas, dated December 7, 2018 and the Flood Insurance Rate map panels 27055C0210E and 27055C0220E, dated December 7, 2018, all prepared by the Federal Emergency Management Agency. These materials are on file in the office of the City Clerk.

(Ord. 10-18-01, passed - -2018)

§ 151.58 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this subchapter to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this subchapter imposes greater restrictions, the provisions of this subchapter prevail. All other ordinances inconsistent with this subchapter are hereby repealed to the extent of the inconsistency only.

(Ord. 10-18-01, passed - -2018)

§ 151.59 WARNING AND DISCLAIMER OF LIABILITY.

This subchapter 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 subchapter does not create liability on the part of city or its officers or employees for any flood damages that result from reliance on this subchapter or any administrative decision lawfully made hereunder.

(Ord. 10-18-01, passed - -2018)

§ 151.60 DEFINITIONS.

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

ACCESSORY USE OR STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION. The elevation of the **REGIONAL FLOOD**. The term **BASE FLOOD ELEVATION** is used in the flood insurance survey.

BASEMENT. 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. 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; and
- (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. 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, daycare 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. 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. 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. A fence as defined by M.S. § 344.02, subd. 1(a)-(d), as they may be amended from time to time. An open type fence of posts and wire is not considered to be a structure under this subchapter. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this subchapter.

FLOOD. 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 FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. The portion of the special flood hazard area (1% annual chance flood) located outside of the floodway. **FLOOD FRINGE** is synonymous with the term "floodway fringe" used in the flood insurance study for the county.

FLOOD INSURANCE RATE MAP. An official map 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 PRONE AREA. Any land susceptible to being inundated by water from any source.

FLOODPLAIN. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

FLOODPROOFING. 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. 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.

LOWEST FLOOR. 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 C.F.R. part 60.3.

MANUFACTURED HOME. 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. 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 subchapter.

OBSTRUCTION. 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.

ONE HUNDRED YEAR FLOODPLAIN. Lands inundated by the **REGIONAL FLOOD** (see definition).

PRINCIPAL USE OR STRUCTURE. All uses or structures that are not accessory uses or structures.

REACH. 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. 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. For the purposes of this subchapter, the term **RECREATIONAL VEHICLE** is synonymous with the term “travel trailer/travel vehicle”.

REGIONAL FLOOD. 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 1% chance or 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD** used in a flood insurance study.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). 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.

REPETITIVE LOSS. 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% of the market value of the structure before the damage occurred.

SPECIAL FLOOD HAZARD AREA. A term used for flood insurance purposes synonymous with **ONE HUNDRED 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. 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, decks, manufactured homes or recreational vehicles not considered travel-ready as detailed in § 151.71(B) of this subchapter and other similar items.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. 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% of the market value of the structure before the **START OF CONSTRUCTION** of the improvement. This term includes structures that have incurred **SUBSTANTIAL DAMAGE**, regardless of the actual repair work performed. The term 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; or

(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 subchapter, “historic structure” is as defined in 44 C.F.R. part 59.1.

(Ord. 10-18-01, passed - -2018)

§ 151.61 ANNEXATIONS.

The Flood Insurance Rate Map panels adopted by reference into §151.57 may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this subchapter. If any of these floodplain land areas are annexed into the city after the date of adoption of this subchapter, the newly annexed floodplain lands will be subject to the provisions of this subchapter immediately upon the date of annexation.

(Ord. 10-18-01, passed - -2018)

§ 151.62 ESTABLISHMENT OF FLOODPLAIN DISTRICTS.

(A) *Districts.*

(1) *Floodway District.* The Floodway District includes those areas within Zones AE delineated within floodway areas as shown on the flood insurance rate maps and flood boundary and floodway maps adopted in § 151.57.

(2) *Flood Fringe District.* The Flood Fringe District includes areas within Zones AE on the flood insurance rate map and flood boundary and floodway maps adopted in § 151.57, but located outside of the floodway.

(3) *General Floodplain District.* The General Floodplain District includes those areas within Zone A as shown on the flood insurance rate map adopted in § 151.57.

(B) *Applicability.* Where Floodway and Flood Fringe Districts are delineated on the floodplain maps, the standards in §§ 151.64 or 151.65 of this subchapter will apply, depending on the location of a property. 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 § 151.64 of this subchapter apply unless the floodway boundary is determined, according to the process outlined in § 151.66(B) of this subchapter.

(Ord. 10-18-01, passed - -2018)

§ 151.63 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS.

(A) *Permit required.* A permit must be obtained from the Zoning Administrator to verify if a development meets all applicable standards outlined in this subchapter 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 subchapter;

(2) The construction of a dam, on-site septic system or any fence not meeting the definition of **FARM FENCE** outlined in § 151.60;

(3) The change or extension of a nonconforming use;

(4) The repair of a structure that has been damaged by flood, fire, tornado or any other source;

(5) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain;

(6) Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for; or

(7) Any other type of development as defined in this subchapter.

(B) *Minimum development standards.* All new construction and substantial improvements 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, ductwork, 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.

(C) *Flood capacity.* Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(D) *Storage or processing.* 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.

(E) *Critical facilities.* **CRITICAL FACILITIES**, as defined in § 151.60 of this subchapter, are to be located, so that the lowest floor is not less than two feet above the regional flood elevation, or the 500-year flood elevation, whichever is higher.

(Ord. 10-18-01, passed - -2018)

§ 151.64 FLOODWAY DISTRICT (FW).

(A) *Permitted uses.* The following uses, subject to the standards set forth in division (B) of this section, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

(1) General farming, pasture, grazing, farm fences, outdoor plant nurseries, horticulture, 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 yards, lawns, gardens, parking areas and play areas; and

(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.

(B) *Standards for floodway permitted uses.*

(1) The use must have a low flood damage potential.

(2) The use must not involve structures or obstruct flood flows. The use must not cause any increase in flood damages, nor any increase in flood elevations in areas where a floodway has been established, as certified by a registered professional engineer.

(3) 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 (1% chance) flood.

(C) *Conditional uses.* The following uses may be allowed as conditional uses following the standards and procedures set forth in § 151.73 of this subchapter and further subject to the standards set forth in division (D) of this section, if otherwise allowed in the underlying zoning district.

(1) Structures accessory to primary uses listed in division (A)(1) through (3) above and primary uses listed in subsections (2) and (3) below;

(2) Grading, extraction, fill and storage of soil, sand, gravel and other materials;

(3) Marinas, boat rentals, permanent docks, piers, wharves, water control structures and navigational facilities;

(4) Storage yards for equipment, machinery or materials;

(5) Fences that have the potential to obstruct flood flows; and

(6) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

(D) *Standards for floodway conditional uses.*

(1) A conditional use must not cause any increase in flood damages, nor any increase in flood elevations in areas where a floodway has been established, as certified by a registered professional engineer.

(2) (a) 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.

(b) Temporary placement of fill, other materials or equipment which would cause an increase to the stage of the 1% 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.

(3) Accessory structures, as identified in division (C)(1) of this section, may be permitted, provided that:

(a) Structures are not intended for human habitation;

(b) Structures will have a low flood damage potential;

(c) Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;

(d) Structures must be elevated on fill or structurally dry floodproofed and watertight to the regulatory flood protection elevation. Certifications consistent with § 151.71(B) of this subchapter shall be required; and

(e) As an alternative, an accessory structure may be floodproofed in a way to accommodate internal flooding. To allow for the equalization of hydrostatic pressure, 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 openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention. A floodproofing certification consistent with § 151.71(B) of this subchapter shall be required.

(4) 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 M.S. § 103G.245, as it may be amended from time to time.

(5) A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(Ord. 10-18-01, passed - -2018)

§ 151.65 FLOOD FRINGE DISTRICT (FF).

(A) *Permitted uses.* Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in division (B) of this section. 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.

(B) *Standards for Flood Fringe permitted uses.*

(1) 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 protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the community.

(2) As an alternative to the fill requirements of subsection (1) above, structures accessory to the uses identified in division (A) of this may be designed to accommodate the inundation of floodwaters, meeting the following provisions, as appropriate:

(a) The accessory structure constitutes a minimal investment and satisfy the development requirements in § 151.63(B) of this subchapter.

(b) Any enclosed accessory structure shall not exceed 576 square feet in size, and only be used for parking and storage. Any such structure shall be designed and certified by a registered professional engineer, or be designed in accordance with the following floodproofing standards: to allow for the equalization of hydrostatic pressure, 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 openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.

(3) 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 division (A) of this section, or if allowed as a conditional use under division (C)(3) below.

(4) All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.

(5) All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

(6) 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 Council.

(7) 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 (1% chance) flood.

(8) Manufactured homes and recreational vehicles must meet the standards of §151.69 of this subchapter.

(C) *Conditional uses.* The following uses may be allowed as conditional uses following the standards and procedures set forth in § 151.73 of this subchapter and further subject to the standards set forth in division (D) of this section, if otherwise allowed in the underlying zoning district(s).

(1) The placement of floodproofed nonresidential basements below the regulatory flood protection elevation. Residential basements are not allowed below the regulatory flood protection elevation.

(2) 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 division (B)(1) of this section.

(3) The use of methods other than fill to elevate structures above the regulatory flood protection elevation. This includes the use of: stilts, pilings, filled stem walls, or above-grade, internally flooded enclosed areas such as crawl spaces or tuck under garages, meeting the standards in division (D)(4) of this section.

(D) *Standards for Flood Fringe conditional uses.*

(1) The standards for permitted uses in the flood fringe, listed in division (B)(4) through (8) of this section, apply to all conditional uses.

(2) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry floodproofed, 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. A floodproofing certification consistent with § 151.71(B) of this subchapter shall be required.

(3) 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.

(a) 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 (1% chance) flood event.

(b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.

(c) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

(4) 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 it is used solely for parking of vehicles, building access or storage. These alternative elevation methods are subject to the following additional standards:

(a) Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and include a minimum of two openings on at least two sides of the structure. The bottom of all openings shall be no higher than one foot above grade, and 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.

(b) Floodproofing certifications consistent with § 151.71(B) of this subchapter shall be required. The structure shall be subject to a deed-restricted nonconversion agreement with the issuance of any permit.

(Ord. 10-18-01, passed - -2018)

§ 151.66 GENERAL FLOODPLAIN DISTRICT (GF).

(A) Permitted uses.

(1) The uses listed in § 151.64(A) of this subchapter, floodway district permitted uses, are permitted uses.

(2) All other uses are subject to the floodway/flood fringe evaluation criteria specified in division (B) below. Section 151.64 applies if the proposed use is determined to be in the Floodway District. Section 151.65 applies if the proposed use is determined to be in the Flood Fringe District.

(B) Procedures for determining floodway boundaries and regional flood elevations.

(1) Developments greater than 50 lots or five acres, or as requested by the Zoning Administrator, shall be subject to a detailed study to determine the regulatory flood protection elevation and the limits of the Floodway District. The determination of the floodway and flood fringe must be consistent with accepted hydrological and hydraulic engineering standards, and must include the following components, as applicable:

(a) Estimate the peak discharge of the regional (1% chance) flood.

(b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(c) 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, unless development or geographic features warrant other analysis, as approved by the Department of Natural Resources.

(2) Provided no detailed study is available, an applicant must identify a base flood elevation, at minimum, to determine the boundaries of the special flood hazard area. The applicant shall obtain and utilize best available data to determine the regional flood elevation and floodway boundaries from a state, federal, or other source. If no such data exists, the applicant may determine the base flood elevation and floodway limits through other accepted engineering practices. Any such method shall assume a one-half foot stage increase to accommodate for future floodway determination.

(3) The Zoning 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 Zoning Administrator may seek technical assistance from an engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.

(4) Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of §§ 151.64 and 151.65 of this subchapter.

(Ord. 10-18-01, passed - -2018)

§ 151.67 SUBDIVISION STANDARDS.

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 subchapter.

(A) 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.

(B) 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 (1% chance) flood has been approved by the City Council. 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.

(C) 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.

(D) In the General Floodplain District, applicants must provide the information required in §151.66(B) of this subchapter to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

(E) Subdivision proposals must be reviewed to assure that:

- (1) All such proposals are consistent with the need to minimize flood damage within the flood prone area;
- (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided to reduce exposure of flood hazard.

(Ord. 10-18-01, passed - -2018)

§ 151.68 UTILITIES, RAILROADS, ROADS AND BRIDGES.

(A) *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.

(B) *Public transportation facilities.* Railroad tracks, roads and bridges to be located within the floodplain must comply with §§ 151.64 and 151.65 of this subchapter. 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.

(C) *On-site water supply and sewage treatment systems.* Where public utilities are not provided: on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota R. Ch. 4725.4350, as amended; and new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota R. Ch. 7080.2270, as amended.

(Ord. 10-18-01, passed - -2018)

§ 151.69 MANUFACTURED HOMES AND RECREATIONAL VEHICLES.

(A) *Manufactured homes.* Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:

(1) New and replacement manufactured homes must be elevated in compliance with §151.65 of this subchapter and must be securely anchored to a 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.

(2) New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in § 151.67 of this subchapter. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in § 151.67(B) of this subchapter.

(B) *Recreational vehicles.* New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:

- (1) Meet the requirements for manufactured homes in division (A) of this section; or
- (2) Be travel ready, meeting the following criteria:
 - (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) Accessory structures may be permitted in the Flood Fringe District, provided that they constitute a minimal investment, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in §§ 151.63(B) and 151.65(B)(2) of this subchapter.

(Ord. 10-18-01, passed - -2018) Penalty, see §151.99

§ 151.70 ZONING ADMINISTRATOR DUTIES.

A Zoning Administrator or other official designated by the City Council must administer and enforce this subchapter.

(Ord. 10-18-01, passed - -2018)

§ 151.71 PERMIT APPLICATION REQUIREMENTS.

(A) *Application for permit.* Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning 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; and
- (4) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

(B) *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 subchapter. Floodproofing measures must be certified by a registered professional engineer or registered architect as being in compliance with applicable floodproofing standards in the State Building Code. Accessory structures designed in accordance with § 151.65(B)(2) of this subchapter are exempt from certification, provided sufficient assurances are documented. Any development in established floodways must not cause any increase in flood elevations or damages, as certified by a registered professional engineer.

(C) *Certificate of zoning 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 Zoning Administrator stating that the use of the building or land conforms to the requirements of this subchapter.

(D) *Recordkeeping of certifications and as-built documentation.* The Zoning Administrator must maintain records in perpetuity documenting:

- (1) All certifications referenced in division (B)(2) of this section as applicable; and
- (2) Elevations complying with § 151.65(B)(1) of this subchapter. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations to structures are constructed or floodproofed.

(E) *Notifications for watercourse alterations.* Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to M.S. § 103G.245, as it may be amended from time to time, 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).

(F) *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 Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

(Ord. 10-18-01, passed - -2018) Penalty, see §151.99

§ 151.72 VARIANCES.

(A) *Variance applications.* An application for a variance to the provisions of this subchapter will be processed and reviewed in accordance with applicable state statutes and § 150.003 of this title.

(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 showing of good and sufficient cause a determination that failure to grant the variance would result in exceptional hardship to the applicant; and 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 Zoning Administrator must notify the applicant for a variance that 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 for \$100 of insurance coverage; and 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 flood plain management program for the area;
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles; and
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

(F) *Submittal of hearing notices to the Department of Natural Resources (DNR).* The City Clerk must 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) *Recordkeeping.* The Zoning 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.

(Ord. 10-18-01, passed - -2018)

§ 151.73 CONDITIONAL USES.

(A) *Administrative review.* An application for a conditional use permit under the provisions of this subchapter will be processed and reviewed in accordance with the zoning ordinance/code.

(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 subchapter, and those factors identified in § 151.72(C)(5) of this subchapter.

(C) *Conditions attached to conditional use permits.* In addition to the standards identified in §§151.64(D) and 151.65(D) of this subchapter, the City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this subchapter. Such conditions may include, but are not limited to, the following:

- (1) Limitations on period of use, occupancy and operation;
- (2) Imposition of operational controls, sureties and deed restrictions; and
- (3) Requirements for construction of channel modifications, compensatory storage, dikes, levees and other protective measures.

(D) *Submittal of hearing notices to the Department of Natural Resources (DNR).* The City Clerk 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.

(Ord. 10-18-01, passed - -2018)

§ 151.74 NONCONFORMITIES.

A use, structure, or occupancy of land which was lawful before the passage or amendment of this subchapter but which is not in conformity with the provisions of this subchapter may be continued subject to the following conditions. Historic structures, as defined in § 151.60 of this subchapter, are subject to the provisions of this section.

(A) 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 division (B) below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

(B) 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 (such as, FP1 through FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in division (D) below.

(C) 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 subchapter.

(D) If any structure experiences a substantial improvement as defined in this subchapter, then the entire structure must meet the standards of §§ 151.64 or 151.65 of this subchapter for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. If the current proposal, including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map exceeds 50% of the market value of any nonconforming structure, the entire structure must meet the standards of §§ 151.64 or 151.65 of this subchapter.

(E) If any nonconformity is substantially damaged, as defined in this subchapter, it may not be reconstructed except in conformity with the provisions of this subchapter. The applicable provisions for establishing new uses or new structures in §§ 151.64 or 151.65 of this subchapter will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

(F) If any nonconforming use or structure experiences a repetitive loss, as defined in §151.60 of this subchapter, it must not be reconstructed except in conformity with the provisions of this subchapter.

(Ord. 10-18-01, passed - -2018)

§ 151.75 AMENDMENTS.

(A) *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 Department of Natural Resources (DNR) if it is determined that, through other measures, lands are adequately protected for the intended use.

(B) *Amendments require DNR approval.* All amendments to this subchapter must be submitted to and approved by the Department of Natural Resources (DNR) prior to adoption.

(C) *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 § 151.57 of this subchapter.

(Ord. 10-18-01, passed - -2018)

§ 151.99 PENALTY.

(A) Any person violating any of the provisions of §151.23(A) shall upon conviction therefor be guilty of a misdemeanor and punished according to law and any building or other structure erected in violation of this chapter shall be condemned and removed or made to conform thereto.

(Prior Code Ch. 65, § 3)

(B) Violations of §§ 151.01 through 151.04 are upon conviction petty misdemeanors and punishable according to law.

(Prior Code Ch. 65, § 10)

(C) (1) The Council, after the enactment of resolution authorizing the same, or any person owning an interest in land in the city finding himself or herself aggrieved by the violation of any provisions of this chapter may apply for injunctive relief or an action at law or to such other legal or equitable relief as may be afforded by the laws of the state to compel compliance with the terms of the code provisions.

(2) Notwithstanding the provisions of division (C)(1) above, any person who violates any provision of this chapter,

whether she or he be the owner of an interest in lands in the city, a tenant, developer, or builder thereof, or any other person shall upon conviction thereof be deemed guilty of a misdemeanor and punishable according to law together with the costs of prosecution.

(Prior Code Ch. 65, § 21)

(D) Any person who violates any provision of this chapter, whether he or she be the owner of an interest in lands in the city, a tenant, developer, or builder thereof, or any other person shall upon conviction thereof be deemed guilty of a misdemeanor and shall be punished according to the laws of the state thereunto appertaining. Each day a violation of any provision of this chapter exists shall be deemed a separate offense.

(Prior Code Ch. 65, § 23)

(E) Violation of the provisions of this chapter or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor.

(Prior Code Ch. 65, § 24)

(F) Violations of § 151.08(B) are misdemeanors and upon conviction thereof punishable according to the laws of the state.

(Prior Code Ch. 65, § 25)

(G) Violation of the provisions of §§ 151.55 through 151.75 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.

(H) Nothing in §§ 151.55 through 151.75 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 Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of §§ 151.55 through 151.75 and will be prosecuted accordingly.

(I) Violations of the provisions of §§ 151.55 through 151.75 will be investigated and resolved in accordance with the provisions of §§ 150.060 through 150.065 of the zoning ordinance/code. In responding to a suspected ordinance violation, the Zoning Administrator and City Council 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.

(Ord. 10-18-01, passed - -2018)

TABLE OF SPECIAL ORDINANCES

[Reserved]

PARALLEL REFERENCES

References to Minnesota Statutes

References to Prior Code

References to Ordinances

REFERENCES TO MINNESOTA STATUTES

<i>M.S. Section</i>	<i>Code Section</i>
<i>M.S. Section</i>	<i>Code Section</i>
13D.01 et seq.	31.04
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176.011, subd. 9, clause 5	30.03
260B.007, subd. 3	132.01
260B.198	131.99
325F.692	132.01
325J.11	132.01
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Ch. 329	111.03
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349.17	130.26
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412.015 et seq.	30.02
437.02	111.03
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609.175	132.01
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609.576	132.01
609.595	132.01
609.60	132.01
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609.82	132.01
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<i>Prior Code Chapter</i>	<i>2019 Code Section</i>
<i>Prior Code Chapter</i>	<i>2019 Code Section</i>
1, § 1	110.01, 110.24
1, § 2	110.01
1, § 4	110.02
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1, § 6	110.07
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65, § 24	151.06 - 151.08, 151.22, 151.28, 151.41, 151.99
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Ord. No.	Date Passed	Code Section
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64	5-1-1991	91.25 - 91.30, 91.99
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69	11-5-1997	150.046
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-	- -	50.083, 90.04, 110.08, 110.23, 110.26, 110.99, 130.01